



Anatomy Act 1984

1984 CHAPTER 14

Miscellaneous

7 Licences: general provisions.

- (1) Applications for licences under this Act shall be made in such manner as the Secretary of State may decide.
- (2) A licence under this Act may be granted to such person as the Secretary of State thinks suitable, and a licence under section 3(1) may be granted in respect of such premises as he thinks suitable.
- (3) The Secretary of State may require the payment of such fee as he thinks fit in respect of any application for a licence under this Act.
- (4) Where the Secretary of State decides not to grant a licence under this Act he shall take reasonable steps to secure that the applicant is notified in writing of his decision and of the reasons for it.
- (5) A licence under this Act may be granted subject to such conditions as the Secretary of State thinks necessary or desirable, but no condition may be imposed in relation to a matter dealt with by regulations under section 8.
- (6) A Licence under this Act shall be effective for such period as the Secretary of State may stipulate when he grants it, except that—
 - (a) he may (subject to subsection (7)) revoke a licence if he thinks it reasonable to do so;
 - (b) he may at any time accept the surrender of a licence from the person to whom it was granted;
 - (c) if the person to whom the licence was granted dies the licence shall then expire (subject to subsection (9)).
- (7) Where the Secretary of State decides to revoke a licence under this Act^[F1], subject to subsection (7A),] the revocation shall be ineffective unless he gives to the person to whom the licence was granted a written notice stating—

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- (a) that he proposes to revoke the licence on a date which is specified in the notice and is at least 28 days after the date of the notice, and
- (b) the reasons for his decision.

[^{F2}(7A) Subsection (7) does not apply in relation to a decision of the Scottish Ministers to revoke a licence under this Act if the Ministers consider that there would be a risk to public health if the requirements of that subsection were to apply, and where the Scottish Ministers consider that to be the case they shall notify the person to whom the licence was granted of the revocation and that for the reasons mentioned in this subsection the revocation takes effect on the date specified in the notification.]

- (8) A notice under subsection (7) [^{F3}or (7A)] may be given by post.
- (9) Where a person holding a licence under this Act dies, any permission given by him under section 3(3)(b) or (4)(b) or 5(5)(b) (as the case may be), and effective immediately before his death, shall continue to be effective for a period of 21 days commencing with the date of his death; but if the period for which the licence was granted would have expired before the expiry of the 21 days, the permission shall expire when the licence would have expired.

Textual Amendments

- F1** Words in s. 7(7) inserted (S.) (1.9.2006) by [Human Tissue \(Scotland\) Act 2006 \(asp 4\)](#), **ss. 53(10)(a)**, 62(2); [S.S.I. 2006/251](#), art. 3
- F2** S. 7(7A) inserted (S.) (1.9.2006) by [Human Tissue \(Scotland\) Act 2006 \(asp 4\)](#), **ss. 53(10)(b)**, 62(2); [S.S.I. 2006/251](#), art. 3
- F3** Words in s. 7(8) inserted (S.) (1.9.2006) by [Human Tissue \(Scotland\) Act 2006 \(asp 4\)](#), **ss. 53(10)(c)**, 62(2); [S.S.I. 2006/251](#), art. 3

[^{F4}7A Appeal to sheriff principal against licence decision

- (1) This section applies to a decision of the Scottish Ministers under—
 - (a) section 3(1) refusing to grant a licence for the use of premises for carrying out anatomical examinations,
 - (b) section 3(2) refusing to grant a licence to a person to—
 - (i) carry out anatomical examinations, or
 - (ii) have possession of anatomical specimens,
 - (c) section 5(5) refusing to grant a licence to a person to have possession of a body or a part of a body,
 - (d) section 6A(9) refusing to grant a licence to a person to publicly display a body or a part of a body,
 - (e) section 7(5) granting a licence subject to conditions,
 - (f) section 7(6)(a) revoking a licence.
- (2) The—
 - (a) applicant, in the case of a decision referred to in subsection (1)(a), (b), (c), (d) or (e), and
 - (b) person to whom the licence was granted, in the case of a decision referred to in subsection (1)(f),

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may, before the expiry of the period of 21 days beginning with the day the decision is made, appeal under this section to the sheriff principal against the decision on one or more of the grounds mentioned in subsection (3).

