

HUMAN TRANSPLANTATION (WALES) ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 3: Authorisation of transplantation activities

13. This is the key provision which provides that consent is required in order to carry out a transplantation activity. It introduces the concepts of deemed and express consent. It also sets out the transplantation activities to which the consent applies. It follows a similar structure to the Human Tissue Act 2004 (the 2004 Act) in that certain activities are lawful if done with consent, with the means by which consent is given in various circumstances following in subsequent sections.
14. This section provides that certain activities undertaken for the purpose of transplantation are lawful if done with, either express consent or deemed consent. The subsequent sections (4, 5, 6 and 9) set out what is meant by express and deemed consent where the person to whom the consent relates is an adult, an excepted adult (i.e. an adult to whom deemed consent cannot apply), a child or a living adult who lacks capacity.
15. The activities themselves are again based on those contained in section 1 of the 2004 Act.
16. Subsection (3) makes the storage and use of relevant material lawful where organs and tissues have been imported into Wales from outside Wales. In such cases consent is not required, meaning that all that a person using organs need be satisfied about is that the organ has been imported. This replicates the position under the 2004 Act where an organ has come into England, Wales or Northern Ireland from elsewhere (for example from Scotland).