



Human Tissue (Scotland) Act 2006

2006 asp 4

PART 4

PARTS 1 TO 3: SUPPLEMENTARY PROVISION

50 Nearest relative

- (1) For the purposes of sections 7 and 30, the nearest relative is the person who immediately before the adult's death was—
- (a) the adult's spouse or civil partner;
 - (b) living with the adult as husband or wife or in a relationship which had the characteristics of the relationship between civil partners and had been so living for a period of not less than 6 months (or if the adult was in hospital immediately before death had been so living for such period when the adult was admitted to hospital);
 - (c) the adult's child;
 - (d) the adult's parent;
 - (e) the adult's brother or sister;
 - (f) the adult's grandparent;
 - (g) the adult's grandchild;
 - (h) the adult's uncle or aunt;
 - (i) the adult's cousin;
 - (j) the adult's niece or nephew;
 - (k) a friend of longstanding of the adult.
- (2) Subsection (1) applies for the purposes of section 43 as it applies for the purposes of sections 7 and 30 as if after paragraph (k) of that subsection there were inserted (in an additional paragraph) an additional category of person, namely “a person who had a longstanding professional relationship with the adult”; and accordingly references to subsection (1) in subsections (4) to (6) are to be construed as references to subsection (1) (including that subsection as applied and modified by this subsection).
- (3) If the adult's spouse or civil partner—
- (a) is permanently separated (either by agreement or under an order of a court) from the adult; or

Status: This is the original version (as it was originally enacted).

- (b) has deserted, or has been deserted by, the adult and the desertion continues, subsection (1)(a) is to be disregarded for the purposes of subsection (1).
- (4) Relationships in different paragraphs of subsection (1) rank in the order of those paragraphs and for the purposes of that subsection (including that subsection as so applied and modified), except paragraph (e)—
 - (a) a relationship of the half-blood is to be treated as a relationship of the whole blood;
 - (b) the stepchild of an adult is to be treated as the child of the adult.
- (5) Where more than one person falls within a paragraph in subsection (1), each such person ranks equally for the purpose of the paragraph; and authorisation by virtue of the paragraph in question may be given by any one of the persons falling within the paragraph.
- (6) For the purposes of subsection (1), a person's relationship with the adult is to be left out of account if—
 - (a) the person, immediately before the adult's death, was under 16 years of age;
 - (b) the person does not wish or is unable to make a decision on the issue of authorisation; or
 - (c) it is not reasonably practicable to communicate with the person in the time available.