

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Human Tissue (Scotland) Act 2006 (“the 2006 Act”). They specify which body parts are “excepted body parts” for the purposes of section 6D (deemed authorisation for transplantation: adult) and section 6G (excepted body parts: authorisation for transplantation by nearest relative) of the 2006 Act.

Section 6D of the 2006 Act makes provision for deemed authorisation by adults for the removal and use of a part of the adult’s body after the adult’s death for transplantation, in the absence of either express authorisation by the adult or an opt-out declaration by the adult. Deemed authorisation does not apply in relation to an “excepted body part”. Instead, section 6G of the 2006 Act provides for authorisation by the adult’s nearest relative for the removal and use of an excepted body part after the adult’s death for transplantation.

Regulation 1(1) provides that the Regulations will come into force on the day which section 7 of the Human Tissue (Authorisation) (Scotland) Act 2019 comes into force for all purposes. Regulation 1(2) explains the defined terms within the Regulations.

Regulation 2 specifies the excepted body parts for the purposes of section 6D and 6G of the 2006 Act. Paragraph (2) specifies that the whole or any part of certain listed body parts are excepted body parts, subject to the exception in paragraph (4), which provides that the whole or part of the trachea is not specified if it is connected to a lung. Paragraph (3) specifies that the whole of certain listed body parts are excepted body parts, subject to paragraph (5), which provides that certain material is not specified in so far as it is detached from any body part specified in paragraph (3).