

HUMAN TISSUE (SCOTLAND) ACT 2006

EXPLANATORY NOTES

THE ACT – AN OVERVIEW

Part 2: Post-Mortem Examinations

Section 37 – Offences: post-mortem examinations

99. Subsection (1) provides that a person commits an offence if that person carries out a post-mortem examination which has not been authorised in accordance with section 29, 30, 31, 32 or as the case may be 33, or removes or retains an organ at post-mortem examination without that removal or retention having been authorised in accordance with one of those provisions. It is a defence under subsection (2) 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 the activity to have been duly authorised in accordance with the relevant section under Part 2 of the Act.

100. Subsection (3) 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.