- (3) The grounds are that the Scottish Ministers in arriving at their decision—
- (a) erred in law,
 - (b) based their decision on any incorrect material fact,
 - (c) acted contrary to natural justice, or
 - (d) exercised their discretion in an unreasonable manner.
- (4) An appeal to the sheriff principal under this section is to be—
- (a) where the appeal is against a decision under—
 - (i) section 3(1),
 - (ii) section 7(5) or 7(6)(a) in respect of a licence for the use of premises, to the sheriff principal of the sheriffdom in which the premises are situated;
 - (b) in any other case, to—
 - (i) the sheriff principal of the sheriffdom in which the appellant resides, or
 - (ii) the sheriff principal of the Sheriffdom of Lothian and Borders at Edinburgh.
- (5) In allowing an appeal under this section, the sheriff principal—
- (a) shall set aside the decision, and
 - (b) shall—
 - (i) if he considers that he can do so on the facts considered to be established by the Scottish Ministers, substitute his own decision, or
 - (ii) remit the case to the Scottish Ministers for consideration anew.]

Textual Amendments

F4 S. 7A inserted (S.) (1.9.2006) by [Human Tissue \(Scotland\) Act 2006 \(asp 4\)](#), **ss. 53(11)**, 62(2); S.S.I. 2006/251, [art. 3](#)

8 Regulations.

- (1) The Secretary of State may make regulations—
- (a) in relation to bodies the anatomical examination of which is lawful by virtue of section 4 [^{F5}or section 4A], with a view to securing their efficient and orderly examination and the decent disposal of the bodies (and parts of them) after their examination has been concluded;
 - (b) in relation to [^{F6}bodies or] parts of bodies the possession of which is [^{F7}authorised under section 5(5)], with a view to securing that they are decently cared for^{F8};
 - (c) in relation to bodies or parts of bodies the display of which is authorised under section 6A(9) with a view to securing that the bodies or parts are decently cared for and displayed with appropriate respect].
- (2) The regulations may make different provision for different cases or descriptions of case, including different provision for different areas.

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- (3) No regulations under this section shall apply in relation to the body of a person who died before the coming into force of the regulations.
- (4) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F5** Words in s. 8(1)(a) inserted (S.) (12.5.2006 for specified purposes, 1.9.2006 in so far as not already in force) by [Human Tissue \(Scotland\) Act 2006 \(asp 4\)](#), **ss. 53(12)(a)**, 62(2); S.S.I. 2006/251, arts. 2, 3, [sch.](#)
- F6** Words in s. 8(1)(b) inserted (S.) (12.5.2006 for specified purposes, 1.9.2006 in so far as not already in force) by [Human Tissue \(Scotland\) Act 2006 \(asp 4\)](#), **ss. 53(12)(b)(i)**, 62(2); S.S.I. 2006/251, arts. 2, 3, [sch.](#)
- F7** Words in s. 8(1)(b) substituted (S.) (12.5.2006 for specified purposes, 1.9.2006 in so far as not already in force) by [Human Tissue \(Scotland\) Act 2006 \(asp 4\)](#), **ss. 53(12)(b)(ii)**, 62(2); S.S.I. 2006/251, arts. 2, 3, [sch.](#)
- F8** S. 8(1)(c) inserted (S.) (12.5.2006 for specified purposes, 1.9.2006 in so far as not already in force) by [Human Tissue \(Scotland\) Act 2006 \(asp 4\)](#), **ss. 53(12)(c)**, 62(2); S.S.I. 2006/251, arts. 2, 3, [sch.](#)

