

**Changes to legislation:** Human Tissue Act 2004, SCHEDULE 5 is up to date with all changes known to be in force on or before 01 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULES

### SCHEDULE 5 **E+W+N.I.**

Section 48

#### POWERS OF INSPECTION, ENTRY, SEARCH AND SEIZURE

##### *Inspection of statutory records*

- 1 (1) A duly authorised person may require a person to produce for inspection any records which he is required to keep by, or by virtue of, this Act.
- (2) Where records which a person is so required to keep are stored in any electronic form, the power under sub-paragraph (1) includes power to require the records to be made available for inspection—
  - (a) in a visible and legible form, or
  - (b) in a form from which they can readily be produced in a visible and legible form.
- (3) A duly authorised person may inspect and take copies of any records produced for inspection in pursuance of a requirement under this paragraph.

##### **Commencement Information**

- I1** Sch. 5 para. 1 in force at 20.10.2005 for specified purposes by S.I. 2005/2792, art. 2(2)(j)
- I2** Sch. 5 para. 1 in force at 1.3.2006 for specified purposes by S.I. 2006/404, art. 2(3)(4), Sch. (with arts. 4-6)
- I3** Sch. 5 para. 1 in force at 7.4.2006 for specified purposes by S.I. 2006/404, art. 3(3), Sch. (with arts. 4-6)
- I4** Sch. 5 para. 1 in force at 1.9.2006 in so far as not already in force by S.I. 2006/1997, art. 3(2) (with arts. 4, 7, 8)

##### *Entry and inspection of licensed premises*

- 2 (1) A duly authorised person may at any reasonable time enter and inspect any premises in respect of which a licence is in force.
- (2) The power in sub-paragraph (1) is exercisable for purposes of the Authority's functions in relation to licences.

##### **Commencement Information**

- I5** Sch. 5 para. 2 in force at 20.10.2005 for specified purposes by S.I. 2005/2792, art. 2(2)(j)
- I6** Sch. 5 para. 2 in force at 1.3.2006 for specified purposes by S.I. 2006/404, art. 2(3)(4), Sch. (with arts. 4-6)
- I7** Sch. 5 para. 2 in force at 7.4.2006 for specified purposes by S.I. 2006/404, art. 3(3), Sch. (with arts. 4-6)
- I8** Sch. 5 para. 2 in force at 1.9.2006 in so far as not already in force by S.I. 2006/1997, art. 3(2) (with arts. 4, 7, 8)

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*Entry and search in connection with suspected offence*

- 3 (1) If a justice of the peace is satisfied on sworn information or, in Northern Ireland, on a complaint on oath that there are reasonable grounds for believing—
- (a) that an offence under Part 1 or 2 <sup>[F1]</sup> or under the Human Transplantation (Wales) Act 2013] is being, or has been, committed on any premises, and
  - (b) that any of the conditions in sub-paragraph (2) is met in relation to the premises,
- he may by signed warrant authorise a duly authorised person to enter the premises, if need be by force, and search them.
- (2) The conditions referred to are—
- (a) that entry to the premises has been, or is likely to be, refused and notice of the intention to apply for a warrant under this paragraph has been given to the occupier;
  - (b) that the premises are unoccupied;
  - (c) that the occupier is temporarily absent;
  - (d) that an application for admission to the premises or the giving of notice of the intention to apply for a warrant under this paragraph would defeat the object of entry.
- (3) A warrant under this paragraph shall continue in force until the end of the period of 31 days beginning with the day on which it is issued.

**Textual Amendments**

**F1** Words in Sch. 5 para. 3(1)(a) inserted (E.W.) (1.12.2015) by Human Transplantation (Wales) Act 2013 (anaw 5), ss. 16(12)(a), 21(1) (with s. 14); S.I. 2015/1679, art. 3(e)

**Commencement Information**

**I9** Sch. 5 para. 3 in force at 20.10.2005 for specified purposes by S.I. 2005/2792, art. 2(2)(j)

**I10** Sch. 5 para. 3 in force at 1.3.2006 for specified purposes by S.I. 2006/404, art. 2(3)(4), Sch. (with arts. 4-6)

**I11** Sch. 5 para. 3 in force at 7.4.2006 for specified purposes by S.I. 2006/404, art. 3(3), Sch. (with arts. 4-6)

**I12** Sch. 5 para. 3 in force at 1.9.2006 in so far as not already in force by S.I. 2006/1997, art. 3(2) (with arts. 4, 7, 8)

*Execution of warrants*

- 4 (1) Entry and search under a warrant under paragraph 3 is unlawful if any of sub-paragraphs (2) to (4) and (6) is not complied with.
- (2) Entry and search shall be at a reasonable time unless the person executing the warrant thinks that the purpose of the search may be frustrated on an entry at a reasonable time.
- (3) If the occupier of the premises to which the warrant relates is present when the person executing the warrant seeks to enter them, the person executing the warrant shall—
- (a) produce the warrant to the occupier, and
  - (b) give him—
    - (i) a copy of the warrant, and
    - (ii) an appropriate statement.

