

Status: Point in time view as at 01/09/2006.

Changes to legislation: Human Tissue Act 2004, Cross Heading: Purposes relating to material from body of a living person is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 4

SECTION 45: SUPPLEMENTARY

PART 2

USE FOR AN EXCEPTED PURPOSE

Purposes relating to material from body of a living person

- 8 Use of the results of an analysis of DNA for any of the following purposes is use for an excepted purpose if the bodily material concerned is from the body of a living person—
- (a) clinical audit;
 - (b) education or training relating to human health;
 - (c) performance assessment;
 - (d) public health monitoring;
 - (e) quality assurance.

Commencement Information

- I1** Sch. 4 para. 8 in force at 20.10.2005 for specified purposes by S.I. 2005/2792, art. 2(2)(j)
I2 Sch. 4 para. 8 in force at 1.9.2006 in so far as not already in force by S.I. 2006/1997, art. 3(2) (with arts. 4, 7, 8)

- 9 (1) Use of the results of an analysis of DNA for the purpose of obtaining scientific or medical information about the person whose body manufactured the DNA is use for an excepted purpose if—
- (a) the bodily material concerned is the subject of a direction under sub-paragraph (2) or (3) or an order under sub-paragraph (4) or (5), and
 - (b) the information may be relevant to the person for whose benefit the direction is given or order is made.
- (2) If the Authority is satisfied—
- (a) that bodily material has come from the body of a living person,
 - (b) that it is not reasonably possible to trace the person from whose body the material has come (“the donor”),
 - (c) that it is desirable in the interests of another person (including a future person) that DNA in the material be analysed for the purpose of obtaining scientific or medical information about the donor, and
 - (d) that there is no reason to believe—
 - (i) that the donor has died,

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- (ii) that a decision of the donor to refuse consent to the use of the material for that purpose is in force, or
- (iii) that the donor lacks capacity to consent to the use of the material for that purpose,

it may direct that this paragraph apply to the material for the benefit of the other person.

(3) If the Authority is satisfied—

- (a) that bodily material has come from the body of a living person,
- (b) that it is desirable in the interests of another person (including a future person) that DNA in the material be analysed for the purpose of obtaining scientific or medical information about the person from whose body the material has come (“the donor”),
- (c) that reasonable efforts have been made to get the donor to decide whether to consent to the use of the material for that purpose,
- (d) that there is no reason to believe—
 - (i) that the donor has died,
 - (ii) that a decision of the donor to refuse consent to the use of the material for that purpose is in force, or
 - (iii) that the donor lacks capacity to consent to the use of the material for that purpose, and
- (e) that the donor has been given notice of the application for the exercise of the power conferred by this sub-paragraph,

it may direct that this paragraph apply to the material for the benefit of the other person.

(4) If the Court of Session is satisfied—

- (a) that bodily material has come from the body of a living person,
- (b) that it is not reasonably possible to trace the person from whose body the material has come (“the donor”),
- (c) that it is desirable in the interests of another person (including a future person) that DNA in the material be analysed for the purpose of obtaining scientific or medical information about the donor, and
- (d) that there is no reason to believe—
 - (i) that the donor has died,
 - (ii) that a decision of the donor to refuse consent to the use of the material for that purpose is in force, or
 - (iii) that the donor is an incapable adult within the meaning of the Adults with Incapacity (Scotland) Act 2000 (asp 4),

it may order that this paragraph apply to the material for the benefit of the other person.

(5) If the Court of Session is satisfied—

- (a) that bodily material has come from the body of a living person,
- (b) that it is desirable in the interests of another person (including a future person) that DNA in the material be analysed for the purpose of obtaining scientific or medical information about the person from whose body the material has come (“the donor”),
- (c) that reasonable efforts have been made to get the donor to decide whether to consent to the use of the material for that purpose,

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- (d) that there is no reason to believe—
- (i) that the donor has died,
 - (ii) that a decision of the donor to refuse to consent to the use of the material for that purpose is in force, or
 - (iii) that the donor is an incapable adult within the meaning of the Adults with Incapacity (Scotland) Act 2000, and
- (e) that the donor has been given notice of the application for the exercise of the power conferred by this sub-paragraph,
- it may order that this paragraph apply to the material for the benefit of the other person.

Commencement Information

- I3** Sch. 4 para. 9 in force at 20.10.2005 for specified purposes by S.I. 2005/2792, art. 2(2)(j)
- I4** Sch. 4 para. 9 in force at 1.9.2006 in so far as not already in force by S.I. 2006/1997, art. 3(2) (with arts. 4, 7, 8)

- 10 Use of the results of an analysis of DNA for the purpose of research in connection with disorders, or the functioning, of the human body is use for an excepted purpose if—
- (a) the bodily material concerned is from the body of a living person,
 - (b) the research is ethically approved in accordance with regulations made by the Secretary of State, and
 - (c) the analysis is to be carried out in circumstances such that the person carrying it out is not in possession, and not likely to come into possession, of information from which the individual from whose body the material has come can be identified.

Commencement Information

- I5** Sch. 4 para. 10 in force at 20.10.2005 for specified purposes by S.I. 2005/2792, art. 2(2)(j)
- I6** Sch. 4 para. 10 in force at 1.9.2006 in so far as not already in force by S.I. 2006/1997, art. 3(2) (with arts. 4, 7, 8)

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