

HUMAN TISSUE (SCOTLAND) ACT 2006

EXPLANATORY NOTES

THE ACT – AN OVERVIEW

Part 4: Parts 1 to 3: Supplementary Provision

Section 49 – Conditions attached to authorisation

115. Paragraph (a) of subsection (1) provides that conditions can be attached to the following authorisations under Part 1 of the Act: an authorisation by the nearest relative of an adult under section 7(1); an authorisation under section 9(1) by a person who immediately before the death of a child who died 12 years of age or over had parental rights and responsibilities in relation to that child; an authorisation under section 10(1) by a person who immediately before the death of a child who died under 12 years of age had parental rights and responsibilities in relation to that child. However, conditions can only be attached to authorisation by virtue of those provisions where the removal and use of a body part is for the purposes of research, education, training or audit. Conditions cannot be attached to such authorisation when removal and use of a body part is for the purpose of transplantation.
116. [Section 49\(1\)](#) also provides that conditions can be attached to the following authorisations under Parts 2 and 3: authorisation by a nominee of an adult under section 30(1) or the nominee of a child who died 12 years of age or over under section 32(1); an authorisation by the nearest relative of an adult under section 30(2) or 43(1); an authorisation under section 32(2) or 45(1) by a person who immediately before the death of a child who died 12 years of age or over had parental rights and responsibilities in relation to that child; an authorisation under section 33(1) or 46(1) by a person who immediately before the death of a child who died under 12 years of age had parental rights and responsibilities in relation to that child.
117. Subsection (2) requires that where conditions are attached by virtue of subsection (1), the matter authorised must be carried out in accordance with those conditions, in so far as it is reasonably practicable to do so. The standard authorisation forms that will be prescribed for hospital post-mortem examinations will allow for the making of such conditions.