

HUMAN TISSUE (SCOTLAND) ACT 2006

EXPLANATORY NOTES

THE ACT – AN OVERVIEW

Part 1: Transplantation Etc.

Section 20 – Prohibition of commercial dealings in parts of a human body for transplantation

55. This section broadly carries forward the provisions currently in section 1 of the [Human Organ Transplants Act 1989 \(c.31\)](#), and parallels the provisions of section 32 of the [Human Tissue Act 2004 \(c.30\)](#).
56. Subsection (1) provides that a person commits an offence if the person gives or receives a reward for the supply of, or for an offer to supply, any part of a human body for transplantation. It is also an offence to seek to find a person willing to supply for transplantation any part of a human body for reward, or to offer to supply any part of a human body for transplantation for reward, or to initiate or negotiate an arrangement involving the giving of a reward for the supply of, or for an offer to supply, any part of a human body for transplantation. It is also an offence to take part in the management or control of a body corporate or group of people whose activities consist of or include the initiation or negotiation of such arrangements.
57. Subsection (2) provides that it is also an offence if a person publishes or distributes an advert inviting people to supply, or offers to supply, any part of a human body for transplantation for reward. Similarly, this subsection also makes it an offence to indicate in an advertisement that the advertiser is willing to initiate or negotiate an arrangement involving the giving of a reward for the supply of, or an offer to supply, any part of a human body for transplantation, as set out in subsection (1)(d).
58. Subsection (3) allows the Scottish Ministers to exempt certain persons from the offence provisions by designating them as being able lawfully to engage in activities under sections (1) and (2). This is intended to preserve the existing position under which certain organisations, such as the registries mentioned in paragraph 47, assist with obtaining tissue for transplantation in particular on a not-for-profit basis.
59. Subsection (4) sets out the penalties attaching to an offence under section 20(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. Subsection (5) sets out the penalties attaching to an offence under sections 20(2). It provides that a person guilty of an offence under subsection (2) will be liable on summary conviction to imprisonment for a term not exceeding 12 months, to a fine not exceeding level 5 on the standard scale, or both.
60. Subsection (6) provides definitions of the terms “advertisement” and “reward” used in section 20.