

*Status: Point in time view as at 12/07/2012.*

*Changes to legislation: Human Tissue Act 2004, Cross Heading: Qualifying consent is up to date with all changes known to be in force on or before 03 June 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)*

## SCHEDULES

### SCHEDULE 4

#### SECTION 45: SUPPLEMENTARY

##### PART 1

##### QUALIFYING CONSENT

###### *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—
- (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.

#### **Commencement Information**

**II** Sch. 4 para. 2 in force at 20.10.2005 for specified purposes by S.I. 2005/2792, art. 2(2)(j)

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**I2** 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)

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