

## **EXPLANATORY NOTES**

### **HUMAN TISSUE (SCOTLAND) ACT 2006**

#### **INTRODUCTION**

#### **THE ACT – AN OVERVIEW**

##### **PART 1: TRANSPLANTATION ETC.**

Section 1 – Duties of the Scottish Ministers as respects transplantation, donation of body parts etc.

Section 2 – Assistance and support

Section 3 – Use of body of deceased person for transplantation, research etc

Section 4 – Disapplication of sections 3, 6 to 12 and 14 in certain circumstances

Section 5 – Consent by procurator fiscal to removal of part of body

Section 6 – Authorisation: adult

Section 7 – Authorisation by adult's nearest relative

Section 8 – Authorisation: child 12 years of age or over

Section 9 – Authorisation as respects child who dies 12 years of age or over by person with parental rights and responsibilities

Section 10 – Authorisation as respects a child who dies under 12 years of age

Section 11 – Removal of part of body of deceased person: further requirements

Section 12 – Removal of tissue sample to determine viability of transplantation

Section 13 – Preservation for transplantation

Section 14 – Part of body removed before day on which section 3 comes into force

Section 15 – Existing request by adult not acted on before commencement of sections 3 and 6.

Section 16 – Offences: removal or use of part of body of deceased person for transplantation, research, etc

Section 17 – Restrictions on transplants involving live donor

*These notes relate to the Human Tissue (Scotland) Act 2006 (asp 4)*

Section 18 – Meaning of adult with incapacity for purposes of section 17(1)(c) and (2)(c)

Section 19 – Records, information etc.: removal and use of parts of human bodies for transplantation etc.

Section 20 – Prohibition of commercial dealings in parts of a human body for transplantation

Section 21 – Summary proceedings for offences under sections 17, 19(4) or 20(2)

## **22 - Authorisation for transplantation to have priority**

### **PART 2: POST-MORTEM EXAMINATIONS**

Section 23 – Meaning of post-mortem examination for purposes of Act

Section 24 – Disapplication of sections 23 and 27 to 37 as respects procurator fiscal

Section 25 – Disapplication of sections 27 to 35 and 37: bodies of persons dead for at least 100 years

Section 26 – Consent by procurator fiscal to post-mortem examination

Section 27 – Requirements for carrying out post-mortem examination

Section 28 – Removal during examination and retention of organs and other parts of a body

Section 29 – Authorisation of post-mortem examination etc.: adult

Section 30 – Authorisation of post-mortem examination etc by adult's nominee or nearest relative

Section 31 – Authorisation of post-mortem examination etc.: child 12 years of age or over

Section 32 – Authorisation of post-mortem examination etc as respects child 12 years of age or over by nominee or person with parental rights and parental responsibilities

Section 33 – Authorisation of post-mortem examination etc as respects child under 12 years of age

Section 34 – Nomination of person under section 30(1) or 32(1): additional provisions

Section 35 – Post-mortem examination and removal and retention of organs: further requirements

Section 36 – Organ or tissue sample removed before day on which section 27 comes into force

Section 37 – Offences: post-mortem examinations

### **PART 3: TISSUE SAMPLE OR ORGANS NO LONGER REQUIRED FOR PROCURATOR FISCAL PURPOSES**

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Section 38 – Tissue sample becoming part of medical records of deceased person

Section 39 – Use of tissue sample which has become part of deceased's medical records

Section 40 – Use of organ no longer required for procurator fiscal purposes

Section 41 – Notice under section 38(2) or 40(2)(a): further provisions

Section 42 – Authorisation of use etc after examination: adult

Section 43 – Authorisation of use etc after examination: adult's nearest relative

Section 44 – Authorisation of use etc after examination: child 12 years of age or over

Section 45 – Authorisation of use etc after examination: person with parental rights and responsibilities for child 12 years of age or over

Section 46 – Authorisation of use etc after examination: person with parental rights and responsibilities for child under 12 years of age

Section 47 – Use of tissue sample removed before day on which section 38 comes into force

Section 48 – Use of organ removed before day on which section 40 comes into force

#### **PART 4: PARTS 1 TO 3: SUPPLEMENTARY PROVISION**

Section 49 – Conditions attached to authorisation

Section 50 – Nearest relative

Section 51 – Witnesses: additional provisions

Section 52 – Power to prescribe forms and descriptions of persons who may act as a witness

#### **PART 5: AMENDMENT OF THE ANATOMY ACT 1984**

Section 53 – Amendment of the Anatomy Act 1984

#### **PART 6: MISCELLANEOUS**

Section 54 – Arrangements by Scottish Ministers for assistance with functions under sections 1, 2, 17(3), (4) or (5), 18, 19(2), or 20(3)

Section 55 – Power to give effect to Community obligations

Section 56 – Bodies corporate etc.

Section 57 – Amendment of the Adults with Incapacity (Scotland) Act 2000

#### **PART 7: GENERAL**

Section 58 – Ancillary provisions

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Section 59 – Regulations or orders

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Section 61 – Repeals

Section 62 – Short title and commencement

**Parliamentary History**