

*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 9: Activities involving material from (living) adults who lack capacity to consent***

42. This section applies where a living adult lacks capacity to consent to donation and no decision is in force. This section has the same effect as section 6 of the Human Tissue Act 2004, except that the power to prescribe in regulations when deemed consent can apply is held by the Welsh Ministers as regards a transplantation activity in Wales. This power could be used to prescribe that consent could only be deemed if it is in the best interests of the living adult. For example, it could be in the best interests of the person who lacks capacity to donate relevant material to a close relative. Deemed consent in this context is different from the deemed consent provisions set out in section 4, which relate to deceased donors. However, the basic premise of taking action without the express consent of the individual is the same.