



# Burial and Cremation (Scotland) Act 2016

## 2016 asp 20

### BURIAL AND CREMATION (SCOTLAND) ACT 2016

#### PART 1

#### BURIAL

##### *Burial grounds*

- 1 Meaning of “burial ground”
- 2 Meaning of “burial authority”
- 3 Provision of burial ground: local authority
- 4 Provision of burial ground outwith local authority area
- 5 Joint provision of burial ground
- 6 Management of burial ground
- 7 Right to erect building

##### *Burial in burial ground*

- 8 Application to carry out burial
- 9 Unauthorised burial: offences
- 10 Burial register
- 11 Burial register: offence
- 12 Right of burial
- 13 Duty to sell right of burial
- 14 Duration and extension of right of burial
- 15 Commonwealth War Graves Commission: right of burial
- 16 Right of burial: notification of pending extinguishment
- 17 Register of rights of burial
- 18 Registers under section 17: offence
- 19 Right to erect headstone
- 20 Fees for burials
- 21 Burial authority: code of practice

##### *Private burial*

- 22 Private burial

*Changes to legislation: Burial and Cremation (Scotland) Act 2016 is up to date with all changes known to be in force on or before 20 January 2019. 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)*

---

- 23 Private burial register
- 24 Private burial: offences
- 25 Private burial register: offence

#### *Offence*

- 26 Burial other than in burial ground: offence

#### *Exhumation*

- 27 Exhumation of human remains
- 28 Exhumation application: offences
- 29 Appeal to sheriff
- 30 Exhumation register
- 31 Exhumation register: offence

#### *Lair: restoration to use*

- 32 Restoration to use of lair: consultation
- 33 Notification: right-holder
- 34 Notification where right-holder cannot be found
- 35 Section 34: effect of objection
- 36 Extinguishment of right
- 37 Restoration to use
- 38 Restoration to use without extinguishment of right
- 39 Right-holder's right to object
- 40 Restoration to use on request of right-holder
- 41 Headstones
- 42 Register of restored lairs
- 43 Register of restored lairs: offence
- 44 Guidance

## **PART 2**

### CREMATION

#### *Cremation*

- 45 Meaning of “cremation” and “ashes”
- 46 Provision of crematorium: local authority
- 47 Cremation authority: duties
- 48 Application for cremation
- 49 Section 48: offences
- 50 Requirements for carrying out cremation

#### *Handling of ashes*

- 51 Duty of cremation authority before carrying out cremation
- 52 Duty of cremation authority following cremation
- 53 Failure to collect ashes
- 54 Power of funeral director in relation to ashes
- 55 Duties of cremation authority where ashes returned
- 56 Handling of ashes: regulations

#### *Register*

- 57 Cremation register

**Changes to legislation:** Burial and Cremation (Scotland) Act 2016 is up to date with all changes known to be in force on or before 20 January 2019. 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)

---

58 Cremation register: offence

*Crematorium: further requirements*

59 New crematorium: notice

60 Section 59: offences

61 Closure of crematorium

62 Section 61: offence

*Fees*

63 Fees for cremation and other services

*Code of practice*

64 Cremation authority: code of practice

**PART 3**

ARRANGEMENTS

*Adults and children*

65 Arrangements on death of adult

66 Arrangements on death of child

67 Arrangements under sections 65 and 66

68 Sections 65 and 66: application to sheriff

*Pregnancy loss after 24 weeks*

69 Arrangements on termination of pregnancy after 24 weeks

70 Section 69: health body authorised to make arrangements

71 Section 69: no arrangements

72 Duty of health body where still-birth likely to occur

73 Section 72: health body authorised to make arrangements

74 Arrangements on still-birth

75 Section 74: power of appropriate health body

76 Section 74: general power of appropriate health body

*Pregnancy loss on or before 24 weeks*

77 Duty of health body where pregnancy loss likely to occur

78 Section 77: health body authorised to make arrangements

79 Arrangements on pregnancy loss on or before 24 weeks

80 Change in arrangements

81 Individual authorised to make arrangements

82 Duty to transfer remains

83 Appropriate health authority authorised to make arrangements

84 Duty of appropriate health authority

*Pregnancy losses: general*

85 Duty to keep register

86 Register under section 85: offence

*Local authority functions*

87 Burial or cremation: duty of local authority

*Changes to legislation: Burial and Cremation (Scotland) Act 2016 is up to date with all changes known to be in force on or before 20 January 2019. 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)*

---

88 Expenses of attending funeral

#### **PART 4**

##### INSPECTION

89 Appointment of inspectors  
 90 Inspections: regulations  
 91 Powers of entry and inspection  
 92 Section 91: offences  
 93 Reports

#### **PART 5**

##### FUNERAL DIRECTORS

94 Funeral directors' businesses: licensing  
 95 Licensing scheme: regulations  
 96 Licence for funeral director's business: offences  
 97 Funeral director: code of practice

#### **PART 6**

##### MISCELLANEOUS

##### *Guidance on funeral costs*

98 Guidance on funeral costs

##### *Powers to modify enactments*

99 Power to extend application of Act  
 100 Power to suspend or modify certain enactments

##### *Acquisition of land*

101 Acquisition of land

#### **PART 7**

##### GENERAL

102 Information and registers to be kept in electronic form  
 103 Offences by bodies corporate etc.  
 104 Regulations: consultation requirements  
 105 Regulations under section 95(1): requirements  
 106 Regulations: parliamentary procedure  
 107 Interpretation  
 108 Ancillary provision  
 109 Minor and consequential amendments  
 110 Repeals  
 111 Crown application  
 112 Commencement  
 113 Short title

**Changes to legislation:** *Burial and Cremation (Scotland) Act 2016 is up to date with all changes known to be in force on or before 20 January 2019. 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)*

---

*Social Work (Scotland) Act 1968*

- 1 In section 29 (power of local authority to defray expenses...

*Public Health etc. (Scotland) Act 2008*

- 2 In the Public Health etc. (Scotland) Act 2008, in section...

SCHEDULE 2 — REPEALS

**Changes to legislation:**

Burial and Cremation (Scotland) Act 2016 is up to date with all changes known to be in force on or before 20 January 2019. 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.

**Changes and effects yet to be applied to :**

- s. 45 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 46 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 47 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 48 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 49 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 50 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 51 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 52 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 53 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 54 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 55 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 56 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 57 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 58 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 59 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 60 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 63 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 65 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 66 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 67 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 68 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 69 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 70 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 71 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 72 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 73 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 74 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 75 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 76 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 77 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 78 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 79 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 80 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 81 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 82 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 83 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 84 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 85 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 87 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 88 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 89(1)(b) coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 93 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 99 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 103 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 104(1) coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 104(2)-(6) coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 109 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 110 coming into force by S.S.I. 2018/380 reg. 2 sch.
- s. 111 coming into force by S.S.I. 2018/380 reg. 2 sch.
- sch. 1 para. 1 coming into force by S.S.I. 2018/380 reg. 2 sch.
- sch. 1 para. 2 coming into force by S.S.I. 2018/380 reg. 2 sch.

– sch. 2 coming into force by [S.S.I. 2018/380 reg. 2 sch.](#)