



SCOTTISH EXECUTIVE

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Dear Roseanna

HUMAN TISSUE (SCOTLAND) BILL

At the stage 2 hearing on 17 January Dr Jean Turner, in connection with amendments to the Anatomy Act 1984, asked about the difference between "an imported body" and a body that is already in Scotland, Col 2481 in the Official Report refers. Duncan McNeil also raised queries on this matter, Col 2483 and 2484 in the Official Report refers.

I thought it would be helpful for Committee Members to see the attached comprehensive briefing note on this matter so that they can be fully informed on the matter of imported bodies.

Yours sincerely

LEWIS MACDONALD

HUMAN TISSUE BILL – ANATOMY ACT AMENDMENTS

STAGE 3 MEMBERS BRIEFING - USE OF IMPORTED BODIES

BACKGROUND:

1. At stage 2 Committee there was a question from Dr Turner about the differences between imported bodies and a body that is already in Scotland. The Deputy Minister asked for a members' briefing so that the Committee can be fully informed about this matter.

IMPORTED BODIES FOR ANATOMICAL EXAMINATION

2. At present the Anatomy Act does not allow the use of bodies of persons whose death was not registered in Scotland, England or Wales for anatomical examination. Section 48(6) of the Bill inserts new sections 4A 'Lawful examinations: imported bodies' and 4B 'Lawful examinations: additional provision' after section 4 of the Anatomy Act 1984 to allow the use of imported bodies for anatomical examination.

3. The Bill defines an imported body as being the body of a deceased person who died outwith Scotland (and whose normal place of residence immediately before their death was outwith Scotland) which is imported into Scotland from a place outside Scotland.

4. The provision, which was supported by the consultation on the proposed changes to the Anatomy Act 1984, will allow schools of anatomy to source bodies if there is a shortage of bodies from Scotland for use for anatomical examination, or if it was particularly beneficial to import a body for anatomical examination. The provision also applies to bodies obtained from elsewhere in the United Kingdom.

5. Authority for the anatomical examination of an imported body may be given if the following criteria are met:

- (a) the person giving authority is lawfully in possession of the body;
- (b) the body is imported for use for anatomical examination;
- (c) there has been no previous examination of the imported body outwith Scotland or there has been such an examination but only for the purpose of removing and retaining one or more parts of the body for the purposes of education, training or research;
- (d) no more than three years have elapsed since the date of death;
- (e) the person giving authority is licensed under section 3(2) to carry out anatomical examinations and have possession of anatomical examinations.

6. In contrast, if the body is not an imported body (i.e. it is the body of someone who died in Scotland) then authority for the use of the body for anatomical examination may be given by the person lawfully in possession of the body (for example by their relatives or the hospital where the person died) if it is in accordance with a valid written request of the deceased, and they have no reason to believe that request was withdrawn.

7. There is no difference in period at which authority to use the body for anatomical examination expires. Authority for anatomical examination of imported bodies expires at the end of the statutory period, which is currently 3 years beginning with the date of the deceased's death. Authority for the anatomical examination of bodies from Scotland also expires at the end of that statutory period.

IMPORTED BODIES NOT FOR ANATOMICAL EXAMINATION BUT IN THE INTERESTS OF EDUCATION, TRAINING OR RESEARCH

8. Section 48(7) of the Bill amends section 5 of the Anatomy Act 1984. Section 5(1) and (2) of the Anatomy Act 1984 will now prohibit the possession of bodies and parts of bodies that have been used for anatomical examination outwith Scotland. However a new subsection (4A) is also inserted which allows the possession of a body which has been used for anatomical examination outwith Scotland, if -

(a) a person has possession of a body which has been used for examination outwith Scotland (being anatomical examination or examination which has the characteristics of anatomical examination),

(b) the death of the deceased has been registered or recorded (or the equivalent) under the law applicable in the country or territory in which the deceased died,

(c) the body was not imported for use for anatomical examination in Scotland; and is not so used at any time,

(d) the body is such that the deceased cannot be recognised simply by examination of the body, and

(e) the person with possession of the body is authorised under a license granted by the Scottish Ministers in the interests of education, training or research to have possession.

9. As with body parts this allows the indefinite possession of such bodies. Some of the plastinated or otherwise preserved bodies produced outwith Scotland may provide very useful teaching aids to anatomy schools in Scotland. The intention is to modernise the Anatomy Act and not unduly restrict anatomy schools in Scotland from possessing bodies or parts from outwith Scotland which may provide a useful educational resource. It does not change the position that donors can have confidence that where their body is to be anatomically examined in Scotland it will be decently disposed of by the end of the statutory period and not used indefinitely as an educational resource.

10. Paragraph (c) of the amendment ensures that this provision does not allow **anatomical examination** in Scotland of the body, it can only be possessed and retained if it is not to be used for anatomical examination. Imported bodies that are to be used for anatomical examination in Scotland will always be subject to separate controls within the Act as outlined in paragraphs 4 & 6 above.

11. Should there be any concern raised about the source of imported bodies, section 7 of the Anatomy Act 1984 gives Ministers the power to revoke a licence if they consider that it is reasonable to do so. Section 48(11) of the Bill inserts a new section 7A to the Anatomy Act 1984 and introduces a right of appeal against decisions made by Scottish ministers, including to revoke a licence.