

# House of Representatives

# Supplementary Order Paper

Tuesday, 23 October 2007

## Human Tissue Bill

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### *Proposed amendments*

Hon Pete Hodgson, in committee, to move the following amendments:

#### *Clause 4*

To add the following subclause as *subclause (2)* (after line 23 on page 8):

- (2) This section is intended as a guide only.

#### *Clause 5*

Definition of **medicine**: to omit “with” (line 9 on page 13) and substitute “within”.

*Paragraph (a)* of definition of **use**: to omit this paragraph (lines 20 to 24 on page 15) and substitute the following paragraph:

- (a) includes—
- (i) the performance of a post-mortem involving that tissue; and
  - (ii) research using that tissue; and
  - (iii) anatomical examination and public display of that tissue; and
  - (iv) testing (including donor analysis) of that tissue; and
  - (v) storage of that tissue; and
  - (vi) disposal of that tissue; and

*Paragraph (c)* of definition of **use**: to omit “health care” (line 32 on page 15) and substitute “health-care”.

#### *Clause 7(4)*

To insert after “in relation to any” (line 33 on page 18) “kind of”.

To omit “that is, or is from, the body of a dead individual, and” (line 34 on page 18).

*Paragraph (a)*: to insert after “to that” (line 3 on page 19) “kind of”.

*Clause 10D*

To insert after “collected” (line 13 on page 47) “or used”.

*Clause 29(4)*

*Paragraph (a)*: to omit “, if no informed objection has been raised by that individual” (lines 17 and 18 on page 54).

*Paragraph (b)(i)*: to omit “informed consent has been given by that immediate family” (lines 21 and 22 on page 54) and substitute “consent has been given under **paragraph (a)**”.

*Paragraph (b)(ii)*: to omit “by that” (line 23 on page 54) and substitute “on behalf of that individual’s”.

*Clause 31B*

To omit this clause (lines 1 to 18 on page 56) and substitute the following clause:

**31B Immediate family: procedure when it is not practicable to ascertain whether decision made on its behalf**

Informed consent or an informed objection must, for the purposes of **sections 28, 29, and 31**, be treated as not having been given or raised on behalf of the immediate family of the individual if the person who proposes to collect or use the tissue is satisfied, based on all information available to that person in the circumstances, that it is not practicable, before the latest time that the tissue can be collected or used, to ascertain whether informed consent or an informed objection has been given or raised, on behalf of that immediate family, to the collection or use proposed.

Compare: Human Tissue Act 2004 ss 3(7), (8) (UK)

*Clause 31C*

*Heading to clause 31C*: to omit “**make or raise**” (line 20 on page 56) and substitute “**raise or make**”.

*Subclause (1)*: to omit “make, raise,” (line 22 on page 56) and substitute “raise, make,”.

*Subclause (2)(b)*: to omit “make, raise,” (line 31 on page 56) and substitute “raise, make,”.

*Clause 48A*

*Subclause (1)*: to omit “believes on reasonable grounds” (line 24 on page 61) and substitute “knows, or ought reasonably to know,”.

*Subclause (3)(a)*: to omit “(whether or not the person knows the tissue is, or is from, a body to which this section applies)” (lines 5 and 6 on page 62) and substitute “that is, or is from, a body, and the person knows, or ought reasonably to know, what is specified in **subsection (1)(a), (b), or (c)**”.

*Clause 66*

*Subclause (2)*: to omit “form set out in **Schedule 3**” (line 14 on page 76) and substitute “prescribed form”.

To insert the following subclause after *subclause (2)* (after line 20 on page 76):

(2A) The prescribed form of the search warrant is,—

- (a) until the commencement of the first regulations under **section 79B**, the form set out in **Schedule 3**; and
- (b) after that commencement, the form for the time being prescribed by regulations under **section 79B**.

*New clause 79B*

To insert the following clause after *clause 79A* (after line 3 on page 83):

**79B Regulations prescribing form of search warrant**

- (1) The Governor-General may, by Order in Council, make regulations prescribing the form of a search warrant issued under **section 66(2)** (entry of dwellinghouses and marae).
- (2) **Schedule 3** is repealed on the commencement of the first regulations made under this section.

*Clause 91(1)*

To insert after “1964” (line 30 on page 88) “(1964 No 19)”.

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## Explanatory note

This Supplementary Order Paper sets out technical amendments to the Human Tissue Bill.

The overview (*clause 4*) is amended to make clear that it is intended as a guide only.

*Clause 31B* is amended by omitting *clause 31B(a)*. That paragraph suggests wrongly that members representing all of the different interests of the immediate family must be available before consent or an objection may be given or raised on the family’s behalf. *Clause 33(c)* requires only that the member giving or raising the consent or objection believes on reasonable grounds, after taking the required steps to consult, that all capable members of the family would, if consulted personally, accept the consent or objection.

*Clause 48A* is amended to make clear the mental element for the offence in *clause 48A(3)*. It will be available only if the person knew, or ought reasonably to have known, that a coroner or other specified competent legal authority had directed or opened, or may direct or open, a post mortem of the body concerned or an inquiry into the death concerned.

*Clause 66* is amended, and a *new clause 79B* is inserted, to enable regulations to be made replacing the prescribed form of search warrant in *Schedule 3*.

The other amendments are drafting corrections or improvements.

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