



Human Transplantation (Wales) Act 2013

2013 anaw 5

Consent

5 Consent: excepted adults

- (1) This section makes provision about consent for the purposes of section 3 in relation to a transplantation activity involving the body, or relevant material from the body, of an excepted adult.
- (2) In the case of an excepted adult express consent is required.
- (3) An “excepted adult” means—
 - (a) an adult who has died and who had not been ordinarily resident in Wales for a period of at least 12 months immediately before dying, or
 - (b) an adult who has died and who for a significant period before dying lacked capacity to understand the notion that consent to transplantation activities can be deemed to be given;

and for this purpose a significant period means a sufficiently long period as to lead a reasonable person to conclude that it would be inappropriate for consent to be deemed to be given.

- (4) For each case mentioned in the first column of Table 2 the meaning of express consent in relation to an activity is as provided in the second column of the table—

TABLE 2

Case	Meaning of express consent
1. A decision of the excepted adult to consent, or not to consent, to the activity was in force immediately before death.	The excepted adult’s consent.
2. Case 1 does not apply, the excepted adult had appointed a person or persons to deal with the issue of consent in relation to the activity and someone	Consent given by the person or persons appointed.

Status: This is the original version (as it was originally enacted).

Case	Meaning of express consent
is able to give consent under the appointment.	
3. Case 1 does not apply and the excepted adult had appointed a person or persons to deal with the issue of consent in relation to the activity, but no one is able to give consent under the appointment.	Consent of a person who stood in a qualifying relationship to the excepted adult immediately before death.
4. None of cases 1, 2 or 3 applies in relation to the excepted adult.	Consent of a person who stood in a qualifying relationship to the excepted adult immediately before death.

- (5) In this section a reference to the appointment of a person or persons to deal with the issue of consent is a reference to an appointment under section 8.
- (6) This section does not apply to consent for a transplantation activity that involves removal of excluded relevant material (for provision in relation to which see section 7).