



GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Selling price • Verkoopprys
(GST excluded/AVB uitgesluit)
Local **60c** Plaaslik
Other countries 95c Buitelands
Post free • Posvry

VOL. 287

CAPE TOWN, 26 MAY 1989

No. 11890

KAAPSTAD, 26 MEI 1989

STATE PRESIDENT'S OFFICE

No. 1042.

26 May 1989

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 51 of 1989: Human Tissue Amendment Act, 1989.

KANTOOR VAN DIE STAATSPRESIDENT

No. 1042.

26 Mei 1989

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 51 van 1989: Wysigingswet op Menslike Weefsel, 1989.

Act No. 51, 1989

HUMAN TISSUE AMENDMENT ACT, 1989

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Human Tissue Act, 1983, so as to define, further define or delete certain expressions; to further regulate the donation of human bodies and tissue; to provide that hospitals and certain other institutions may supply donated tissue to certain institutions and persons; to repeal a provision regarding a presumption in respect of donations by virtue of the wearing of a certain identity tag; to delete provisions that certain magistrates and medical practitioners shall submit certain reports to an inspector of anatomy; to further regulate the removal of tissue during post-mortem examinations and the handing over thereof to certain institutions or persons; to delete provisions relating to the keeping and furnishing of certain registers and notices; to further regulate the granting of certain authorities; to further regulate the use of certain tissue of minors and to make new provision regarding the use of certain other tissue; to make new provision regarding requirements for transplanting of tissue removed from bodies of living persons; to repeal a provision relating to a code of practice for artificial fertilization; to do away with a prohibition in respect of the effecting of artificial fertilization by certain persons; to further regulate conditions in respect of authorized institutions; to extend the control over the import and export of tissue; to amend the sanctions in respect of the illegal importation of tissue, blood, blood products and gametes; to provide for the designation of an officer to exercise the powers of an inspector of anatomy; to provide for the appointment of investigating officers; to extend assistance that must be rendered to inspectors of anatomy; to further regulate and extend the powers of the Minister to make regulations; and to effect a certain textual alteration; and to provide for matters connected therewith.

*(English text signed by the State President.)
(Assented to 17 May 1989.)*

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 65 of 1983, as amended by section 1 of Act 106 of 1984

1. Section 1 of the Human Tissue Act, 1983 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution for the definition of "Director-General" of the following definition:

"Director-General" means the Director-General: National Health and Welfare Population Development;";

(b) by the insertion after the definition of "inspector of anatomy" of the following definition:

"investigating officer" means a person appointed as an investigating officer under section 29A (1);";

ALGEMENE VERDUIDELIKENDE NOTA:

- []** Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
- _____** Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Wet op Menslike Weefsel, 1983, ten einde sekere uitdrukings te omskryf, nader te omskryf of te skrap; die skenking van menslike liggame en weefsel verder te reël; te bepaal dat hospitale en sekere ander inrigtings geskenkte weefsel aan sekere inrigtings en persone kan verskaf; 'n bepaling betreffende 'n vermoede ten opsigte van skenkings uit hoofde van die dra van 'n sekere uitkennings-etiket, te herroep; bepalings dat sekere landdroste en geneeshere sekere verslae aan 'n inspekteur van anatomie moet verstrek, te skrap; die verwydering van weefsel by nadoodse ondersoek en die oorhandiging daarvan aan sekere inrigtings of persone verder te reël; bepalings betreffende die byhou en voorsiening van sekere registers en kennisgewings te skrap; die verlening van sekere magtigings verder te reël; die gebruik van sekere weefsel van minderjariges verder te reël, en nuwe voorsiening te maak betreffende die gebruik van sekere ander weefsel; nuwe voorsiening te maak betreffende vereistes vir oorplanting van weefsel wat van liggame van lewende persone verwynner is; 'n bepaling betreffende 'n gebruikskode vir kunsmatige bevrugting te herroep; 'n verbod ten opsigte van die uitvoering van kunsmatige bevrugting deur sekere persone op te hef; voorwaardes ten opsigte van gemagtigde inrigtings verder te reël; die beheer oor die in- en uitvoer van weefsel uit te brei; die sanksies ten opsigte van die onwettige invoer van weefsel, bloed, bloedprodukte en gamete te wysig; voorsiening te maak vir die aanwysing van 'n beampete om die bevoegdhede van 'n inspekteur van anatomie uit te oefen; voorsiening te maak vir die aanstelling van ondersoekbeampetes; bystand wat aan inspekteurs van anatomie verleen moet word, uit te brei; die Minister se bevoegdhede om regulasies uit te vaardig, verder te reël en uit te brei; en 'n sekere teksverandering aan te bring; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 17 Mei 1989.)

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet 65 van 1983, soos gewysig deur artikel 1 van Wet 106 van 1984

- 5 1. Artikel 1 van die Wet op Menslike Weefsel, 1983 (hieronder die Hoofwet genoem), word hierby gewysig—
 (a) deur die omskrywing van "Direkteur-generaal" deur die volgende omskrywing te vervang:
 "Direkteur-generaal" die Direkteur-generaal: Nasionale Gesondheid en [Welsyn] Bevolkingsontwikkeling;";
- 10 (b) deur die omskrywing van "Minister" deur die volgende omskrywing te vervang:
 "Minister" die Minister van Nasionale Gesondheid en [Welsyn] Bevolkingsontwikkeling";

Act No. 51, 1989

HUMAN TISSUE AMENDMENT ACT, 1989

- (c) by the substitution for the definition of "Minister" of the following definition:
"Minister" means the Minister of National Health and [Welfare] Population Development"; and
- (d) by the deletion of the definition of "police officer".

