

These notes relate to the Burial and Cremation (Scotland) Act 2016 (asp 20) which received Royal Assent on 28 April 2016

BURIAL AND CREMATION (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 – Arrangements

Adults and children

Section 67 – Arrangements under sections 65 and 66

178. **Section 67** provides that the person who is making arrangements for the disposal of the remains by virtue of being the “nearest relative” under section 65(2) or 66(2) is free to choose the method of disposal (i.e. burial or cremation). Nevertheless the nearest relative should take account of any wishes expressed by the deceased. Subsection (3) requires that the person who makes the decision must have regard to any wishes about the disposal method that the deceased expressed, as far as the person is aware of any such wishes. They must also have regard to the deceased’s religion or belief (as far as known) when deciding whether to bury or cremate those remains. “Belief” and “religion” have the meanings given by the Equality Act 2010. The only limit on the nearest relative making the decision would be if there was a risk to public health posed by a particular method of disposal under the Public Health etc. (Scotland) Act 2008.