



**The Hon Diana Laidlaw BA MLC**

MINISTER FOR

■ TRANSPORT AND URBAN PLANNING ▲ THE ARTS ○ THE STATUS OF WOMEN

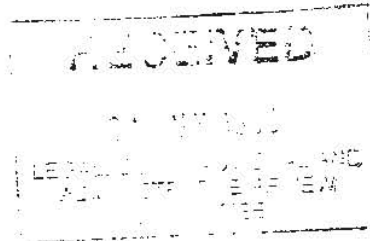
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mlr

Mr Gary Fenlon, MLA  
Chair  
Legal, Constitutional and Administrative Review Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Mr Fenlon,

Thank you for your letter of 5 May 1999 regarding the Inquiry into the Transplantation and Anatomy Amendment Bill 1998. I have been provided with the following advice by officers of Transport SA.

Under Section 21 of the South Australian Transplantation and Anatomy Act 1984, a hospital's designated medical practitioner may authorise the removal of tissue from a deceased person if, "after making such inquiries as are reasonable in the circumstances, (he) has reason to believe that the deceased person had, during his lifetime, expressed the wish for, or consented to, the removal of tissue" for transplant or other medical purposes "and had not withdrawn the wish or revoked the consent".

Possession of the words "organ donor" on a deceased person's driver's licence is one way to assist the designated medical practitioner to determine the deceased's wishes. In practice, the South Australian Organ Donation Agency plays a large role in helping determine the intentions of the donor through work with the family of the deceased. This is achieved by the Agency's use of medical donor coordinators who are medical practitioners working in the intensive care units of hospitals.

At the request of the Australian Kidney Foundation (AKF), the Registrar of Motor Vehicles, who is responsible for licensing pursuant to the Motor Vehicles Act 1959, includes the question "will you become an organ donor?" on the application forms for a licence and licence renewal. The applicant is informed that if he or she answers yes, an organ donor indicator will appear on the driver's licence, and the information will be recorded on the Register of Driver's Licences. An AKF information brochure on organ donation is included with the form when it is posted or given to applicants. The Registrar does this as a community service.

The confidentiality provisions of the Motor Vehicles Act, Section 139D and Ministerial guidelines issued under this section, regulate the information about a driver which may be given out to other people and the circumstances in which it can be given. These are similar to the Privacy Principles in the Commonwealth Privacy Act 1988, and allow information to be given to other people with the consent or implied consent of the driver. A driver's nomination on the licence application form to be an organ donor is taken to be implied consent to release that information to a relevant organisation.

The implied consent is strictly interpreted. The information is only given in response to an inquiry from a medical donation coordinator in a hospital about a person whose name and address or date of birth are supplied. The Registrar will then confirm that that person is or is not recorded on the Register of Driver's Licences as having indicated that he or she wished to be an organ donor.

I consider that this system works well in South Australia. This is reflected in the fact that the percentage of people who are organ donors in South Australia is over twice the national average.

I attach copies of the relevant sections of the Transplantation and Anatomy Act 1984, the confidentiality section and guidelines of the Motor Vehicles Act 1959, and the application for renewal of licence form and AKF brochure for your information.

In the meantime, I have forwarded a copy of your letter to the South Australian Organ Donation Agency.

I appreciate having the opportunity to comment on this matter.

Yours sincerely



Diana Laidlaw, MLC

**MINISTER FOR TRANSPORT AND URBAN PLANNING**

15.6.99

Enc.



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### MOTOR VEHICLES ACT 1959 - SECT 139D

#### Confidentiality

139D. (1) A person engaged or formerly engaged in the administration of this Act must not divulge or communicate information obtained (whether by that person or otherwise) in the administration of this Act except-

- (a) as required or authorised by or under this Act; or
- (b) as authorised by or under any other Act; or
- (c) with the consent of the person from whom the information was obtained or to whom the information relates; or
- (d) in connection with the administration of this Act; or
- (e) for the purposes of any legal proceedings arising out of the administration of this Act; or
- (f) in accordance with guidelines approved by the Minister. Maximum penalty: \$5000.

(2) The Registrar or a person authorised by the Registrar may-

- (a) require a person applying for the disclosure of information obtained in the administration of this Act to provide such evidence as the Registrar or authorised person considers necessary to determine the application;
- (b) if the Registrar or authorised person thinks fit, require any such evidence to be verified by statutory declaration.