[^{F9}8A Code of practice

- (1) The Scottish Ministers may prepare a code of practice for the purpose of—
 - (a) giving practical guidance to persons—
 - (i) licensed under section 3(2) to carry out anatomical examinations or to have possession of anatomical specimens,
 - (ii) authorised under section 5(5) to have possession of a body or parts of a body,
 - (iii) authorised under section 6A(9) to publicly display a body or parts of a body, and
 - (b) laying down standards expected in relation to such activities.
- (2) A code of practice prepared under subsection (1) may not be given effect unless and until it has been—
 - (a) confirmed by order, and
 - (b) brought into force on a day appointed by order,
 by the Scottish Ministers.
- (3) The Scottish Ministers shall, before confirming a code of practice by order under subsection (2)(a)—
 - (a) consult such persons as they see fit, and
 - (b) lay a draft of the code before the Scottish Parliament.
- (4) The Scottish Ministers shall publish a code of practice so confirmed in such way as, in their opinion, is likely to bring it to the attention of those interested in it.
- (5) The Scottish Ministers shall—
 - (a) keep a code of practice confirmed by order under subsection (2)(a) under review, and
 - (b) prepare a revised code of practice where appropriate.

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- (6) Subsections (2) to (4) apply to a revised code of practice prepared under subsection (5) (b) as they apply to a code of practice prepared under subsection (1).
- (7) Any person licensed or authorised as mentioned in subsection (1)(a) shall have regard to the provisions of a code of practice published under subsection (4) for the time being in force (so far as the provisions are applicable to the activity the person is licensed or, as the case may be, authorised to carry out); but a failure on the part of any such person to observe any provision of such code of practice shall not of itself render the person liable to any proceedings.
- (8) The Scottish Ministers may, in carrying out their functions under this Act with respect to licences, take into account any relevant observance of, or failure to observe, a code of practice published under subsection (4), so far as dealing with an application for a licence under section 3(2), 5(5) or 6A(9).
- (9) The power to make an order under subsection (2)(a) or (b) shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the Scottish Parliament.]

Textual Amendments

- F9** S. 8A inserted (S.) (12.5.2006 for specified purposes, 1.9.2006 in so far as not already in force) by [Human Tissue \(Scotland\) Act 2006 \(asp 4\)](#), **ss. 53(13)**, 62(2); S.S.I. 2006/251, arts. 2, 3, sch.

9 Inspectors of anatomy.

- (1) The Secretary of State may appoint such persons as he thinks fit to be inspectors, each to be known as ^{F10}... Her Majesty's Inspector of Anatomy for Scotland.
- (2) An inspector shall be appointed—
 - (a) to advise the Secretary of State on the exercise of his functions under this Act;
 - (b) for the purpose mentioned in paragraph (a), to inspect premises in respect of which licences are sought under section 3(1), in order to ascertain whether the premises are suitable;
 - (c) for the purpose mentioned in paragraph (a), to examine applications for licences under this Act, in order to ascertain whether the applicants are suitable;
 - (d) to inspect premises, in order to ascertain whether any offence has been or is being committed under section 11(1) or (2) or against regulations under section 8 (as mentioned in section 11(4)).
- (3) The Secretary of State shall pay to an inspector such remuneration as the Secretary of State may decide.
- (4) An inspector shall be appointed on such other terms and conditions as the Secretary of State may determine.
- (5) The Secretary of State may in the case of such of the inspectors as he may determine—
 - (a) pay such pensions, allowances or gratuities to or in respect of them as may be so determined,
 - (b) make such payments towards the provision of pensions, allowances or gratuities to or in respect of any of them as may be so determined, or

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- (c) provide and maintain such schemes (whether contributory or not) for the payment of pensions, allowances or gratuities to or in respect of them as may be so determined.

