



Human Tissue (Authorisation) (Scotland) Act 2019

2019 asp 11

PART 3

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

CHAPTER 2

AUTHORISATION BY OR ON BEHALF OF ADULT

PROSPECTIVE

6 Opt-out declaration by adult

After section 6A of the 2006 Act insert—

“6B “6B Opt-out declaration: adult

- (1) An adult may make a declaration that the adult does not authorise the removal and use of a part of the adult's body after the adult's death for one or more of the purposes referred to in section 3(1) (an “opt-out declaration”).
- (2) If there is in force an opt-out declaration by an adult as respects removal and use of a part of the adult's body for a purpose referred to in section 3(1), the part must not be removed and used for that purpose.
- (3) An opt-out declaration must—
 - (a) if it is as respects transplantation, be—
 - (i) in writing, or
 - (ii) made to the register organisation orally or in writing,
 - (b) if it is as respects a purpose referred to in paragraphs (b) to (d) of section 3(1), be in writing.

Status: This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the Human Tissue (Authorisation) (Scotland) Act 2019, Section 6. (See end of Document for details)

6C 6C Withdrawal of opt-out declaration: adult

- (1) An opt-out declaration may be withdrawn by the adult—
 - (a) in writing, or
 - (b) if the opt-out 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 an opt-out declaration by an adult as respects removal and use of a part of the adult's body for a purpose referred to in section 3(1), and
 - (b) the adult gives an express authorisation of removal and use of the part for that purpose.
- (3) The opt-out declaration—
 - (a) is treated as withdrawn by the adult to the extent that it relates to removal and use of the part for that purpose, and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 an opt-out declaration by an adult as respects removal and use of a part of the adult'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 adult's most recent view was that the adult was willing for the part to be removed and used for that purpose, or
 - (ii) if the adult were capable of making a decision about removal and use of the part, the adult would be willing in the circumstances for the part to be removed and used for that purpose.
- (5) The opt-out declaration—
 - (a) is treated as withdrawn by the adult 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 6D(1)(b),
 - (ii) section 6E(1)(a)(ii),
 - (iii) section 6F(1)(a)(ii),
 - (iv) section 6G(2)(a),
 - (v) section 6H(1)(a)(ii) and (iii),
 - (vi) section 16H(2)(a)(ii),
 - (vii) section 16H(3)(b).
- (6) The adult is treated as having given an express authorisation by virtue of section 6(1) of removal and use of the part for that purpose.

Status: This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the Human Tissue (Authorisation) (Scotland) Act 2019, Section 6. (See end of Document for details)

(7) The authorisation referred to in subsection (6) is treated as being in force at the relevant time for the purposes of—

- (a) section 6D(1)(a),
- (b) section 6E(1)(a)(i),
- (c) section 6F(1)(a)(i),
- (d) section 6H(1)(a)(i),
- (e) section 16F(1)(d),
- (f) section 16H(2)(a)(i),
- (g) section 16H(3)(a).”.

Status:

This version of this provision is prospective.

Changes to legislation:

There are currently no known outstanding effects for the Human Tissue (Authorisation) (Scotland) Act 2019, Section 6.