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DEPARTMENT  
OF  
ROAD  
TRANSPORT

Motor Registration

60 Wakefield Street  
Adelaide  
South Australia  
5000

Telephone (08) 226 7420  
Fax (08) 226 7470

MOTOR VEHICLES ACT 1959

GUIDELINES FOR THE RELEASE OF INFORMATION

These guidelines are issued pursuant to Sec 139d (1) (f) of the Motor Vehicles Act 1959.

These guidelines are not to be interpreted so as to be inconsistent with the statutory intent of the Motor Vehicles Act or an individual's right to privacy as may be implied by the Common Law or set out in any Statute.

1. Personal information may be released (other than to the person concerned) where:

1.1 The individual concerned has been made aware, or is reasonably likely to be aware that the information is:-

- generally used for the purposes for which it has been released, or
- generally passed on to those persons, bodies or agencies to whom it has been released;

1.2 The individual has consented to the disclosure;

1.3 The disclosure is necessary to prevent or lessen a serious and imminent threat to life or health.

2. Personal information may also be released to:

2.1. Motor vehicle manufacturers for the purpose of safety related vehicle recalls;

2.2 Insurance Companies dealing with motor vehicle accident claims and parties involved in motor vehicle accidents;

2.3 Finance companies or other parties claiming a financial interest in a motor vehicle. The financial interest will only be recognised if there is a registered security interest on the Vehicles Securities Register.

Where information is released in accordance with the principles set out in 1 and 2, it will be on the condition that it will only be used for the purposes for which it was released and will be treated as confidential.

A note is to be made against the record of the release of the information. The date of release, the purpose for which it was released and the person/agency to whom it was released should be recorded.

MVA/GUIDE.DOC



DEPARTMENT  
OF  
ROAD  
TRANSPORT

3. Personal information may be shared on an on-going basis (ie. ready access to the data base) with any of the following types of agencies:
  - 3.1 The Police, for the conduct of their normal duties;
  - 3.2 agencies enforcing the criminal law;
  - 3.2 agencies enforcing various aspects of moving traffic violations and parking offences.
  
4. Personal information may be released to the following as agents:
  - 4.1 Anyone with a signed authorisation or Power of Attorney from the registered person/s. Where there is more than one it shall be sufficient to obtain the authorisation of any one of the registered parties;
  - 4.2 Solicitors - on behalf of their clients;
  - 4.3 Executors, Administrators or Trustees acting on behalf of deceased or bankrupt estates.
  
5. Personal information may be released to a Federal Government/Statutory Authority where that authority has a legal power to obtain, directly from private citizens, the type of personal information being sought from the Motor Vehicles Act registers.
  
6. Personal information may be released to a South Australian Government/Statutory Authority where that authority has a statutory power to obtain similar information directly from the public, or the information is required for the protection of public revenue or the interests of that authority or a statutory office holder as an employee.
  
7. Personal information may be released to an Interstate Government/Statutory Authority where there is a reciprocal arrangement for the exchange of information, or similar South Australian agencies have access to the same information.

*Barbara Wiese*

Barbara Wiese MLC  
MINISTER OF TRANSPORT DEVELOPMENT.

20/5/93

WVAGUIDE.DOC



**TRANSPORT SA** REGISTRATION AND LICENSING 60 Wakefield Street ADELAIDE 5000 and OFFICES MR 205  
**APPLICATION FOR RENEWAL, REPLACEMENT AND ISSUE OF LICENCE/LEARNER'S PERMIT**

- Carefully read all the information given on the other side of this form.
- Answer all questions given, and supply all details where asked.
- When you hand in this form, you will be asked to show proof of your identity - See point 4 on reverse.
- If you have any questions, ask an officer of one of our branch offices to help you.

Office Use Only - Proof of I.D.

**Information Privacy Principles**  
 Information is required pursuant to section 73 of the Motor Vehicles Act for the purpose of recording information to assist in the identification of the licence holder and to calculate fees payable. No information will be disclosed except for law enforcement and the enforcement of various Acts.

**1. About you** Please write clearly in BLOCK LETTERS.

Surname		Given Names		Date of Birth		Sex	
				/ /		M / F	
Town of Birth		Eye Colour		Height			
				cm.			