Textual Amendments

F10 Words in s. 9(1) repealed (S.) (1.9.2006) by [Human Tissue \(Scotland\) Act 2006 \(asp 4\), ss. 53\(14\), 62\(2\); S.S.I. 2006/251, art. 3](#)

10 Power to inspect records and premises.

- (1) An inspector duly authorised in writing by the Secretary of State may (subject to subsections (3) and (4)) require the production of, and inspect and take copies of, any records which a person is required to retain by virtue of section 3(5)^{F11}, 5(6) or 6A(12)].
- (2) Where—
 - (a) an inspector has reasonable cause to believe that an offence under ^{F12}section 11(1)] or (2) or against regulations under section 8 (as mentioned in section 11(4)) has been or is being committed on any premises, and
 - (b) he is duly authorised in writing by the Secretary of State to enter and inspect the premises with a view to ascertaining whether the offence has been or is being committed,
 he may (subject to subsections (3) to (5)) enter and inspect the premises for that purpose.
- (3) An inspector who proposes to require the production of records or enter premises in exercise of a power under this section shall, if so required, produce evidence of his authority before making the requirement or entering.
- (4) A power under this section may only be exercised at a reasonable time.
- ^{F13}(5)
- (6) Information (including information in records) obtained by any person in pursuance of this section shall not be disclosed except—
 - (a) with the written consent of the person by whom the information was provided, or
 - (b) to any Minister of the Crown, or
 - (c) in the form of a summary of similar information obtained from a number of persons, where the summary is so framed as not to enable particulars relating to any one person or undertaking to be ascertained from it, or
 - (d) with a view to the institution of, or otherwise for the purposes of, any criminal proceedings, or
 - (e) for the purposes of a report of any criminal proceedings.
- (7) In this section “inspector” means a person appointed under section 9.

Textual Amendments

F11 Words in s. 10(1) substituted (S.) (1.9.2006) by [Human Tissue \(Scotland\) Act 2006 \(asp 4\), ss. 53\(15\) \(a\), 62\(2\); S.S.I. 2006/251, art. 3](#)

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- F12** Words in s. 10(2)(a) substituted (S.) (1.9.2006) by [Human Tissue \(Scotland\) Act 2006 \(asp 4\)](#), **ss. 53(15)(b), 62(2)**; [S.S.I. 2006/251](#), art. 3
- F13** S. 10(5) repealed (S.) (1.9.2006) by [Human Tissue \(Scotland\) Act 2006 \(asp 4\)](#), **ss. 53(15)(c), 62(2)**; [S.S.I. 2006/251](#), art. 3

11 Offences.

- (1) A person who—
- (a) carries out an anatomical examination in contravention of section 2(1), or
 - (b) has in his possession an anatomical specimen in contravention of section 2(2),
^{F14}...
 - (c) has in his possession a body or part of a body in contravention of section 5(2),
^{F15}or
 - (d) publicly displays a body or part of a body in contravention of section 6A(1) or (10),]
- shall be guilty of an offence.
- (2) A person who contravenes a condition attached to a licence granted to him under this Act shall be guilty of an offence.
- (3) Where a person is charged with an offence under subsection (1) or (2), it shall be a defence to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (4) Regulations under section 8 may provide that a person who without reasonable excuse contravenes any specified provision of the regulations shall be guilty of an offence against the regulations; and references in this section to an offence against the regulations shall be construed accordingly.
- (5) A person who—
- (a) fails without reasonable excuse to comply with section 3(5)^{F16}, 5(6) or 6A(12)], or
 - (b) in purported compliance with section 3(5)^{F17}, 5(6) or 6A(12)] compiles a record which he knows is false in a material particular, or
 - (c) alters a record compiled in compliance with section 3(5)^{F18}, 5(6) or 6A(12)] so that the record becomes to his knowledge false in a material particular, or
 - (d) fails without reasonable excuse to comply with a requirement imposed by virtue of section 10(1), or
 - (e) intentionally obstructs an inspector in the exercise of his powers under section 10(1) or (2), or
 - (f) discloses information in contravention of section 10(6),
- shall be guilty of an offence.
- (6) A person guilty of an offence under subsection (1)
- or (2) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale^{F19} . . . or to imprisonment for a term not exceeding 3 months.
- (7) Regulations under section 8 may provide that a person guilty of an offence against the regulations shall be liable on summary conviction to a fine not exceeding an amount which is specified in the regulations in relation to the offence concerned and which does not exceed level 3 on the standard scale^{F19} . . .; and they may further provide

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that he may instead be liable on summary conviction to imprisonment for a term not exceeding 3 months.

