



# Burial and Cremation (Scotland) Act 2016

## 2016 asp 20

### PART 2

#### CREMATION

##### *Cremation*

#### **45 Meaning of “cremation” and “ashes”**

- (1) In this Act, “cremation” means the burning of human remains; and includes—
  - (a) where a grinding process is applied to the burnt human remains, that process, and
  - (b) where any other process is applied to the burnt human remains, that other process.
- (2) In this Act, “ashes” means the material (other than any metal) to which human remains are reduced by cremation.
- (3) In this section—
  - “coffin” includes any type of receptacle,
  - “human remains” includes, where remains are clothed, in a coffin or with any other thing, the clothing, coffin or other thing.

#### **Commencement Information**

**II** S. 45 in force at 4.4.2019 by S.S.I. 2018/380, reg. 2, sch. (with reg. 8)

#### **46 Provision of crematorium: local authority**

- (1) A local authority may—
  - (a) provide a crematorium,
  - (b) enter into arrangements with another person for the provision by that other person of a crematorium.

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

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- (2) In subsection (1), “crematorium” means a building fitted with equipment for the carrying out of cremations; and includes land (other than a burial ground) pertaining to such a building.

**Commencement Information**

**I2** S. 46 in force at 4.4.2019 by S.S.I. 2018/380, reg. 2, sch. (with reg. 8)

**47 Cremation authority: duties**

- (1) The Scottish Ministers may by regulations make provision about—
- (a) the management and operation of crematoriums,
  - (b) the maintenance of crematoriums,
  - (c) the operation of equipment for the carrying out of cremations,
  - (d) persons employed by cremation authorities (including in relation to training, qualifications and membership of professional bodies).
- (2) A cremation authority must comply with any requirement imposed on it by regulations under subsection (1).
- (3) A cremation authority which knowingly contravenes subsection (2) commits an offence.
- (4) A person who commits an offence under subsection (3) is liable on summary conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding level 3 on the standard scale or to both.
- (5) In this section, “cremation authority”, in relation to a crematorium, means the person having responsibility for the management of the crematorium.

**Commencement Information**

**I3** S. 47 in force at 4.4.2019 by S.S.I. 2018/380, reg. 2, sch. (with reg. 8)

**48 Application for cremation**

- (1) A person who wishes a cremation to be carried out in a crematorium must submit an application to the cremation authority for the crematorium.
- (2) The Scottish Ministers may by regulations make provision for or in connection with an application mentioned in subsection (1).
- (3) In making such an application, a person must comply with any requirements imposed by or under regulations under subsection (2).
- (4) Regulations under subsection (2) may in particular—
- (a) specify the form and content of applications,
  - (b) specify persons, or a description of persons, who may issue forms on which applications are to be made,
  - (c) prohibit such persons from altering the forms other than in such ways as may be specified in the regulations,

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- (d) specify persons, or a description of persons, who may submit applications,
- (e) make provision about documents to be submitted with applications, or
- (f) make provision for reviews of, or appeals against, decisions of a cremation authority—
  - (i) to grant an application,
  - (ii) to refuse to grant an application.

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**Commencement Information**

**I4** S. 48 in force at 4.4.2019 by S.S.I. 2018/380, reg. 2, sch. (with regs. 4, 8)

**49 Section 48: offences**

- (1) A person commits an offence if the person—
  - (a) provides information in, or in connection with, an application under section 48(1) 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.
- (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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**Commencement Information**

**I5** S. 49 in force at 4.4.2019 by S.S.I. 2018/380, reg. 2, sch. (with regs. 4, 8)

**50 Requirements for carrying out cremation**

- (1) A person may not carry out a cremation unless—
  - (a) the person is a cremation authority,
  - (b) the cremation authority has granted an application made under section 48 in respect of the cremation, and
  - (c) the cremation is carried out in a crematorium.
- (2) A person who knowingly contravenes subsection (1) commits an offence.
- (3) A person who commits an offence under subsection (2) is liable on summary conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding level 3 on the standard scale or to both.
- (4) In subsection (1)(c), “crematorium” means a building fitted with equipment for the carrying out of cremations.

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**Commencement Information**

**I6** S. 50 in force at 4.4.2019 by S.S.I. 2018/380, reg. 2, sch. (with regs. 4, 8)

**Changes to legislation:**

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