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Amendment of section 2 of Act 65 of 1983

2. Section 2 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (2) of the following paragraph:

- (b) [a district surgeon] the Director-General or any person specially authorized by him for this purpose or the holder of a specific office authorized as such may after the death of the person concerned, if none of the persons referred to in paragraph (a) can be traced and the Director-General or such authorized person or holder of an office is satisfied that all reasonable steps have been taken to locate those persons, donate any specific tissue of the body of that person to a specific [donee of the category] institution or person referred to in section 3 (1) [(f)] to be used for [transplanting into the body of that donee: Provided that a district surgeon shall not donate any tissue under this paragraph unless—
- (i) he is satisfied that all reasonable steps have been taken to trace the persons referred to in paragraph (a); and
- (ii) two other medical practitioners have stated in writing that the use of the tissue concerned is immediately necessary to save the life of the donee concerned or, in the case of eye tissue, to restore his sight] any of the purposes referred to in section 4 (1).".

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Amendment of section 3 of Act 65 of 1983

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3. Section 3 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

- (b) a university or technikon [involved in medical or dental training or research];".

Amendment of section 4 of Act 65 of 1983

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4. Section 4 of the principal Act is hereby amended—

- (a) by the addition to subsection (1) of the following paragraph:
"(c) in the case of a donee of a category referred to in paragraph (a), (b) or (c) of section 3 (1), the supply, in its discretion, of any specific tissue to any other institution referred to in those paragraphs, or to any medical practitioner or dentist, or to an institution or person to whom an authority referred to in section 9 (3) has been granted."; and
- (b) by the addition of the following subsection:
"(3) An institution, medical practitioner, dentist or person to whom specific tissue has been supplied in terms of subsection (1) (c) may use the tissue only for the purposes referred to in subsection (1) (a).".

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Repeal of section 6 of Act 65 of 1983

5. Section 6 of the principal Act is hereby repealed.

Amendment of section 7 of Act 65 of 1983

6. Section 7 of the principal Act is hereby amended by the deletion of subsection (4).

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WYSIGINGSWET OP MENSELIKE WEEFSEL, 1989

Wet No. 51, 1989

- (c) deur na die omskrywing van "Minister" die volgende omskrywing in te voeg:
 "ondersoekbeampte 'n persoon wat kragtens artikel 29A (1) as ondersoekbeampte aangestel is"; en
 5 (d) deur die omskrywing van "polisiebeampte" te skrap.

Wysiging van artikel 2 van Wet 65 van 1983

2. Artikel 2 van die Hoofwet word hierby gewysig deur paragraaf (b) van subartikel (2) deur die volgende paragraaf te vervang:

- 10 "(b) kan [**I'n distriksgeneesheer**] die Direkteur-generaal of iemand spesiaal vir hierdie doel skriftelik deur hom daartoe gemagtig of die bekleer van 'n bepaalde amp aldus gemagtig, na die dood van die betrokke persoon, indien geeneen van die persone vermeld in paragraaf (a) opgespoor kan word nie en die Direkteur-generaal of so 'n gemagtigde persoon of ampsbekleer oortuig is dat alle redelike stappe gedoen is om daardie persone op te spoor, enige bepaalde weefsel van die liggaam van daardie persoon skenk aan 'n bepaalde [**begiftigde van die kategorie**] inrigting of persoon vermeld in artikel 3 (1) [(f)], om gebruik te word vir [**oorplanting in die liggaam van daardie begiftigde**: Met dien verstande dat 'n distriksgeneesheer nie enige weefsel kragtens hierdie paragraaf skenk nie tensy—
 15 (i) hy oortuig is dat alle redelike stappe gedoen is om die persone in paragraaf (a) vermeld, op te spoor; en
 (ii) twee ander geneeshere skriftelik verklaar het dat die betrokke weefsel se gebruik onmiddellik nodig is om die betrokke begiftigde se lewe te red of, in die geval van oogweefsel, sy sig te herstel] enige van die doeleindeste in artikel 4 (1) vermeld.".
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Wysiging van artikel 3 van Wet 65 van 1983

3. Artikel 3 van die Hoofwet word hierby gewysig deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:

- 30 "(b) 'n universiteit of technikon [**wat betrokke is by geneeskundige of tandheelkundige opleiding of navorsing**";.

Wysiging van artikel 4 van Wet 65 van 1983

4. Artikel 4 van die Hoofwet word hierby gewysig—

- (a) deur die volgende paragraaf by subartikel (1) te voeg:
 35 "(c) in die geval van 'n begiftigde van 'n kategorie vermeld in paragraaf (a), (b) of (c) van artikel 3 (1), die verskaffing, na goeddunke, van enige bepaalde weefsel aan enige ander inrigting in daardie paragrawe vermeld, of aan 'n geneesheer of 'n tandarts, of aan 'n inrigting of persoon aan wie 'n magtiging bedoel in artikel 9 (3) verleen is.); en
 (b) deur die volgende subartikel by te voeg:
 40 "(3) 'n Inrigting, geneesheer, tandarts of persoon aan wie bepaalde weefsel ingevolge subartikel (1) (c) verskaf is, mag die weefsel slegs vir die doeleindeste vermeld in subartikel (1) (a) gebruik.".