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- (4) If the occupier of the premises to which the warrant relates is not present when the person executing the warrant seeks to enter them, but some other person is present who appears to the person executing the warrant to be in charge of the premises, the person executing the warrant shall—
  - (a) produce the warrant to that other person,
  - (b) give him—
    - (i) a copy of the warrant, and
    - (ii) an appropriate statement, and
  - (c) leave a copy of the warrant in a prominent place on the premises.
- (5) In sub-paragraphs (3)(b)(ii) and (4)(b)(ii), the references to an appropriate statement are to a statement in writing containing such information relating to the powers of the person executing the warrant and the rights and obligations of the person to whom the statement is given as may be prescribed by regulations made by the Secretary of State.
- (6) If the premises to which the warrant relates are unoccupied, the person executing the warrant shall leave a copy of it in a prominent place on the premises.
- (7) Where the premises in relation to which a warrant under paragraph 3 is executed are unoccupied or the occupier is temporarily absent, the person executing the warrant shall, when leaving the premises, leave them as effectively secured as he found them.

#### Commencement Information

- I13** Sch. 5 para. 4 in force at 20.10.2005 for specified purposes by S.I. 2005/2792, art. 2(2)(j)
- I14** Sch. 5 para. 4 in force at 1.3.2006 for specified purposes by S.I. 2006/404, art. 2(3)(4), Sch. (with arts. 4-6)
- I15** Sch. 5 para. 4 in force at 7.4.2006 for specified purposes by S.I. 2006/404, art. 3(3), Sch. (with arts. 4-6)
- I16** Sch. 5 para. 4 in force at 1.9.2006 in so far as not already in force by S.I. 2006/1997, art. 3(2) (with arts. 4, 7, 8)

#### *Seizure in the course of inspection or search*

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- (1) A duly authorised person entering and inspecting premises under paragraph 2 may seize anything on the premises which he has reasonable grounds to believe may be required for purposes of the Authority's functions relating to the grant, revocation, variation or suspension of licences.
  - (2) A duly authorised person entering and searching premises under a warrant under paragraph 3 may seize anything on the premises which he has reasonable grounds to believe may be required for the purpose of being used in evidence in any proceedings for an offence under Part 1 or 2 <sup>[F2]</sup> or under the Human Transplantation (Wales) Act 2013].
  - (3) Where a person has power under sub-paragraph (1) or (2) to seize anything, he may take such steps as appear to be necessary for preserving the thing or preventing interference with it.
  - (4) The power under sub-paragraph (1) or (2) includes power to retain anything seized in exercise of the power for so long as it may be required for the purpose for which it was seized.

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- (5) Where by virtue of sub-paragraph (1) or (2) a person seizes anything, he shall leave on the premises from which the thing was seized a statement giving particulars of what he has seized and stating that he has seized it.

#### Textual Amendments

- F2** Words in [Sch. 5 para. 5\(2\)](#) inserted (E.W.) (1.12.2015) by [Human Transplantation \(Wales\) Act 2013 \(anaw 5\)](#), **ss. 16(12)(b)**, 21(1) (with s. 14); S.I. 2015/1679, art. 3(e)

#### Commencement Information

- I17** [Sch. 5 para. 5](#) in force at 20.10.2005 for specified purposes by S.I. 2005/2792, **art. 2(2)(j)**  
**I18** [Sch. 5 para. 5](#) in force at 1.3.2006 for specified purposes by S.I. 2006/404, **art. 2(3)(4)**, **Sch.** (with arts. 4-6)  
**I19** [Sch. 5 para. 5](#) in force at 7.4.2006 for specified purposes by S.I. 2006/404, **art. 3(3)**, **Sch.** (with arts. 4-6)  
**I20** [Sch. 5 para. 5](#) in force at 1.9.2006 in so far as not already in force by S.I. 2006/1997, **art. 3(2)** (with arts. 4, 7, 8)

#### *Powers: supplementary*

- 6 (1) Power under this Schedule to enter and inspect or search any premises includes power to take such other persons and equipment as the person exercising the power reasonably considers necessary.
- (2) Power under this Schedule to inspect or search any premises includes, in particular—
- power to inspect any equipment found on the premises,
  - power to inspect and take copies of any records found on the premises, and
  - in the case of premises in respect of which a licence is in force, power to observe the carrying-on on the premises of the licensed activity.
- (3) Any power under this Schedule to enter, inspect or search premises includes power to require any person to afford such facilities and assistance with respect to matters under that person's control as are necessary to enable the power of entry, inspection or search to be exercised.

