

What is changing?

A new law called the Human Tissue (Transplantation, Post-Mortem, Anatomical Examination and Public Display) Act 2024 will introduce a soft opt-out system of consent for organ donation.

This will mean that if you are 18 years of age or older living in the Republic of Ireland for the past 12 months you agree to be an organ donor when you die, unless you opt out of organ donation on the National Opt-Out Register for Organ Donation.

Organ donation will not go ahead if your next of kin does not agree to donate your organs or cannot be contacted. Your next of kin is a designated family member or a close friend who can consent to this decision.

What is the organ donation opt-out register?

The opt-out register allows a person to record their decision to not donate their organs. This decision will stay on the register until the person removes it.

Why do we need an opt-out register?

Previously, there was no legislative framework underpinning organ donation and transplantation in Ireland. The Human Tissue Act 2024 addresses this gap.

Adopting an opt-out system of consent for organ donation will bring Ireland in line with international best practice and aims to save lives through organ donation.

Similar legislation is already in place in the UK and in many other EU countries.

Consent

Under the Human Tissue Act 2024, consent refers to the voluntary permission or agreement for the use of human cells, organs, and tissues for purposes such as transplantation, post-mortem examinations, anatomical examination, or public display.

Deemed consent

Under the Human Tissue Act 2024, deemed consent applies to deceased donation of heart, lungs, liver, pancreas, and kidneys. Consent is presumed if a person has not opted out via the National OptOut Register for Organ Donation and does not fall under an exception.

Exceptions to deemed consent

- Children under the age of 18 – Parents and guardians may provide appropriate consent for organ donation on behalf of their child, where possible. This provision also applies to parents under the age of 18, recognising their right to make such an important decision for their child.
- Non-residents – Those who have lived in Ireland for less than one year.
- Lack of capacity – Adults who lacked capacity to understand deemed consent before their death.

- Uncontactable family – If family members cannot be reached in time, deemed consent cannot proceed.

If a person has opted out, organ donation will not proceed, and the family will not be approached.

Designated family member and hierarchy

A designated family member is the person consulted for consent or confirmation of no objection.

This person is determined based on:

- Their relationship to the deceased (spouse, partner, child, parent, sibling, grandparent, etc.).
- Their real and substantial contact with the deceased regarding care and treatment.
- If multiple family members exist within the same rank, they are considered equal. If disagreement arises, they must reach a consensus.

Who can be the designated family member?

A 'designated family member' means a person, who is, or was immediately before the death of the relevant person:

- a) a spouse or civil partner,
- b) a cohabitant,
- c) a child,
- d) a parent or guardian,
- e) a brother or sister,
- f) a grandparent,
- g) a grandchild,
- h) a uncle or aunt,
- i) a niece or nephew, or
- j) a close friend of the relevant person who can demonstrate to the satisfaction of the person seeking consent or confirmation, that he or she can determine and accurately convey the wishes of the relevant person concerned.

Key role of the designated family member

- They must consider the known wishes of the deceased, including past conversations, donor cards, indications on a driving license, or the absence of their name on the opt-out register for organ donation.
- If consent (or confirmation of no objection) is not given, donation will not proceed.
- Parental consent for deceased children
- One parent or guardian can consent to organ donation.
- If one parent objects, donation will not proceed.

What happens if there is no designated family member or close friend?

If the possibility of organ donation arises, healthcare professionals will make every effort to locate the chosen designated family members. In the absence of designated family members, a close friend may be approached.

If the healthcare professionals cannot locate someone to consent to organ donation, organ donation cannot proceed.

What protections does the Act provide for vulnerable groups?

The Act includes protections for vulnerable groups, such as children and adults who cannot give consent for organ donation. These protections follow international best practices and the HSE's current guidelines on consent for these groups.

Can children add their names to the opt-out register?

No. The opt-out system will not apply to children under the age of 18 years old. Parents and guardians can decide to donate their child's organs if the situation arises.

Who has access to the information on the opt-out register?

Only authorised HSE staff from Organ Donation Transplant Ireland (ODTI) will check the register. This will happen if the ICU team asks ODTI to check the register. The information will be shared with the clinical team to help decide whether to talk to the family about organ donation or not.

What organs can be donated?

Organs that can be donated in Ireland are:

- Heart
- Lungs
- Liver
- Pancreas
- Kidneys

During the family meeting with the designated family member/s, consent is obtained for each potential organ.

Are donated organs used for research?

Currently, there are no research programs in Ireland. In the future, authorised research projects may be introduced, but these will only proceed with the consent of the designated family member.

Will organs be donated abroad?

If no suitable match is found in Ireland, it may be possible to find a match in the UK and/or Europe, provided the family supports this.

If the person has added their name to the opt-out register, can families override this decision?

No, the person's decision regarding organ donation is personal and legally binding. If someone has made a decision to opt out of organ donation, the family cannot override that decision.

Religious beliefs and organ donation

All the major religions are supportive of organ donation.

What protections are in place for living donors?

Children and adults who cannot make decisions for themselves are not allowed to donate organs while they are alive. This means that:

- If someone is under 18 or does not have the ability to make decisions (for example, due to a medical condition), they are not allowed to donate organs while they are still alive.
- This rule is part of the law to protect people who might not fully understand what organ donation involves.
- While living donation of tissues and cells, such as bone marrow is allowed, there will be strict conditions in place for this.
- The legislation does not allow anyone to pressure a living donor. It also bans any payment or reward for donating organs, tissues, or cells.
- It will be against the law to buy, sell, or advertise the need for an organ under the legislation.