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**B I L L**

TO

Provide for the removal of organs for transplantation purposes, after death has been confirmed in a person aged 16 or over, except where a potential donor previously registered an objection or where a close relative objects.

**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 Presumption of consent for donation of organs**

- (1) Where a person has not during his lifetime registered an objection to his body, or any specified part of his body, being donated for transplantation after his death it shall be presumed that he consented to such donation—
- (a) except where the designated person is satisfied, on the basis of information provided by a person's spouse or partner (or, where there is no spouse or partner, by a parent or child of the deceased), that the person had expressed an objection to donation that had not been registered; or 5
  - (b) to proceed with the donation would cause distress to the person's spouse or partner (or, where there is no spouse or partner, to a parent or child of the deceased). 10
- (2) In the case of a child aged 16 years or under there shall be no presumption of consent, and donation may proceed only if the designated person is satisfied that such donation is in accordance with the wishes of the child, or with the consent of the child's parents or other primary carer. 15

**2 Register of objection to transplantation of organs**

- (1) There shall be a register of those persons who object to their organs being used for transplantation.
- (2) Where it is intended to remove any organ of a deceased person for the purposes of transplantation, the register established under subsection (1) must be consulted to determine whether the person had registered an objection. 20

- (3) Regulations shall make provision relating to the register established under subsection (1) and in particular in connection with—
- (a) the manner in which a person is able to register an objection;
  - (b) the manner in which the register must be consulted before the removal of organs for transplantation.
- (4) Regulations under subsection (3) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

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### 3 Death of person donating organs

No organs may be removed from a person whose organs are intended to be used for transplantation unless two registered medical practitioners, independent of the medical practitioners who would be responsible for transplanting the organs, have satisfied themselves that the person is dead.

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### 4 Interpretation

In this Act—

“designated person” means the person with control and management of the hospital or institution concerned;

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“death” means the irreversible loss of the capacity for consciousness, combined with irreversible loss of the capacity to breathe, determined by permanent cessation of heartbeat or, where the heartbeat is maintained artificially, by brain stem tests carried out in accordance with the criteria set out by the Conference of Royal Colleges (and “dead” shall be construed accordingly).

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### 5 Expenses

*There shall be paid out of money provided by Parliament any expenditure of the Secretary of State in consequence of this Act.*

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### 6 Short title, commencement and extent

- (1) This Act may be cited as the Organ Donation (Presumed Consent and Safeguards) Act 2004.
- (2) This Act shall come into force six months after it has received Royal Assent.
- (3) This Act extends to England and Wales only.

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# Organ Donation (Presumed Consent and Safeguards) Bill

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To provide for the removal of organs for transplantation purposes, after death has been confirmed in a person aged 16 or over, except where a potential donor previously registered an objection or where a close relative objects.

*Ordered to be brought in by Siobhain McDonagh,  
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Laura Moffatt, Mr Stephen Pound,  
Mr Tam Dalyell, Mr Alistair Carmichael,  
Mr Kenneth Clarke, Dr Evan Harris,  
John Austin, Mark Tami and Dr Nick Palmer.*

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*Ordered, by The House of Commons,  
to be Printed, 3rd February 2004.*

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