

# HUMAN TISSUE (SCOTLAND) ACT 2006

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## EXPLANATORY NOTES

### THE ACT – AN OVERVIEW

#### **Part 2: Post-Mortem Examinations**

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

77. **Section 30(1)** provides that an adult can nominate one or more people to authorise a post-mortem examination on the adult after the adult’s death and the removal and retention and use of organs for one or more of the purposes specified in section 28(2)(a) (audit, education, training or research). Subsection (2) further provides that where on the adult’s death there is neither an authorisation nor such a nomination of a representative in place, the nearest relative may authorise a post-mortem examination on the adult and the removal and retention of organs for one of the specified purposes.
78. Subsection (3) provides that where a nominated person is unable to give authorisation or there is insufficient time to contact that person the nomination must be disregarded and the nearest relative could provide authorisation as if there were no such nomination in place.
79. Subsection (4) provides that authorisation by a nominated person must be in writing and signed by the nominated person and witnessed by one other person who has not been so nominated. Subsection (5) further provides that authorisation by a nearest relative must be in writing and signed by the nearest relative and witnessed by one other person. Subsection (6) provides that in providing authorisation under subsections (1) or (2), a nominee or nearest relative must state, in relation to a post-mortem examination, that they have no actual knowledge that the adult was unwilling for a post-mortem examination to be carried out and, in relation to the removal or retention and use of an organ after the examination, that they have no actual knowledge that the adult was unwilling for the activity in question to be carried out.
80. Subsections (7) and (8) provide that authorisation can be withdrawn by the nominated person or nearest relative in writing, signed by the nominated person or nearest relative in the presence of one witness. In the case of a nominee withdrawing their authorisation in writing, the witness to that writing cannot be another nominee.