



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

15 **Authorisation by person with parental rights and responsibilities: child 12 years of age or over**

- (1) The 2006 Act is amended as follows.
- (2) After section 8C insert—

“8D Authorisation by person with parental rights and responsibilities: child 12 years of age or over

- (1) A person who, at the relevant time, has parental rights and parental responsibilities in relation to a child who is 12 years of age or over may authorise the removal and use of a part of the child’s body after the child’s death for one or more of the purposes referred to in section 3(1) where—
 - (a) there is in force at the relevant time—
 - (i) no authorisation by virtue of section 8(1) by the child of removal and use of any part for the purpose in question,
 - (ii) no declaration by virtue of section 8B(1) by the child as respects removal and use of the part for the purpose in question, and
 - (iii) if transplantation is not the purpose in question, no declaration by virtue of section 8B(1) by the child as respects removal and use of the part for transplantation,
 - (b) the person has no actual knowledge that—

Status: This is the original version (as it was originally enacted).

- (i) the child’s most recent view was that the child was unwilling for the part to be removed and used for the purpose in question, 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 the purpose in question, and
 - (c) the person, having had regard to any evidence referred to in section 16I(4)(a) and (b), is satisfied that—
 - (i) the child was not unwilling for the part to be removed and used for the purpose in question, and
 - (ii) if the child were capable of making a decision about removal and use of the part, the child would not be unwilling in the circumstances for the part to be removed and used for the purpose in question.
- (2) For the purposes of subsection (1)(b) and (c), the mere fact that there is in force no authorisation by virtue of section 8(1) by the child of removal and use of any part of the child’s body for the purpose in question is not to be regarded as unwillingness by the child.
- (3) An authorisation by virtue of subsection (1) must be—
- (a) in writing and signed, or
 - (b) given orally to a health worker.
- (4) Subject to subsection (6), an authorisation by virtue of subsection (1) may be withdrawn by the person who gave the authorisation.
- (5) A withdrawal by virtue of subsection (4) must be—
- (a) in writing and signed, or
 - (b) given orally to a health worker.
- (6) To the extent that an authorisation by virtue of subsection (1) is for the purposes of transplantation, it may not be withdrawn.”
- (3) Section 9 is repealed.