



# Cremation Act 1902

1902 CHAPTER 8 2 Edw 7

**E+W+S**

F1

An Act for the regulation of the burning of Human Remains, and to enable Burial Authorities to establish Crematoria. [22nd July 1902]

## Textual Amendments

F1 Act repealed (S.) (4.4.2019) by [Burial and Cremation \(Scotland\) Act 2016 \(asp 20\)](#), s. 112(2), [sch. 2](#) (with s. 111); [S.S.I. 2018/380](#), reg. 2, [sch.](#) (with reg. 8)

## Modifications etc. (not altering text)

C1 Act applied with modifications by [Belfast Corporation Act 1948 \(c. i\)](#), s. 26.

## 1 Short title. **E+W+S**

This Act may be cited as the Cremation Act 1902.

## 2 Definitions. **E+W+S**

In this Act—

.....<sup>F2</sup>

The expression “crematorium” shall mean any building fitted with appliances for the purpose of burning human remains, and shall include everything incidental or ancillary thereto.

## Textual Amendments

F2 Definition of “burial authority” repealed by [Statute Law \(Repeals\) Act 1978 \(c. 45\)](#), s. 1, [Sch. 1 Pt. XVII](#)

*Changes to legislation: There are currently no known outstanding effects for the Cremation Act 1902. (See end of Document for details)*

### 3 Application to Scotland. **E+W+S**

In the application of this Act to Scotland—

..... F3

The expression “the Local Government Board” shall mean the [F4Secretary of State]

..... F5

#### Textual Amendments

- F3** Definition of “burial authority” repealed by [Statute Law \(Repeals\) Act 1978 \(c. 45\), s. 1, Sch. 1 Pt. XVII](#)
- F4** Words substituted by virtue of [Scottish Board of Health Act 1919 \(c. 20\), s. 4\(1\)\(a\)\(5\), Sch. 1, Reorganisation of Offices \(Scotland\) Act 1928 \(c. 34\), s. 1](#) and [Reorganisation of Offices \(Scotland\) Act 1939 \(c. 20\), s. 1](#)
- F5** Definition of “Secretary of State” repealed by [Statute Law Revision Act 1927 \(c. 42\)](#)

### 4 Burial authority may provide for cremation. **E+W+S**

The powers of a burial authority to provide and maintain burial grounds or cemeteries, or anything essential, ancillary or incidental thereto, shall be deemed to extend to and include the provision and maintenance of crematoria:

..... F6

#### Textual Amendments

- F6** Proviso repealed except in relation to crematorium established before 26.9.1952 by [Crematorium Act 1952 \(c. 31\), s. 1\(2\)](#)

### 5 Site of crematorium. **E+W+S**

No crematorium shall be constructed nearer to any dwelling-house than two hundred yards, except with the consent, in writing of the owner, lessee and occupier of such house, nor within fifty yards of any public highway, nor in the consecrated part of the burial ground of any burial authority.

#### Modifications etc. (not altering text)

- C2** S. 5 amended as to Greater London by [London County Council \(General Powers\) Act 1935 \(c. xxxiii\), s. 64](#) and [Greater London Council \(General Powers\) Act 1971 \(c. xxviii\), s. 7](#)

### 6 Donations of land. **E+W+S**

A burial authority may accept a donation of land for the purpose of a crematorium, and a donation of money or other property for enabling them to acquire, construct or maintain a crematorium.

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## 7 Regulations as to burning. **E+W+S**

The Secretary of State shall make regulations as to the maintenance and inspection of crematoria, and prescribing in what cases and under what conditions the burning of any human remains may take place, and directing the disposition or interment of the ashes, [<sup>F7</sup>and prescribing the forms of the notices, certificates and [<sup>F8</sup>applications] to be given or made before any such burning is permitted to take place]<sup>F9</sup> ... and also regulations as to the registration of such burnings as have taken place. [<sup>F10</sup>[<sup>F11</sup>Each such application shall be verified in such manner as the Secretary of State may by such regulations prescribe]]<sup>F9</sup> ... All statutory provisions relating to the destruction and falsification of registers of burials, and the admissibility of extracts therefrom as evidence in courts and otherwise, shall apply to the register of burnings directed by such regulations to be kept <sup>F12</sup>...

