



Human Tissue (Authorisation) (Scotland) Act 2019

2019 asp 11

PART 3

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

CHAPTER 4

AUTHORISATIONS: GENERAL

22 Removal of part of body of deceased person: further requirements

- (1) Section 11 of the 2006 Act is amended as follows.
- (2) In subsection (1)(b), after “person” insert “(or description of person)”.
- (3) In subsection (2), after “person” insert “(or description of person)”.
- (4) In subsection (3), paragraph (b) is repealed.
- (5) In subsection (4)—
 - (a) in the opening words, the words from “(and,” to “the practitioner)” are repealed,
 - (b) at the beginning of paragraph (a), insert “if the person is a registered medical practitioner,”
 - (c) after paragraph (a), insert—
 - “(ab) if the person is not a registered medical practitioner, that a registered medical practitioner, by personal examination of the body, is satisfied that life is extinct,”
 - (d) in paragraph (c)—
 - (i) after “removal” insert “and use for the purpose in question”,
 - (ii) for “7, 8, 9 or, as the case may be, 10” substitute “6D, 6E, 6F, 6G, 6H, 8, 8D, 10 or, as the case may be, 10A”.
- (6) After subsection (4), insert—

Status: This is the original version (as it was originally enacted).

“(4A) For the purposes of subsection (4)(c), the person who proposes to carry out the removal is entitled to be satisfied that the removal and use for the purpose in question is authorised in accordance with the section in question if subsections (4B) and (4C) apply.

(4B) This subsection applies if the person who proposes to carry out the removal considers there to be an appropriate record that—

- (a) there is in force an authorisation by virtue of section 6, 6D, 6E, 6F, 6G, 6H, 8, 8D, 10 or, as the case may be, 10A as respects—
 - (i) the deceased person, and
 - (ii) the removal and use of the part for the purpose in question,
- (b) the authorisation was given in accordance with the section in question,
- (c) there is in force—
 - (i) in the case of a deceased adult, no opt-out declaration by the adult as respects removal and use of the part for the purpose in question,
 - (ii) in the case of a deceased child, no declaration by virtue of section 8B(1) by the child as respects removal and use of the part for the purpose in question,
- (d) in the case of a deceased adult who is deemed to have authorised the removal and use of a part of the adult’s body for transplantation by virtue of section 6D, the deceased adult was not—
 - (i) a non-resident adult, or
 - (ii) an adult incapable of understanding the nature and consequences of deemed authorisation,
- (e) a health worker has carried out inquiries—
 - (i) in the case of a deceased adult, in accordance with section 16H(2), and
 - (ii) in the case of a deceased child, in accordance with section 16I(2).

(4C) This subsection applies if the person who proposes to carry out the removal has no reason to believe that—

- (a) there is in force no authorisation by virtue of section 6, 6D, 6E, 6F, 6G, 6H, 8, 8D, 10 or, as the case may be, 10A as respects—
 - (i) the deceased person, or
 - (ii) the removal and use of the part for the purpose in question,
- (b) the authorisation was not given in accordance with the section in question,
- (c) in the case of an authorisation given by a person other than the deceased person, the person who gave the authorisation was not entitled to do so,
- (d) the deceased person would be unwilling in the circumstances for the part to be removed and used for the purpose in question.”.

(7) Subsection (5) is repealed.