

BURIAL AND CREMATION (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Cremation

Handling of ashes

Section 55 – Duties of cremation authority where ashes returned

145. **Section 55** places duties on a cremation authority where a funeral director has returned ashes to the cremation authority by virtue of section 54(5). Subsection (2) requires the cremation authority to take reasonable steps to ascertain whether the applicant wishes the cremation authority to retain the ashes for a period specified in regulations made by the Scottish Ministers for collection or for the cremation authority to dispose of them in a manner specified in regulations made by the Scottish Ministers.
146. Subsection (3) requires the cremation authority to retain the ashes for a period specified in regulations made by the Scottish Ministers until they are collected by the applicant, if that is what the applicant indicates under subsection (2).
147. Subsection (4) requires the cremation authority to dispose of the ashes in a manner specified in regulations made by the Scottish Ministers if the cremation authority has ascertained that the applicant wishes the ashes to be dealt with in that way.
148. Subsection (5) provides that where the cremation authority has taken reasonable steps to ascertain the views of the applicant regarding the way in which the applicant wishes the ashes to be dealt with but does not know the applicant's wishes, the cremation authority may retain the ashes or dispose of the ashes in a manner specified by the Scottish Ministers in regulations where the applicant does not give further indication of his or her wishes as per subsection (2). The cremation authority has discretion to dispose of them in a manner specified in regulations made by the Scottish Ministers.