



# 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,

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*Status: This is the original version (as it was originally enacted).*

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“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.