



# Human Tissue (Scotland) Act 2006

## 2006 asp 4

### PART 1

#### TRANSPLANTATION ETC.

#### *[<sup>F1</sup>Pre-death procedures relating to transplantation*

#### **[<sup>F1</sup>16E Carrying out of Type A and Type B procedures**

- (1) A Type A procedure or Type B procedure may be carried out only if—
  - (a) the health worker who is to carry out the procedure or who has authorised a person to carry out the procedure considers that the requirements of subsection (2) are met,
  - (b) that health worker—
    - (i) has no actual knowledge that the person was unwilling for the procedure to be carried out,
    - (ii) has had regard to the person's past wishes and feelings so far as reasonably ascertainable (having had regard to any evidence referred to in section 16H(6)(c) or 16I(4)(c)), and
    - (iii) is satisfied that if the person were capable of making a decision about authorisation of the procedure, the person would not be unwilling for the procedure to be carried out,
  - (c) the use of a part of the person's body for transplantation is authorised by virtue of section 6, 6D, 6E, 6F, 6G, 8, 9, 10 or, as the case may be, 10A,
  - (d) in the case of a Type A procedure, the carrying out of the procedure is authorised under section 16F, and
  - (e) in the case of a Type B procedure, the carrying out of the procedure is authorised in accordance with any provision made under section 16C(1) in relation to that procedure (or category of procedure).
- (2) The requirements mentioned in subsection (1)(a) are met if—
  - (a) in the view of the health worker primarily responsible for the person's medical treatment, the person is likely to die imminently (including as a result of the withdrawal of life-sustaining treatment),

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*Changes to legislation: There are currently no known outstanding effects for the Human Tissue (Scotland) Act 2006, Section 16E. (See end of Document for details)*

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- (b) where the person is receiving life-sustaining treatment, the decision to withdraw that treatment has been taken by that health worker,
  - (c) the carrying out of the procedure is necessary (see subsection (3)),
  - (d) the carrying out of the procedure is not likely to cause more than minimal discomfort to the person, and
  - (e) the carrying out of the procedure is not likely to harm the person.
- (3) For the purposes of subsection (2)(c), the carrying out of a procedure is necessary if either of the following apply—
- (a) it is necessary to carry it out for the purpose of ascertaining whether a part of the person's body is suitable for transplantation,
  - (b) it is necessary to carry it out for the purpose of increasing the likelihood of successful transplantation of a part of the person's body.]

#### **Textual Amendments**

- F1** S. 16A-16G and cross-heading inserted (11.10.2019 for specified purposes, 26.3.2021 in so far as not already in force) by [Human Tissue \(Authorisation\) \(Scotland\) Act 2019 \(asp 11\)](#), **ss. 23(1), 29(2)**; [S.S.I. 2019/305, reg. 2\(c\)](#); [S.S.I. 2021/108, reg. 2](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Human Tissue (Scotland) Act 2006, Section 16E.