



Human Tissue Act 1961

1961 CHAPTER 54 9 and 10 Eliz 2

An Act to make provision with respect to the use of parts of bodies of deceased persons for therapeutic purposes and purposes of medical education and research and with respect to the circumstances in which post-mortem examinations may be carried out; and to permit the cremation of bodies removed for anatomical examination. [27th July 1961]

1 Removal of parts of bodies for medical purposes.

- (1) If any person, either in writing at any time or orally in the presence of two or more witnesses during his last illness, has expressed a request that his body or any specified part of his body be used after his death for therapeutic purposes or for purposes of medical education or research, the person lawfully in possession of his body after his death may, unless he has reason to believe that the request was subsequently withdrawn, authorise the removal from the body of any part or, as the case may be, the specified part, for use in accordance with the request.
 - (2) Without prejudice to the foregoing subsection, the person lawfully in possession of the body of a deceased person may authorise the removal of any part from the body for use for the said purposes if, having made such reasonable enquiry as may be practicable, he has no reason to believe—
 - (a) that the deceased had expressed an objection to his body being so dealt with after his death, and had not withdrawn it; or
 - (b) that the surviving spouse or any surviving relative of the deceased objects to the body being so dealt with.
 - (3) Subject to subsections (4) [^{F1}, (4A)] and (5) of this section, the removal and use of any part of a body in accordance with an authority given in pursuance of this section shall be lawful.
- [^{F2}(4) No such removal, except of eyes or parts of eyes, shall be effected except by a registered medical practitioner, who must have satisfied himself by personal examination of the body that life is extinct.
- (4A) No such removal of an eye or part of an eye shall be effected except by—

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- (a) a registered medical practitioner, who must have satisfied himself by personal examination of the body that life is extinct; or
 - (b) a person in the employment of a health authority ^[F3], Primary Care Trust^[F4] or NHS trust] acting on the instructions of a registered medical practitioner who must, before giving those instructions, be satisfied that the person in question is sufficiently qualified and trained to perform the removal competently and must also either—
 - (i) have satisfied himself by personal examination of the body that life is extinct, or
 - (ii) be satisfied that life is extinct on the basis of a statement to that effect by a registered medical practitioner who has satisfied himself by personal examination of the body that life is extinct.]
- (5) Where a person has reason to believe that an inquest may be required to be held on any body or that a post-mortem examination of any body may be required by the coroner, he shall not, except with the consent of the coroner,—
- (a) give an authority under this section in respect of the body; or
 - (b) act on such an authority given by any other person.
- (6) No authority shall be given under this section in respect of any body by a person entrusted with the body for the purpose only of its interment or cremation.
- (7) In the case of a body lying in a hospital, nursing home or other institution ^[F5] or in accommodation provided by a care home service (“care home service” having the meaning given by section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8)), any authority under this section may be given on behalf of the person having the control and management thereof by any officer or person designated for that purpose by the first-mentioned person.
- (8) Nothing in this section shall be construed as rendering unlawful any dealing with, or with any part of, the body of a deceased person which is lawful apart from this Act.
- (9) In the application of this section to Scotland, for subsection (5) there shall be substituted the following subsection:—
- “(5) Nothing in this section shall authorise the removal of any part from a body in any case where the procurator fiscal has objected to such removal.”
- ^[F6](10) In this section “health authority”—
- (a) in relation to England and Wales, ^[F7] means a Health Authority established under section 8 of the ^{M1}National Health Service Act 1977 or a Special Health Authority established under section 11 of that Act];
 - (b) in relation to Scotland, means a Health Board constituted under section 2 of the National Health Service (Scotland) ^{M2}Act 1978
- ^[F8]and “NHS trust” means a National Health Service trust established under the National Health Service and Community Care Act 1990 or the National Health Service (Scotland) Act 1978^[F9] and “Primary Care Trust” means a Primary Care Trust established under section 16A of the National Health Service Act 1977].]

Textual Amendments

F1 “, (4A)” inserted by [Corneal Tissue Act 1986 \(c. 18, SIF 83:1\), s. 1\(2\)](#)

F2 [S. 1\(4\)\(4A\)](#) substituted for s. 1(4) by [Corneal Tissue Act 1986 \(c. 18, SIF 83:1\), s. 1\(3\)](#)

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- F3** Words in s. 1(4A)(b) inserted (E.W.) (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 4(a)**
- F4** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 7(a)**
- F5** Words in s. 1(7) inserted (S.) (1.4.2002) by 2001 asp 8, s. 79, **Sch. 3 para. 1**; S.S.I. 2002/162, **art. 2(f)(h)**
- F6** S. 1(10) added by Corneal Tissue Act 1986 (c. 18, SIF 83:1), **s. 1(4)**
- F7** Words in s. 1(10)(a) substituted (1.4.1996) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. III para. 92** (with Sch. 2 paras. 6, 16)
- F8** Words added by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 7(b)**
- F9** Words in s. 1(10) added (E.W.) (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 4(b)**

Marginal Citations

- M1** 1961 c. 54.
- M2** 1978 c. 29 (113:2)

2 Post-mortem examinations.

- (1) **F10**
- (2) No post-mortem examination shall be carried out otherwise than by or in accordance with the instructions of a fully registered medical practitioner, and no post-mortem examination which is not directed or requested by the coroner or any other competent legal authority shall be carried out without the authority of the person lawfully in possession of the body; and subsections (2), (5), (6) and (7) of section one of this Act shall, with the necessary modifications, apply with respect to the giving of that authority.

Textual Amendments

- F10** S. 2(1) repealed by Anatomy Act 1984 (c. 14, SIF 83:1), **s. 13(2)(c)**

3 **F11**

Textual Amendments

- F11** S. 3 repealed by Anatomy Act 1984 (c. 14, SIF 83:1), **s. 13(2)(c)**

4 Short title, etc.

- (1) This Act may be cited as the Human Tissue Act 1961.
- (2) **F12**
- (3) This Act shall come into operation at the expiration of a period of two months beginning with the day on which it is passed.
- (4) This Act does not extend to Northern Ireland.

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Textual Amendments

F12 S. 4(2) repealed by Statute Law (Repeals) Act 1974 (c. 22), Sch. Pt. XI

Status:

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Changes to legislation:

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