



# Human Tissue Act 2004

## 2004 CHAPTER 30

### PART 1

#### REMOVAL, STORAGE AND USE OF HUMAN ORGANS AND OTHER TISSUE FOR SCHEDULED PURPOSES

#### **5 Prohibition of activities without consent etc.**

- (1) A person commits an offence if, without appropriate consent, he does an activity to which subsection (1), (2) or (3) of section 1 applies, unless he reasonably believes—
  - (a) that he does the activity with appropriate consent, or
  - (b) that what he does is not an activity to which the subsection applies.
- (2) A person commits an offence if—
  - (a) he falsely represents to a person whom he knows or believes is going to, or may, do an activity to which subsection (1), (2) or (3) of section 1 applies—
    - (i) that there is appropriate consent to the doing of the activity, or
    - (ii) that the activity is not one to which the subsection applies, and
  - (b) he knows that the representation is false or does not believe it to be true.
- (3) Subject to subsection (4), a person commits an offence if, when he does an activity to which section 1(2) applies, neither of the following has been signed in relation to the cause of death of the person concerned—
  - (a) a certificate under section 22(1) of the Births and Deaths Registration Act 1953 (c. 20), and
  - (b) a certificate under Article 25(2) of the Births and Deaths Registration (Northern Ireland) Order 1976 (S.I. 1976/1041 (N.I. 14)).
- (4) Subsection (3) does not apply—
  - (a) where the person reasonably believes—
    - (i) that a certificate under either of those provisions has been signed in relation to the cause of death of the person concerned, or
    - (ii) that what he does is not an activity to which section 1(2) applies, or

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**Changes to legislation:** Human Tissue Act 2004, Section 5 is up to date with all changes known to be in force on or before 21 April 2024. 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) View outstanding changes

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- (b) where the person comes into lawful possession of the body immediately after death and stores it prior to its removal to a place where anatomical examination is to take place.
- (5) Subject to subsection (6), a person commits an offence if, when he does an activity to which section 1(3) applies, the death of the person concerned has not been registered under either of the following provisions—
- (a) section 15 of the Births and Deaths Registration Act 1953, and
  - (b) Article 21 of the Births and Deaths Registration (Northern Ireland) Order 1976.
- (6) Subsection (5) does not apply where the person reasonably believes—
- (a) that the death of the person concerned has been registered under either of those provisions, or
  - (b) that what he does is not an activity to which section 1(3) applies.
- (7) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment—
    - (i) to imprisonment for a term not exceeding 3 years, or
    - (ii) to a fine, or
    - (iii) to both.
- (8) In this section, “appropriate consent” has the same meaning as in section 1.

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**Commencement Information**

- I1** S. 5 in force at 20.10.2005 for specified purposes by S.I. 2005/2792, art. 2(2)(j)
- I2** S. 5 in force at 1.12.2006 in so far as not already in force by S.I. 2006/1997, art. 3(3) (with arts. 4, 7, 8)

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**Changes and effects yet to be applied to :**

- s. 5(3) words substituted by [2009 c. 25 Sch. 21 para. 49\(2\)](#)
- s. 5(4)(a)(i) words substituted by [2009 c. 25 Sch. 21 para. 49\(3\)](#)

**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](#)