### Textual Amendments

- F7** Words in s. 7 repealed (S.) (13.5.2015) by [Certification of Death \(Scotland\) Act 2011 \(asp 11\)](#), s. 32(3), [Sch. 2 para. 1\(2\)\(a\)](#); S.S.I. 2015/115, art. 3
- F8** Word in s. 7 substituted by [Cremation Act 1952 \(c. 31\)](#) s. 2(1)
- F9** Words in s. 7 repealed by [Cremation Act 1952 \(c. 31\)](#), s. 2(1)(2)
- F10** Words in s. 7 repealed (S.) (13.5.2015) by [Certification of Death \(Scotland\) Act 2011 \(asp 11\)](#), s. 32(3), [Sch. 2 para. 1\(2\)\(b\)](#); S.S.I. 2015/115, art. 3
- F11** Words in s. 7 inserted by [Cremation Act 1952 \(c. 31\)](#), s. 2(1)
- F12** Words in s. 7 repealed by [Finance Act 1949 \(c. 47\)](#), [Sch. 11 Pt. V](#)

### Modifications etc. (not altering text)

- C3** S. 7 extended (E.W.) by [Births and Deaths Registration Act 1926 \(c. 48\)](#), s. 10; amended by [Cremation Act 1952 \(c. 31\)](#), s. 2(2)
- C4** S. 7 restricted (1.10.2023) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 20(6), 182(5) (with s. 180); S.I. 2023/1036, art. 2(b)

## [<sup>F13</sup>7A Forms of documentation for burning **E+W+S**

The Scottish Ministers may make regulations prescribing the forms of notices, certificates and applications to be given or made before the burning of any human remains is permitted to take place.

### Textual Amendments

- F13** Ss. (7A)(7B) inserted (S.) (13.5.2015) by [Certification of Death \(Scotland\) Act 2011 \(asp 11\)](#), s. 32(3), [sch. 2 para. 1\(3\)](#); S.S.I. 2015/115, art. 3

## 7B Procedure for regulations **E+W+S**

A statutory instrument containing regulations under section 7 or 7A is subject to annulment in pursuance of a resolution of the Scottish Parliament.]

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### Textual Amendments

- F13** Ss. (7A)(7B) inserted (S.) (13.5.2015) by [Certification of Death \(Scotland\) Act 2011 \(asp 11\)](#), s. 32(3), [sch. 2 para. 1\(3\)](#); S.S.I. 2015/115, art. 3

## 8 Penalties for breach of regulations, &c. **E+W+S**

- (1) Every person who shall contravene any such regulation as aforesaid, or shall knowingly carry out or procure or take part in the burning of any human remains except in accordance with such regulations and the provisions of this Act, shall (in addition to any liability or penalty which he may otherwise incur [<sup>F14</sup>other than an offence under section 27A(1) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c. 49) (offence of disposal of body without authorisation)]) be liable, on summary conviction, to a penalty not exceeding [<sup>F15</sup>level 3 on the standard scale]. <sup>F16</sup> . . .
- (2) Every person who shall wilfully make any false . . . <sup>F17</sup> representation, or sign or utter any false certificate, with a view to procuring the burning of any human remains, shall (in addition to any penalty or liability which he may otherwise incur) be liable to imprisonment, . . . <sup>F18</sup>, not exceeding two years.
- [<sup>F19</sup>(3) Every person who, with intent to conceal the commission or impede the prosecution of any offence, procures or attempts to procure the cremation of any body, or, with such intent, makes any [<sup>F20</sup>application] or gives any certificate under this Act, shall be liable to conviction on indictment to [<sup>F21</sup>imprisonment] for a term not exceeding five years.]

### Textual Amendments

- F14** Words in s. 8(1) inserted (S.) (13.5.2015) by [Certification of Death \(Scotland\) Act 2011 \(asp 11\)](#), s. 32(3), [Sch. 2 para. 1\(4\)](#); S.S.I. 2015/115, art. 3
- F15** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#)
- F16** Words in s. 8(1) repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt. I Group 1](#)
- F17** Words repealed by [Perjury Act 1911 \(c. 6\) Sch.](#) and [False Oaths \(Scotland\) Act 1933 \(c. 20\)](#), [Sch.](#)
- F18** Words omitted by virtue of [Criminal Justice Act 1948 \(c. 58\)](#), [s. 1\(2\)](#) and [Criminal Justice \(Scotland\) Act 1949 \(c. 94\)](#), [s. 16\(2\)](#)
- F19** S. 8(3) repealed (E.W.) by [Criminal Law Act 1967 \(c. 58\)](#), [Sch. 3 Pt. III](#)
- F20** Word substituted by [Cremation Act 1952 \(c. 31\)](#), [s. 2\(3\)](#)
- F21** Word substituted by virtue of [Criminal Justice Act 1948 \(c. 58\)](#), [s. 1\(1\)](#) and [Criminal Justice \(Scotland\) Act 1949 \(c. 94\)](#) s. 16(2)

