

Organ Donation (Presumed Consent) Bill

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TO

Provide for an organ donation scheme based upon presumed consent; to make provision in relation to safeguards for such a scheme; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Presumption of consent for donation of organs

- (1) Where a person has not during his lifetime registered an objection to his body, or any specified part of his body, being donated for transplantation after his death it shall be presumed that he consented to such a donation—
 - (a) except where the designated person is satisfied, on the basis of information provided by a person's spouse or partner (or, where there is no spouse or partner, by a parent or child of the deceased), that the person had expressed an objection to donation that had not been registered; or 5
 - (b) to proceed with the donation would cause distress to the person's spouse or partner (or, where there is no spouse or partner, to a parent or child of the deceased). 10
- (2) In the case of a person aged under 18 years there shall be no presumption of consent, and donation may proceed only if the designated person is satisfied that such donation is in accordance with the wishes of that person or with the consent of that person's parents or other primary carer. 15

2 Register of objection to transplantation of organs

- (1) There shall be a register of those persons who object to their organs being used for transplantation.
- (2) Where it is intended to remove any organ of a deceased person for the purposes of transplantation, the register established under subsection (1) must be consulted to determine whether the person had registered an objection. 20

- (3) Where a person is found to have registered an objection under subsection (2) no removal of organs may be permitted.
- (4) Regulations shall make provision relating to the register established under subsection (1) and in particular in connection with—
- (a) the manner in which a person is able to register an objection; 5
 - (b) the manner in which the register must be consulted before the removal of organs for transplantation.
- (5) Regulations under subsection (4) shall be made by statutory instrument.
- (6) A statutory instrument containing regulations under subsection (5) may not be made unless a draft of it has been laid before and approved by resolution of the House of Commons. 10
- 3 Death of person donating organs**
- No organs may be removed from a person whose organs are intended to be used for transplantation unless two registered medical practitioners have satisfied themselves that the person is dead. 15
- 4 Interpretation**
- In this Act—
- “designated person” means the person with control and management of the hospital of institution concerned;
 - “death” means the irreversible loss of the capacity for consciousness, combined with irreversible loss of the capacity to breathe, determined by permanent cessation of heartbeat or, where the heartbeat is maintained artificially, by brain stem tests carried out in accordance with the criteria set out by the Conference of Royal Colleges (and “dead” shall be construed accordingly). 20 25
- 5 Expenses**
- There shall be paid out of money provided by Parliament any expenditure of the Secretary of State in consequence of this Act.*
- 6 Short title, commencement and extent**
- (1) This Act may be cited as the Organ Donation (Presumed Consent) Act 2009. 30
 - (2) This Act shall come into force three years after the date on which it receives Royal Assent.
 - (3) This Act extends to England and Wales only.

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*Presented by Mr Jeremy Browne
supported by
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