

HUMAN TISSUE ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 - Regulation of Activities Involving Human Tissue

Codes of Practice

Section 26: Preparation of codes

42. *Subsection (1)* provides that the HTA may prepare and issue codes of practice giving guidance and setting standards in relation to activities within its remit. *Subsections (2)* and *(3)* list the matters which must be dealt with in the codes of practice prepared by the HTA.

Section 27: Provision with respect to consent

43. *Subsection (1)* provides that in a code of practice dealing with consent the HTA must lay down standards relating to obtaining consent from a person in a qualifying relationship. *Subsection (3)* provides that the HTA may lay down different standards for obtaining consent in exceptional cases, for example, a blood relative lower down the hierarchy than a partner or spouse may have a greater interest in obtaining information about their deceased relative's health where this may be relevant to their own health. *Subsection (4)* sets out the hierarchy of people close to a deceased person who are eligible to give 'appropriate consent' to the activities listed in section 1(1) to (3) (other than for the purposes of anatomical examinations or public display). If there is more than one person in an eligible class who is competent to give consent, the consent of any one of them would suffice. *Subsection (9)* provides that the Secretary of State may amend the hierarchy by order.

Section 28: Effect of codes

44. This section provides that, while failure to observe a provision of a code of practice will not itself make a person liable to any proceedings, the HTA may take account of observance or failure to observe a provision of a code of practice dealing with a matter that is subject to a licence requirement when carrying out its licensing functions.

Section 29: Approval of codes

45. This section provides that draft codes of practice dealing with matters that are subject to a licence requirement must be approved by the Secretary of State and laid before Parliament by him. The code may not be issued by the HTA until it has been before Parliament for 40 days with no resolution not to approve it having been made by either House.