

## **EXPLANATORY NOTES**

### **BURIAL AND CREMATION (SCOTLAND) ACT 2016**

#### **INTRODUCTION**

#### **THE ACT**

##### **Summary and background**

#### **COMMENTARY ON SECTIONS**

##### **PART 1 – BURIAL**

###### **Burial grounds**

Section 1 – Meaning of “burial ground”

Section 2 – Meaning of “burial authority”

Section 3 – Provision of burial ground: local authority

Section 4 – Provision of burial ground outwith local authority area

Section 5 – Joint provision of burial ground

Section 6 – Management of burial ground

Section 7 – Right to erect building

###### **Burial in burial ground**

Section 8 – Application to carry out burial

Section 9 – Unauthorised burials: offences

Section 10 – Burial register

Section 11 – Burial register: offence

Section 12 – Right of burial

Section 13 – Duty to sell right of burial

Section 14 – Duration and extension of right of burial

Section 15 – Commonwealth War Graves Commission: right of burial

Section 16 – Right of burial: notification of pending extinguishment

Section 17 – Register of rights of burial

Section 18 – Registers under section 17: offence

Section 19 – Right to erect headstone

Section 20 – Fees for burials

Section 21 –Burial authority: code of practice

### **Private burial**

Section 22 – Private burial

Section 23 –Private burial register

Section 24 – Private burial: offences

Section 25 – Private burial register: offence

### **Offences**

Section 26 – Burial other than in burial ground: offence

### **Exhumation**

Section 27 – Exhumation of human remains

Section 28 – Exhumation applications: offences

Section 29 – Appeal to sheriff

Section 30 – Exhumation register

Section 31 – Exhumation register: offence

### **Lair: restoration to use**

Section 32 – Restoration to use of lair: consultation

Section 33 – Notification: right-holder

Section 34 – Notification where right-holder cannot be found

Section 35 – Section 34: effect of objection

Section 36 – Extinguishment of right

Section 37 – Restoration to use

Section 38 – Restoration to use without extinguishment of right

Section 39 – Right-holder's right to object

Section 40 – Restoration to use on request of right-holder

Section 41 – Headstones

Section 42 – Register of restored lairs

Section 43 – Register of restored lairs: offence

Section 44 – Guidance

## **PART 2 – CREMATION**

### **Cremation**

Section 45 – Meaning of “cremation” and “ashes”

Section 46 – Provision of crematorium: local authority

Section 47 – Cremation authority: duties

Section 48 – Application for cremation

Section 49 – Section 48: offences

Section 50 – Requirements for carrying out cremation

### **Handling of ashes**

Section 51 – Duty of cremation authority before carrying out cremation

Section 52 – Duty of cremation authority following cremation

Section 53 – Failure to collect ashes

Section 54 – Power of funeral director in relation to ashes

Section 55 – Duties of cremation authority where ashes returned

Section 56 – Handling of ashes: regulations

### **Register**

Section 57 – Cremation register

Section 58 – Cremation register: offence

### **Crematorium: further requirements**

Section 59 – New crematorium: notice

Section 60 – Section 59: offences

Section 61 – Closure of crematorium

Section 62 – Section 61: offence

### **Fees**

Section 63 – Fees for cremation and other services

### **Code of practice**

Section 64 – Cremation authority: code of practice

## **PART 3 – ARRANGEMENTS**

### **Adults and children**

Section 65 – Arrangements on death of adult

Section 66 – Arrangements on death of child

Section 67 – Arrangements under sections 65 and 66

Section 68 – Sections 65 and 66: application to sheriff

### **Pregnancy loss after 24 weeks**

Section 69 – Arrangements on termination of pregnancy after 24 weeks

Section 70 – Section 69: health body authorised to make arrangements

Section 71 – Section 69: no arrangements

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

Section 73 – Section 72: health body authorised to make arrangements

Section 74 – Arrangements on still-birth

Section 75 – Section 74: power of appropriate health body

Section 76 – Section 74: general power of appropriate health body

### **Pregnancy loss on or before 24 weeks**

Section 77 – Duty of health body where pregnancy loss likely to occur

Section 78 – Section 77: health body authorised to make arrangements

Section 79 – Arrangements on pregnancy loss on or before 24 weeks

Section 80 – Change in arrangements

Section 81 – Individual authorised to make arrangements

Section 82 – Duty to transfer remains

Section 83 – Appropriate health authority authorised to make arrangements

Section 84 – Duty of appropriate health authority

### **Pregnancy losses: general**

Section 85 – Duty to keep a register

Section 86 – Register under section 85: offence

**Local authority functions**

Section 87 – Burial or cremation: duty of local authority

Section 88 – Expenses of attending funeral

**PART 4 – INSPECTION**

Section 89 – Appointment of inspectors

Section 90 – Inspections: regulations

Section 91 – Powers of entry and inspection

Section 92 – Section 91: offences

Section 93 – Reports

**PART 5 – FUNERAL DIRECTORS**

Section 94 – Funeral directors’ businesses: licensing

Section 95 – Licensing scheme: regulations

Section 96 – Licence for funeral director’s business: offences

Section 97 – Funeral director: code of practice

**PART 6 – MISCELLANEOUS**

**Guidance on funeral costs**

Section 98 – Guidance on funeral costs

**Powers to modify enactments**

Section 99 – Power to extend application of Act

Section 100 – Power to suspend or modify certain enactments

**Acquisition of land**

Section 101 – Acquisition of land

**PART 7 – GENERAL**

Section 102 – Information and registers to be kept in electronic form

Section 103 – Offences by bodies corporate etc.

Section 104 – Regulations: consultation requirements

Section 105 – Regulations under section 95(1): requirements

Section 106 – Regulations: parliamentary procedure

Section 107 – Interpretation

*These notes relate to the Burial and Cremation (Scotland) Act 2016 (asp 20)*

Section 108 – Ancillary provision

Section 109 – Minor and consequential amendments

Section 110 – Repeals

Section 111 – Crown application

Section 112 – Commencement

Section 113 – Short title

## **SCHEDULES**

Schedule 1 – Minor and consequential amendments

Schedule 2 – Repeals

## **PARLIAMENTARY HISTORY**