

ORDER IN COUNCIL

V
1981

ratifying a Projet de Loi

ENTITLED

The Human Tissue (Bailiwick of Guernsey) Law, 1981

(Registered on the Records of the Island of Guernsey
on the 19th May, 1981.)



1981.

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 19th day of May, 1981 before Sir John Loveridge, Kt., C.B.E., Bailiff; present:—Stanley Walter Gavey, Esquire, O.B.E., Edward James Lainé, Esquire, C.B.E., D.F.C., Richard Oliver Symons, Albert Richard McCartney Straw, Esquires, Frederick William Winslow Chandler, Esquire, D.S.O., D.F.C., Lionel Walter Sarre, Esquire, M.B.E., K.P.M., Donald Pescott Plummer, Esquire, Sydney Haydn Heard, Esquire, M.B.E., Brian Ernest Herbert Joy, Esquire, Charles Henry Hodder, Esquire, O.B.E. and Harry Wilson Bisson, Esquire, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 13th day of April, 1981, ratifying a *Projet de Loi* entitled “The Human Tissue (Bailiwick of Guernsey) Law, 1981”, the Court, after the reading of the said Order in Council and after having heard Her Majesty’s Procureur thereon, ordered that the said Order in Council be registered on the records of this Island and that an extract of this present Act, together with a copy of the said Order in Council, be sent by Her Majesty’s Greffier to the Clerk of the Court of Alderney and to the Seneschal of Sark for registration on the records of those Islands respectively, of which Order in Council the tenor followeth:—

At the Court at Windsor Castle

The 13th day of April 1981

PRESENT,

The Queen's Most Excellent Majesty in Council

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey dated the 1st day of April 1981 in the words following, viz.:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey setting forth:—

1. That, in pursuance of their Resolution of the 26th day of April 1979 the States of Deliberation at a meeting held on the 29th day of October 1980 approved a Bill or ‘Projet de Loi’ entitled ‘The Human Tissue (Bailiwick of Guernsey) Law, 1981’, which Bill is designed to apply to the Bailiwick of Guernsey, and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the States of the Island of Alderney at a meeting held on the 17th day of December 1980 considered the said Bill or ‘Projet de Loi’ when a Resolution was passed agreeing to the application of the same to Alderney. 3. That the Chief Pleas of the Island of Sark at a meeting held on the 21st day of January 1981 considered

the said Bill or 'Projet de Loi' when a Resolution was passed agreeing to the application of the same to Sark. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or 'Projet de Loi' of the States of Guernsey entitled 'The Human Tissue (Bailiwick of Guernsey) Law, 1981', and to order that the same shall have force of law in the Bailiwick of Guernsey."

"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi."

HER MAJESTY having taken the said Report into consideration is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of Law within the Bailiwick of Guernsey.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed), be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty's Officers for the time being in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

N. E. Leigh

Projet de Loi referred to in the foregoing
Order in Council.

PROJET DE LOI

ENTITLED

The Human Tissue (Bailiwick of Guernsey) Law, 1981

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.

✓ 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.

Removal of
parts of
bodies for
medical
purposes.

(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 Board of Health 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.

2. (1) In this Law—

Interpre-
tation.

(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 Board of Health 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

(a) Ordres en Conseil Vol. XXIV, p. 273.

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.

Citation.

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

R. H. VIDELO,

Her Majesty's Greffier.