



# 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

#### 5 Express authorisation by adult

- (1) The 2006 Act is amended as follows.
- (2) In section 6—
  - (a) in subsection (1), after “section 3(1)” insert “ (an “express authorisation”) ”,
  - (b) after subsection (1), insert—

“(1A) An express authorisation 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.”,
  - (c) subsection (2) is repealed.
- (3) The title of section 6 becomes “ **Express authorisation: adult** ”.
- (4) After section 6 insert—

#### “6A Withdrawal of express authorisation: adult

- (1) An express authorisation may be withdrawn by the adult—
  - (a) in writing, or

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*Changes to legislation: There are currently no known outstanding effects for the Human Tissue (Authorisation) (Scotland) Act 2019, Section 5. (See end of Document for details)*

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- (b) if the express 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 express authorisation by an adult of removal and use of a part of the adult's body for a purpose referred to in section 3(1), and
  - (b) the adult makes an opt-out declaration as respects removal and use of the part for that purpose.
- (3) The express authorisation—
- (a) is treated as withdrawn by the adult to the extent that it relates to removal and use of the part for that purpose, and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) Subsection (5) applies if—
- (a) there is in force at the relevant time an express authorisation by an adult of 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 unwilling 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 unwilling in the circumstances for the part to be removed and used for that purpose.
- (5) The express authorisation—
- (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)(a),
    - (ii) section 6E(1)(a)(i),
    - (iii) section 6F(1)(a)(i),
    - (iv) section 6H(1)(a)(i),
    - (v) section 16F(1)(d),
    - (vi) section 16H(2)(a)(i),
    - (vii) section 16H(3)(a)."

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**Commencement Information**

**II** S. 5 in force at 26.3.2021 by [S.S.I. 2021/108](#), [reg. 2](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Human Tissue (Authorisation) (Scotland) Act 2019, Section 5.