Herroeping van artikel 6 van Wet 65 van 1983

5. Artikel 6 van die Hoofwet word hierby herroep.

45 Wysiging van artikel 7 van Wet 65 van 1983

6. Artikel 7 van die Hoofwet word hierby gewysig deur subartikel (4) te skrap.

Act No. 51, 1989

HUMAN TISSUE AMENDMENT ACT, 1989

Substitution of section 9 of Act 65 of 1983

7. The following section is hereby substituted for section 9 of the principal Act:

"Removal of tissue at post-mortem examinations and obtaining of tissue by institutions and persons

9. (1) Notwithstanding anything to the contrary contained in any law but subject to the provisions of subsection (2) [and the prescribed conditions], a medical practitioner who conducts a post-mortem examination of a body under—

- (a) section (3) of the Inquests Act, 1959 (Act No. 58 of 1959); or
 (b) section 8,

may remove or cause to be removed [prescribed tissue] from that body tissue stated in an authority referred to in subsection (3) and shall hand [tissue so removed] it over to [a prescribed authorized institution to be used or supplied for such of the purposes referred to in section 4 (1) as may be prescribed] the holder of the authority.

(2) The provisions of section 14 shall not apply in respect of the removal of tissue under subsection (1) (a), but such a removal shall not be effected if the medical practitioner conducting the post-mortem examination—

- (a) is not satisfied that the removal of the tissue will in no way affect the outcome of that examination; or
 (b) at the time of that examination has reason to believe that the body or tissue concerned has been donated or that the removal would be contrary to a direction given by the deceased before his death.

(3) The Minister may in his discretion, on the written application of an institution or person requiring tissue stated in the application for any of the purposes referred to in section 4 (1), authorize such institution or person in writing, to obtain, subject to any condition stated in the authorization, such tissue from a medical practitioner referred to in subsection (1) or an institution referred to in section 3 (1) (a), (b) or (c) to be used for such purpose as stated in the authority.

(4) An authority referred to in subsection (3) may, subject to the conditions stated therein, be granted for the non-recurrent acquisition of tissue stated in the application concerned, or for the acquisition thereof for a stated or for an unspecified period.”.

Amendment of section 11 of Act 65 of 1983

8. Section 11 of the principal Act is hereby amended by the deletion of subsection (3).

Amendment of section 12 of Act 65 of 1983

9. Section 12 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) A body handed over to an institution in terms of an order under subsection (1), may be used by the institution concerned [in accordance with the regulations] for any of the purposes referred to in section 4 (1) (a) or (c).”.

Amendment of section 14 of Act 65 of 1983

10. Section 14 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The magistrate of the district within which a person has died or within which the body of a deceased person is, or a magistrate authorized by him, or the medical practitioner in charge of a hospital or authorized institution in which a person has died or of a mortuary in which the body of a person is, or any other medical practitioner employed at that hospital, institution or mortuary who has been authorized thereto by the medical practitioner in charge, either in general

WYSIGINGSWET OP MENSELIKE WEEFSEL, 1989

Wet No. 51, 1989

Vervanging van artikel 9 van Wet 65 van 1983

7. Artikel 9 van die Hoofwet word hierby deur die volgende artikel vervang:

"Verwydering van weefsel by nadoodse ondersoek en verkryging van weefsel deur inrigtings en persone"

- 5 9. (1) Ondanks andersluidende bepalings van die een of ander wet maar behoudens die bepalings van subartikel (2) **[en die voorgeskrewe voorwaardes]** kan 'n geneesheer wat kragtens—
 (a) artikel 3 van die Wet op Geregtelike Doodsondersoek, 1959 (Wet No. 58 van 1959); of
 (b) artikel 8,
 'n nadoodse ondersoek van 'n liggaam uitvoer, **[voorgeskrewe]** weefsel vermeld in 'n magtiging bedoel in subartikel (3) van daardie liggaam verwyder of laat verwyder en **[moet hy weefsel wat aldus verwyder is aan 'n voorgeskrewe gemagtigde inrigting]** dit aan die houer van die magtiging oorhandig **[om vir die doeleindeste in artikel 4 (1) vermeld wat voorgeskryf is, gebruik of verskaf te word].**
 (2) Die bepalings van artikel 14 is nie ten opsigte van die verwijdering van weefsel kragtens subartikel **[(1) van hierdie artikel]** (1) (a) van toepassing nie, maar so 'n verwijdering word nie gedoen nie indien die geneesheer wat die nadoodse ondersoek uitvoer—
 (a) nie oortuig is dat die verwijdering van die weefsel op geen wyse die resultaat van daardie ondersoek sal beïnvloed nie; of
 (b) ten tyde van daardie ondersoek rede het om te glo dat die betrokke liggaam of weefsel geskenk is of dat die verwijdering teenstrydig sou wees met 'n opdrag deur die oorledene voor sy dood gegee.
 (3) Die Minister kan na goeddunke, op skriftelike aansoek van 'n inrigting of persoon wat weefsel in die aansoek vermeld vir enige van die doeleindeste in artikel 4 (1) vermeld, verlang, so 'n inrigting of persoon skriftelik magtig om, onderworpe aan enige voorwaarde in die magtiging vermeld, sodanige weefsel van 'n geneesheer in subartikel (1) bedoel of 'n inrigting in artikel 3 (1) (a), (b) of (c) bedoel, te verkry, om vir 'n doel wat in die magtiging vermeld word, gebruik te word.
 (4) 'n Magtiging bedoel in subartikel (3) kan, onderworpe aan die voorwaardes daarin vermeld, verleen word vir die eenmalige verkryging van weefsel in die betrokke aansoek vermeld, of vir die verkryging daarvan vir 'n vermelde of vir 'n onbepaalde tydperk."

Wysiging van artikel 11 van Wet 65 van 1983

8. Artikel 11 van die Hoofwet word hierby gewysig deur subartikel (3) te skrap.

Wysiging van artikel 12 van Wet 65 van 1983

40 9. Artikel 12 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

 "(3) 'n Liggaam wat ingevolge 'n bevel kragtens subartikel (1) aan 'n inrigting oorhandig is, kan deur die betrokke inrigting **[ooreenkomsdig die regulasies]** gebruik word vir enige van die doeleindeste in artikel 4 (1) (a) of (c) vermeld."