#### Commencement Information

- I21** [Sch. 5 para. 6](#) in force at 20.10.2005 for specified purposes by S.I. 2005/2792, **art. 2(2)(j)**  
**I22** [Sch. 5 para. 6](#) in force at 1.3.2006 for specified purposes by S.I. 2006/404, **art. 2(3)(4)**, **Sch.** (with arts. 4-6)  
**I23** [Sch. 5 para. 6](#) in force at 7.4.2006 for specified purposes by S.I. 2006/404, **art. 3(3)**, **Sch.** (with arts. 4-6)  
**I24** [Sch. 5 para. 6](#) in force at 1.9.2006 in so far as not already in force by S.I. 2006/1997, **art. 3(2)** (with arts. 4, 7, 8)

- 7 (1) A person's right to exercise a power under this Schedule is subject to his producing evidence of his entitlement to exercise it, if required.
- (2) As soon as reasonably practicable after having exercised a power under this Schedule to inspect or search premises, the duly authorised person shall—
- prepare a written report of the inspection or search, and
  - if requested to do so by the appropriate person, give him a copy of the report.

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- (3) In sub-paragraph (2), the “appropriate person” means—
- (a) in relation to premises in respect of which a licence is in force, the designated individual (as defined in section 41);
  - (b) in relation to any other premises, the occupier.

#### Commencement Information

- I25** Sch. 5 para. 7 in force at 20.10.2005 for specified purposes by S.I. 2005/2792, **art. 2(2)(j)**
- I26** Sch. 5 para. 7 in force at 1.3.2006 for specified purposes by S.I. 2006/404, art. 2(3)(4), **Sch.** (with arts. 4-6)
- I27** Sch. 5 para. 7 in force at 7.4.2006 for specified purposes by S.I. 2006/404, art. 3(3), **Sch.** (with arts. 4-6)
- I28** Sch. 5 para. 7 in force at 1.9.2006 in so far as not already in force by S.I. 2006/1997, **art. 3(2)** (with arts. 4, 7, 8)

#### Enforcement

- 8 (1) A person commits an offence if—
- (a) he fails without reasonable excuse to comply with a requirement under paragraph 1(1) or 6(3), or
  - (b) he intentionally obstructs the exercise of any right under this Schedule.
- (2) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Commencement Information

- I29** Sch. 5 para. 8 in force at 20.10.2005 for specified purposes by S.I. 2005/2792, **art. 2(2)(j)**
- I30** Sch. 5 para. 8 in force at 1.3.2006 for specified purposes by S.I. 2006/404, art. 2(3)(4), **Sch.** (with arts. 4-6)
- I31** Sch. 5 para. 8 in force at 7.4.2006 for specified purposes by S.I. 2006/404, art. 3(3), **Sch.** (with arts. 4-6)
- I32** Sch. 5 para. 8 in force at 1.9.2006 in so far as not already in force by S.I. 2006/1997, **art. 3(2)** (with arts. 4, 7, 8)

#### Interpretation

- 9 In this Schedule, “duly authorised person”, in the context of any provision, means a person authorised by the Authority to act for the purposes of that provision.

#### Commencement Information

- I33** Sch. 5 para. 9 in force at 20.10.2005 for specified purposes by S.I. 2005/2792, **art. 2(2)(j)**
- I34** Sch. 5 para. 9 in force at 1.3.2006 for specified purposes by S.I. 2006/404, art. 2(3)(4), **Sch.** (with arts. 4-6)
- I35** Sch. 5 para. 9 in force at 7.4.2006 for specified purposes by S.I. 2006/404, art. 3(3), **Sch.** (with arts. 4-6)
- I36** Sch. 5 para. 9 in force at 1.9.2006 in so far as not already in force by S.I. 2006/1997, **art. 3(2)** (with arts. 4, 7, 8)

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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. 29(7) inserted by [2013 anaw 5 s. 15\(4\)\(e\)](#)
- s. 43(5A) inserted by [2009 c. 25 Sch. 21 para. 50](#)