

# **HUMAN TISSUE (SCOTLAND) ACT 2006**

---

## **EXPLANATORY NOTES**

### **THE ACT – AN OVERVIEW**

#### **Part 2: Post-Mortem Examinations**

##### ***Section 32 – Authorisation of post-mortem examination etc as respects child 12 years of age or over by nominee or person with parental rights and parental responsibilities***

83. Subsection (1) provides that a child 12 years of age or over can nominate one or more people to authorise a post-mortem examination on the child after the child's death and the removal, retention and use of organs for one or more of the purposes specified in section 28(2)(a) (audit, education, training or research). Subsection (2) further provides that where on the child's death there is neither an authorisation nor such a nomination by the child of a representative in place, a person who immediately before the death of the child had parental rights and responsibilities in relation to the child (but who is not a local authority) can give authorisation for a post-mortem examination on the child and the removal and retention of organs for one of the specified purposes.
84. Subsection (3) provides that where the child's nominee is unable to give authorisation or there is insufficient time to contact that person then the nomination must be disregarded and the nearest relative could provide authorisation as if there were no such nomination in place.
85. Subsection (4) provides that authorisation by a child's nominee must be in writing, signed by the nominee and witnessed by 2 witnesses who have not been so nominated. Subsection (5) further provides that where authorisation is given by a person with parental rights and responsibilities in relation to the child this must be in writing, signed by the person and witnessed by 2 witnesses.
86. Subsection (6) provides that in providing authorisation under subsection (1) or (2) the child's nominee or the person with parental rights and responsibilities in relation to the child must state, in relation to a post-mortem examination, that they have no actual knowledge that the child was unwilling for a post-mortem examination to be carried out and, in relation to the removal or retention and use of an organ after the examination, that they have no actual knowledge that the adult was unwilling for the activity in question to be carried out.
87. Subsections (7) and (8) provide that authorisation can be withdrawn by the nominated person or person with parental rights and responsibilities in writing, signed by the person in the presence of two witnesses. In the case of a nominee withdrawing their authorisation in writing, neither of the witnesses to that writing can be another nominee.