



Human Tissue (Authorisation) (Scotland) Act 2019

2019 asp 11

PART 3 **S**

AUTHORISATION OF REMOVAL AND USE OF PART OF BODY OF DECEASED PERSON

CHAPTER 3 **S**

AUTHORISATION BY OR ON BEHALF OF CHILD

14 **Opt-out declaration by child 12 years of age or over** **S**

After section 8A of the 2006 Act insert—

“8B Opt-out declaration: child 12 years of age or over

- (1) A child who is 12 years of age or over may make a declaration that the child does not authorise the removal and use of a part of the child's body after the child's death for one or more of the purposes referred to in section 3(1).
- (2) If there is in force a declaration by virtue of subsection (1) by a child as respects removal and use of a part of the child's body for a purpose referred to in section 3(1), the part must not be removed and used for that purpose.
- (3) A declaration by virtue of subsection (1) must—
 - (a) if it is as respects transplantation, be—
 - (i) in writing, or
 - (ii) made to the register organisation orally or in writing,
 - (b) if it is as respects a purpose referred to in paragraphs (b) to (d) of section 3(1), be in writing.
- (4) If there is in force immediately before a child becomes an adult a declaration by virtue of subsection (1) by the child, the declaration is to be treated as an opt-out declaration by virtue of section 6B(1) once the child becomes an adult.

Changes to legislation: There are currently no known outstanding effects for the Human Tissue (Authorisation) (Scotland) Act 2019, Section 14. (See end of Document for details)

8C Withdrawal of opt-out declaration: child 12 years of age or over

- (1) A declaration by virtue of section 8B(1) may be withdrawn by the child—
 - (a) in writing, or
 - (b) if the declaration was made to the register organisation, by giving the withdrawal to the register organisation orally or in writing.
- (2) Subsection (3) applies if—
 - (a) there is in force a declaration by virtue of section 8B(1) by a child as respects removal and use of a part of the child's body for a purpose referred to in section 3(1), and
 - (b) the child gives an authorisation by virtue of section 8(1) of removal and use of the part for that purpose.
- (3) The declaration by virtue of section 8B(1)—
 - (a) is treated as withdrawn by the child to the extent that it relates to removal and use of the part for that purpose, and
 - (b) otherwise remains in force.
- (4) Subsections (5) to (7) apply if—
 - (a) there is in force at the relevant time a declaration by virtue of section 8B(1) by a child as respects removal and use of a part of the child's body for a purpose referred to in section 3(1), and
 - (b) a person provides evidence to a health worker that would lead a reasonable person to conclude that—
 - (i) the child's most recent view was that the child was willing for the part to be removed and used for that purpose, or
 - (ii) if the child were capable of making a decision about removal and use of the part, the child would be willing in the circumstances for the part to be removed and used for that purpose.
- (5) The declaration by virtue of section 8B(1)—
 - (a) is treated as withdrawn by the child to the extent that it relates to removal and use of the part for that purpose,
 - (b) otherwise remains in force, and
 - (c) to the extent that it remains in force, is treated as being in force at the relevant time for the purposes of—
 - (i) section 8D(1)(a)(ii) and (iii),
 - (ii) section 16I(2)(a)(ii).
- (6) The child is treated as having authorised removal and use of the part for that purpose by virtue of section 8(1).
- (7) The authorisation referred to in subsection (6) is treated as being in force at the relevant time for the purposes of—
 - (a) section 8D(1)(a)(i),
 - (b) section 16F(1)(e),
 - (c) section 16I(2)(a)(i).”.

Changes to legislation: There are currently no known outstanding effects for the Human Tissue (Authorisation) (Scotland) Act 2019, Section 14. (See end of Document for details)

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Commencement Information

II S. 14 in force at 26.3.2021 by S.S.I. 2021/108, reg. 2

Changes to legislation:

There are currently no known outstanding effects for the Human Tissue (Authorisation) (Scotland) Act 2019, Section 14.