

BILLS DIGEST

HUMAN TISSUE BILL 2006 (2007 No 82-2)

As reported from the Health Committee: 28 September 2007

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HUMAN TISSUE BILL 2006 (2007 No 82-2)

Date of introduction:	28 September 2007
Portfolio:	Health
Select Committee:	Health
Date report presented:	28 September 2007

PURPOSE

“This Bill replaces the Human Tissue Act 1964 (the 1964 Act), and regulates collection and use of tissue from dead human bodies. It also regulates trading in tissue, export and import of tissue, and use of tissue for non-therapeutic purposes (for example, audit, research, education, and anatomical examination). Further, while collection and use of tissue from living people is largely covered by existing legislation and common law, the Bill also requires informed consent for donor analysis of tissue collected from living people otherwise than in the course of a health care procedure and use for a secondary purpose, after the donor’s death, of human tissue from a living person. The Bill also gives examples of lawful collection and use of human tissue”¹.

The Bill as introduced is described in [Bills Digest No 1447](#).

MAIN CHANGES TO THE BILL**Organ and tissue donor register**

The Select Committee has recommended that the Bill provide a power for the Governor-General, by Order in Council, to make regulations for the establishment of a voluntary organ and tissue register. It is made clear that such regulations can not authorise or require the recording in the register of personal information "without authorisation or consent from the individual concerned" and "until he or she cancels, or otherwise opts out of, the recording in the register of that information" (*Part 3, inserting New Clause 79A into the Bill*).

Right for decision makers to raise an informed objection

The Select Committee has recommended that decision-makers be able to raise either an informed objection or informed consent which would prevent lower-ranked decision-makers from consenting or objecting. A person giving informed consent or raising an informed objection to the collection or use of a dead individual's tissue is required to take into account the cultural and spiritual needs, values, and beliefs of the immediate family of the individual whose tissue is, or is not, to be collected. It is also recommended that nothing in the Bill requires that collection or use of human tissue proceed or that informed consent for the collection or use of tissue need be acted on. Because the consent process required for the collection and use of human tissue under the Bill are considered to be complex, the Select Committee has recommended the

¹ Human Tissue Bill, 2006 No 82-1, Explanatory Note, General policy statement, p. 1.

inclusion of flowchart diagrams in the schedules of the Bill to clarify the hierarchies of consent for some particular uses of human tissue (*Part 2, Subpart 1, inserting New Sections 10A - 10D, New Schedules 1A - 1C*).

Consent or objection on behalf of immediate family

The Select Committee has recommended that where the wishes of the dead person are unknown, and he or she has not nominated another person to consent or object on his or her behalf, and the right to consent or object passes to the immediate family of the individual, such family consent should be unanimous (*Part 2, Subpart 2, inserting New Sections 27A - 27E and New Section 33*).

Foetal tissue

The Select Committee has recommended that a dead foetus that has not issued completely from the mother before she died is to be treated as tissue from the body of the mother (so consent requirements are those that apply to the dead mother). A dead foetus that has issued completely from the mother (whether or not she is dead) is to be treated as tissue from the body of an individual, separate from the mother (consent requirements would then be the same as those for a dead child) (*Part 1, inserting Clause 6A*).