



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 - (c) subsection (2) is repealed.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- (1) An express authorisation may be withdrawn by the adult—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

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)*

- (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 - (a) is treated as withdrawn by the adult to the extent that it relates to removal and use of the part for that purpose, and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 - (a) is treated as withdrawn by the adult to the extent that it relates to removal and use of the part for that purpose,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)."

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.