

SOUTH AUSTRALIA

**BLOOD CONTAMINANTS ACT, 1985**

## **SUMMARY OF PROVISIONS**

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**BLOOD CONTAMINANTS ACT, 1985**

being

Blood Contaminants Act, 1985, No. 99 of 1985  
[Assented to 7 November 1985]<sup>1</sup>

<sup>1</sup> Came into operation 1 July 1985: s. 2.

**An Act to prescribe standards to be observed in relation to blood donated for the purpose of transfusion; to limit the liability of approved suppliers of blood and blood products in relation to diseases transmitted by transfusion; and for other purposes.**

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

**Short title**

1. This Act may be cited as the *Blood Contaminants Act, 1985*.

**Commencement**

2. This Act shall be deemed to have come into operation on the first day of July, 1985.

**Interpretation**

3. (1) In this Act, unless the contrary intention appears—

"approved blood test" means a test, using a method and equipment approved by the Commission, for the presence of a prescribed contaminant in blood:

"approved supplier" means the Society, or a hospital or other body approved by the Commission for the purposes of this Act:

"blood product" or "product" includes any extract or derivative of blood:

"the Commission" means the South Australian Health Commission:

"donor" means a person who gives blood for the purpose of transfusion:

"prescribed contaminant" means—

(a) the virus HTLV III;

or

(b) any other organism or substance declared by the Commission by notice in the *Gazette* to be a prescribed contaminant for the purposes of this Act:

"the Society" means the society incorporated by Royal Charter under the name of the Australian Red Cross Society.

(2) For the purposes of this Act, blood is given or taken for the purpose of transfusion if the blood, or any product of the blood, is to be used for transfusion.

**Steps to be taken in relation to donation of blood**

4. (1) Where an approved supplier takes, or proposes to take, blood from a donor for the purpose of transfusion, the following provisions apply:

- (a) the blood shall not be taken unless the donor has signed a declaration in a form approved by the Commission;

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- (b) as soon as practicable after taking the blood, the approved supplier shall cause the approved blood tests to be carried out in relation to the blood;
- (c) where an approved blood test indicates the presence of a prescribed contaminant, the supplier shall dispose of the blood and any product of the blood in a manner approved by the Commission;
- (d) where the approved blood tests do not indicate the presence of a prescribed contaminant, the supplier shall issue a certificate in respect of the blood certifying that the approved blood tests did not indicate the presence of a prescribed contaminant.

(2) An approved supplier shall not supply blood or a blood product for the purpose of transfusion unless—

- (a) the blood was taken from a donor by the supplier or the blood product was manufactured from blood taken from a donor by the supplier;

or

- (b) the blood or blood product was acquired from a source approved by the Commission.

(3) Where an approved supplier has reasonable cause to suspect that blood or a blood product supplied by the supplier may be contaminated by a prescribed contaminant, the supplier shall take all reasonable steps to ensure that the blood or blood product is not used for the purpose of transfusion.

#### **Liability of approved suppliers, donors and persons who carry out transfusions**

5. (1) Subject to this section, where—

- (a) a prescribed contaminant, or disease that is attributable to a prescribed contaminant, is transmitted by reason of the transfusion of blood or a blood product;

and

- (b) the blood or blood product was supplied for the purpose of transfusion by an approved supplier,

no civil or criminal liability in respect of the transmission of the contaminant or disease attaches to a donor, the supplier or a person who carried out the transfusion.

(2) A donor who knowingly makes a false declaration under this Act is not entitled to the protection of this section.

(3) An approved supplier is not entitled to the protection of this section in relation to blood or a blood product if the supplier fails to observe a requirement of this Act in relation to the blood or blood product or in relation to blood from which the blood product was manufactured.