
STATUTORY INSTRUMENTS

1992 No. 1718 (N.I. 11)

NORTHERN IRELAND

The Anatomy (Northern Ireland) Order 1992

Made - - - - 15th July 1992
Coming into operation on days to be appointed under
Article 1(2)

At the Court at Buckingham Palace, the 15th day of July 1992

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974(1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Introductory

Title and commencement

1.—(1) This Order may be cited as the Anatomy (Northern Ireland) Order 1992.

(2) This Order shall come into operation on such day or days as the Head of the Department may by order appoint.

(3) An order under paragraph (2) may include such transitional or saving provisions as appear to the Head of the Department to be necessary or expedient in connection with the provisions brought into operation by the order, but nothing shall be so included if it would conflict with Article 3(3).

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(2) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

(1) 1974 c. 28
(2) 1954 c. 33 (N.I.)

“anatomical examination” means the examination by dissection of a body for purposes of teaching or studying, or researching into, morphology; and where parts of a body are separated in the course of its anatomical examination, such examination includes the examination by dissection of the parts for those purposes;

“anatomical specimen” means—

- (a) a body to be used for anatomical examination, or
- (b) a body in course of being used for anatomical examination (including separated parts of such a body);

“body” means the body of a deceased person;

“the Department” means the Department of Health and Social Services;

“regulations” means regulations made by the Department subject to negative resolution;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

Application of Order

3.—(1) Nothing in this Order applies to anything done for the purposes of a post-mortem examination requested or required or directed to be made by a competent legal authority or carried out for the purpose of establishing or confirming the causes of death or of investigating the existence or nature of abnormal conditions.

(2) If part of a body is authorised under section 1 of the Human Tissue Act (Northern Ireland) 1962⁽³⁾ to be removed for purposes of medical education or research, that section (and not this Order) applies to the removal and use of the part, even if the education or research consists of or involves anatomical examination; but the preceding provisions of this paragraph do not prevent this Order applying as regards the body after such removal or where no such removal is made.

(3) Nothing in this Order affects anything done in relation to the body or part of the body of a person who died before the coming into operation of Article 6.

Anatomical examination

Control of examinations and possession

4.—(1) No person shall carry out an anatomical examination unless—

- (a) he carries it out on premises which at the time of the examination are licensed under Article 5(1),
- (b) he is authorised to carry it out under Article 5(3),
- (c) at the time the examination is carried out it is lawful by virtue of Article 6, and
- (d) death has been registered, in the case of the body concerned, under Article 21(1) of the Births and Deaths Registration (Northern Ireland) Order 1976⁽⁴⁾.

(2) Subject to paragraph (3), no person shall have an anatomical specimen in his possession unless—

- (a) he is authorised to have possession under Article 5(4),
- (b) anatomical examination of the specimen is at the time concerned lawful by virtue of Article 6, and

⁽³⁾ 1962 c. 19 (N.I.)

⁽⁴⁾ 1976 NI 14

(c) a certificate of cause of death has been signed, in the case of the body concerned, in accordance with Article 25(2) of that Order of 1976.

(3) Paragraph (2) does not apply where a person came into lawful possession of a body immediately after death and retained possession prior to its removal to the place where anatomical examination is to take place.

Licences

5.—(1) The Department may grant a licence for the use of premises for carrying out anatomical examinations.

(2) The Department may grant a licence to a person to do one or both of the following—

- (a) carry out anatomical examinations;
- (b) have possession of anatomical specimens.

(3) A person is authorised under this paragraph to carry out an anatomical examination if—

- (a) at the time of the examination he is licensed to carry it out under paragraph (2)(a), or
- (b) he carries out the examination in the course of teaching or studying, or researching into, morphology and has permission (general or particular) to carry out the examination from a person who is so licensed at the time of the examination.

(4) A person is authorised under this paragraph to have possession of an anatomical specimen if—

- (a) at the time he has possession he is licensed to do so under paragraph (2)(b), or
- (b) he has, from a person who is so licensed at that time, permission (general or particular) to have such possession.

(5) A person to whom a licence has been granted under paragraph (2) shall—

- (a) compile such records in relation to anatomical examinations and anatomical specimens as may be specified by regulations, and
- (b) retain for such period as may be so specified any records compiled in accordance with sub-paragraph (a).

