
Changes to legislation: Human Tissue Act 2004, Part 1 is up to date with all changes known to be in force on or before 26 October 2017. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 4

SECTION 45: SUPPLEMENTARY

PART 1

QUALIFYING CONSENT

Introductory

- 1 This Part of this Schedule makes provision for the interpretation of “qualifying consent” in section 45(1)(a)(i).

Annotations:

Commencement Information

- I1** Sch. 4 para. 1 in force at 20.10.2005 for specified purposes by S.I. 2005/2792, art. 2(2)(j)
I2 Sch. 4 para. 1 in force at 1.9.2006 in so far as not already in force by S.I. 2006/1997, art. 3(2) (with arts. 4, 7, 8)

Qualifying consent

- 2 (1) In relation to analysis of DNA manufactured by the body of a person who is alive, “qualifying consent” means his consent, except where sub-paragraph (2) applies.
- (2) Where—
- (a) the person is a child,
 - (b) neither a decision of his to consent, nor a decision of his not to consent, is in force, and
 - (c) either he is not competent to deal with the issue of consent or, though he is competent to deal with that issue, he fails to do so,
- “qualifying consent” means the consent of a person who has parental responsibility for him.
- (3) In relation to analysis of DNA manufactured by the body of a person who has died an adult, “qualifying consent” means—
- (a) if a decision of his to consent, or a decision of his not to consent, was in force immediately before he died, his consent;
 - (b) if paragraph (a) does not apply, the consent of a person who stood in a qualifying relationship to him immediately before he died.
- (4) In relation to analysis of DNA manufactured by the body of a person who has died a child, “qualifying consent” means—

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- (a) if a decision of his to consent, or a decision of his not to consent, was in force immediately before he died, his consent;
- (b) if paragraph (a) does not apply—
 - (i) the consent of a person who had parental responsibility for him immediately before he died, or
 - (ii) where no person had parental responsibility for him immediately before he died, the consent of a person who stood in a qualifying relationship to him at that time.

Annotations:

Commencement Information

- I3** Sch. 4 para. 2 in force at 20.10.2005 for specified purposes by S.I. 2005/2792, art. 2(2)(j)
- I4** Sch. 4 para. 2 in force at 1.9.2006 in so far as not already in force by S.I. 2006/1997, art. 3(2) (with arts. 4, 7, 8)

Application to Scotland

- 3 (1) In its application to Scotland, paragraph 2 has effect with the following amendments.
- (2) In sub-paragraphs (2) and (4)(b)(i) and (ii), for parental responsibility for there is substituted “parental responsibilities in relation to”.
- (3) At the end there is inserted—
 - “(5) In this paragraph—
 - adult means a person who has attained the age of 16 years;
 - child means a person who has not attained the age of 16 years;
 - parental responsibilities has the meaning given by section 1(3) of the Children (Scotland) Act 1995 (c. 36).”

Annotations:

Commencement Information

- I5** Sch. 4 para. 3 in force at 20.10.2005 for specified purposes by S.I. 2005/2792, art. 2(2)(j)
- I6** Sch. 4 para. 3 in force at 1.9.2006 in so far as not already in force by S.I. 2006/1997, art. 3(2) (with arts. 4, 7, 8)

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

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 29(7) inserted by [2013 anaw 5 s. 15\(4\)\(e\)](#)
- s. 43(5A) inserted by [2009 c. 25 Sch. 21 para. 50](#)