
D R A F T S T A T U T O R Y I N S T R U M E N T S

2011 No.

CONSTITUTIONAL LAW

DEVOLUTION, WALES

**The National Assembly for Wales (Legislative Competence)
(Health and Health Services) Order 2011**

Made - - - -

Coming into force in accordance with Article 1

At the Court at Buckingham Palace, the day of 2011

Present,

The Queen's Most Excellent Majesty in Council

In accordance with section 95(5) of the Government of Wales Act 2006(a), a draft of this Order has been laid before, and approved by resolution of, the National Assembly for Wales and each House of Parliament.

Accordingly, Her Majesty, in pursuance of section 95(1) of the Government of Wales Act 2006, is pleased, by and with the advice of Her Privy Council, to order as follows:-

Citation and commencement

1. This Order may be cited as the National Assembly for Wales (Legislative Competence) (Health and Health Services) Order 2011 and it comes into force on the day after the day on which it is made.

Amendment of Schedule 5 to the Government of Wales Act 2006

2.—(1) Field 9 (health and health services) of Part 1 of Schedule 5 to the Government of Wales Act 2006 is amended as follows.

(2) After Matter 9.2(b) insert—

(a) 2006 c.32.

(b) Matters 9.1 was inserted in field 9 by article 3(3) of the National Assembly for Wales (Legislative Competence) (Conversion of Framework Powers) Order 2007 (S.I. 2007 No. 910). Matter 9.2 was inserted by article 2(2) of the National Assembly for Wales (Legislative Competence) (Health and Health Services and Social Welfare) Order 2010 (S.I. 2010/236).

“Matter 9.3

Consent or other authorisation for the following activities for the purpose of transplantation to a human body—

- (a) storage and use of the body of a deceased adult;
- (b) removal, storage and use of any relevant material of which such a body consists or which it contains.

This matter does not include consent or other authorisation for any of the activities mentioned in paragraphs (a) and (b) in the following circumstances without the consent of a coroner.

The circumstances are those where a person carrying out any activity mentioned in paragraphs (a) and (b) knows, or has reason to believe, that the body of a deceased person, or relevant material which has come from the body of a deceased person, is or may be, required for the purposes of functions of a coroner.

In this matter—

“deceased adult” means a deceased person who had attained the age of 18 before death;

“relevant material” means material that consists of human cells, apart from gametes, embryos, hair and nails.”.

Name
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Government of Wales Act 2006 (“the 2006 Act”).

The Order extends the legislative competence of the National Assembly for Wales to make laws known as Measures of the National Assembly for Wales (or “Assembly Measures”). It does this by adding new matters to the field of health and health services contained within Schedule 5 to the 2006 Act. Subject to general limitations on the legislative competence of the National Assembly for Wales, which apply by virtue of section 94 of, and Schedule 5 to, the 2006 Act, an Assembly Measure may make provision that relates to the matters contained in the fields set out in Schedule 5 to the 2006 Act.

Article 2 inserts matter 9.3 into field 9 (health and health services) of Part 1 of Schedule 5 to the 2006 Act. Matter 9.3 is about consent or other authorisation for the following activities for the purpose of transplantation to a human body—

- (a) storage and use of the body of a deceased adult;
- (b) removal, storage and use of any relevant material of which such a body consists or which it contains.

Matter 9.3 contains an exception relating to circumstances in which persons carrying out the activities mentioned in paragraphs (a) and (b) above know, or have reason to believe, that the body or relevant material subject to the activity is, or may be, required for the purposes of functions of a coroner. The matter does not include provision that allows the carrying out of the activities mentioned in paragraphs (a) and (b) in these circumstances without the consent of a coroner.

Matter 9.3 contains definitions of “deceased adult” and “relevant material”.

A full regulatory impact assessment has not been prepared for this Order since the effect of this Order is only to confer competence on the National Assembly for Wales to legislate.