



Human Tissue (Scotland) Act 2006

2006 asp 4

PART 1

TRANSPLANTATION ETC.

Use of part of body of deceased person for transplantation, research etc.

[^{F1}6D Deemed authorisation for transplantation: adult

- (1) An adult is deemed to have authorised the removal and use of a part of the adult's body after the adult's death for transplantation where there is in force at the relevant time—
 - (a) no express authorisation by the adult of removal and use of any part of the adult's body for transplantation, and
 - (b) no opt-out declaration by the adult as respects removal and use of the part of the adult's body for transplantation.
- (2) Subsection (1) does not apply in relation to—
 - (a) a person who was not ordinarily resident in Scotland for a period of at least 12 months ending immediately before the relevant time (a “non-resident adult”),
 - (b) an adult who is incapable of understanding the nature and consequences of deemed authorisation,
 - (c) an excepted body part,
 - (d) a part of the adult's body (that is not an excepted body part), if a person provides evidence to a health worker that would lead a reasonable person to conclude that—
 - (i) the adult's most recent view was that the adult was unwilling for the part to be used for transplantation, or
 - (ii) if the adult were capable of making a decision about removal and use of the part, the adult would be unwilling in the circumstances for the part to be used for transplantation.
- (3) In this Part, an adult is incapable of understanding the nature and consequences of deemed authorisation if, over a significant period ending immediately before the relevant time, the person was incapable of understanding—

Changes to legislation: There are currently no known outstanding effects for the Human Tissue (Scotland) Act 2006, Section 6D. (See end of Document for details)

- (a) that an adult may be deemed to have authorised removal and use of a part of the adult's body after the adult's death for transplantation, and
 - (b) that if authorisation is so deemed, after the adult's death part of the adult's body may be removed from the body and used for transplantation.
- (4) An example of when an adult is to be considered “incapable of understanding the nature and consequences of deemed authorisation” is if there is evidence available to a health worker, including any evidence referred to in section 16H(4), that would lead a reasonable person to conclude that the adult is so incapable.
- (5) An “excepted body part” is a part of the body specified in regulations made by the Scottish Ministers.
- (6) Before laying draft regulations under subsection (5) before the Scottish Parliament, the Scottish Ministers must consult such persons as they consider appropriate.]

Textual Amendments

- F1** S. 6D 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. [7\(2\)](#), [29\(2\)](#); S.S.I. 2019/305, reg. [2\(b\)](#); S.S.I. 2021/108, reg. [2](#)

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