

HUMAN TISSUE (SCOTLAND) ACT 2006

EXPLANATORY NOTES

THE ACT – AN OVERVIEW

Part 2: Post-Mortem Examinations

Section 31 – Authorisation of post-mortem examination etc.: child 12 years of age or over

81. Subsection (1) allows a child who is 12 years of age or older to authorise a post-mortem examination after the child's death and the removal from their body and retention and use thereafter of organs for one or more of the purposes specified in section 28(2)(a) (audit, education, training or research).
82. Subsection (2) provides that such authorisation must be in writing signed by the child and witnessed by 2 witnesses. It may be withdrawn by the child in writing signed by the child. Alternatively, if the child is blind or unable to write, such authorisation and the withdrawal of such authorisation may be signed by an adult on the child's behalf and witnessed by one witness. Subsection (3) provides that where a signatory signs authorisation or withdraws authorisation on behalf of a child the authorisation or withdrawal must contain a statement signed by the adult and the witness that the child expressed the intention to either give or withdraw the authorisation and requested the adult to sign on his or her behalf. Subsections (4) and (6) provide that any such authorisation on behalf of a child who is 12 years of age or over who is blind or unable to write must contain or be accompanied by certification from both the signatory and the witness that in their opinion the child understands the effect of the authorisation and is not acting under undue influence in giving it. A similar certification is required from both witnesses to an authorisation which is signed by the child himself or herself under subsection (2). Subsection (5) provides that nothing in the provisions in subsection (2) dealing with authorisation or withdrawal signed by a signatory on the child's behalf prevents a child who is blind from giving or withdrawing authorisation without such a signatory under subsection (2).