



Burial and Cremation (Scotland) Act 2016

2016 asp 20

PART 1

BURIAL

Lair: restoration to use

PROSPECTIVE

32 Restoration to use of lair: consultation

- (1) This section applies where it appears to a burial authority in relation to a lair in a burial ground that—
 - (a) the lair is in a poor state of maintenance and repair or that there are no indications that any person is taking an interest in the lair,
 - (b) there has not been a burial in the lair during the relevant period, and
 - (c) it might be practicable for the authority to restore the lair to use by extinguishing the right-holder's right of burial in the lair and making the lair available for burials.
- (2) The burial authority may—
 - (a) carry out excavations of the lair,
 - (b) open or move any tomb or other structure that is in or on the lair.
- (3) The burial authority may not exhume any human remains that are buried in the lair.
- (4) The burial authority must consult each person mentioned in subsection (5) about its proposal to restore the lair to use.
- (5) The persons are—
 - (a) persons having appropriate knowledge and qualifications to advise on any archaeological aspects of the proposal,
 - (b) the Commonwealth War Graves Commission,
 - (c) any other person the burial authority thinks appropriate.

Status: This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the Burial and Cremation (Scotland) Act 2016, Section 32. (See end of Document for details)

- (6) If by virtue of subsection (4) a person objects to the authority's proposal to restore the lair to use—
- (a) the authority may not proceed with its proposal, and
 - (b) this section does not apply in relation to the lair for the period of 10 years beginning with the day on which the authority receives the objection.
- (7) In this section, “relevant period”, in relation to a lair, means—
- (a) where the lair contains any human remains, the period of 100 years beginning with the day on which the last burial took place,
 - (b) where the lair does not contain any human remains, the period of 50 years beginning with the day on which the right of burial in the lair was last sold.

Status:

This version of this provision is prospective.

Changes to legislation:

There are currently no known outstanding effects for the Burial and Cremation (Scotland) Act 2016, Section 32.