

Appendix 2: Human Tissue Act 1964

An Act to consolidate certain enactments of the General Assembly relating to post-mortem examinations, the practice of anatomy, and the removal of human tissue for therapeutic purposes and for purposes of medical education and research.

1 Short title and commencement

- (1) This Act may be cited as the Human Tissue Act 1964.
- (2) This Act shall come into force on the 1st day of January 1965.

2 Interpretation

- (1) In this Act, unless the context otherwise requires, –
 - anatomical examination means examination of a body or any part of a body for the purpose of the study of the science of anatomy:
 - body means a dead human body; but does not include the body of a stillborn child:
 - health computer system means any system of computers and terminals—
 - (a) Under the control of the Director-General of Health; or
 - (b) Part of which is under the control of the Director-General of Health:
 - inspector, in relation to any school of anatomy, means a person appointed under section 8 of this Act to be an Inspector of that school of anatomy:
 - medical practitioner means a person registered as a medical practitioner under the Medical Practitioners Act 1995:
 - Minister means the Minister of Health:
 - practise anatomy means teach the science of anatomy by performing an anatomical examination:
 - school of anatomy means a school of anatomy established under section 7 of this Act.
- (2) Without limiting the rights, powers, or duties of any person entitled under any rule of law to the possession of any body, it is hereby declared that, for the purposes of this Act, the following persons shall be deemed to be persons lawfully in possession of bodies in the cases hereinafter specified, namely:
 - (a) the person for the time being in charge of any hospital care institution within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001, in respect of any body lying in that institution:
 - (b) The person for the time being in charge of any hospital within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992, in respect of any body lying in the hospital, being the body of a patient:
 - (c) The Superintendent of any penal institution, in respect of any body lying in the institution, being the body of an inmate.

3 Removal of human tissue for therapeutic purposes, etc.

- (1) If any person, either in writing at any time or orally in the presence of two or more witnesses during his last illness, has expressed a request that his body or any specified part of his body be used after his death for therapeutic purposes or for purposes of medical education or research, the person lawfully in possession of his body after his death may, unless he has reason to believe that the request was subsequently withdrawn, authorise the removal from the body of any part or, as the case may be, the specified part, for use in accordance with the request.
- (1A) Where a record of a request in writing to which subsection (1) of this section applies is held on a health computer system, the person lawfully in possession of the body of the person who made the request may, in reliance on the record, unless that person has reason to believe that the request was subsequently withdrawn, authorise the removal from the body of any part or (as the case may be) the specified part for use in accordance with that request.
- (2) Without limiting subsection (1) of this section, it is hereby declared that the person lawfully in possession of the body of a deceased person may authorise the removal of any part from the body for use for the said purposes if, having made such reasonable inquiry as may be practicable, he has no reason to believe –
 - (a) That the deceased person has expressed an objection to his or her body being so dealt with after death, and had not withdrawn it; or
 - (b) That the surviving spouse, surviving de facto partner of the same or different sex, or any surviving relative of the deceased person objects to the body being so dealt with.
- (3) Subject to subsections (4) and (5) of this section, the removal and use of any part of a body in accordance with an authority given in pursuance of this section shall be lawful.
- (4) No such removal shall be effected except by a medical practitioner, who must have satisfied himself by personal examination of the body that life is extinct.
- (5) Where a person has reason to believe that an inquest may be required to be held on any body or that a post-mortem examination of any body may be required by the coroner, he shall not, except with the consent of the coroner, –
 - (a) Give an authority under this section in respect of the body; or
 - (b) Act on such an authority given by any other person.
- (6) No authority shall be given under this section in respect of any body by a person entrusted with the body for the purpose only of its interment or cremation.
- (7) Nothing in this section shall be construed as rendering unlawful any dealing with, or with any part of, the body of a deceased person which is lawful apart from this Act.