45 Wysiging van artikel 14 van Wet 65 van 1983

10. Artikel 14 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

 "(1) Die landdros van die distrik waarin iemand gesterwe het of waarin die liggaam van 'n oorlede persoon is, of 'n landdros deur hom **gemagtig**, of die geneesheer in bevel van 'n hospitaal of **gemagtigde inrigting** waarin iemand gesterwe het of van 'n dodehuis waarin die liggaam van iemand is, of 'n ander geneesheer in diens by daardie hospitaal, inrigting of dodehuis wat deur die geneesheer in bevel in die algemeen of in 'n besondere geval daartoe **gemagtig**

Act No. 51, 1989**HUMAN TISSUE AMENDMENT ACT, 1989**

or in a particular case, may, notwithstanding anything to the contrary contained in any law, grant written authority **[in the prescribed form]** that—

- (a) **[a medical practitioner]** an institution or **[dentist]** a person referred to in section 3 (1) making application therefor **[in the prescribed form]** **in writing** may **[subject to the prescribed conditions]** remove or cause to be removed **[under his supervision]** any specific tissue from the body concerned before the burial thereof; or
- (b) a medical practitioner making application therefor **[in the prescribed form]** **in writing** may **[subject to the prescribed conditions]** conduct a post-mortem examination of that body before the burial thereof.”.

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Repeal of section 15 of Act 65 of 1983

11. Section 15 of the principal Act is hereby repealed.

Repeal of section 17 of Act 65 of 1983

12. Section 17 of the principal Act is hereby repealed.

Amendment of section 19 of Act 65 of 1983

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13. Section 19 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (ii) of the proviso of the following paragraph:

“(ii) any tissue **of a person who is a minor** and which is not replaceable by natural processes or any gamete of **[a] any such person [who is a minor]**; or”; and
- (b) by the insertion after paragraph (iii) of the proviso of the following paragraph:

“(iv) placenta, foetal tissue and umbilical cord, except with the consent of the Minister and subject to any condition mentioned in the consent.”.

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Amendment of section 20 of Act 65 of 1983

14. Section 20 of the principal Act is hereby amended by the substitution for the words preceding paragraph (a) of the following words:

“The removal of tissue from the body of a living person for transplanting into the body of another living person **and such transplantation shall not be effected—**”.

Repeal of section 22 of Act 65 of 1983

15. Section 22 of the principal Act is hereby repealed.

Substitution of section 23 of Act 65 of 1983

16. The following section is hereby substituted for section 23 of the principal Act: 35

“Control of removal and use of tissue and blood

23. **[(1)]** No person, except a medical practitioner or dentist or a person acting under his supervision, may for the purposes of this Chapter—

- (a) remove any tissue from the body of a living person or use or transplant tissue so removed in the body of another living person; or
- (b) withdraw any blood from the body of a living person or administer blood or a blood product to a living person.

[(2) No person except a medical practitioner or a person acting under his supervision may effect the artificial insemination of a person.].

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WYSIGINGSWET OP MENSLIKE WEEFSEL, 1989

Wet No. 51, 1989

is, kan, ondanks andersluidende bepalings van die een of ander wet, skriftelike magtiging [**in die voorgeskrewe vorm**] verleen dat—

- (a) 'n [geneesheer] inrigting of [tandarts] persoon in artikel 3 (1) vermeld wat [**in die voorgeskrewe vorm**] skriftelik daarom aansoek doen, [**behoudens die voorgeskrewe voorwaarde**] enige bepaalde weefsel van die betrokke liggaam voor die begrawing daarvan kan verwijder of [**onder sy toesig**] kan laat verwijder; of
- (b) 'n geneesheer wat [**in die voorgeskrewe vorm**] skriftelik daarom aansoek doen [**behoudens die voorgeskrewe voorwaarde**] 'n nadoodse ondersoek van daardie liggaam voor die begrawing daarvan kan uitvoer.”.

Herroeping van artikel 15 van Wet 65 van 1983

11. Artikel 15 van die Hoofwet word hierby herroep.

Herroeping van artikel 17 van Wet 65 van 1983

12. Artikel 17 van die Hoofwet word hierby herroep.

15 Wysiging van artikel 19 van Wet 65 van 1983

13. Artikel 19 van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (ii) van die voorbehoudsbepaling deur die volgende paragraaf te vervang:
 - “(ii) weefsel van 'n persoon wat 'n minderjarige is en wat nie deur natuurlike herstellingsprosesse vervangbaar is nie of enige gameet van sodanige persoon [**wat 'n minderjarige is**]; of”; en
- (b) deur die volgende paragraaf na paragraaf (iii) van die voorbehoudsbepaling in te voeg:
 - “(iv) plasenta, foetale weefsel en naelstring, behalwe met die toestemming van die Minister en onderworpe aan enige voorwaarde in die toestemming vermeld.”.

Wysiging van artikel 20 van Wet 65 van 1983

14. Artikel 20 van die Hoofwet word hierby gewysig deur die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“Die verwydering van weefsel van die liggaam van 'n lewende persoon vir oorplanting in die liggaam van 'n ander lewende persoon en so 'n oorplanting word nie gedoen nie—”.

Herroeping van artikel 22 van Wet 65 van 1983

15. Artikel 22 van die Hoofwet word hierby herroep.

35 Vervanging van artikel 23 van Wet 65 van 1983

16. Artikel 23 van die Hoofwet word hierby deur die volgende artikel vervang:

“Beheer oor verwydering en gebruik van weefsel en bloed

23. [(1)] Niemand behalwe 'n geneesheer of tandarts of iemand wat onder sy toesig optree, mag by die toepassing van hierdie Hoofstuk—

- (a) enige weefsel van die liggaam van 'n lewende persoon verwijder of weefsel aldus verwijder in die liggaam van 'n ander lewende persoon gebruik of oorplant nie; of
- (b) enige bloed van die liggaam van 'n lewende persoon onttrek of bloed of 'n bloedproduk aan 'n lewende persoon toedien nie.

