



Burial and Cremation (Scotland) Act 2016

2016 asp 20

PART 1

BURIAL

Lair: restoration to use

38 Restoration to use without extinguishment of right

- (1) This section applies where—
 - (a) a burial authority has given notice under section 33(2) or, as the case may be, 34(2) in relation to a lair,
 - (b) the right-holder informs the authority that the right-holder—
 - (i) agrees with the authority's proposal that the lair be restored to use, but
 - (ii) wishes to retain the right-holder's right of burial in the lair.
- (2) The authority must establish whether it would be practicable for the authority to make the lair available for burials.
- (3) For the purposes of subsection (2), the authority may—
 - (a) carry out excavations of the lair,
 - (b) open or move any tomb or other structure that is in or on the lair,
 - (c) exhume any human remains that are buried in the lair.
- (4) If the authority exhumes any human remains under subsection (3), it must rebury them in the lair as soon as practicable after their exhumation.
- (5) The right-holder is liable for—
 - (a) any costs incurred by the burial authority by virtue of subsections (2) to (4), and
 - (b) any costs incurred by the burial authority in making the lair available for burials.