Human Tissue (Authorisation) (Scotland) Act 2019

2019 asp 11

PART 2

DUTIES OF THE SCOTTISH MINISTERS

3 Establishment and maintenance of register

(1) The 2006 Act is amended as follows.

(2) After section 2 insert—

"Establishment and maintenance of register

2A Establishment and maintenance of register

(1) The Scottish Ministers must make arrangements for the establishment and maintenance of a register (referred to in this Part as "the Register") for the purposes of facilitating—

(a) the carrying out of their duty under section 1(a),

(b) the removal and use of part of the body of a deceased person for transplantation that is authorised by virtue of section 6, 6D, 6E, 6F, 6G, 8, 8D, 10 or, as the case may be, 10A.

(2) The Register must include information relating to—

(a) persons who authorise the removal and use of a part of the person's body after the person's death for transplantation,

(b) persons who do not authorise the removal and use of a part of the person's body after the person's death for transplantation.

(3) The Register is not to be open to public inspection or search.

(4) Information may be kept in the Register in any form the Scottish Ministers consider appropriate.

2B Delegation of function of establishing and maintaining Register

(1) Arrangements made by the Scottish Ministers under section 2A(1) may in particular authorise a person to establish and maintain the Register.

(2) In this Part, "register organisation" means—
- (a) the Scottish Ministers, or
- (b) where a person is authorised as mentioned in subsection (1), that person.

(3) The Scottish Ministers must publish information about arrangements under section 2A(1) so far as they authorise a person as mentioned in subsection (1).

2C Disclosure of information

(1) The register organisation may disclose information about a person from the Register to—
- (a) a person listed in subsection (3) for the purpose of enabling or assisting a person listed in subsection (3) to carry out functions under this Part that relate to the removal and use of a part of the body for transplantation,
- (b) a person operating outwith Scotland for the purpose of enabling or assisting that person to carry out functions that relate to the removal and use of a part of the body for transplantation.

(2) The power to disclose information about a person from the Register conferred by subsection (1) includes the power to disclose that there is no information kept in the Register about the person.

(3) The persons are—
- (a) a registered medical practitioner,
- (b) a person (or person within a description) authorised under section 11(1)(b),
- (c) a health worker who is acting in accordance with section 16H or 16I.

(4) A person who receives information under subsection (1)(a) may, for the purpose of enabling or assisting a person listed in subsection (3) to carry out functions under this Part that relate to the removal and use of a part of the body for transplantation, disclose that information to a person listed in subsection (3) or (5).

(5) The persons are—
- (a) in relation to a person who at the relevant time is an adult—
  - (i) the adult's nearest relative,
  - (ii) any other person who is consulted under section 16H(2)(d) in relation to the adult,
- (b) in relation to a person who at the relevant time is a child—
  - (i) a person who has parental rights and parental responsibilities in relation to the child,
  - (ii) a person mentioned in section 10A(4),

(iii) any other person who is consulted under section 16I(2)(b) in relation to the child.

2D Power to make provision about Register

(1) The Scottish Ministers may by regulations make provision in relation to the Register.

(2) Regulations under subsection (1) may, in particular—

(a) modify section 2A(1) to add the purpose of facilitating the removal and use of part of the body of a deceased person for a purpose referred to in paragraphs (b) to (d) of section 3(1),

(b) modify the list in section 2A(2),

(c) modify the list in section 2C(3) to—

(i) add a person (or description of person),

(ii) remove, or vary the description of, a person (or description of person),

(d) modify the purposes for which information may be disclosed under section 2C.”.

(3) In section 59(3) (regulations subject to affirmative procedure), after paragraph (a) insert—

“(aa) regulations under section 2D(1);”.