

Catholic Parliamentary Office

5 South Gray's Close, 40 High Street, Edinburgh EH1 1TQ
Tel: 0131 556 6771, Email: office@rcpolitics.org



Briefing: Human Tissue (Authorisation) (Scotland) Bill

Introduction – The Bishops' Conference of Scotland

The Bishops' Conference of Scotland is a registered charity (No 16650).

The members of the Bishops' Conference are the bishops of the eight Scottish Dioceses. The Bishops' Conference of Scotland is a permanently constituted assembly, which has a number of commissions and agencies that assist it in carrying out its work.

The Catholic Parliamentary Office is an agency of the Bishops' Conference of Scotland and part of its remit is to engage with the work of Parliament and Government, including responding to consultations and calls for evidence on behalf of the Bishops' Conference.

Proposal

The Human Tissue (Authorisation) (Scotland) Bill will be **debated at Stage 1 on Tuesday 26th February**. The Bill introduces presumed consent for organ donation in Scotland.

Concerns about the Human Tissue (Authorisation) (Scotland) Bill

The Bishops' Conference of Scotland acknowledges the need for more organs to be donated to allow those who are suffering the opportunity to enjoy a better quality of life. The Catholic Church sees organ donation after death as a noble and meritorious act to be encouraged as an expression of generous solidarity. It is a gift and a sign of great love for one's neighbour.

However, the Church also believes that it is not morally acceptable if the donor or his/her proxy has not given explicit consent to a donation. This Bill introduces presumed consent and runs the risk that an individual's organs will be removed on death even though it was never the individual's intention to donate. It is for this reason that the Bishops' Conference of Scotland does not support the Bill.

Spain as a model

Rather than presumed consent, we would like to see the introduction of new initiatives to encourage people to donate, similar to those introduced in Spain in 1989. Spain has significantly higher rates of organ donation than Scotland, and although an opt-out system had been in operation since 1979, it wasn't until Spain decided to proactively encourage organ donation in 1989 through a national public

The Catholic Parliamentary Office is an agency of the Bishops' Conference of Scotland (also known as the Catholic National Endowment Trust Charity No. SCO 16650)

campaign and the creation of the Organización Nacional de Trasplantes (ONT) as part of the Spanish Ministry of Health that donor numbers increased. The ONT is a technical agency in charge of the coordination and oversight of donation and transplantation activities in Spain, and it created a model of coordination in deceased donation that made the country evolve from 15 donors per million population to more than 30 per million. It did this by relying on designated professionals and coordinators based in every hospital who were responsible for organ donation. This coincided with a greater focus on education and an advertising campaign to highlight the importance of organ donation.

In the end it was the changes to the organisational structure of organ donation, rather than the formal introduction of a system of presumed consent, that brought about a greater increase in donations. Note also that Sweden switched to a system of presumed consent in 1996 but continues to have very poor rates of organ donation (15.8 per million), while the United States, which has an opt-in system, has an organ donation rate of 25.8 per million. To emphasise the point, Wales introduced presumed consent in December 2015 and since then numbers of transplants have failed to increase. Interestingly, the number of organ donations in Scotland has risen in that time.

No evidence of increase in donations

The 2008 Independent Report by the Organ Donation Taskforce is worth referencing here. It states: “After examining the evidence, the Taskforce reached a clear consensus in recommending that an opt out system should not be introduced in the UK at the present time. The Taskforce concluded that such a system has the potential to undermine the concept of donation as a gift, to erode trust in NHS professionals and the government and negatively impact on organ donation numbers. It would distract attention away from essential improvements to systems and infrastructure and from the urgent need to improve public awareness and understanding of organ donation. Furthermore, it would be challenging and costly to implement successfully. Most compelling of all, we found no convincing evidence that it would deliver significant increases in the number of donated organs.”

More recently, The Nuffield Council on Bioethics has raised concerns about the proposed new system, highlighting the lack of evidence that it would increase donations and instead put forward the alternative option of investing more in Special Organ Donation Nurses. It is reported that where specialist nurses are available to speak to the family of the deceased they either donate or authorise donation in 68% of cases. Where they are absent the figure is just 27%.

Hard Opt-Out

It is worrying too that Section 7 of the Bill in effect introduces a form of ‘hard opt-out’ system of organ removal in Scotland. This is because if a person has opted-in, opted-out or is deemed to have left an authorisation for transplantation (by not stating specific wishes relating to donation) then the nearest relative would not have any legal right to stop certain organs being removed if they cannot produce concrete evidence that the deceased did not want them to be removed.

Conclusion: This Bill should be rejected. Instead of introducing a system of presumed consent, with no guarantee of an increase in donations, Scotland should look to implement changes to the organisational structure around organ donation, including investment in education and advertising, and ensuring that donor coordinators are present in all hospitals.