Lawful examinations

6.—(1) Paragraph (2) applies if a person, either in writing at any time or orally in the presence of 2 or more witnesses during his last illness, has expressed a request that his body be used after his death for anatomical examination.

(2) If the person lawfully in possession of the body after death has no reason to believe that the request was withdrawn, he may authorise the use of the body in accordance with the request.

(3) Without prejudice to paragraph (2), the person lawfully in possession of a body may authorise it to be used for anatomical examination if, having made such reasonable inquiry as may be practicable, he has no reason to believe—

- (a) that the deceased, either in writing at any time or orally in the presence of 2 or more witnesses during his last illness, had expressed an objection to his body being so used after his death, and had not withdrawn it, or
- (b) that the surviving spouse or any surviving relative of the deceased objects to the body being so used.

(4) Subject to paragraphs (5) to (7), the anatomical examination of a body in accordance with an authority given in pursuance of this Article is lawful by virtue of this Article.

(5) Where a person has reason to believe that an inquest may be required to be held on any body or that a post-mortem examination of any body may be required by the coroner, he shall not, except with the coroner's consent—

- (a) give an authority under this Article in respect of the body, or
- (b) act on such an authority given by any other person.

(6) No authority shall be given under this Article in respect of a body by a person entrusted with the body for the purpose only of its interment or cremation.

(7) Authority under this Article expires at the end of the statutory period (even if the person lawfully in possession of the body concerned authorises its use under paragraph (2) or (3) for a longer or a shorter period or for no particular period).

(8) In the case of a body lying in a hospital, nursing home or other institution, any authority under this Article may be given on behalf of the person having the control and management of the institution by any officer or person designated for that purpose by the first-mentioned person.

(9) In paragraph (7) "the statutory period" means the period of 3 years (or, subject to paragraph (10), such other period as the Department may by order subject to negative resolution specify for the purposes of this paragraph) from the date of the deceased's death.

(10) An order under paragraph (9) shall not apply in relation to the body of a person who died before the coming into operation of the order.

Possession after examination

Control of possession after examination

7.—(1) This Article applies where—

- (a) authority under Article 6 to use a body for anatomical examination has expired, or
- (b) the anatomical examination of a body has been concluded before the expiry of such authority.

(2) Subject to paragraphs (3) and (4), no person shall have the body or part of the body in his possession.

(3) Paragraph (2) does not apply where a person has possession of the body or part for the purpose only of its decent disposal.

(4) Paragraph (2) does not apply where—

- (a) a person has possession of part of a body whose anatomical examination has been concluded before the expiry of authority under Article 6,
- (b) the part is such that the person from whose body it came cannot be recognised simply by examination of the part,
- (c) the person with possession is authorised to have possession under paragraph (5), and
- (d) possession of the part is lawful by virtue of Article 8.

(5) If the Department thinks it desirable to do so in the interests of education or research, the Department may grant a licence to a person to have possession of parts of bodies, and a person is authorised under this paragraph to have possession of a part of a body if—

- (a) at the time he has possession he is licensed to do so under this paragraph, or
- (b) he has, from a person who is so licensed at that time, permission (general or particular) to have such possession.

(6) A person to whom a licence has been granted under paragraph (5) shall—

- (a) compile such records in relation to parts of bodies as may be specified by regulations, and

- (b) retain for such period as may be so specified any records compiled in accordance with sub-paragraph (a).

Lawful possession

8.—(1) Paragraph (2) applies if a person, in expressing a request as mentioned in Article 6(1), has given permission for possession of parts (or any specified parts) of his body to be held after its anatomical examination is concluded.

(2) If the person lawfully in possession of the body after death has no reason to believe that the permission was withdrawn, he may, in giving authority under Article 6(2), give authority for possession to be held in accordance with the permission.

(3) Without prejudice to paragraph (2), the person lawfully in possession of a body may, in giving authority under Article 6(3), give authority for possession of parts (or any specified parts) of the body to be held after its anatomical examination is concluded if, having made such reasonable inquiry as may be practicable, he has no reason to believe—

- (a) that the deceased, either in writing at any time or orally in the presence of 2 or more witnesses during his last illness, had expressed an objection to such possession being held, and had not withdrawn it, or
- (b) that the surviving spouse or any surviving relative of the deceased objects to such possession being held.

