



# Burial and Cremation (Scotland) Act 2016

## 2016 asp 20

### PART 3

#### ARRANGEMENTS

##### *Local authority functions*

#### **87 Burial or cremation: duty of local authority**

- (1) This section applies where—
  - (a) a person dies or is found dead within the area of a local authority, and
  - (b) it appears to the authority that no arrangements have been or are being made under section 65(2) or 66(2) or otherwise for the remains to be buried or cremated.
- (2) The local authority must make arrangements for the remains to be buried or cremated (but subject to subsections (3) and (4)).
- (3) If the person is a child who, immediately before the death, was being looked after by another local authority, that other local authority must make arrangements for the remains to be buried or cremated.
- (4) If the person is not a child and, immediately before the death, the person was in the care of, or receiving assistance from, another local authority, that other local authority must make arrangements for the remains to be buried or cremated.
- (5) In making arrangements under subsection (2), (3) or (4), the local authority must, so far as known to the authority, have regard to—
  - (a) any wishes that the person expressed as to means of disposal of the person's remains, and
  - (b) whether the person was of a particular religion or belief.
- (6) The local authority may recover from the estate of the person expenses incurred under subsection (2), (3) or (4).
- (7) In this section—

“belief” has the meaning given by section 10(2) of the Equality Act 2010,

*Status: Point in time view as at 04/04/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Burial and Cremation (Scotland) Act 2016, Cross Heading: Local authority functions. (See end of Document for details)*

“child” has the meaning given by section 93(2)(a) of the Children (Scotland) Act 1995,

“religion” has the meaning given by section 10(1) of the Equality Act 2010.

(8) In this section, references to a child who is “looked after” by a local authority are to be construed in accordance with section 17(6) of the Children (Scotland) Act 1995.

#### Commencement Information

**II** S. 87 in force at 4.4.2019 by S.S.I. 2018/380, reg. 2, sch. (with reg. 8)

## 88 Expenses of attending funeral

(1) This section applies where—

- (a) a child dies and, immediately before the death, the child was being looked after by a local authority, or
- (b) a person other than a child dies and, immediately before the death, the person was in the care of, or receiving assistance from, a local authority.

(2) If it appears to the local authority that the conditions in subsection (3) are met, the authority may make payments to a relevant person in respect of travelling, subsistence or other expenses incurred by the relevant person for the purpose of attending the funeral of the child or other person who has died.

(3) The conditions are—

- (a) that if the local authority did not make a payment to the relevant person under this section the relevant person would not be able to attend the funeral without undue hardship, and
- (b) that the circumstances warrant the making of the payment.

(4) In this section—

“child” has the meaning given by section 93(2)(a) of the Children (Scotland) Act 1995,

“relevant person”—

- (a) in the case where a child has died, means—
  - (i) a relative of the child, or
  - (ii) some other person connected with the child,
- (b) in the case where a person other than a child has died, means—
  - (i) a relative of the person, or
  - (ii) some other person connected with the person who has died.

(5) In this section, references to a child who is “looked after” by a local authority are to be construed in accordance with section 17(6) of the Children (Scotland) Act 1995.

#### Commencement Information

**I2** S. 88 in force at 4.4.2019 by S.S.I. 2018/380, reg. 2, sch. (with reg. 8)

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Burial and Cremation (Scotland) Act 2016, Cross Heading: Local authority functions.