**Residential (home) Address**

Number and Street	Suburb/Town	Postcode

**Postal Address (if different to above address)**

Suburb/Town	Postcode

**2. Transport Concession (if applicable tick one box)**  My concession number is \_\_\_\_\_  
 I hold a  State Concession Card  Commonwealth Concession Card My concession card is produced herewith \_\_\_\_\_  
 I am a  T.P.I. Ex-service person  For your 1st totally incapacitated Ex-service person concession; a letter of eligibility is required from the Department of Veteran Affairs.  CC

**3. Will you become an organ donor?**  
 If "Yes", an organ donor indicator will be shown on any photo learner's permit or driver's licence issued and will be recorded on the Registration and Licensing computer. **Yes or No**

**4. Eyesight** All questions in this section are to be answered. If YES to any question give details here.

Do you wear glasses or contact lenses when driving?	Yes or No <input type="checkbox"/>	
Have you lost the sight of an eye?	Yes or No <input type="checkbox"/>	
Have you recently had an eye operation?	Yes or No <input type="checkbox"/>	

**5. Illnesses** If YES give details here

Do you suffer from any condition for which you have been prescribed any of the following? **Yes or No**

- High blood pressure
- Heart or circulatory disease
- Diabetes
- Any type of epilepsy
- Sudden periods of unconsciousness

**6. Disabilities** If YES give details here

Do you suffer from any of these disabilities? **Yes or No**

- A disabled arm, hand, leg or foot
- Loss of an arm, hand, leg or foot
- Disabled joint or any muscular disorder
- Deafness
- Arthritis
- Any other condition

**7. Application** (Tick required boxes)  I hereby apply

LPR	<input type="checkbox"/>	To renew my driver's licence
LNEW	<input type="checkbox"/>	For a learner's permit for class _____ for <input type="checkbox"/> 3 months <input type="checkbox"/> 6 months <input type="checkbox"/> 9 months
LNEW	<input type="checkbox"/>	For a permit to add a class _____ to my licence for <input type="checkbox"/> 3 months <input type="checkbox"/> 6 months <input type="checkbox"/> 9 months
LREP	<input type="checkbox"/>	For a replacement driver's licence
LREP	<input type="checkbox"/>	For a replacement permit for class _____

I declare that the licence or permit issued to me has been - (surrendered, lost, destroyed, etc.) \_\_\_\_\_

**8. Disqualifications** If YES give details here

Are you DISQUALIFIED OR OTHERWISE PROHIBITED OR PREVENTED from holding or obtaining a licence or permit in SOUTH AUSTRALIA OR ELSEWHERE? **Yes or No**

**9. Sign here**

You are responsible for all information given on this form.  
 You may be prosecuted if you deliberately give false information.

Date: / / Sign Here: \_\_\_\_\_

# Don't Take Your Organs to Heaven

"Heaven knows we need them here"

## GIVE & LET LIVE

Simply indicate your intention to become a donor by answering YES to question 1 on the renewal application form for your Drivers Licence.

As all transplant operations become more successful, the number of people on waiting lists increase. In Australia there are approximately 3,000 children,

teenagers and adults waiting for a variety of transplants. The Donation of your organs after death could give someone a second chance at life.



For the sake of those people waiting for transplants, say yes to the question on your driving licence, tell your family of your decision and fill out the donor card below.

Decide to be an Organ Donor and tell your family.

## DONOR CARD

AUSTRALIAN  
**KIDNEY**  
FOUNDATION

## IMPORTANT NOTES

- You should inform your family of your wish to be a donor to ensure their co-operation.
- You should carry your donor card with you at all times.
- Members of the "at risk groups" for AIDS cannot identify themselves as organ donors.



For further information contact the Australian Kidney Foundation, S.A., Unit 2, 1st Floor, 82 Melbourne Street, North Adelaide, S.A. 5006. Phone: (08) 267 4555.

## GIVE & LET LIVE

Decide to be an Organ Donor and tell your family.

I REQUEST THAT AFTER MY DEATH:  
 A.  MY  KIDNEYS  HEART  LIVER  LUNGS  PANCREAS  EYES  
 BE USED FOR TRANSPLANTATION; OR  
 B.  ANY PART OF MY BODY BE USED FOR TREATMENT OF OTHERS  
 (PLEASE TICK THE APPLICATION BOX)

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_  
 FULL NAME (BLOCK CAPITALS) \_\_\_\_\_  
 IN THE EVENT OF MY DEATH, PLEASE CONTACT:  
 NAME \_\_\_\_\_ TELEPHONE \_\_\_\_\_  
 ADDRESS \_\_\_\_\_





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### TRANSPLANTATION AND ANATOMY ACT, 1983 - SECT 21

#### PART III PART III DONATIONS OF TISSUE AFTER DEATH

##### Authorities to remove tissue after death

21. (1) A designated officer for a hospital may, subject to and in accordance with this section, by instrument in writing, authorize the removal of tissue from the body of a person who has died in the hospital or whose dead body has been brought into the hospital-

- (a) for the purpose of the transplantation of the tissue to the body of a living person; or
- (b) for use of the tissue for other therapeutic purposes or for medical or scientific purposes.

