



Human Tissue (Scotland) Act 2006

2006 asp 4

PART 1

TRANSPLANTATION ETC.

Use of part of body of deceased person for transplantation, research etc.

7 Authorisation by adult's nearest relative

(1) If there is in force immediately before an adult's death no authorisation by the adult by virtue of section 6(1) of removal and use of any part of the adult's body for transplantation, the nearest relative of the deceased adult may, subject to subsection (4), authorise the removal and use of any part for one or more of the purposes referred to in section 3(1).

(2) If—

(a) there is in force immediately before an adult's death authorisation by the adult by virtue of section 6(1) of removal and use of a part of the adult's body for transplantation;

(b) the authorisation does not expressly include removal and use of the part for a particular purpose referred to in paragraphs (b) to (d) of section 3(1),

the nearest relative of the deceased adult may, subject to subsection (4), authorise the removal and use of the part for the particular purpose in question which is not included in the authorisation.

(3) If—

(a) there is in force immediately before an adult's death authorisation by the adult by virtue of section 6(1) of removal and use of a particular part of the adult's body for transplantation;

(b) the authorisation does not expressly include removal and use of another particular part,

the nearest relative of the deceased adult may, subject to subsection (4), authorise the removal and use of the other particular part which is not so included for one or more of the purposes referred to in paragraphs (b) to (d) of section 3(1).

(4) The nearest relative may not give authorisation under—

Status: This is the original version (as it was originally enacted).

- (a) subsection (1) if the relative has actual knowledge that the adult was unwilling for any part of the adult's body, or the part in question, to be used for transplantation;
 - (b) subsection (2) if the relative has actual knowledge that the adult was unwilling for the part to be used for the purpose in question;
 - (c) subsection (3) if the relative has actual knowledge that the adult was unwilling for any other part of the adult's body or, as the case may be, the other particular part in question, to be used for transplantation.
- (5) For the purposes of—
- (a) subsection (4)(a), the mere fact that there is no authorisation by the adult in force is not to be regarded as unwillingness by the adult referred to in that subsection;
 - (b) subsection (4)(b), the mere fact that the authorisation does not include a particular purpose referred to in paragraphs (b) to (d) of section 3(1) is not to be regarded as unwillingness by the adult referred to in that subsection;
 - (c) subsection (4)(c), the mere fact that there is no authorisation by the adult in force as respects the removal and use of other parts, or the other particular part in question, for transplantation is not to be regarded as unwillingness by the adult referred to in that subsection.
- (6) Authorisation by virtue of subsection (1), (2) or (3)—
- (a) must be—
 - (i) in writing and signed; or
 - (ii) expressed verbally,by the nearest relative;
 - (b) subject to subsection (7), may be withdrawn in writing so signed.
- (7) To the extent that authorisation by virtue of subsection (1) is for the purposes of transplantation, it may not be withdrawn.