

BURIAL AND CREMATION (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 – Arrangements

Pregnancy loss after 24 weeks

Section 69 – Arrangements on termination of pregnancy after 24 weeks

181. This section applies where a pregnancy is to be terminated after its 24th week under the Abortion Act 1976. The effect of the section is to allow decisions about burial or cremation to be made before the termination takes place. If a health body considers that it is in the woman’s best interests, it must give the woman the opportunity to decide whether she wishes to make arrangements for the burial or cremation of the remains herself or whether she wishes to authorise the health body to make the arrangements.
182. Where the woman authorises the health body to make the arrangements, subsection (2) (b) allows her to specify the method of disposal or she may choose to allow the health body to specify the method.
183. Subsection (2)(c) allows the woman to authorise the health body to make arrangements as soon as practicable after the termination or to wait 7 days. This is to allow the woman to change her decision about what she wishes to happen to the remains. Subsection (3) requires the health body to inform the woman if it is unable to dispose of the remains in a particular way. The effect of this is to ensure that only those methods which the health body can arrange are agreed.
184. Subsection (4) requires the health body to keep a record of information that is prescribed by the Scottish Ministers by regulations in relation to section 69.
185. Subsection (5) provides a definition of an “appropriate health body”. Where a woman is in the care of a Health Board in relation to the termination, “appropriate health body” means that Health Board. In turn, “health board” is defined as a Health Board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978. If a woman is in the care of an independent health service in relation to the termination, “appropriate health body” means that independent health service. The meaning of “independent health service” is to be construed in accordance with section 10F of the National Health Service (Scotland) Act 1978.