



# Human Tissue (Scotland) Act 2006

## 2006 asp 4

### PART 1

#### TRANSPLANTATION ETC.

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

#### **[<sup>F1</sup>8C    Withdrawal of opt-out declaration: child 12 years of age or over**

- (1) A declaration by virtue of section 8B(1) may be withdrawn by the child—
  - (a) in writing, or
  - (b) if the declaration was made to the register organisation, by giving the withdrawal to the register organisation orally or in writing.
- (2) Subsection (3) applies if—
  - (a) there is in force a declaration by virtue of section 8B(1) by a child as respects removal and use of a part of the child's body for a purpose referred to in section 3(1), and
  - (b) the child gives an authorisation by virtue of section 8(1) of removal and use of the part for that purpose.
- (3) The declaration by virtue of section 8B(1)—
  - (a) is treated as withdrawn by the child to the extent that it relates to removal and use of the part for that purpose, and
  - (b) otherwise remains in force.
- (4) Subsections (5) to (7) apply if—
  - (a) there is in force at the relevant time a declaration by virtue of section 8B(1) by a child as respects removal and use of a part of the child's body for a purpose referred to in section 3(1), and
  - (b) a person provides evidence to a health worker that would lead a reasonable person to conclude that—
    - (i) the child's most recent view was that the child was willing for the part to be removed and used for that purpose, or

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*Changes to legislation: There are currently no known outstanding effects for the Human Tissue (Scotland) Act 2006, Section 8C. (See end of Document for details)*

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- (ii) if the child were capable of making a decision about removal and use of the part, the child would be willing in the circumstances for the part to be removed and used for that purpose.
- (5) The declaration by virtue of section 8B(1)—
  - (a) is treated as withdrawn by the child to the extent that it relates to removal and use of the part for that purpose,
  - (b) otherwise remains in force, and
  - (c) to the extent that it remains in force, is treated as being in force at the relevant time for the purposes of—
    - (i) section 8D(1)(a)(ii) and (iii),
    - (ii) section 16I(2)(a)(ii).
- (6) The child is treated as having authorised removal and use of the part for that purpose by virtue of section 8(1).
- (7) The authorisation referred to in subsection (6) is treated as being in force at the relevant time for the purposes of—
  - (a) section 8D(1)(a)(i),
  - (b) section 16F(1)(e),
  - (c) section 16I(2)(a)(i).]

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#### Textual Amendments

**F1** Ss. 8B, 8C inserted (26.3.2021) by [Human Tissue \(Authorisation\) \(Scotland\) Act 2019 \(asp 11\)](#), **ss. 14, 29(2)**; [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 8C.