

Human Tissue (Authorisation) (Scotland) Bill

Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated on the first day of Stage 2 consideration, set out in the order in which they will be debated.

THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.

Groupings of amendments

Information and awareness

4, 56, 57, 7, 8, 63

Notes on amendments in this group

Amendments 7 and 8 are direct alternatives

Excepted body parts

5, 6, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23

Establishment and maintenance of the Register

24, 25, 26, 27, 28, 29, 30, 31, 32, 33

How authorisation, declaration or withdrawal is to be made

34, 36, 40, 42

Standard of evidence

35, 37, 58, 59, 38, 60, 61, 39, 41, 43

Removal of body part: further requirements

44, 45, 46, 47, 48, 49

Pre-death procedure relating to transplantation

50, 51, 18

Meaning of “health worker”

52, 53, 54

Review and report on operation of Act

62

Commencement

55

Short title

64

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Amendments in debating order

Information and awareness

Jeremy Balfour

4 In section 2, page 1, line 24, at end insert—

<(f) send or ensure that there is sent, at least once in each two-year period, information on the matters mentioned in paragraphs (a) to (e) to every person registered in the register of local government electors maintained under section 9(1)(b) of the Representation of the People Act 1983 for any area in Scotland.”.

() The text of section 1 so amended becomes subsection (1).

() After subsection (1) so formed, insert—

“(2) In paragraph (f) of subsection (1), “two-year period” means—

(a) the period of two years beginning with the day that section 2 of the Human Tissue (Authorisation) (Scotland) Act 2019 comes into force, and

(b) each subsequent period of two years.”.>

Lewis Macdonald

56 In section 2, page 1, line 24, at end insert—

<() The text of section 1 so amended becomes subsection (1).

() After subsection (1) so formed, insert—

“(2) The duty in subsection (1) includes in particular an obligation on the Scottish Ministers, at least once in every calendar year, to promote a campaign of awareness and information for the purpose of informing the Scottish public about—

(a) the circumstances in which authorisation of transplantation may be deemed to be given in the absence of express authorisation, and

(b) the method by which a person may make—

(i) an express authorisation under section 6,

(ii) an opt-out declaration under section 6B.”.>

David Stewart

57 In section 3, page 3, line 30, at end insert—

<Duty to promote opportunities for individuals to consider register status

2E Duty to promote opportunities for individuals to consider register status

(1) It is the duty of the Scottish Ministers to promote regular opportunities for a person—

(a) to consider making an express authorisation of removal and use of a part of the person’s body after the person’s death for transplantation,

(b) to review and consider whether the person wishes to maintain the express authorisation,

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- (c) to consider making a declaration that the person does not authorise the removal and use of a part of the person's body after the person's death for transplantation.
- (2) Without prejudice to the generality of subsection (1), the Scottish Ministers must, in particular, consider how such opportunities can be provided in the course of a person receiving any health care services under the National Health Service (Scotland) Act 1978.”>

Jeremy Balfour

- 7 In section 7, page 9, line 5, leave out <12 months> and insert <2 years>

Jeremy Balfour

- 8 In section 7, page 9, line 5, leave out <12 months> and insert <3 years>

Lewis Macdonald

- 63 In section 28, page 34, line 19, at end insert—

<(3A) The Scottish Ministers may not appoint a day for section 7 to come into force until they have complied with subsection (3B).

(3B) The Scottish Ministers must, for a period of 2 years beginning with the day of Royal Assent, promote information and awareness about how transplantation may be authorised (including, in particular, how authorisation of transplantation may be deemed to be given).>

Excepted body parts

Jeremy Balfour

- 5 In section 3, page 2, line 9, leave out <6G,>

Jeremy Balfour

- 6 In section 6, page 8, leave out line 15

Jeremy Balfour

- 9 In section 7, page 9, leave out line 9

Jeremy Balfour

- 10 In section 7, page 9, line 9, at end insert—

<() a part of the adult's body—

(i) consisting wholly or partly of reproductive cells, or

(ii) intended to be used for reproductive purposes (including for the creation of cells for reproductive purposes),>

Jeremy Balfour

- 11 In section 7, page 9, line 10, leave out <(that is not an excepted body part)>

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Jeremy Balfour

12 In section 7, page 9, leave out lines 30 to 37

Jeremy Balfour

13 Leave out section 10

Jeremy Balfour

14 In section 21, page 23, line 7, leave out <6G,>

Jeremy Balfour

15 In section 21, page 23, line 18, leave out <6G,>

Jeremy Balfour

16 In section 21, page 24, line 1, leave out <6G,>

Jeremy Balfour

17 In section 22, page 26, line 15, leave out <6G,>

Jeremy Balfour

19 In section 26, page 31, leave out line 35

Jeremy Balfour

20 In section 27, page 33, line 5, leave out <6G,>

Jeremy Balfour

21 In section 27, page 33, line 27, leave out <6G,>

Jeremy Balfour

22 In section 27, page 33, line 29, leave out <6G,>

Jeremy Balfour

23 In section 27, page 33, line 37, leave out <6G,>

Establishment and maintenance of the Register

Joe FitzPatrick

24 In section 3, page 2, line 28, after <information> insert <about a person>

Joe FitzPatrick

25 In section 3, page 2, line 28, leave out from <a person> to end of line 36 and insert <—

- (a) a person listed in subsection (2) for the purpose of enabling or assisting a person listed in subsection (2) to carry out functions under this Part that relate to the removal and use of a part of the body for transplantation,

