

BURIAL AND CREMATION (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Cremation

Cremation

Section 45 – Meaning of “cremation” and “ashes”

124. **Section 45** defines “cremation” for the purposes of the Act. By virtue of subsection (1), “cremation” means the burning of human remains. By virtue of subsection (1)(a), where those burnt remains are then reduced by grinding (for example, through cremulation), that process is regarded as part of the cremation. By virtue of subsection (1)(b), where any other process is applied (whether or not any grinding process has been applied) to the burnt remains (for example, cooling) that process is also regarded as part of the cremation.
125. Subsection (2) provides that, for the purposes of the Act, “ashes” are defined as the material to which human remains are reduced by cremation, other than any metal that is left. Where the remains are clothed, in a coffin (meaning any type of receptacle) or with any other thing, subsection (3) means that all of these things (ie, clothing, the coffin and any other thing) are regarded as human remains for the purpose of defining “cremation” and “ashes”.
126. The effect of this is that where human remains are burnt and those remains are subsequently cremulated, the end result will be ashes. Where the human remains are burnt and are not subsequently cremulated, those remains will also be regarded as ashes. This might be the case where the bones are not cremulated because of cultural or religious reasons, or because the burnt remains are too delicate to be cremulated (for example, in the case of a pregnancy loss, stillborn child or very young baby). The effect of the definition of “cremation” is that everything that remains (apart from metal) is regarded as ashes, even where cremulation does not take place.