

# HUMAN TISSUE (SCOTLAND) ACT 2006

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## EXPLANATORY NOTES

### THE ACT – AN OVERVIEW

#### **Part 1: Transplantation Etc.**

#### ***Section 16 – Offences: removal or use of part of body of deceased person for transplantation, research, etc***

34. **Section 16(1)(a)** provides that it is an offence to remove a part of the body of a deceased person for the purposes of transplantation, research, education, training or audit after the day on which section 3 comes into force, or to use after that day any part so removed for any such purpose, without having the necessary authorisation in accordance with section 6, 7, 8, 9 or 10.
35. Paragraph (b) of subsection (1) provides that it is an offence if such removal or use is undertaken by someone who is not either a registered medical practitioner, or a person authorised to undertake such a removal in terms of regulations under section 11(1), or if the person undertaking the removal has not satisfied himself that life is extinct in terms of section 11(4)(a).
36. Subsection (2) provides that it is a defence for a person charged with an offence under subsection (1) to show that at the time of carrying out the activity, the person reasonably believed that the removal and use had been authorised in accordance with the relevant section of the Act or that the requirements of section 11(1) or (4) (a) or (c) had been satisfied as respects the part of the body (requirements as to who may carry out the removal or authorise it and as to being satisfied that the body is a dead body).
37. Subsection (3) sets out the penalties attaching to an offence under section 16(1). It provides that a person guilty of an offence under subsection (1) will be liable on summary conviction to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum, or both. On conviction on indictment, that person will be liable to imprisonment for a term not exceeding 3 years, to a fine, or both.