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- (b) a person operating outwith Scotland for the purpose of enabling or assisting that person to carry out functions that relate to the removal and use of a part of the body for transplantation.>

Joe FitzPatrick

- 26 In section 3, page 2, line 36, at end insert—

<() The power to disclose information about a person from the Register conferred by subsection (1) includes the power to disclose that there is no information kept in the Register about the person.>

Joe FitzPatrick

- 27 In section 3, page 2, line 38, leave out from beginning to end of line 1 on page 3 and insert—

<() a registered medical practitioner,
() a person (or person within a description) authorised under section 11(1)(b),
() a health worker who is acting in accordance with section 16H or 16I.>

Joe FitzPatrick

- 28 In section 3, page 3, line 2, leave out from <(1)> to <(b)> in line 3 and insert <(1)(a) may, for the purpose of enabling or assisting a person listed in subsection (2) to carry out functions under this Part that relate to the removal and use of a part of the body for transplantation>

Joe FitzPatrick

- 29 In section 3, page 3, line 4, after <subsection> insert <(2) or>

Joe FitzPatrick

- 30 In section 3, page 3, line 25, leave out <persons within a description> and insert <description of person>

Joe FitzPatrick

- 31 In section 3, page 3, line 25, leave out from <whether> to <Scotland> in line 26

Joe FitzPatrick

- 32 In section 3, page 3, line 27, leave out <persons within a description> and insert <description of person>

Joe FitzPatrick

- 33 In section 3, page 3, line 30, leave out <2C(1)(a) or (b)> and insert <2C>

How authorisation, declaration or withdrawal is to be made

Joe FitzPatrick

- 34 In section 5, page 6, line 10, leave out <in writing> and insert <—

() in writing, or

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- () if the express authorisation was given to the register organisation, by giving the withdrawal to the register organisation orally or in writing.>

Joe FitzPatrick

- 36 In section 6, page 7, line 21, leave out <in writing> and insert <—
- () in writing, or
 - () if the opt-out declaration was made to the register organisation, by giving the withdrawal to the register organisation orally or in writing.>

Joe FitzPatrick

- 40 In section 12, page 14, line 4, leave out <in writing> and insert <—
- () in writing, or
 - () if the authorisation was given to the register organisation, by giving the withdrawal to the register organisation orally or in writing.>

Joe FitzPatrick

- 42 In section 13, page 15, line 17, leave out <in writing> and insert <—
- () in writing, or
 - () if the declaration was made to the register organisation, by giving the withdrawal to the register organisation orally or in writing.>

Standard of evidence

Joe FitzPatrick

- 35 In section 5, page 6, line 24, leave out <convince a reasonable person> and insert <lead a reasonable person to conclude>

Joe FitzPatrick

- 37 In section 6, page 7, line 36, leave out <convince a reasonable person> and insert <lead a reasonable person to conclude>

Gordon Lindhurst

- 58 In section 7, page 9, line 10, leave out <if> and insert <unless>

Gordon Lindhurst

- 59 In section 7, page 9, line 10, leave out <a person> and insert <the nearest relative>

Joe FitzPatrick

- 38 In section 7, page 9, line 11, leave out <convince a reasonable person> and insert <lead a reasonable person to conclude>

Gordon Lindhurst

- 60 In section 7, page 9, line 13 leave out <unwilling> and insert <willing>

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Gordon Lindhurst

- 61 In section 7, page 9, line 16 leave out <unwilling> and insert <willing>

Joe FitzPatrick

- 39 In section 7, page 9, line 29, leave out <convince a reasonable person> and insert <lead a reasonable person to conclude>

Joe FitzPatrick

- 41 In section 12, page 14, line 20, leave out <convince a reasonable person> and insert <lead a reasonable person to conclude>

Joe FitzPatrick

- 43 In section 13, page 15, line 33, leave out <convince a reasonable person> and insert <lead a reasonable person to conclude>

Removal of body part: further requirements

Joe FitzPatrick

- 44 In section 21, page 22, line 32, at end insert—
- <() In subsection (1)(b), after “person” insert “(or description of person)”.
 - () In subsection (2), after “person” insert “(or description of person)”.
 - () In subsection (3), paragraph (b) is repealed.>

