

# HUMAN TISSUE ACT 2004

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## EXPLANATORY NOTES

### SUMMARY AND BACKGROUND

4. The purpose of the Act is to provide a consistent legislative framework for issues relating to whole body donation and the taking, storage and use of human organs and tissue. It will make consent the fundamental principle underpinning the lawful storage and use of human bodies, body parts, organs and tissue and the removal of material from the bodies of deceased persons. It will set up an over-arching authority which is intended to rationalise existing regulation of activities like transplantation and anatomical examination, and will introduce regulation of other activities like *post mortem* examinations, and the storage of human material for education, training and research. It is intended to achieve a balance between the rights and expectations of individuals and families, and broader considerations, such as the importance of research, education, training, pathology and public health surveillance to the population as a whole.
5. The Act arose from concern raised by events at Bristol Royal Infirmary and the Royal Liverpool Children's Hospital (Alder Hey) 1999 - 2000. The *Kennedy* and *Redfern* inquiries at these hospitals established that organs and tissue from children who had died had often been removed, stored and used without proper consent. A subsequent census by the Chief Medical Officer for England (2000) and the *Isaacs Report* (2003) showed that storage and use of organs and tissue from both adults and children without proper consent has been widespread in the past. It also became clear that the current law in this area was not comprehensive, nor as clear and consistent as it might be for professionals or for the families involved. In Northern Ireland the Report of the Human Organs Inquiry (June 2002) had reached a similar conclusion.
6. In advice to the Government, *The Removal, Retention and Use of Human Organs and Tissue from Post Mortem Examination* published in 2001, the Chief Medical Officer for England recommended that there should be a fundamental and broad revision of the law on human organs and tissues taken from adults or children, either during surgery or after death. A consultation document, *Human Bodies, Human Choices* was launched in July 2002, setting out proposals to review the current law in England and Wales. The broad approach to changing the law outlined in the consultation document drew a large degree of consensus and formed the basis of the proposals for the Act. In May 2001, the Department of Culture Media and Sport set up a Working Group on Human Remains which reported in November 2003, recommending that the laws preventing repatriation of human remains by certain national museums should be relaxed.