



# Burial and Cremation (Scotland) Act 2016

## 2016 asp 20

### PART 2

#### CREMATION

##### *Handling of ashes*

#### **53 Failure to collect ashes**

- (1) This section applies where—
- (a) a cremation authority has complied with the duties in subsection (2) of section 52, but the applicant has failed to collect the ashes from the cremation authority before the expiry of the period specified for the purposes of that subsection, or
  - (b) a cremation authority has complied with the duties in subsection (3) of section 52, but the funeral director has failed to collect the ashes from the cremation authority before the expiry of the period specified for the purposes of that subsection.
- (2) The cremation authority must take reasonable steps to ascertain whether the applicant wishes—
- (a) the ashes to be retained by the cremation authority during such further period as may be specified and made available for collection before the expiry of that period by the applicant,
  - (b) the ashes to be retained by the cremation authority during such further period as may be specified and made available for collection before the expiry of that period by a funeral director appointed by the applicant for that purpose, or
  - (c) the ashes to be disposed of by the cremation authority in a specified manner.
- (3) Where, by virtue of subsection (2), the cremation authority has ascertained that the applicant wishes the ashes to be dealt with in the way mentioned in paragraph (a) of that subsection, the cremation authority must—
- (a) retain the ashes during the period mentioned in that paragraph, and
  - (b) make the ashes available for collection before the expiry of that period by the applicant.

---

*Changes to legislation: There are currently no known outstanding effects for the Burial and Cremation (Scotland) Act 2016, Section 53. (See end of Document for details)*

---

- (4) Where, by virtue of subsection (2), the cremation authority has ascertained that the applicant wishes the ashes to be dealt with in the way mentioned in paragraph (b) of that subsection, the cremation authority must—
- (a) retain the ashes during the period mentioned in that paragraph, and
  - (b) make the ashes available for collection before the expiry of that period by the funeral director appointed for that purpose by the applicant.
- (5) Where, by virtue of subsection (2), the cremation authority has ascertained that the applicant wishes the ashes to be dealt with in the way mentioned in paragraph (c) of that subsection, the cremation authority must dispose of the ashes in the specified manner.
- (6) Where, despite having taken the steps mentioned in subsection (2), the cremation authority does not know in which of the ways mentioned in that subsection the applicant wishes the ashes to be dealt with, the cremation authority must—
- (a) retain the ashes, or
  - (b) dispose of the ashes in the specified manner.
- (7) In this section—
- “applicant” has the meaning given by section 52(5),
  - “specified” has the meaning given by section 51(4).

---

**Commencement Information**

**II** S. 53 in force at 4.4.2019 by S.S.I. 2018/380, reg. 2, sch. (with regs. 5, 8)

**Changes to legislation:**

There are currently no known outstanding effects for the Burial and Cremation (Scotland) Act 2016, Section 53.