

These notes refer to the Human Transplantation (Wales) Act 2013 (c.5) which received Royal Assent on 10 September 2013

HUMAN TRANSPLANTATION (WALES) ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 10: Prohibition of activities without consent

43. This section makes it a criminal offence in Wales to undertake the transplantation activities set out in section 3 without consent. A person has a valid excuse, however, if the person concerned reasonably believed that consent was in place. This is the main enforcement provision of the Act and is based on section 5 of the Human Tissue Act 2004 (the 2004 Act). As the provision is built on a slightly different foundation than the 2004 Act (there being no exact equivalent of “appropriate consent” in the Act) there is a need to expressly exclude other provisions in the Act which make transplantation activities lawful without consent. This explains the reference to section 3(3) and section 13(1).
44. Subsection (5) specifies the meaning of the consent that is required. This is a question of fact and includes consent given or obtained before the coming into force of this Act.