(8) A person guilty of an offence under subsection (5)

shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale^{F19} . . .

(9) Where an offence under this section or against regulations under section 8 is committed by a body corporate and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, [F20 member,] manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

[F21(9A) Where an offence under this section or against regulations under section 8 is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a partner or a person who was purporting to act in such capacity, that person, as well as the partnership, is guilty of the offence and liable to be proceeded against and punished accordingly.

(9B) Where an offence under this section or against regulations under section 8 is committed by an unincorporated association other than a Scottish partnership and is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a person who is concerned in the management or control of the association or a person who was purporting to act in any such capacity, that person, as well as the unincorporated association, is guilty of the offence and liable to be proceeded against and punished accordingly.]

(10) If a person carries out an anatomical examination or has possession of an anatomical specimen or of a body falling within section 5(1) or part of such a body, and the circumstances are such that he commits no offence under subsection (1) or (2) above or against regulations under section 8, he shall be guilty of no other offence of carrying out such examination or having such possession.

Textual Amendments

- F14** Word in s. 11(1) repealed (S.) (1.9.2006) by [Human Tissue \(Scotland\) Act 2006 \(asp 4\)](#), **ss. 53(16)(a)(i)**, 62(2); [S.S.I. 2006/251](#), art. 3
- F15** S. 11(1)(d) and word inserted (S.) (1.9.2006) by [Human Tissue \(Scotland\) Act 2006 \(asp 4\)](#), **ss. 53(16)(a)(ii)**, 62(2); [S.S.I. 2006/251](#), art. 3
- F16** Words in s. 11(5)(a) substituted (S.) (1.9.2006) by [Human Tissue \(Scotland\) Act 2006 \(asp 4\)](#), **ss. 53(16)(b)**, 62(2); [S.S.I. 2006/251](#), art. 3
- F17** Words in s. 11(5)(b) substituted (S.) (1.9.2006) by [Human Tissue \(Scotland\) Act 2006 \(asp 4\)](#), **ss. 53(16)(b)**, 62(2); [S.S.I. 2006/251](#), art. 3
- F18** Words in s. 11(5)(c) substituted (S.) (1.9.2006) by [Human Tissue \(Scotland\) Act 2006 \(asp 4\)](#), **ss. 53(16)(b)**, 62(2); [S.S.I. 2006/251](#), art. 3
- F19** Words in s. 11(6)(7)(8) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.XIV** Group 2.
- F20** Word in s. 11(9) inserted (S.) (1.9.2006) by [Human Tissue \(Scotland\) Act 2006 \(asp 4\)](#), **ss. 53(16)(c)**, 62(2); [S.S.I. 2006/251](#), art. 3
- F21** S. 11(9A)(9B) inserted (S.) (1.9.2006) by [Human Tissue \(Scotland\) Act 2006 \(asp 4\)](#), **ss. 53(16)(d)**, 62(2); [S.S.I. 2006/251](#), art. 3

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[^{F22}11A Interpretation

In this Act—

“adult” means a person who is 16 years of age or over,

“imported body” means the body of a deceased person who died outwith Scotland (and whose normal or usual place of residence immediately before his death was outwith Scotland) which is imported into Scotland from a place outside Scotland; and any reference to “imported” shall be construed accordingly.]

Textual Amendments

F22 S. 11A inserted (S.) (1.9.2006) by [Human Tissue \(Scotland\) Act 2006 \(asp 4\)](#), ss. **53(17)**, 62(2); S.S.I. 2006/251, art. 3

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 11(7A) inserted by [2003 c. 44 Sch. 27 para. 5\(3\)](#)