



Burial and Cremation (Scotland) Act 2016

2016 asp 20

PART 1

BURIAL

Lair: restoration to use

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.
- (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

Status: This is the original version (as it was originally enacted).

- (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.