



Human Tissue (Scotland) Act 2006

2006 asp 4

PART 3

TISSUE SAMPLE OR ORGANS NO LONGER REQUIRED FOR PROCURATOR FISCAL PURPOSES

44 Authorisation of use etc. after examination: child 12 years of age or over

- (1) A child who is 12 years of age or over may authorise—
 - (a) use of tissue sample removed from the child's body after the child's death during an examination of the body for the purposes of the functions, or under the authority, of the procurator fiscal;
 - (b) retention and use of an organ removed from the child's body after the child's death during such an examination,for one or more of the purposes referred to in section 39(b).
- (2) Authorisation by virtue of subsection (1)—
 - (a) must be in writing—
 - (i) signed by the child and witnessed by 2 witnesses; or
 - (ii) subject to subsections (3) and (4), if the child is blind or unable to write signed by an adult (a "signatory") on the child's behalf and witnessed by one witness;
 - (b) may be withdrawn in writing—
 - (i) signed by the child; or
 - (ii) subject to subsections (3) and (4), if the child is blind or unable to write signed by an adult (a "signatory") on the child's behalf and witnessed by one witness.
- (3) Authorisation by virtue of subsection (1), or withdrawal of such authorisation, which is signed by a signatory on behalf of the child by virtue of subsection (2)(a)(ii) or (b)(ii) must contain a statement signed by both the signatory and the witness in the presence of the child and of each other that the child, in the presence of them both, expressed the intention to give the authorisation or, as the case may be, withdraw the authorisation and requested the signatory to sign the authorisation or, as the case may be, the withdrawal on behalf of the child.

Status: This is the original version (as it was originally enacted).

- (4) Authorisation by virtue of subsection (1) which is signed by a signatory on behalf of a child by virtue of subsection (2)(a)(ii) must contain or be accompanied by certification in writing signed by the signatory that, in the opinion of the signatory, the child understands the effect of the authorisation and is not acting under undue influence in giving it.
- (5) Nothing in subsection (2)(a)(ii) or (b)(ii) prevents a child who is blind from signing an authorisation by virtue of subsection (1) in accordance with subsection (2)(a)(i) or a withdrawal of authorisation in accordance with subsection (2)(b)(i).
- (6) Each witness to authorisation by a child by virtue of subsection (1) (whether it is signed by the child or by a signatory on behalf of the child), must at the time of witnessing certify (in writing signed by the witness) that, in the opinion of the witness, the child understands the effect of the authorisation and is not acting under undue influence in giving it.