4 Post-mortem examinations

- (1) Nothing in sections 5 to 9 of this Act shall apply to any post-mortem examination directed to be made by a coroner or any other competent legal authority, or to any post-mortem examination carried out for the purpose of establishing or confirming the causes of death or investigating the existence or nature of abnormal conditions or for any of the purposes specified in section 3 of this Act.
- (2) No post-mortem examination shall be carried out otherwise than by or in accordance with the instructions of a medical practitioner; and no post-mortem examination, other than one which is directed or requested by a coroner, or any other competent legal authority, shall be carried out without the authority of the person lawfully in possession of the body; and subsections (2), (5), and (6) of section 3 of this Act shall, with the necessary modifications, apply with respect to the giving of that authority.

4A Restrictions on persons holding probationary registration

For the purposes of sections 3 and 4 of this Act, but for no other purpose of this Act, a person who holds probationary registration under the Medical Practitioners Act 1995 shall be subject to the restrictions imposed by section 15 of the last-mentioned Act.

5 Anatomical examinations

- (1) If any person, either in writing at any time or orally in the presence of two or more witnesses during his last illness, has expressed a request that his body be used after his death for the purposes of anatomical examination, the person lawfully in possession of the body after death may authorise such an examination, and may permit the body to be removed to a school of anatomy accordingly, unless he has reason to believe that the request was subsequently withdrawn, or unless objection to the body being so dealt with is made by –
 - (a) The surviving spouse or surviving de facto partner (whether of the same or different sex) of the deceased person; or
 - (b) If there is no surviving spouse or surviving de facto partner (whether of the same or different sex), a person who is the nearest known relative, or one of the nearest known relatives, of the deceased person.
- (2) Without limiting subsection (1) of this section, it is hereby declared that the person lawfully in possession of the body of a deceased person may authorise the body to be used for the purposes of anatomical examination, and may permit the body to be removed to a school of anatomy accordingly, if, having made such reasonable inquiry as may be practicable, he has no reason to believe –
 - (a) That the deceased person had expressed an objection to his or her body being so dealt with after death, and had not withdrawn it; or
 - (b) That the surviving spouse or any surviving relative of the deceased person objects to the body being so dealt with.

- (3) Subsections (5) and (6) of section 3 of this Act shall, with the necessary modifications, apply with respect to the giving of any authority under this section.

6 Removal, burial, and cremation of bodies

- (1) Any person empowered by this Act to authorise the use of a body for anatomical examination shall, before causing the body to be removed to a school of anatomy, cause a written notice in duplicate to be sent to the medical practitioner in charge of that school of his intention so to do, and shall, so far as he is able, state in that notice the following particulars:
- (a) The name, age, and sex of the deceased person:
 - (b) The place, date, and cause of death:
 - (c) The religion of the deceased person.
- (2) Every body that is removed for anatomical examination under this Act shall, before it is so removed, be placed in a decent coffin or shell and shall be removed therein.
- (3) The medical practitioner in charge of any school of anatomy to which a body is removed for anatomical examination shall, within 24 hours of the time at which the body is received at the school of anatomy, cause to be sent to any Inspector notice in writing of the receipt of the body into the said school of anatomy.
- (4) In no case shall any body undergo anatomical examination until after 36 hours have elapsed from the time of death, nor until after 24 hours' notice has been given to an Inspector of the intention to make the examination.
- (5) All human remains resulting from anatomical examination shall be buried or cremated in accordance with the written instructions of an Inspector, who shall take into consideration any wishes that the deceased or his relatives may have expressed:
- Provided that, with the permission of an Inspector, any part of the body may be retained indefinitely for further study.
- (6) Notwithstanding anything in this Act or in any other enactment, the written instructions of an Inspector shall be sufficient authority for the cremation of any body that has been removed for anatomical examination or of any human remains resulting from such an examination.
- (7) In the month of November in each year, the medical practitioner in charge of any school of anatomy shall cause to be sent to an Inspector a return specifying the name of every person whose body has undergone anatomical examination at the school of anatomy during the year and has been disposed of by burial or cremation under this section.

