

Kidney Transplant Bill [HL]

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TO

Make provision about kidney donation.

BE 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 Definitions

In this Act—

“donor” means a person who has been certified dead and from whom an organ is being or has been extracted for the purposes of transplantation;

“potential donor” means a person whose organ could potentially be used for transplantation;

“recipient” means a person with established renal failure who is suitable to receive a transplant and is active on the transplant register.

2 Conditions for transplant

(1) Where a donor has been certified dead, it is lawful for the authorised clinical transplant team to remove one kidney from the donor for the purposes of transplant into the recipient under the conditions specified in subsection (2).

(2) The conditions are that—

(a) the authorised clinical transplant team removing the kidney has made all reasonable enquiries to ascertain whether there is in existence an advance decision to refuse to donate;

(b) there is no advance decision known to the authorised clinical transplant team or to the next of kin of the potential donor to prohibit removal of the kidney from the potential donor;

(c) the kidney to be removed is suitable for transplantation;

(d) the recipient is registered on the transplant waiting list as being in need of a renal transplant;

(e) the recipient is ordinarily resident in England, Wales, Scotland or Northern Ireland.

- (3) Any kidney taken from a donor must be registered on the Central Transplant Register.

3 Right to refuse donation

- (1) Where a potential donor is less than 18 years of age the parent or legal guardian of the potential donor shall be able to refuse donation on behalf of the potential donor. 5
- (2) Where a potential donor has appointed a person with lasting power of attorney for personal welfare that person shall be able to refuse donation on behalf of the potential donor.
- (3) The Court of Protection shall provide the authorised clinical transplant team with access to the list of persons who are registered as holding lasting power of attorney for personal welfare decisions and their donees. 10

4 Independence of qualified professional

The qualified professional who certifies the death must be independent from the authorised clinical transplant team or any other connected party. 15

5 The coroner

If the person certifying death has reason to believe that the kidneys of the potential donor may be required for the purposes of the functions of the coroner, the person certifying death must seek the consent of the coroner to release the body for removal of a kidney. 20

6 Confidentiality

- (1) The identity of any donor may not be disclosed by any party without the permission of the next of kin of the donor, except in the event of a public health risk.
- (2) The identity of any recipient may not be disclosed by any party without the permission of the recipient. 25

7 Prohibition of other uses

- (1) Nothing in this Act permits the removal of a kidney for research purposes other than as provided in the Human Tissue Act 2004 (c. 30).
- (2) Nothing in this Act permits the transplantation of a kidney between a human and an animal. 30

8 Consequential amendment

In Schedule 1 to the Human Tissue Act 2004 (c. 30), after Part 2 insert—

“PART 3

PURPOSES NOT REQUIRING CONSENT: DECEASED PERSONS

Removal of one kidney for transplantation in accordance with the
Kidney Transplant Act 2008.” 5

9 Short title and extent

- (1) This Act may be cited as the Kidney Transplant Act 2008.
- (2) This Act extends to England and Wales only.

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To make provision about kidney donation.

Baroness Finlay of Llandaff

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