(2) Where the designated officer, after making such inquiries as are reasonable in the circumstances, has reason to believe that the deceased person had, during his lifetime, expressed the wish for, or consented to, the removal after his death of tissue from his body for the purpose or a use referred to in subsection (1) and had not withdrawn the wish or revoked the consent, the designated officer may authorize under subsection (1) the removal of tissue from the body of the deceased person for the purpose or a use referred to in that subsection.

(3) Where the designated officer, after making such inquiries as are reasonable in the circumstances, has no reason to believe that the deceased person during his lifetime-

- (a) had expressed the wish for, or consented to, the removal after his death of tissue from his body for the purpose or a use referred to in subsection (1); or
- (b) had expressed an objection to the removal after his death of tissue from his body for such a purpose or use, and after making those inquiries and such further inquiries as are reasonable in the circumstances, the designated officer-
- (c) has no reason to believe that the senior available next of kin of the deceased person has an objection to the removal of tissue from the body of the deceased person; or
- (d) is unable to ascertain the existence or the whereabouts of the next of kin of the deceased person or is unable to ascertain whether any of the next of kin of the deceased person has an objection to the removal of tissue from the body of the deceased person, the designated officer may authorize under subsection (1) the removal of tissue from the body of the deceased person for the purpose or a use referred to in that subsection.

(4) The senior available next of kind of a person may make it known to a designated officer at any time when the person is unconscious before death that he has no objection to the removal, after the death of the person, of tissue from the body of the person for the purpose or a use referred to in subsection (1), but the designated officer shall not act on such an indication if the person recovers consciousness.



(5) Where there are two or more persons having a description referred to in a subparagraph of paragraph (a) or (b) of the definition of "senior available next of kin" in section 5, an objection by any one of those persons has effect for the purposes of this section notwithstanding any indication to the contrary by the other or any other of those persons.

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### TRANSPLANTATION AND ANATOMY ACT, 1983 - SECT 5

#### Interpretation

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

"child" means a person who-

- (a) has not attained the age of eighteen years;
- and
- (b) is not married:

"Commission" means the South Australian Health Commission:

"designated officer", in relation to a hospital, means a person appointed under section 6 to be a designated officer for that hospital:

"medical practitioner" means a legally qualified medical practitioner:

"next of kin" means-

- (a) in relation to a child-a person referred to in paragraph (a)(i), (a)(ii) or (a)(iii) of the definition of "senior available next of kin"; and
- (b) in relation to any other person-a person referred to in paragraph (b)(i), (b)(ii), (b)(iii) or (b)(iv) of that definition:

"non-regenerative tissue" means tissue other than regenerative tissue:

"parent" of a child includes a guardian of the child:

"regenerative tissue" means tissue that, after injury or removal, is replaced in the body of a living person by natural processes:

"senior available next of kin" means-

(a) in relation to a child, the first in order of priority of the following persons who is available at the time-

- (i) a parent of the child;
- (ii) a brother or sister, who has attained the age of eighteen years, of the child;
- (iii) a guardian of the child;

and

(b) in relation to any other person, the first in order of priority of the following persons who is available at the time:

- (i) the spouse of the person;
- (ii) a son or daughter, who has attained the age of eighteen years, of the person;
- (iii) a parent of the person;
- (iv) a brother or sister, who has attained the age of eighteen years, of the person:

"tissue" includes an organ, or part, of a human body or a substance extracted



from, or from a part of, the human body.

(2) A reference in this Act to the transplantation of tissue shall be read as including a reference to the transplantation of any part of the tissue and to the transplantation of a substance obtained from the tissue.

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### TRANSPLANTATION AND ANATOMY ACT, 1983 - SECT 6

#### Designated officers

6. The Minister may, upon the recommendation of the South Australian Health Commission or its delegate, by instrument in writing, appoint a person who is a medical practitioner to be a designated officer for a hospital specified in the instrument.

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