Joe FitzPatrick

- 45 In section 21, page 23, leave out lines 2 to 4 and insert—
- <(a) in the opening words, the words from “(and,” to “the practitioner)” are repealed,>

Joe FitzPatrick

- 46 In section 21, page 23, line 4, at end insert—
- <() at the beginning of paragraph (a), insert “if the person is a registered medical practitioner,”,
 - () after paragraph (a), insert—
 - “(ab) if the person is not a registered medical practitioner, that a registered medical practitioner, by personal examination of the body, is satisfied that life is extinct,”>

Joe FitzPatrick

- 47 In section 21, page 23, line 11, leave out from <(and,> to <practitioner)> in line 12

Joe FitzPatrick

- 48 In section 21, page 23, line 16, leave out from <(and,> to <practitioner)> in line 17

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Joe FitzPatrick

- 49 In section 21, page 23, line 40, leave out from <(and,> to <practitioner)> in line 41

Pre-death procedure relating to transplantation

Joe FitzPatrick

- 50 In section 22, page 24, line 35, at end insert—
<(1A) Regulations under subsection (1) may make different provision for different procedures or categories of procedure and in particular may specify that a pre-death procedure or category of pre-death procedure is a Type A procedure only where that procedure is carried out in a particular way.>

Joe FitzPatrick

- 51 In section 22, page 26, line 3, after <procedure> insert <or who has authorised a person to carry out the procedure>

Jeremy Balfour

- 18 In section 22, page 26, line 27, at end insert—
<() the carrying out of the procedure is not in itself likely to shorten the life expectancy of the person,>

Meaning of “health worker”

Joe FitzPatrick

- 52 In section 23, page 31, leave out lines 7 to 14

Joe FitzPatrick

- 53 In section 26, page 31, line 31, at end insert—
<() After section 16I insert—

“16J Meaning of “health worker”

- (1) In sections 1 to 16K, “health worker” means—
(a) a registered medical practitioner,
(b) a registered nurse,
(c) a person (or person within a description) in so far as that person is (or persons of that description are) authorised by a person listed in subsection (2) to exercise the functions of a health worker under sections 6A to 16I.
- (2) The persons are—
(a) a registered medical practitioner,
(b) a registered nurse,
(c) a Health Board,

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- (d) a Special Health Board,
 - (e) the Common Services Agency for the Scottish Health Service.
- (3) An authorisation under subsection (1)(c) may, in particular—
- (a) authorise a person (or description of person) to exercise some or all of the functions of a health worker under sections 6A to 16I,
 - (b) authorise a person (or description of person) to exercise functions in relation to particular cases or classes of case,
 - (c) authorise different persons (or descriptions of person) to exercise different functions.
- (4) An authorisation under subsection (1)(c) may be given only if the person listed in subsection (2) considers that the person (or the description of person) has the appropriate skills, qualifications or experience to carry out the functions in respect of which the authorisation is given.
- (5) An authorisation under subsection (1)(c) may be revoked—
- (a) in the case of an authorisation given to a description of person by a person other than a registered medical practitioner or a registered nurse, by the person who gave that authorisation, and
 - (b) in any other case, by any person listed in subsection (2).
- (6) The Scottish Ministers may give directions (of a general or specific nature) to persons listed in subsection (2) in relation to authorisations under subsection (1)(c).
- (7) A person listed in subsection (2) must comply with any direction given to the person under subsection (6) when authorising a person (or description of person) under subsection (1)(c).
- (8) The Scottish Ministers may by regulations—
- (a) modify the list in subsection (1),
 - (b) modify the list in subsection (2),
- so as to add to, amend or remove any entry on the list.”.
- () In section 59(3) (regulations subject to affirmative procedure), after paragraph (ad) insert—
- “(ae) regulations under section 16J(8);”.>

Joe FitzPatrick

- 54 In section 26, page 32, line 4, leave out from <means> to end of line 8 and insert <has the meaning given in section 16J(1),>

Review and report on operation of Act

Lewis Macdonald

- 62 After section 27, insert—
- <Review and report on operation of Act

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- (1) Before the end of the review period the Scottish Ministers must—
 - (a) carry out a review of this Act,
 - (b) set out the conclusions of the review in a report, and
 - (c) publish the report.
- (2) The report must in particular set out—
 - (a) the objectives intended to be achieved by deemed authorisation for transplantation under section 6D,
 - (b) an assessment of the extent to which those objectives have been achieved,
 - (c) an assessment of whether those objectives remain appropriate, and
 - (d) an assessment of whether adequate support is being provided to relatives of a person who has authorised, or has been deemed to have authorised, the removal of a part of the person’s body for transplantation, both before and after transplantation.
- (3) In this section, “review period” means the period of 5 years beginning with the day of Royal Assent.>

Commencement

Joe FitzPatrick

55 In section 28, page 34, line 15, leave out <2, 4, 22,>

Short title

Lewis Macdonald

64 In section 29, page 34, line 24, after <Tissue> insert <Transplantation>

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