

PROJET DE LOI

ENTITLED

The Human Tissue (Bailiwick of Guernsey) Law, 1981 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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* Ordres en Conseil Vol. XXVI, p. 299; as amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). This law is prospectively repealed by the Human Tissue and Transplantation (Bailiwick of Guernsey) Law, 2020 (No. ** of 2021).

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ARRANGEMENT OF SECTIONS

1. Removal of parts of bodies for medical purposes.
2. Interpretation.
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THE STATES, in pursuance of their Resolution of the twenty-sixth day of April, nineteen hundred and seventy-nine, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

Removal of parts of bodies for medical purposes.

1. (1) If any person, either in writing at any time or orally in the presence of two or more witnesses during his last illness, has expressed a request that his body or any specified part of his body be used after his death for therapeutic purposes or for purposes of medical education or research, the person lawfully in possession of his body after his death may, unless he has reason to believe that the request was subsequently withdrawn, authorise the use of the body or the removal from the body of the specified part for use, as the case may be, in accordance with the request.

(2) Without prejudice to subsection (1) of this section, the person lawfully in possession of the body of a deceased person may authorise the use of the body for the said purposes if, having made such reasonable enquiry as may be practicable, he has no reason to believe –

- (a) that the deceased had expressed an objection to his body being so dealt with after his death, and had not withdrawn it, or

- (b) that the surviving spouse or any surviving relative of the deceased objects to the body being so dealt with.

(3) Subject to subsection (4) and subsection (5) of this section, the use of a body or the removal and use of a specified part of a body in accordance with an authority given in pursuance of this section shall be lawful.

(4) No such use or removal shall be effected otherwise than by an authorised medical practitioner and unless a certificate in such form as shall from time to time be approved by the States [Committee for Health & Social Care] has been given by two authorised medical practitioners, not being the authorised medical practitioner by whom the use or removal is to be effected, certifying that they have, by personal examination of the body, satisfied themselves that life is extinct; and such certificate shall contain a statement in such form as aforesaid, signed by the person lawfully in possession of the body to which the certificate relates, authorising such use or removal.

(5) Where a person has reason to believe that an inquest may be required to be held on any body or that a post-mortem examination of any body may be required at the instance of Her Majesty's Procureur, that person shall not, except with the consent of Her Majesty's Procureur –

- (a) give an authority under this section in respect of the body, or
- (b) act on such an authority given by any other person.

(6) No authority shall be given under this section in respect of any body by a person entrusted with the body for the purpose only of its interment or cremation.

(7) In the case of a body lying in a hospital, nursing home or other institution, any authority under this section may be given on behalf of the person having the control and management thereof by any person designated for that purpose by the first-mentioned person.

(8) Nothing in this section shall be construed as rendering unlawful any dealing with, or with any part of, the body of the deceased person which is lawful apart from this Law.

NOTES

In section 1, the words in square brackets in subsection (4) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 5, with effect from 1st May, 2016.¹

The functions, rights and liabilities of the Health and Social Services Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Health & Social Care and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 5, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.²

Interpretation.

2. (1) In this Law –

- (a) the expression "**authorised medical practitioner**" means –
 - (i) in relation to the Islands of Guernsey, Herm and Jethou, a person authorised to practise in the Islands of Guernsey and Herm as a medical practitioner according to the law for the time being in force,

- (ii) in relation to the Islands of Alderney and Sark, a person practising in any of those Islands as a medical practitioner and approved by the States [Committee for Health & Social Care] for the purposes of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974^a,
- (b) **"Her Majesty's Procureur"** includes Her Majesty's Comptroller,
- (c) **"use"** in relation to the body of a deceased person includes the removal from that body and subsequent use of, for therapeutic purposes or for purposes of medical education or research, an unspecified part of that body and **"used"** shall be construed accordingly.

(2) The Interpretation (Guernsey) Law, 1948^b, shall apply to the interpretation of this Law throughout the Bailiwick.

NOTES

In section 2, the words in square brackets in the definition of the expression "authorised medical practitioner" in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 5, with effect from 1st May, 2016.³

The functions, rights and liabilities of the Health and Social Services Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Health & Social Care and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 5, with effect from 1st May, 2016, subject to

^a Ordres en Conseil Vol. XXIV, p. 273.

^b Ordres en Conseil Vol. XIII, p. 355.

*the savings and transitional provisions in section 3 of the 2016 Ordinance.*⁴

The Interpretation (Guernsey) Law, 1948 has since been repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a), with effect from 1st October, 2018.

Citation.

3. This Law may be cited as the Human Tissue (Bailiwick of Guernsey) Law, 1981.

NOTE

The Law received Royal Sanction on 13th April, 1981 and was registered on the Records of the Island of Guernsey and came into force on 19th May, 1981.

¹ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 4, with effect from 6th May, 2004.

² The functions, rights and liabilities of the Health and Social Services Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Board of Health and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 4, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

³ These words were previously substituted by the Machinery of Government

(Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 4, with effect from 6th May, 2004.

4 The functions, rights and liabilities of the Health and Social Services Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Board of Health and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 4, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.