



# Human Tissue (Authorisation) (Scotland) Act 2019

2019 asp 11

## PART 2

### DUTIES OF THE SCOTTISH MINISTERS

#### **3 Establishment and maintenance of register**

- (1) The 2006 Act is amended as follows.
- (2) After section 2 insert—

*“Establishment and maintenance of register*

#### **2A Establishment and maintenance of register**

- (1) The Scottish Ministers must make arrangements for the establishment and maintenance of a register (referred to in this Part as “the Register”) for the purposes of facilitating—
  - (a) the carrying out of their duty under section 1(a),
  - (b) the removal and use of part of the body of a deceased person for transplantation that is authorised by virtue of section 6, 6D, 6E, 6F, 6G, 8, 8D, 10 or, as the case may be, 10A.
- (2) The Register must include information relating to—
  - (a) persons who authorise the removal and use of a part of the person's body after the person's death for transplantation,
  - (b) persons who do not authorise the removal and use of a part of the person's body after the person's death for transplantation.
- (3) The Register is not to be open to public inspection or search.
- (4) Information may be kept in the Register in any form the Scottish Ministers consider appropriate.

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*Changes to legislation: There are currently no known outstanding effects for the Human Tissue (Authorisation) (Scotland) Act 2019, Section 3. (See end of Document for details)*

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## **2B Delegation of function of establishing and maintaining Register**

- (1) Arrangements made by the Scottish Ministers under section 2A(1) may in particular authorise a person to establish and maintain the Register.
- (2) In this Part, “register organisation” means—
  - (a) the Scottish Ministers, or
  - (b) where a person is authorised as mentioned in subsection (1), that person.
- (3) The Scottish Ministers must publish information about arrangements under section 2A(1) so far as they authorise a person as mentioned in subsection (1).

## **2C Disclosure of information**

- (1) The register organisation may disclose information about a person from the Register to—
  - (a) a person listed in subsection (3) for the purpose of enabling or assisting a person listed in subsection (3) to carry out functions under this Part that relate to the removal and use of a part of the body for transplantation,
  - (b) a person operating outwith Scotland for the purpose of enabling or assisting that person to carry out functions that relate to the removal and use of a part of the body for transplantation.
- (2) The power to disclose information about a person from the Register conferred by subsection (1) includes the power to disclose that there is no information kept in the Register about the person.
- (3) The persons are—
  - (a) a registered medical practitioner,
  - (b) a person (or person within a description) authorised under section 11(1)(b),
  - (c) a health worker who is acting in accordance with section 16H or 16I.
- (4) A person who receives information under subsection (1)(a) may, for the purpose of enabling or assisting a person listed in subsection (3) to carry out functions under this Part that relate to the removal and use of a part of the body for transplantation, disclose that information to a person listed in subsection (3) or (5).
- (5) The persons are—
  - (a) in relation to a person who at the relevant time is an adult—
    - (i) the adult's nearest relative,
    - (ii) any other person who is consulted under section 16H(2)(d) in relation to the adult,
  - (b) in relation to a person who at the relevant time is a child—
    - (i) a person who has parental rights and parental responsibilities in relation to the child,
    - (ii) a person mentioned in section 10A(4),

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- (iii) any other person who is consulted under section 16I(2)(b) in relation to the child.

## **2D Power to make provision about Register**

- (1) The Scottish Ministers may by regulations make provision in relation to the Register.
- (2) Regulations under subsection (1) may, in particular—
- (a) modify section 2A(1) to add the purpose of facilitating the removal and use of part of the body of a deceased person for a purpose referred to in paragraphs (b) to (d) of section 3(1),
  - (b) modify the list in section 2A(2),
  - (c) modify the list in section 2C(3) to—
    - (i) add a person (or description of person),
    - (ii) remove, or vary the description of, a person (or description of person),
  - (d) modify the purposes for which information may be disclosed under section 2C.”.
- (3) In section 59(3) (regulations subject to affirmative procedure), after paragraph (a) insert—
- “(aa) regulations under section 2D(1);”.

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### **Commencement Information**

**II** [S. 3](#) in force at 26.3.2021 by [S.S.I. 2021/108](#), [reg. 2](#)

**Changes to legislation:**

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