

This Order has been made in consequence of a defect in [SI 2006/1997](#) and is being issued free of charge to all known recipients of that Order.

STATUTORY INSTRUMENTS

2006 No. 2169

HUMAN TISSUE, ENGLAND AND WALES HUMAN TISSUE, NORTHERN IRELAND

The Human Tissue Act 2004 (Commencement No.5 and Transitional Provisions) (Amendment) Order 2006

Made - - - -

5th August 2006

The Secretary of State for Health, makes this Order in exercise of the powers conferred upon her by sections 58(3) and (4) of the Human Tissue Act 2004⁽¹⁾. In accordance with sections 58(5) and (6) of that Act she has consulted the National Assembly for Wales and the relevant Northern Ireland Department⁽²⁾ before exercising these powers.

Citation and interpretation

1.—(1) This Order may be cited as the Human Tissue Act 2004 (Commencement No.5 and Transitional Provisions) (Amendment) Order 2006.

(2) In this Order—

“the Act” means the Human Tissue Act 2004;

“the fifth Commencement Order” means the Human Tissue Act 2004 (Commencement No. 5 and Transitional Provisions) Order 2006⁽³⁾.

Amendment of the fifth Commencement Order

2.—(1) The fifth Commencement Order shall be amended in accordance with the following paragraphs.

(2) In article 3(1), for the words “articles 4 and 7”, there shall be substituted “articles 4, 7 and 8”.

(3) After article 7 there shall be added—

(1) [2004 \(c.30\)](#).

(2) *See* section 54(1), which defines “relevant Northern Ireland Department” as the Department of Health, Social Services and Public Safety.

(3) [S.I. 2006/1997 \(c.68\)](#).

“Transitional arrangements: organ transplants between genetically related persons

8.—(1) Paragraph (2) applies in a case where—

- (a) an organ is proposed to be transplanted from a living person (“the donor”) to another person (“the recipient”);
- (b) the registered medical practitioner who has clinical responsibility for the donor has received a statement in writing before 1st September 2006 that a tester is satisfied that the donor and recipient are genetically related in accordance with—
 - (i) regulation 2 of the Human Organ Transplants (Establishment of Relationship) Regulations 1998(4), or
 - (ii) regulation 2 of the Human Organ Transplants (Establishment of Relationship) Regulations (Northern Ireland) 1998(5); and
- (c) the organ is removed from the donor before 28th February 2007 for transplant into the recipient.

(2) Section 33(1) and (2) of the Act do not have effect for the purposes of a case mentioned in paragraph (1).

(3) In this article a person is genetically related to—

- (a) his natural parents and children;
- (b) his brothers and sisters of the whole or half blood;
- (c) the brothers and sisters of the whole or half blood of either of his natural parents; and
- (d) the natural children of his brothers and sisters of the whole or half blood or of the brothers and sisters of the whole or half blood of either of his natural parents.

(4) In this article—

“organ” means any part of a human body consisting of a structured arrangement of tissues which, if wholly removed, cannot be replicated by the body;

“tester” means a person who has been approved by—

- (a) the Secretary of State, or
- (b) the Department of Health, Social Services and Public Safety

as competent both to specify and to interpret the results of genetic tests.”.

Signed by authority of the Secretary of State for Health

5th August 2006

Warner
Minister of State
Department of Health

(4) S.I. 1998/1428.
(5) S.R. 1998/389.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Human Tissue Act 2004 (Commencement No. 5 and Transitional Provisions) Order 2006 (“the fifth Commencement Order”) (S.I. 2006/1997), which provides for the coming into force of provisions of the Human Tissue Act 2004 (c.30).

Article 2 inserts a further transitional provision into the fifth Commencement Order. This article provides that, where a registered medical practitioner has received a written statement that a donor and recipient are genetically related in accordance with the Human Organ Transplants (Establishment of Relationships) Regulations 1998 or the corresponding Northern Ireland legislation, and the operation to remove the organ from the donor is carried out by 28th February 2007, then section 33(1) and (2) of the Human Tissue Act 2004 will not apply. Article 2 also makes article 3 of the fifth Commencement Order (which provides for the coming into force on 1st September 2006, of the Human Tissue Act, apart from sections 5 and 8 which come into force on 1st December 2006) subject to this transitional provision.