

South Australia

## Blood Contaminants Act 1985

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.

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**The Parliament of South Australia enacts as follows:**

#### 1—Short title

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

#### 3—Interpretation

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

*approved blood test* means a test, using a method and equipment approved by the Minister, for the presence of a prescribed contaminant in blood;

*approved supplier* means the Society, or a hospital or other body approved by the Minister for the purposes of this Act;

*blood product* or *product* includes any extract or derivative of blood;

*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 Minister 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.

#### **4—Steps to be taken in relation to donation of blood**

- (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 Minister;
  - (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 Minister;
  - (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 Minister.
- (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.

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

- (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.

## **6—Delegation**

- (1) The Minister may delegate a power or function vested in or conferred on the Minister by or under this Act—
  - (a) to a particular person or body; or
  - (b) to the person for the time being holding or acting in a particular office or position.
- (2) A power or function delegated under this section may, if the instrument of delegation so provides, be further delegated.
- (3) A delegation—
  - (a) may be absolute or conditional; and
  - (b) does not derogate from the power of the delegator to act in a matter; and
  - (c) is revocable at will by the delegator.

## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1985	99	<i>Blood Contaminants Act 1985</i>	7.11.1985	1.7.1985: s 2
2000	34	<i>South Australian Health Commission (Administrative Arrangements) Amendment Act 2000</i>	6.7.2000	Sch 1 (cl 2)—6.7.2000 ( <i>Gazette 6.7.2000 p5</i> )

### Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>s 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	
s 3		
s 3(1)		
approved blood test	amended by 34/2000 Sch 1 cl 2(a)	6.7.2000
approved supplier	amended by 34/2000 Sch 1 cl 2(b)	6.7.2000
<i>the Commission</i>	<i>deleted by 34/2000 Sch 1 cl 2(c)</i>	6.7.2000
prescribed contaminant	amended by 34/2000 Sch 1 cl 2(d)	6.7.2000
s 4		
s 4(1) and (2)	amended by 34/2000 Sch 1 cl 2(e)	6.7.2000
s 6	inserted by 34/2000 Sch 1 cl 2(f)	6.7.2000