[(2)] Niemand behalwe 'n geneesheer of iemand wat onder sy toesig optree, mag die kunsmatige bevrugting van 'n persoon doen nie.]”.

Act No. 51, 1989

HUMAN TISSUE AMENDMENT ACT, 1989

Amendment of section 24 of Act 65 of 1983**17. Section 24 of the principal Act is hereby amended—**

- (a) by the substitution for the words preceding paragraph (a) of the following words:

“The Minister may by notice in the *Gazette* authorize any institution which is not an institution referred to in section 3 (1) (a) or (b) and which complies with the prescribed conditions, subject to any further conditions (if any) which the Minister may determine in any particular case and which shall be stated in the said notice, to—”; and

- (b) by the deletion of the word “and” at the end of paragraph (c), and 10 paragraph (d).

Amendment of section 25 of Act 65 of 1983**18. Section 25 of the principal Act is hereby amended—**

- (a) by the substitution for subsection (1) of the following subsection:

“(1) No person other than a person to whom the Director-General has issued a permit in terms of subsection (2) may import or export any [prescribed] tissue or any blood, blood product or gamete.”; and

- (b) by the substitution for subsection (2) of the following subsection:

“(2) The Director-General may on application in [the prescribed form] writing issue a permit in [the prescribed] a form determined by him to a person authorizing [him] such a person to import or export, subject to such conditions as the Director-General may determine and record on the permit, any tissue [contemplated in subsection (1)] or any blood, blood product or gamete.”.

Amendment of section 26 of Act 65 of 1983

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19. Section 26 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

“(1) When any [prescribed] tissue or any blood, blood product or gamete has in the opinion of the Director-General been imported contrary to the provisions of section 25 or the conditions of a permit issued under that section, the Director-General may—

(a) order the importer concerned in writing to destroy or to remove from the Republic the tissue, blood, blood product or gamete so imported within the period determined by the Director-General and at the expense of that importer [the tissue, blood, blood product or gamete so imported]; and

(b) order that, if the importer concerned does not so destroy or remove the tissue, blood, blood product or gamete concerned, it shall be forfeited to the State.”; and

- (b) by the substitution for subsection (2) of the following subsection:

“(2) If such an importer, after receipt of a written order under subsection (1), notifies the Director-General in writing that he does not intend to comply with the order for destruction or removal, or fails to remove the tissue, blood, blood product or gamete concerned from the Republic within the period determined by the Director-General in terms of the said subsection, the Director-General may at the expense of the importer seize the tissue, blood, blood product or gamete and so dispose thereof in such manner as he may deem fit.”.

Amendment of section 29 of Act 65 of 1983**20. Section 29 of the principal Act is hereby amended—**

50

- (a) by the substitution for subsection (1) of the following subsection:

“(1) The Director-General may appoint one or more persons in the Department of National Health and [Welfare] Population Development as inspectors of anatomy.”; and

WYSIGINGSWET OP MENSLIKE WEEFSEL, 1989

Wet No. 51, 1989

Wysiging van artikel 24 van Wet 65 van 1983

17. Artikel 24 van die Hoofwet word hierby gewysig—

- (a) deur die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:
- 5 “Die Minister kan by kennisgewing in die *Staatskoerant* enige inrigting wat nie ’n inrigting vermeld in artikel 3 (1) (a) of (b) is nie en wat aan die voorgeskrewe voorwaardes voldoen, magtig om, onderworpe aan die verdere voorwaardes (as daar is) wat die Minister in enige bepaalde gevval kan bepaal en wat in bedoelde kennisgewing vermeld moet word”; en
- 10 (b) deur die woorde “en” aan die einde van paragraaf (c), en paragraaf (d), te skrap.

Wysiging van artikel 25 van Wet 65 van 1983

18. Artikel 25 van die Hoofwet word hierby gewysig—

- 15 (a) deur subartikel (1) deur die volgende subartikel te vervang:
- “(1) Niemand behalwe ’n persoon aan wie die Direkteur-generaal ’n permit ingevolge subartikel (2) uitgereik het, mag enige [**voorgeskrewe**] weefsel of enige bloed, bloedproduk of gameet invoer of uitvoer nie.”; en
- 20 (b) deur subartikel (2) deur die volgende subartikel te vervang:
- “(2) Die Direkteur-generaal kan op skriftelike aansoek [**in die voorgeskrewe vorm**] aan iemand ’n permit in [**die voorgeskrewe**] ’n vorm deur hom bepaal, uitrek waarby [**hy**] so ’n persoon gemagtig word om, onderworpe aan die voorwaardes wat die Direkteur-generaal bepaal en op die permit aanteken, enige weefsel, [**in subartikel (1) beoog of enige**] bloed, bloedproduk of gameet in te voer of uit te voer.”.

