
STATUTORY INSTRUMENTS

1989 No. 2408 (N.I. 21)

NORTHERN IRELAND

**The Human Organ Transplants
(Northern Ireland) Order 1989**

Made

19th December 1989

Laid before Parliament

8th January 1990

Coming into operation in accordance with Article 1

At the Court at Buckingham Palace, the 19th day of December 1989

Present,

The Queen's Most Excellent Majesty in Council

Whereas this Order is made only for purposes corresponding to the purposes of the Human Organ Transplants Act 1989:

1989 c. 31

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (as modified by section 6 of the said Act of 1989) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1974 c. 28

Title and commencement

1.—(1) This Order may be cited as the Human Organ Transplants (Northern Ireland) Order 1989.

(2) Except as provided by paragraph (3), this Order shall come into operation on the expiration of two months from the day on which it is made.

(3) Article 4(1) shall come into operation on such day as the Head of the Department may by order appoint.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

1954 c. 33 (N.I.)

(2) In this Order—

“the Department” means the Department of Health and Social Services;

“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.

Prohibition of commercial dealings in human organs

3.—(1) A person shall be guilty of an offence if in Northern Ireland he—

- (a) makes or receives any payment for the supply of, or for an offer to supply, an organ which has been or is to be removed from a dead or living person and is intended to be transplanted into another person whether in Northern Ireland or elsewhere;
- (b) seeks to find a person willing to supply for payment such an organ as is mentioned in sub-paragraph (a) or offers to supply such an organ for payment;
- (c) initiates or negotiates any arrangement involving the making of any payment for the supply of, or for an offer to supply, such an organ; or
- (d) takes part in the management or control of a body of persons corporate or unincorporate whose activities consist of or include the initiation or negotiation of such arrangements.

(2) Without prejudice to sub-paragraph (b) of paragraph (1), a person shall be guilty of an offence if he causes to be published or distributed, or knowingly publishes or distributes, in Northern Ireland an advertisement—

- (a) inviting persons to supply for payment any such organs as are mentioned in sub-paragraph (a) of that paragraph or offering to supply any such organs for payment; or
- (b) indicating that the advertiser is willing to initiate or negotiate any such arrangement as is mentioned in sub-paragraph (c) of that paragraph.

(3) In this Article “payment” means payment in money or money’s worth but does not include any payment for defraying or reimbursing—

- (a) the cost of removing, transporting or preserving the organ to be supplied; or
- (b) any expenses or loss of earnings incurred by a person so far as reasonably and directly attributable to his supplying an organ from his body.

(4) In this Article “advertisement” includes any form of advertising whether to the public generally, to any section of the public or individually to selected persons.

(5) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 5 on the standard scale or both.

(6) A person guilty of an offence under paragraph (2) shall be liable on summary conviction to a fine not exceeding level 5 on that scale.

Restriction on transplants between persons not genetically related

4.—(1) Subject to paragraph (3), a person shall be guilty of an offence if in Northern Ireland he—

- (a) removes from a living person an organ intended to be transplanted into another person; or
- (b) transplants an organ removed from a living person into another person,

unless the person into whom the organ is to be or, as the case may be, is transplanted is genetically related to the person from whom the organ is removed.

(2) For the purposes of 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;

but persons shall not in any particular case be treated as related in any of those ways unless the fact of the relationship has been established by such means as are specified by regulations made by the Department.

(3) The Department may by regulations provide that the prohibition in paragraph (1) shall not apply in cases where—

- (a) such authority as is specified in the regulations is satisfied—
 - (i) that no payment has been or is to be made in contravention of Article 3; and
 - (ii) that such other conditions as are specified in the regulations are satisfied; and
- (b) such other requirements as may be specified in the regulations are complied with.

(4) A person guilty of an offence under this Article shall be liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 5 on the standard scale or both.

(5) Regulations under paragraph (2) shall be subject to negative resolution; and regulations under paragraph (3) shall be subject to affirmative resolution.

Information about transplant operations

5.—(1) The Department may make regulations requiring such persons as are specified in the regulations to supply to such authority as is so specified such information as may be so specified with respect to transplants that have been or are proposed to be carried out in Northern Ireland using organs removed from dead or living persons.

(2) Any such authority shall keep a record of information supplied to it in pursuance of the regulations made under this Article.

(3) Any person who without reasonable excuse fails to comply with those regulations shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale; and any person who, in purported compliance with those regulations, knowingly or recklessly supplies information which is false or misleading in a material respect shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) Regulations under this Article shall be subject to negative resolution.

Prosecutions

6. No proceedings for an offence under Article 3 or 4 shall be instituted except by or with the consent of the Director of Public Prosecutions for Northern Ireland.

G. I. de Deney
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made only for purposes corresponding to those of the Human Organ Transplants Act 1989 (c. 31).

It prohibits commercial dealings in human organs intended for transplanting and restricts the transplanting of such organs between persons who are not genetically related.