
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2021 No.

**The Human Tissue (Authorisation) (Specified
Type B Procedures) (Scotland) Regulations 2021**

Authorisation of Type B procedures

- 4.—(1) The carrying out of a Type B procedure is authorised in relation to a person (“A”) if—
- (a) A has expressly authorised the carrying out of the procedure,
 - (b) A is an adult who, at the relevant time, has not expressly authorised the carrying out of the procedure and A’s nearest relative authorises the carrying out of the procedure in accordance with paragraph (2), or
 - (c) A is a child who, at the relevant time, has not expressly authorised the carrying out of the procedure, and either—
 - (i) there is a person (“B”) who has parental rights and parental responsibilities in relation to A and B authorises the carrying out of the procedure in accordance with paragraph (3), or
 - (ii) each person with parental rights and parental responsibilities in relation to A has died or become incapable, but there is a person (“C”) who is a person described in section 10A(4) of the 2006 Act and C authorises the carrying out of the procedure in accordance with paragraph (3).
- (2) For the purposes of paragraph (1)(b), A’s nearest relative may authorise a Type B procedure in relation to A where—
- (a) the relative has no actual knowledge that A was unwilling for the procedure to be carried out, and
 - (b) the relative—
 - (i) has had regard to A’s past wishes and feelings so far as reasonably ascertainable, and
 - (ii) is satisfied that if A were capable of making a decision about the procedure, A would not be unwilling for the procedure to be carried out.
- (3) For the purposes of paragraph (1)(c)(i) or (1)(c)(ii), B or C may authorise a Type B procedure in relation to A where—
- (a) B or C has no actual knowledge that A was unwilling for the procedure to be carried out, and
 - (b) B or C—
 - (i) has had regard to A’s past wishes and feelings so far as reasonably ascertainable, and
 - (ii) is satisfied that if A were capable of making a decision about procedure, A would not be unwilling for the procedure to be carried out.
- (4) An authorisation under paragraph (1)(a), (b) or (c) must be—
- (a) in writing, or
 - (b) given orally to a health worker.