(4) It is lawful by virtue of this Article to have possession of part of a body if possession is held in accordance with an authority given in pursuance of this Article.

Miscellaneous

Licences: general provisions

9.—(1) Applications for licences under this Order shall be made in such manner as the Department may decide.

(2) A licence under this Order may be granted to such person as the Department thinks suitable, and a licence under Article 5(1) may be granted in respect of such premises as the Department thinks suitable.

(3) The Department may require the payment of such fee as the Department thinks fit in respect of any application for a licence under this Order.

(4) Where the Department decides not to grant a licence under this Order, the Department shall take reasonable steps to secure that the applicant is notified in writing of its decision and of the reasons for it.

(5) A licence under this Order may be granted subject to such conditions as the Department thinks necessary or desirable, but no condition may be imposed in relation to a matter dealt with by regulations under Article 10.

(6) A licence under this Order shall be effective for such period as the Department may stipulate when the Department grants it, except that—

- (a) the Department may (subject to paragraph (7)) revoke a licence if the Department thinks it reasonable to do so;
- (b) the Department may at any time accept the surrender of a licence from the person to whom it was granted;
- (c) if the person to whom the licence was granted dies the licence shall then expire (subject to paragraph (8)).

(7) Where the Department decides to revoke a licence under this Order the revocation shall be ineffective unless the Department gives to the person to whom the licence was granted a written notice stating—

- (a) that the Department proposes to revoke the licence on a date which is specified in the notice (not being less than 28 days from the date of the notice), and
- (b) the reasons for the decision to revoke the licence.

(8) Where a person holding a licence under this Order dies, any permission given by him under Article 5(3)(b) or (4)(b) or 7(5)(b) (as the case may be), and effective immediately before his death, shall continue to be effective for a period of 21 days from the date of his death; but if the period for which the licence was granted would have expired before the expiry of the 21 days, the permission shall expire when the licence would have expired.

(9) Any sums received by the Department under this Article shall be paid into the Consolidated Fund.

Regulations

10.—(1) Subject to paragraph (2), regulations may make provision—

- (a) in relation to bodies the anatomical examination of which is lawful by virtue of Article 6, with a view to securing their efficient and orderly examination and the decent disposal of the bodies (and parts of them) after their examination has been concluded;
- (b) in relation to parts of bodies the possession of which is lawful by virtue of Article 8, with a view to securing that they are decently cared for.

(2) No regulations under this Article shall apply in relation to the body of a person who died before the coming into operation of the regulations.

Inspectors of anatomy

11.—(1) The Department may appoint such persons as the Department thinks fit to be inspectors, each to be known as the Inspector of Anatomy for Northern Ireland.

(2) An inspector shall be appointed—

- (a) to advise the Department on the exercise of the Department's functions under this Order;
- (b) for the purpose mentioned in sub-paragraph (a), to inspect premises in respect of which licences are sought under Article 5(1), in order to ascertain whether the premises are suitable;
- (c) for the purpose mentioned in sub-paragraph (a), to examine applications for licences under this Order, in order to ascertain whether the applicants are suitable;
- (d) to inspect premises, in order to ascertain whether any offence has been or is being committed under Article 13(1) or (2) or against regulations under Article 10 (as mentioned in Article 13(4)).

(3) The Department shall pay to an inspector such remuneration as the Department may decide.

(4) An inspector shall be appointed on such other terms and conditions as the Department may determine.

(5) The Department may in the case of such of the inspectors as the Department may determine—

- (a) pay such pensions, allowances or gratuities to or in respect of them as may be so determined,
- (b) make such payments towards the provision of pensions, allowances or gratuities to or in respect of any of them as may be so determined, or

- (c) provide and maintain such schemes (whether contributory or not) for the payment of pensions, allowances or gratuities to or in respect of them as may be so determined.

Power to inspect records and premises

12.—(1) An inspector duly authorised in writing by the Department may (subject to paragraphs (3) and (4)) require the production of, and inspect and take copies of, any records which a person is required to retain by virtue of Article 5(5) or 7(6).

