

# Organ Tourism and Cadavers on Display Bill [HL]

## EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by Lord Hunt of Kings Heath, the member in charge of the Bill, have been ordered to be published as HL Bill 67 – EN.



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**B I L L**

TO

Amend the Human Tissue Act 2004 concerning consent to activities done for the purpose of transplantation outside the United Kingdom and consent for imported cadavers on display.

**B**E 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 Appropriate consent to transplantation activities when travelling abroad (organ tourism)**

- (1) Section 32 of the Human Tissue Act 2004 (prohibition of commercial dealings in human material for transplantation) is amended as follows.
- (2) In subsection (1), after paragraph (e) insert— 5
- “(f) travels outside the United Kingdom and receives any controlled material, for the purpose of transplantation, where the material was obtained without—
- (i) the free, informed and specific consent of a living donor, or 10
- (ii) the free, informed and specific consent of the donor's next of kin, where the donor is unable to provide consent;
- (g) receives any controlled material for the purpose of transplantation for which, in exchange for the removal of organs— 15
- (i) the living donor, or a third party, receives a financial gain or comparable advantage, or
- (ii) from a deceased donor, a third party receives financial gain or comparable advantage. 20
- (1A) For the purposes of paragraphs (f) and (g) in subsection (1), it is immaterial whether the offence of dealing in controlled material for transplantation is caused by an act or an omission.

- (1B) For the purposes of paragraph (g) in subsection (1), it is immaterial whether the acts or omissions which form part of the offence take place in the United Kingdom or elsewhere.
- (1C) In subsection (1)(g), the expression “financial gain or comparable advantage” does not include compensation for loss of earnings and any other justifiable expenses caused by the removal or by the related medical examinations, or compensation in case of damage which is not inherent to the removal of organs. 5
- (1D) Subsection (1F) applies if –
- (a) no act which forms part of an offence under subsection (1) takes place in the United Kingdom, but
  - (b) the person committing the offence has a close connection with the United Kingdom. 10
- (1E) For the purposes of subsection (1D)(b), a person has a close connection with the United Kingdom if, and only if, the person was one of the following at the time the acts or omissions concerned were done or made – 15
- (a) a British citizen,
  - (b) a British overseas territories citizen,
  - (c) a British National (Overseas), 20
  - (d) a British Overseas citizen,
  - (e) a person who under the British Nationality Act 1981 was a British subject,
  - (f) a British protected person within the meaning of that Act,
  - (g) an individual ordinarily resident in the United Kingdom, 25
  - (h) a body incorporated under the law of any part of the United Kingdom,
  - (i) a Scottish partnership.
- (1F) In such a case, proceedings for the offence may be taken in any criminal court in England and Wales or Northern Ireland.” 30
- (3) In subsection (3), after “subsection (1)” insert “(a) to (e)”.
- (4) In subsection (4), after “subsection (1)” insert “(a) to (e)”.
- (5) After subsection (4), insert –
- “(4A) A person guilty of an offence under subsection (1)(f) or (1)(g) shall be liable – 35
- (a) on summary conviction –
    - (i) to imprisonment for a term not exceeding 12 months,
    - (ii) to a fine not exceeding the statutory maximum, or
    - (iii) to both;
  - (b) on conviction on indictment – 40
    - (i) to imprisonment for a term not exceeding 9 years,
    - (ii) to a fine, or
    - (iii) to both.”
- (6) Section 34 of the Human Tissue Act 2004 (information about transplant operations) is amended as follows. 45

(7) After subsection (2), insert –

“(2A) Regulations under subsection (1) must require specified persons to –

(a) keep patient identifiable records for all instances of UK citizens who have received transplant procedures performed outside the United Kingdom; and

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(b) report instances of transplant procedures performed on UK citizens outside the United Kingdom to NHS Blood and Transplant.

(2B) Regulations under subsection (1) must require NHS Blood and Transplant to produce an annual report on instances of UK citizens receiving transplant procedures outside the United Kingdom.”

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## **2 Appropriate consent for public display of imported cadavers**

(1) Section 1 of the Human Tissue Act 2004 (authorisation of activities for scheduled purposes) is amended as follows.

(2) In subsections (5)(a), (6)(a) and (6)(b), after “imported” insert “other than for the purpose of public display”.

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## **3 Extent, commencement and short title**

(1) This Act extends to England and Wales only.

(2) This Act comes into force on the day on which it is passed.

(3) This Act may be cited as the Organ Tourism and Cadavers on Display Act 2020.

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To amend the Human Tissue Act 2004 concerning consent to activities done for the purpose of transplantation outside the United Kingdom and consent for imported cadavers on display.

*Lord Hunt of Kings Heath*

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