Wysiging van artikel 26 van Wet 65 van 1983

19. Artikel 26 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang:
- 30 “(1) Wanneer enige [**voorgeskrewe**] weefsel of enige bloed, bloedproduk of gameet volgens die oordeel van die Direkteur-generaal ingevoer is in stryd met die bepalings van artikel 25 of die voorwaardes van ’n permit kragtens daardie artikel uitgereik, kan die Direkteur-generaal—
- 35 (a) die betrokke invoerder skriftelik gelas om die betrokke weefsel, bloed, bloedproduk of gameet wat aldus ingevoer is binne die tydperk deur die Direkteur-generaal bepaal op koste van daardie invoerder te vernietig of uit die Republiek te verwyder; en
- 40 (b) gelas dat, indien die betrokke invoerder die betrokke weefsel, bloed, bloedproduk of gameet nie aldus vernietig of verwyder nie, dit aan die Staat verbeur word.”; en
- 45 (b) deur subartikel (2) deur die volgende subartikel te vervang:
- “(2) Indien so ’n invoerder na ontvangs van ’n skriftelike lasgewing kragtens subartikel (1), die Direkteur-generaal skriftelik in kennis stel dat hy nie van voorname is om aan die lasgewing vir vernietiging of verwydering te voldoen nie, of in gebreke bly om die betrokke weefsel, bloed, bloedproduk of gameet uit die Republiek te verwyder binne die tydperk wat deur die Direkteur-generaal ingevolge genoemde subartikel bepaal is, kan die Direkteur-generaal op koste van die invoerder op die weefsel, bloed, bloedproduk of gameet beslag lê en aldus na goedunke daaroor beskik.”.

50 Wysiging van artikel 29 van Wet 65 van 1983

20. Artikel 29 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang:
- 55 “(1) Die Direkteur-generaal kan een of meer persone in die Departement van Nasionale Gesondheid en [**Welsyn**] Bevolkingsontwikkeling as inspekteurs van anatomie aanstel.”; en

Act No. 51, 1989

HUMAN TISSUE AMENDMENT ACT, 1989

- (b) by the substitution for paragraph (b) of subsection (2) of the following paragraph:
- “(b) The Director-General, or an officer referred to in section 1 of the Public Service Act, 1984 (Act No. 111 of 1984), designated by him, may exercise any power conferred upon an inspector of anatomy by section 31 (1) (a), (b), (c), (d), (e) or (f).”.

Insertion of section 29A in Act 65 of 1983

21. The following section is hereby inserted after section 29 of the principal Act:

“Investigating officers

29A. (1) If the Director-General deems it necessary, he may, on such conditions as the Minister may from time to time with the concurrence of the Minister of Finance determine, appoint any person who is not in the full-time employment of the State as an investigating officer in any particular case to investigate any matter falling under this Act or may so appoint such person to assist an inspector of anatomy with any matter which falls within the powers and duties of such an inspector.

(2) (a) An investigating officer, may, subject to the control and directions of the Director-General, for the purpose of the investigation for which he has been appointed, exercise any power conferred on an inspector of anatomy under section 31 (1).

(b) The Director-General, or an officer of the Department of National Health and Population Development designated by him for this purpose, shall furnish an investigating officer with a certificate of appointment, signed by the Director-General or such an officer and stating that he has been appointed as an investigating officer in terms of this section.

(c) An investigating officer shall on request produce for inspection the certificate of appointment furnished to him in terms of paragraph (b).“.

Repeal of section 30 of Act 65 of 1983

30

22. Section 30 of the principal Act is hereby repealed.

Amendment of section 31 of Act 65 of 1983

23. Section 31 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Any person who is in charge of any activity or process referred to in subsection (1) in respect of which any premises contemplated in subsection (1) are occupied or used, and any person employed by such person, shall at all reasonable times render such assistance—

(a) as an inspector of anatomy may require in the exercise of his powers under that subsection; or

(b) as the Director-General or any delegate referred to in section 38 (2) (a) or any officer referred to in section 29 (2) (b) may require in the exercise of those powers under section 29 (2) (b); or

(c) as an investigating officer may require in the exercise of those powers under section 29A (2) (a).“.

Amendment of section 34 of Act 65 of 1983

24. Section 34 of the principal Act is hereby amended—

(a) by the substitution for paragraph (c) of the following paragraph:

“(c) fails to forward or direct any report or notice which he is obliged to forward or direct to an inspector of anatomy in accordance with section 50 [7 (4) (a),] 11 (1) or 11 (2) [or 17 (1) (b),] to the inspector of anatomy concerned;”;

(b) by the deletion of paragraphs (d), (e) and (g); and

WYSIGINGSWET OP MENSLIKE WEEFSEL, 1989

Wet No. 51, 1989

- (b) deur paragraaf (b) van subartikel (2) deur die volgende paragraaf te vervang:
 “(b) Die Direkteur-generaal of 'n beampete bedoel in artikel 1 van die Staatsdienswet, 1984 (Wet No. 111 van 1984), deur hom aangewys, kan enige bevoegdheid uitoefen wat deur artikel 31 (1) (a), (b), (c), (d), (e) of (f) aan 'n inspekteur van anatomie verleen word.”.

Invoeging van artikel 29A in Wet 65 van 1983

21. Die volgende artikel word hierby in die Hoofwet na artikel 29 ingevoeg:

“Ondersoekbeampetes

- 10 **29A.** (1) Indien die Direkteur-generaal dit nodig ag, kan hy op die voorwaardes wat die Minister van tyd tot tyd met die instemming van die Minister van Finansies bepaal, iemand wat nie in die heetlydse diens van die Staat is nie as 'n ondersoekbeampete in 'n bepaalde geval aanstel om enige aangeleentheid waarop hierdie Wet betrekking het te ondersoek, of so iemand aanstel om 'n inspekteur van anatomie behulpsaam te wees met enige aangeleentheid wat binne die bevoegdhede of pligte van so 'n inspekteur val.
 20 (2) (a) 'n Ondersoekbeampete kan, onderworpe aan die beheer en voorskrifte van die Direkteur-generaal, vir die doel van die ondersoek waarvoor hy aangestel is enige bevoegdheid uitoefen wat kragtens artikel 31(1) aan 'n inspekteur van anatomie verleen word.
 15 (b) Die Direkteur-generaal, of 'n beampete van die Departement van Nasionale Gesondheid en Bevolkingsontwikkeling vir die doel deur hom aangewys, reik aan 'n ondersoekbeampete 'n aanstellingsertifikaat uit, onderteken deur die Direkteur-generaal of so 'n beampete en waarin vermeld word dat hy as 'n ondersoekbeampete ingevolge hierdie artikel aangestel is.
 25 (c) 'n Ondersoekbeampete moet op versoek die aanstellingsertifikaat wat ingevolge paragraaf (b) aan hom uitgereik is, vir inspeksie toon.”.

