

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

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## **EXPLANATORY NOTES**

### **THE ACT – AN OVERVIEW**

#### **Part 1: Transplantation Etc.**

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

17. Subsection (1) allows a child who is 12 years of age or older to authorise the removal and use of a part of their body after the child's death for one or more of the purposes of transplantation, education or training, research or audit. Subsection (2) provides that such authorisation must be in writing, and that the authorisation may be withdrawn in writing. Subsection (3) provides that if the child is blind or unable to write, such authorisation and the withdrawal of such authorisation may be signed by an adult on the child's behalf and witnessed by one witness. Subsection (4) provides that such authorisation or withdrawal of authorisation must contain a statement signed by both the adult and the witness that the child expressed the intention to either give or withdraw the authorisation and requested the adult to sign on his or her behalf. Subsection (5) provides that any such authorisation on behalf of a child 12 years of age or over who is blind or unable to write must contain or be accompanied by certification from both the adult and the witness that in their opinion the child understands the effect of the authorisation and is not acting under undue influence in giving it. Subsection (6) provides that nothing in subsection (3) prevents a child who is blind from giving or withdrawing authorisation in accordance with paragraph (a) or (b) of subsection (2). In the situation whereby authorisation is given in writing by the child himself or herself under section 9(2)(a), rather than by a signatory on the child's behalf, subsection 9(7) provides that "writing" includes representation of a character in visible form. The effect of this provision is that such authorisation provided via the NHS Organ Donor Register, Organ Donor cards or any other method of tick box authorisation will come within the scope of authorisation by the child "in writing" for the purposes of section 9(2)(a).