7 Schools of anatomy

- (1) The Governor-General in Council may from time to time authorise the establishment of schools of anatomy where the study and practice of anatomy may be carried on in connection with any University or school of medicine, in such place or places and upon such conditions as he thinks fit, and may at any time revoke any such authority.
- (2) It shall not be lawful for any person to perform an anatomical examination, or to receive or have in his possession any body for anatomical examination, at any place other than a school of anatomy.
- (3) Nothing in this section shall prevent any person, who is licensed under this Act to practise anatomy and who obtains the permission of an Inspector in writing for that purpose and the permission of the governors, teachers, or proper authorities of the school at which he is licensed to practise anatomy, from removing any body or portion of a body to such place as the Inspector deems fit for the purpose of practising anatomy, upon such terms and conditions as the Inspector and authorities of the school, in their uncontrolled discretion, think fit.

8 Inspectors of schools of anatomy

- (1) The Minister may from time to time, with the concurrence of the Minister in Charge of Police, appoint one or more members of the Police as an Inspector or Inspectors of any school of anatomy, and may direct in what manner Inspectors shall transact the duties of their office.
- (2) Every Inspector shall, unless he sooner dies, continue in office until some other person is appointed in his place.
- (3) Every Inspector of a school of anatomy shall make a quarterly return to the Minister of all bodies which, during the preceding quarter, have been removed for anatomical examination to the school, or that may have been removed to any other place under the provisions of section 7 of this Act, distinguishing the sex and, as far as is known at the time, the name and age of each person whose body was so removed as aforesaid.
- (4) An Inspector may visit and inspect at any time the school of anatomy for which he is appointed an Inspector.
- (5) There shall be payable to an Inspector, out of money appropriated by Parliament for the purpose, such remuneration as is fixed from time to time by the Minister of Finance.
- (6) Every Inspector of any school of anatomy who was in office immediately before the commencement of this Act shall continue in office after the commencement of this Act as if he had been appointed by the Minister under this section.

9 Licences to practise anatomy

- (1) Subject to the provisions of section 10 of this Act, it shall not be lawful for any person to practise anatomy, or to receive or have in his possession any body for anatomical examination, unless he is licensed under this section to practise anatomy.
- (2) The Minister may grant a licence to practise anatomy, subject to such conditions as he sees fit to impose, to any medical practitioner who is employed to teach at a school of anatomy.
- (3) Any licence granted under this section shall specify the school of anatomy at which the holder of the licence may practise anatomy.
- (4) Any licence granted under this section shall continue in force until it is cancelled or surrendered:

Provided that any such licence may, if the Minister thinks fit, be granted for any specified period, and in any such case the licence may be renewed from time to time by the Minister, if he thinks fit, for any specified period.
- (5) Any licence granted under this section may be cancelled by the Minister at any time by notice in writing to the holder of the licence.
- (6) Any licence to practise anatomy that was subsisting immediately before the commencement of this Act shall continue in force after the commencement of this Act as if it had been granted by the Minister under this section.

10 Saving

Nothing in sections 5 to 9, or in section 12, of this Act shall be construed as prohibiting –

- (a) Any anatomical examination or the practice of anatomy by any person who is acting under the directions and supervision of a person licensed to practise anatomy and is carrying out the anatomical examination or the practice of anatomy at a school of anatomy or place at which the person so supervising is licensed to practise anatomy; or
- (b) The receipt or possession of a body on behalf of a person so licensed.

11 Decency to be observed

Any person performing a post-mortem or anatomical examination or removing any part of a body pursuant to this Act shall do so in a manner that avoids unnecessary mutilation of the body which is being examined or from which any such removal is being effected, and shall conduct the examination or removal in an orderly, quiet, and decent manner.

Compare: 1908 No 116, s35

Status Compendium

12 Offences

Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1000, or to imprisonment for a term not exceeding three months, who, –

- (a) Not being a medical practitioner, performs any post-mortem examination otherwise than in accordance with the instructions of a medical practitioner; or
- (b) Not being licensed under this Act to practise anatomy, practises anatomy, or, otherwise than on behalf of a person so licensed, receives or has in his possession any body for the purpose of anatomical examination; or
- (c) Performs an anatomical examination of a body at a place where or at a time when that examination is prohibited by this Act.