30 Herroeping van artikel 30 van Wet 65 van 1983

22. Artikel 30 van die Hoofwet word hierby herroep.

Wysiging van artikel 31 van Wet 65 van 1983

23. Artikel 31 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

- 35 “(2) Enigiemand wat in beheer is van 'n bedrywigheid of proses bedoel in subartikel (1) ten opsigte waarvan enige perseel beoog in subartikel (1) geokkypeer of gebruik word, en enige persoon by so 'n persoon in diens, moet te alle redelike tye die bystand verleen—
 40 (a) wat 'n inspekteur van anatomie by die uitoefening van sy bevoegdhede kragtens daardie subartikel vereis; of
 45 (b) wat die Direkteur-generaal of enige in artikel 38 (2) (a) bedoelde gedelegeerde of enige in artikel 29 (2) (b) bedoelde beampete by die uitoefening van daardie bevoegdhede kragtens artikel 29 (2) (b) vereis; of
 (c) wat 'n ondersoekbeampete by die uitoefening van daardie bevoegdhede kragtens artikel 29A (2) (a) vereis.”.

Wysiging van artikel 34 van Wet 65 van 1983

24. Artikel 34 van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (c) deur die volgende paragraaf te vervang:
 “(c) versuim om 'n verslag of kennisgewing wat hy verplig is om ooreenkomsdig artikel [7 (4) (a),] 11 (1) of 11 (2) [of 17 (1) (b)] aan 'n inspekteur van anatomie te stuur of te rig, aan die betrokke inspekteur van anatomie te stuur of te rig;”;
 (b) deur paragrawe (d), (e) en (g) te skrap; en

Act No. 51, 1989

HUMAN TISSUE AMENDMENT ACT, 1989

- (c) by the substitution for paragraph (l) of the following paragraph:
 "(l) falsely holds himself out to be an inspector of anatomy or an investigating officer or any officer designated under section 29 (2) (b);".

Amendment of section 37 of Act 65 of 1983

5

25. Section 37 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (c) of subsection (1) of the following paragraph:
 "(c) the conditions—
 (i) for the use (other than for artificial **[insemination]** **fertilization** of 10 any person) and supply of gametes for any of the purposes referred to in section 19;
 (ii) for the use and supply of any tissue lawfully imported, **donated** or removed from the body of a living person; and
 (iii) for the disposal, otherwise than in accordance with section 31 (1) 15 (g), of **[such]** tissue and gametes no longer required for any of the purposes referred to in section 4 (1) or 19, as the case may be;";
- (b) by the deletion of paragraph (d) of subsection (1);
- (c) by the substitution for subparagraph (iv) of paragraph (e) of subsection (1) of the following subparagraph:
 "(iv) the withdrawal of blood from the bodies of living persons by organizations, **persons or institutions** (including the requirements with which those organizations, **persons or institutions** shall comply), and the preservation, testing, processing, supply or disposal in any other manner of blood so withdrawn or of imported blood, for use, whether 20 as whole blood or in the form of any blood product, for any of the purposes referred to in section 19;";
- (d) by the addition to paragraph (e) of subsection (1) of the following subparagraph:
 "(vii) the bringing together outside the human body of a male and a female 30 **gamete or gametes, and research of whatever nature with regard to the product of the union of such gametes, irrespective for what purpose such product has been or is being produced;**";
- (e) by the substitution for paragraph (f) of subsection (1) of the following paragraph:
 "(f) the **[returns and reports to be submitted by institutions and persons for the purposes of this Act to specified officers]** registers which shall be kept by—
 (i) an institution or person referred to in section 3 (1) (a), (b), (c), (d) and (e) to which or to whom a body or specific tissue has been 40 donated under section 2;
 (ii) an institution which or a person who has supplied tissue under section 4 (1) (c).
 (iii) a medical practitioner who has removed eye tissue under section 7 (1) or under whose supervision such removal has been done or who has removed, has caused to be removed or has handed over tissue under section 9 (1);
 (iv) an institution to which a body has been handed over in terms of an order under section 12 (1); and
 (v) a medical practitioner who has granted an authority under section 45 14;";
- (f) by the insertion in subsection (1) after paragraph (f) of the following paragraph:
 "(fa) (i) the **returns and reports, including extracts from registers referred to in paragraph (f), to be submitted to specified officers;**
 (ii) the period during which the said returns, reports and registers, or prints or copies thereof, shall be retained, and persons to whom such returns, reports and registers or prints or copies, as the case may be, shall be submitted;";
- (g) by the substitution for subsection (3) of the following subsection:
 "(3) A regulation made under subsection (1) **[(e) (vi)]** may **[in respect of the production of any blood product]** prescribe any requirement set out in 60

- (c) deur paragraaf (l) deur die volgende paragraaf te vervang:
 "(l) homself valslik as 'n inspekteur van anatomie of as 'n ondersoek-beampte of as 'n beampte aangewys kragtens artikel 29 (2) b) voordoen;".

