

HUMAN TISSUE (SCOTLAND) ACT 2006

EXPLANATORY NOTES

THE ACT – AN OVERVIEW

Part 6: Miscellaneous

Section 54 – Arrangements by Scottish Ministers for assistance with functions under sections 1, 2, 17(3), (4) or (5), 18, 19(2), or 20(3)

139. **Section 54** provides that the Scottish Ministers may make arrangements with other UK public authorities to undertake, or assist them in relation to, any of their functions under sections 1, 2, 17(3), (4) or (5) (except the power to make regulations under that section), 18 (except the power to make regulations under that section), 19(2) or 20(3). This would allow the Scottish Ministers to have certain functions carried out by an organisation such as the Human Tissue Authority.
140. Subsection (3) maintains the Scottish Ministers' responsibility for functions carried out under such arrangements.

Section 55 – Power to give effect to Community obligations

141. **Section 55** gives the Scottish Ministers power to amend the Act once it has been enacted by regulations to take account of a Community obligation, such as implementation of the EU Directive on Tissue and Cells. This equates to section 46 of the [Human Tissue Act 2004 \(c.30\)](#).

Section 56 – Bodies corporate etc.

142. **Section 56** includes standard provisions setting out the circumstances in which, where a body corporate or Scottish partnership is charged with an offence under the Act, persons involved with a body corporate or such partnership may also acquire criminal responsibility.

Section 57 – Amendment of the Adults with Incapacity (Scotland) Act 2000

143. This provision will ensure that a welfare attorney or welfare guardian does not have powers under the Adults with Incapacity Act 2000 to make any requests on behalf of an adult under the Anatomy Act 1984, to give any authorisation on behalf of an adult for transplantation, hospital post-mortem or retention of organs or tissues from fiscal post mortem, or to make any nomination on behalf of the adult for a hospital post mortem. The intention in relation to authorisations for the post-death situation is to put beyond doubt that welfare attorneys and welfare guardians do not have powers under the 2000 Act to authorise on behalf of the adult (for example, to sign a kidney donor card for the adult). In relation to live transplants authorised under the Act, the intention is that these types of donation (organs in the context of a domino organ transplant operation and regenerative tissue) are to be considered instead under the procedures being set up by the Human Tissue Authority.