



Human Tissue (Authorisation) (Scotland) Act 2019

2019 asp 11

PART 3

AUTHORISATION OF REMOVAL AND USE OF PART OF BODY OF DECEASED PERSON

CHAPTER 3

AUTHORISATION BY OR ON BEHALF OF CHILD

13 Authorisation by child 12 years of age or over

- (1) The 2006 Act is amended as follows.
- (2) After section 8(1) insert—
 - “(1A) An authorisation by virtue of subsection (1) must—
 - (a) if it is for transplantation, be—
 - (i) in writing, or
 - (ii) given to the register organisation orally or in writing,
 - (b) if it is for a purpose referred to in paragraphs (b) to (d) of section 3(1), be in writing.
 - (1B) If there is in force immediately before a child becomes an adult an authorisation by virtue of subsection (1) by the child, the authorisation is to be treated as an express authorisation by virtue of section 6(1) once the child becomes an adult.”
- (3) Section 8(2) is repealed.
- (4) After section 8 insert—

“8A Withdrawal of authorisation: child 12 years of age or over

- (1) An authorisation by virtue of section 8(1) may be withdrawn by the child—

Changes to legislation: There are currently no known outstanding effects for the Human Tissue (Authorisation) (Scotland) Act 2019, Section 13. (See end of Document for details)

- (a) in writing, or
 - (b) if the authorisation was given 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 an authorisation by virtue of section 8(1) by a child of removal and use of a part of the child's body for a purpose referred to in section 3(1), and
 - (b) the child makes a declaration by virtue of section 8B(1) as respects removal and use of the part for that purpose.
- (3) The authorisation by virtue of section 8(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- (a) is treated as withdrawn by the child to the extent that it relates to removal and use of the part for that purpose, and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) Subsection (5) applies if—
- (a) there is in force at the relevant time an authorisation by virtue of section 8(1) by a child of 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 unwilling for the part to be removed and used for that purpose, or
 - (ii) if the child were capable of making a decision about removal and use of the part, the child would be unwilling in the circumstances for the part to be removed and used for that purpose.
- (5) The authorisation by virtue of section 8(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)(i),
 - (ii) section 16F(1)(e),
 - (iii) section 16I(2)(a)(i)."

Commencement Information

II S. 13 in force at 26.3.2021 by [S.S.I. 2021/108](#), **reg. 2**

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