5 Wysiging van artikel 37 van Wet 65 van 1983

25. Artikel 37 van die Hoofwet word hierby gewysig—
- (a) deur paragraaf (c) van subartikel (1) deur die volgende paragraaf te vervang:
 "(c) die voorwaardes—
 (i) vir die gebruik (anders as vir die kunsmatige bevrugting van enige persoon) en verskaffing van gamete vir enige van die doeleindeste in artikel 19 vermeld;
 (ii) vir die gebruik en verskaffing van enige weefsel wat wettig ingevoer, geskenk [is] of verwyder is van die liggaaam van 'n lewende persoon; en
 (iii) vir die beskikking, anders as ooreenkomsdig artikel 31 (1) (g), oor [sodanige] weefsel en gamete wat nie meer nodig is nie vir enige van die doeleindeste in artikel 4 (1) of 19 vermeld, na gelang van die geval;";
- (b) deur paragraaf (d) van subartikel (1) te skrap;
 (c) deur subparagraaf (iv) van paragraaf (e) van subartikel (1) deur die volgende subparagraaf te vervang:
 "(iv) die onttrekking van bloed van die liggame van lewende persone deur organisasies, persone of inrigtings (met inbegrip van die vereistes waaraan daardie organisasies, persone of inrigtings moet voldoen), en die bewaring, toetsing, verwerking of verskaffing van, of die beskikking op enige ander wyse oor, bloed wat aldus onttrek is of ingevoerde bloed, vir gebruik, hetsy as volbloed of in die vorm van enige bloedproduk, vir enige van die doeleindeste in artikel 19 vermeld;";
- (d) deur die volgende subparagraaf by paragraaf (e) van subartikel (1) te voeg:
 "(vii) die samevoeging buite die menslike liggaaam van 'n manlike en 'n vroulike gameet of gamete, en navorsing van welke aard ook al met betrekking tot die produk van die samesmelting van sodanige gamete, ongeag vir welke doel so 'n produk voortgebring is of word;"
- (e) deur paragraaf (f) van subartikel (1) deur die volgende paragraaf te vervang:
 "(f) die [opgawes en verslae wat deur inrigtings of persone vir die doeleindeste van hierdie Wet aan vermelde beamptes verstrek moet word] registers wat gehou moet word deur—
 (i) 'n inrigting of persoon bedoel in artikel 3 (1) (a), (b), (c), (d) en (e) waaraan of aan wie 'n liggaaam of bepaalde weefsel ooreenkomsdig artikel 2 geskenk is;
 (ii) 'n inrigting of persoon wat ingevolge artikel 4 (1) (c) weefsel verskaf het;
 (iii) 'n geneesheer wat oogweefsel ingevolge artikel 7 (1) verwijder het of onder wie se toesig daardie verwijdering gedoen is of wat kragtens artikel 9 (1) weefsel verwijder, laat verwijder of oorhandig het;
 (iv) 'n inrigting waaraan 'n liggaaam ingevolge 'n bevel kragtens artikel 12 (1) oorhandig is;
 (v) 'n geneesheer wat 'n magtiging bedoel in artikel 14 verleen het;"
- (f) deur na paragraaf (f) van subartikel (1) die volgende paragraaf in te voeg:
 "(fA) (i) die opgawes en verslae, met inbegrip van uittreksels uit registers in paragraaf (f) bedoel, wat aan vermelde beamptes verstrek moet word;
- (ii) die tydperk waarin bedoelde opgawes, verslae en registers, of afdrukke of afskrifte daarvan, behou moet word, en persone aan wie sodanige opgawes, verslae en registers of afdrukke of afskrifte, na gelang van die geval, verstrek moet word;"
- (g) deur subartikel (3) deur die volgende subartikel te vervang:
 "(3) 'n Regulasie wat kragtens subartikel (1) [(e) (vi)] uitgevaardig is, kan [ten opsigte van die produsering van enige bloedproduk] enige vereiste

Act No. 51, 1989**HUMAN TISSUE AMENDMENT ACT, 1989**

any publication which in the opinion of the Minister is generally recognized as authoritative.”; and

- (h) by the deletion of subsection (4).

Insertion of section 39A in Act 65 of 1983

26. The following section is hereby inserted after section 39 of the principal Act: 5

“Genetic manipulation of gametes or zygotes not permitted

39A. Notwithstanding anything to the contrary contained in this Act or any other law, no provision of this Act shall be so construed as to permit genetic manipulation outside the human body of gametes or zygotes.”.

Substitution of the word “insemination” in Act 65 of 1983

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27. The principal Act is hereby amended by the substitution for the word “insemination”, wherever it occurs, of the word “fertilization”.

Short title and commencement

28. This Act shall be called the Human Tissue Amendment Act, 1989, and shall come into operation on a date fixed by the State President by proclamation in the 15 Gazette.

WYSIGINGSWET OP MENSLIKE WEEFSEL, 1989

Wet No. 51, 1989

voorskryf wat uiteengesit word in enige publikasie wat na die oordeel van die Minister algemeen as gesaghebbend erken word.”; en
(h) deur subartikel (4) te skrap.

Invoeging van artikel 39A in Wet 65 van 1983

5 26. Die volgende artikel word hierby in die Hoofwet na artikel 39 ingevoeg:

“Genetiese manipulering van gamete of sigote nie veroorloof

10

39A. Ondanks andersluidende bepalings in hierdie Wet of enige ander wet word geen bepaling van hierdie Wet so uitgelê dat dit genetiese manipulering van gamete of sigote buite die menslike liggaaam veroorloof nie.”.

Vervanging van die woord “insemination” in Engelse teks van Wet 65 van 1983

27. Die Hoofwet word hierby gewysig deur die woord “insemination”, oral waar dit in die Engelse teks voorkom, deur die woord “fertilization” te vervang.

Kort titel en inwerkingtreding

15 28. Hierdie Wet heet die Wysigingswet op Menslike Weefsel, 1989, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

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