

HUMAN TRANSPLANTATION (WALES) ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 8: Appointed representatives

39. This section provides that a person may appoint a representative or representatives to give consent to any of the activities set out in section 3. This section replicates section 4 of the Human Tissue Act 2004 (the 2004 Act) but with three differences. Firstly the Welsh legislation recognises an appointment made under the 2004 Act. The second is that it is Welsh Ministers who will hold the power to prescribe in regulations that persons of a particular description cannot act under an appointment in relation to somebody who dies in Wales (the equivalent power in the 2004 Act is held by the Secretary of State). Finally, by use of the word “person”, this section recognises that in Wales a child may also appoint a representative.
40. An appointment made under this Act will be recognised by the 2004 Act (once relevant amendments have been made to that Act by the Secretary of State pursuant to section 150 of the Government of Wales Act 2006) and similarly an appointment made under the 2004 Act is recognised by this Act. It does not therefore matter whether the activity would take place in England, Wales or Northern Ireland.
41. [Section 8\(12\)](#) specifies that if it is not reasonably practicable to communicate with an appointed representative, in time for consent to be acted on, then the appointed representative is treated as not able to give consent. In these circumstances the decision on consent would pass to qualifying relatives.