



# Burial and Cremation (Scotland) Act 2016

## 2016 asp 20

### PART 5

#### FUNERAL DIRECTORS

#### **94 Funeral directors' businesses: licensing**

- (1) The Scottish Ministers may make a scheme for the licensing of funeral directors' businesses.
- (2) A person may not carry on business as a funeral director unless the person holds a licence issued under the scheme in relation to the business.
- (3) Where a person carries on more than one business as a funeral director, the person must hold a separate licence in respect of each such business.

#### **95 Licensing scheme: regulations**

- (1) The Scottish Ministers may by regulations make provision for or in connection with a scheme mentioned in section 94(1).
- (2) Regulations under subsection (1) may in particular—
  - (a) specify who is to administer the scheme (in this section, the “licensing authority”),
  - (b) make provision about applications for licences under the scheme,
  - (c) specify the form and content of applications,
  - (d) make provision about the procedure to be followed in relation to applications,
  - (e) make provision about documents to be submitted with applications,
  - (f) require persons making applications to provide the licensing authority with any further information in connection with the application that the authority considers necessary,
  - (g) enable the licensing authority—
    - (i) to grant an application,
    - (ii) to refuse an application, or
    - (iii) to grant an application subject to any conditions the authority considers appropriate,

- (h) specify the circumstances in which the licensing authority may or must—
  - (i) grant an application,
  - (ii) refuse an application, or
  - (iii) grant an application subject to such conditions as may be specified in the regulations,
- (i) make provision for timescales applicable in relation to applications,
- (j) make provision for the duration and expiry of licences under the scheme,
- (k) make provision about applications to renew licences, including provision to the same effect as that which may be made under paragraphs (c) to (i) in respect of applications for licences,
- (l) make provision in relation to—
  - (i) suspension and revocation of licences, and
  - (ii) the circumstances in which the licensing authority may suspend or revoke licences,
- (m) in relation to a person whose application for, or for renewal of, a licence has been refused, or whose licence has been suspended or revoked, make provision for the timescales applicable to any further such applications by the person,
- (n) make provision for appeals against—
  - (i) decisions of the licensing authority to grant an application for, or for renewal of, a licence,
  - (ii) decisions of the licensing authority to refuse such applications,
  - (iii) any conditions subject to which such applications are granted, or
  - (iv) decisions to suspend or revoke licences,
- (o) make provision for the period within which such appeals are to be made, or
- (p) make provision in relation to fees for applications for, and for renewal of, licences.

## **96 Licence for funeral director's business: offences**

- (1) A person commits an offence if the person knowingly carries on business as a funeral director at any time when the person does not hold a licence issued under a scheme made under section 94(1) in relation to the business.
- (2) For the purposes of subsection (1), a person does not hold a licence in relation to a business at any time when—
  - (a) no licence has been issued as mentioned in subsection (1) in relation to the business,
  - (b) a licence so issued in relation to the business has, in accordance with regulations under section 95—
    - (i) expired without being renewed,
    - (ii) been suspended, or
    - (iii) been revoked.
- (3) A person commits an offence if the person—
  - (a) provides information in, or in connection with, an application made by virtue of section 95 which the person knows to be false or misleading in a material way, or

- (b) recklessly provides information in, or in connection with, such an application which is false or misleading in a material way.
- (4) A person who commits an offence under subsection (1) or (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## **97 Funeral director: code of practice**

- (1) A funeral director must comply with any code of practice issued by the Scottish Ministers about the carrying out of a funeral director's functions (a "funeral director's code").
- (2) Before issuing any funeral director's code, the Scottish Ministers must consult—
  - (a) persons appearing to the Scottish Ministers to be representative of the interests of funeral directors in Scotland, and
  - (b) other persons appearing to the Scottish Ministers to have an interest.
- (3) After taking account of any representations received by them by virtue of subsection (2), the Scottish Ministers must lay a draft of the funeral director's code before the Scottish Parliament.
- (4) The Scottish Ministers may not issue a funeral director's code unless a draft of the code is approved by resolution of the Scottish Parliament.
- (5) The Scottish Ministers must publish a funeral director's code in such manner as they consider appropriate.
- (6) The Scottish Ministers must keep under review a funeral director's code.
- (7) In this section, references to a funeral director's code include references to a funeral director's code as revised from time to time by the Scottish Ministers.