SCHEDULE 1

Commonwealth Model Provisions for Public Hospital Donation Services

This Schedule is a Commonwealth instrument. It is the text the Minister is to attach to DonateLife funding agreements and to seek as an addendum item to the National Health Reform Agreement 2026–31. It is not a State Bill. States give it effect because Commonwealth hospital and donation money is conditioned on it.

1 Purpose of this Schedule

This Schedule sets the operational rules that must apply in any public hospital service for which a Commonwealth NHRA contribution is paid and in which donation or retrieval is contemplated, and in any DonateLife activity paid for by the Commonwealth.

2 Dead donor rule

Tissue must not be removed from a person for transplantation unless an independent registered medical practitioner has determined that the person has died under the law of the jurisdiction. Removal must not be the cause of death.

3 Pause in procedure

(1) Any person present may initiate a pause, including a medical practitioner, nurse, donation specialist, retrieval staff, the person if able, or a senior available next of kin.

(2) A pause is mandatory if any such person reports an indication of life (as defined in the Act), a change in neurological status, a doubt that death has been determined, or a doubt that an authority remains valid.

(3) On a pause, all recovery stops; the person returns to the treating team if in theatre; an independent medical practitioner reassesses; the senior available next of kin is informed; a written report is completed.

(4) A pause is lifted only if an independent medical practitioner certifies the matters in section 8 of the Act. If donation staff and the hospital disagree, the hospital prevails.

4 Circulatory determination of death

For donation after circulatory determination of death, tissue must not be removed until an independent medical practitioner has determined death after observing absent circulation for at least 5 minutes, confirmed by clinical examination, consistent with the ANZICS Statement. A person who follows commands is not, at that time, a person from whom tissue may be removed under this Schedule.

5 Roles

Donation specialist staff must not determine death of a person from whom they intend to recover tissue. Extra sedation must not be given to suppress movement so recovery can continue, unless independently ordered by the treating team solely for the person's own care. An entry on the Australian Organ Donor Register is not an authority to treat a living person as dead.

6 Condition of Commonwealth money

(1) Payment of Commonwealth DonateLife program funds to an Agency is conditional on compliance with this Schedule.

(2) The Commonwealth's agreement to an NHRA contribution for a public hospital service in which donation or retrieval is contemplated is given on the basis that the State or Territory will require that service to comply with this Schedule.

(3) A knowing failure to initiate or honour a pause is a safety and quality matter for the purposes of the NHRA.

7 Protection

A person who initiates a pause in good faith in a service to which this Schedule applies is not, by that act alone, to be treated as having engaged in unprofessional conduct for the purposes of any Commonwealth-funded clinical governance arrangement.

Commonwealth Schedule prepared 14 September 2026. Not an enacted addendum until the Minister and the States agree it.

AUSTRALIAN LEGISLATIVE ETHICS COMMISSION