(2) Where—

- (a) an inspector has reasonable cause to believe that an offence under Article 13(1)(a) or (2) or against regulations under Article 10 (as mentioned in Article 13(4)) has been or is being committed on any premises, and
- (b) he is duly authorised in writing by the Department to enter and inspect the premises with a view to ascertaining whether the offence has been or is being committed,

he may (subject to paragraphs (3) to (5)) enter and inspect the premises for that purpose.

(3) An inspector who proposes to require the production of records or enter premises in exercise of a power under this Article shall, if so required, produce evidence of his authority before making the requirement or entering.

(4) A power under this Article may only be exercised at a reasonable time.

(5) The power to enter premises under paragraph (2) may only be exercised if a licence under Article 5(1) is effective in respect of the premises both at the time of the suspected offence and at the time of the entry.

(6) Information (including information in records) obtained by any person in pursuance of this Article shall not be disclosed except—

- (a) with the written consent of the person by whom the information was provided, or
- (b) to any Northern Ireland department, or
- (c) in the form of a summary of similar information obtained from a number of persons, where the summary is so framed as not to enable particulars relating to any one person or undertaking to be ascertained from it, or
- (d) with a view to the institution of, or otherwise for the purposes of, any criminal proceedings, or
- (e) for the purposes of a report of any criminal proceedings.

(7) In this Article “inspector” means a person appointed under Article 11.

Offences

13.—(1) A person who—

- (a) carries out an anatomical examination in contravention of Article 4(1), or
- (b) has in his possession an anatomical specimen in contravention of Article 4(2), or
- (c) has in his possession a body or part of a body in contravention of Article 7(2),

shall be guilty of an offence.

(2) A person who contravenes a condition attached to a licence granted to him under this Order shall be guilty of an offence.

(3) Where a person is charged with an offence under paragraph (1) or (2), it shall be a defence to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(4) Regulations under Article 10 may provide that a person who without reasonable excuse contravenes any specified provision of the regulations shall be guilty of an offence against the regulations; and references in this Article to an offence against the regulations shall be construed accordingly.

(5) A person who—

- (a) fails without reasonable excuse to comply with Article 5(5) or 7(6), or
- (b) in purported compliance with Article 5(5) or 7(6) compiles a record which he knows is false in a material particular, or
- (c) alters a record compiled in compliance with Article 5(5) or 7(6) so that the record becomes to his knowledge false in a material particular, or
- (d) fails without reasonable excuse to comply with a requirement imposed by virtue of Article 12(1), or
- (e) intentionally obstructs an inspector in the exercise of his powers under Article 12(1) or (2), or
- (f) discloses information in contravention of Article 12(6),

shall be guilty of an offence.

(6) A person guilty of an offence under paragraph (1) or (2) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding 3 months.

(7) Regulations under Article 10 may provide that a person guilty of an offence against the regulations shall be liable on summary conviction to a fine not exceeding an amount which is specified in the regulations in relation to the offence concerned and which does not exceed level 3 on the standard scale; and they may further provide that he may instead be liable on summary conviction to imprisonment for a term not exceeding 3 months.

(8) A person guilty of an offence under paragraph (5) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) If a person carries out an anatomical examination or has possession of an anatomical specimen or of a body falling within Article 7(1) or part of such a body, and the circumstances are such that he commits no offence under paragraph (1) or (2) or against regulations under Article 10, he shall be guilty of no other offence of carrying out such examination or having such possession.

Repeals

14. The following statutory provisions are hereby repealed—

- (a) the Anatomy Act 1832⁽⁵⁾;
- (b) the Anatomy Act 1871⁽⁶⁾;
- (c) sections 2(1) and 3 of the Human Tissue Act (Northern Ireland) 1962⁽⁷⁾.

G. I. de Deney
Clerk of the Privy Council

(5) 1832 c. 75
(6) 1871 c. 16
(7) 1962 c. 19 (N.I.)

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision about the use of bodies of deceased persons, and parts of such bodies, for anatomical examination and about the possession and disposal of bodies of deceased persons, and parts of such bodies, authorised to be used for anatomical examination.