



Human Organ Transplants Act 1989

1989 CHAPTER 31

An Act to prohibit commercial dealings in human organs intended for transplanting; to restrict the transplanting of such organs between persons who are not genetically related; and for supplementary purposes connected with those matters. [27th July 1989]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Prohibition of commercial dealings in human organs.

- (1) A person is guilty of an offence if in Great Britain 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 Great Britain or elsewhere;
 - (b) seeks to find a person willing to supply for payment such an organ as is mentioned in paragraph (a) above 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 paragraph (b) of subsection (1) above, a person is guilty of an offence if he causes to be published or distributed, or knowingly publishes or distributes, in Great Britain an advertisement—
- (a) inviting persons to supply for payment any such organs as are mentioned in paragraph (a) of that subsection or offering to supply any such organs for payment; or

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Human Organ Transplants Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (b) indicating that the advertiser is willing to initiate or negotiate any such arrangement as is mentioned in paragraph (c) of that subsection.
- (3) In this section “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 section “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 subsection (1) above is 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; and a person guilty of an offence under subsection (2) above is liable on summary conviction to a fine not exceeding level 5 on that scale.

2 Restriction on transplants between persons not genetically related.

- (1) Subject to subsection (3) below, a person is guilty of an offence if in Great Britain 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 section 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 Secretary of State.
- (3) The Secretary of State may by regulations provide that the prohibition in subsection (1) above shall not apply in cases where—
 - (a) such authority as is specified in or constituted by the regulations is satisfied—
 - (i) that no payment has been or is to be made in contravention of section 1 above; 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) The expenses of any such authority shall be defrayed by the Secretary of State out of money provided by Parliament.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Human Organ Transplants Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (5) A person guilty of an offence under this section is 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) The power to make regulations under this section shall be exercisable by statutory instrument.
- (7) Regulations under subsection (2) above shall be subject to annulment in pursuance of a resolution of either House of Parliament; and no regulations shall be made under subsection (3) above unless a draft of them has been laid before and approved by a resolution of each House of Parliament.

Annotations:

Subordinate Legislation Made

P1 S. 2: power exercised by S.I. 1989/2107, 2480

Modifications etc. (not altering text)

C1 S. 2 saved (1.8.1991) by Human Fertilisation and Embryology Act 1990 (c. 37, SIF 83:1), s. 49(5), Sch. 4 para. 8 (with ss. 39(3), 43(2)); S.I. 1991/1400, art.2(2)

C2 S. 2(1) restricted by S.I. 1989/2480, reg. 3

3 Information about transplant operations.

- (1) The Secretary of State 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 Great Britain 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 section.
- (3) Any person who without reasonable excuse fails to comply with those regulations is 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 is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Annotations:

Subordinate Legislation Made

P2 S. 3: for previous exercises of this power see Index to Government Orders

P3 S. 3(1) power exercised by S.I. 1991/408

S. 3(1): s. 3(1) power exercised by S.I.1991/1645

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Human Organ Transplants Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

4 Offences by bodies corporate.

- (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

5 Prosecutions.

No proceedings for an offence under section 1 or 2 above shall be instituted in England and Wales except by or with the consent of the Director of Public Prosecutions.

6 Northern Ireland.

An Order in Council under paragraph 1(1)(b) of Schedule 1 to the ^{M1}Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which contains a statement that it is made only for purposes corresponding to the purposes of this Act—

- (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but
- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Annotations:

Marginal Citations

M1 1974 c. 28.

7 Short title, interpretation, commencement and extent.

- (1) This Act may be cited as the Human Organ Transplants Act 1989.
- (2) In this Act “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.
- (3) Section 1 above shall not come into force until the day after that on which this Act is passed and section 2(1) above shall not come into force until such day as the Secretary of State may appoint by an order made by statutory instrument.
- (4) Except for section 6 this Act does not extend to Northern Ireland.

Annotations:

Modifications etc. (not altering text)

C3 S. 7(3) power of appointment conferred by s. 7(3) fully exercised: 1. 4. 1990 appointed by S. I. 1989/2106, art. 1 for the coming into force of s. 2(1)

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Human Organ Transplants Act 1989. Any changes that have already been made by the team appear in the content and are referenced with annotations.

Changes and effects yet to be applied to :

- s. 1(1)(a) text amended by [2004 c. 30 Sch. 6 para. 4](#)
- s. 1(5) text amended by [2003 c. 44 Sch. 26 para. 40](#)
- s. 2(3) modified by [S.I. 2005/2792 art. 3\(b\)](#)
- s. 2(5) text amended by [2003 c. 44 Sch. 37 Pt. 9](#)

Changes and effects yet to be applied to the whole Act, associated Parts and Chapters:

- Act repealed by [2006 asp 4 Sch.](#)
- Act repealed in part by [2004 c. 30 Sch. 7](#)
- Act savings for effects of 2006 asp 4 Sch. by [S.S.I. 2006/420 art. 2\(2\)\(3\)](#)

Commencement Orders yet to be applied to the Human Organ Transplants Act 1989:

Commencement Orders bringing legislation that affects this Act into force:

- [S.I. 2005/2792 art. 2](#) commences ([2004 c. 30](#))
- [S.I. 2006/1997 art. 2 3](#) commences ([2004 c. 30](#))
- [S.I. 2006/2169 art. 2](#) amendment to earlier commencing SI [2006/1997](#)
- [S.S.I. 2006/251 art. 2 3](#) commences ([2006 asp 4](#))