

BURIAL AND CREMATION (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Burial

Lair: restoration to use

Section 40 – Restoration to use on request of right-holder

111. This section allows a person who owns a right of burial in a lair to request that a burial authority restores the lair to use even if the authority was not otherwise planning to restore the lair. The effect of this is to allow a right-holder to request restoration of use of a lair that would otherwise be unable to be used because there is no space for further interments. The burial authority must follow the same processes that are set out in section 32(2) to (5), including giving particular people the right to object to the reuse, even though the potential restoration to use is at the request of the owner. This is to ensure that heritage and archaeological issues are considered.
112. If no objections are made, the lair can be restored to reuse in line with the process set out in section 38(3) to (5). The right-holder is responsible for any costs incurred.