### Modifications etc. (not altering text)

- C5** S. 8(2) amended (E.W.) as to mode of trial by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), s. 17, [Sch. 1 para. 13](#)

## 9 Fees. **E+W+S**

The burial authority may demand payment of [<sup>F22</sup>[<sup>F23</sup>any such]] charges or fees, for the burning of human remains in any crematorium provided by them, [<sup>F22</sup>[<sup>F23</sup>as may be authorised by any table approved by the Local Government Board,]] and such charges or fees, and any other expenses properly incurred in or in connection with the

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cremation of a deceased person, shall be deemed to be part of the funeral expenses of the deceased.

#### Textual Amendments

- F22** Words repealed (E.W.) by [Local Government Act 1972 \(c. 70\)](#), Sch. 26 para. 24, **Sch. 30**
- F23** Words repealed (S.) by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), s. 41, **Sch. 4**

#### Modifications etc. (not altering text)

- C6** Burial authority required to keep a table of fees: [Local Government Act 1972 \(c. 70\)](#) Sch. 26 para. 24

### 10 Saving for coroners. **E+W+S**

Nothing in this Act shall interfere with the jurisdiction of any coroner under [<sup>F24</sup>Part 1 of the Coroners and Justice Act 2009], and nothing in this Act shall authorise the burial authority or any person to create or permit a nuisance.

#### Textual Amendments

- F24** Words in s. 10 substituted (25.7.2013) by [Coroners and Justice Act 2009 \(c. 25\)](#), s. 182(4)(e), **Sch. 21 para. 1** (with s. 180); [S.I. 2013/1869](#), art. 2(o)(i)

### [<sup>F25</sup>11 Incumbent not to be obliged to perform burial service. **E+W+S**

The incumbent of any ecclesiastical parish shall not, with respect to his parishioners or persons dying in his parish, be under any obligation to perform a funeral service before, at or after the cremation of their remains, within the ground of a burial authority, but, upon his refusal so to do, any clerk in Holy Order of the Established Church, not being prohibited under ecclesiastical censure, may, with the permission of the bishop and at the request of the executor of the deceased person or of the burial authority or other person having the charge of the cremation or interment of the cremated remains, perform such service within such ground.]

#### Textual Amendments

- F25** S. 11 repealed (Provinces of Canterbury and York except Channel Islands and Isle of Man) (11.7.1992) by [Church of England \(Miscellaneous Provisions\) Measure 1992 \(No. 1\)](#), ss. 2(5), 17(2), **Sch. 4 Pt.II**; Instrument dated 11.7.1992 made by [Archbishops of Canterbury and York](#).

### 12 Fees may be fixed. **E+W+S**

In any table of fees respecting burials [<sup>F26</sup>to be made or approved by the Secretary of State,] a fee may be fixed in respect of a burial service before, at or after cremation, and, if no fee is fixed, the fee, if any, fixed in respect of a burial service shall apply.

#### Textual Amendments

- F26** Words repealed (E.W.) by [Local Government Act 1972 \(c. 70\)](#), Sch. 26 para. 24, **Sch. 30**

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**Modifications etc. (not altering text)**

C7 S. 12 excluded by 1986 Measure No. 2, s. 1(13) (as substituted (E.) (1.7.2011) by [Ecclesiastical Fees \(Amendment\) Measure 2011 \(No. 2\)](#), **ss. 1(1)**, 6(2) (with s. 5(3)); S.I. 2011/1, art. 2)

**13 Application of 10 & 11 Vict. c. 65. ss. 52 and 57. E+W+S**

Sections fifty-two and fifty-seven of the Cemeteries Clauses Act 1847 and any similar provisions in any local and personal Act authorising the making of a cemetery, shall apply to the disposition or interment of the ashes of a cremated body, as if it were the burial of a body.

**14 Repeal of local Acts. E+W+S**

As from the date at which regulations under this Act come into force, any provisions of any local and personal Act for the like purpose as this Act, and any byelaws or regulations made thereunder, shall, so far as they relate to that purpose, cease to be in operation.

**15 .....<sup>F27</sup> E+W+S**

**Textual Amendments**

F27 S. 15 repealed by [Statute Law Revision Act 1927 \(c. 42\)](#)

**16 Extent of Act. E+W+S**

This Act shall not apply to Ireland.

**Changes to legislation:**

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