



Burial and Cremation (Scotland) Act 2016

2016 asp 20

PART 3

ARRANGEMENTS

Adults and children

65 Arrangements on death of adult

- (1) This section applies where an adult dies and—
 - (a) the adult has not made an arrangements on death declaration, or
 - (b) the adult has made an arrangements on death declaration but it would not be reasonably practicable to give effect to it.
- (2) The nearest relative of the adult may make arrangements for the adult's remains to be buried or cremated.
- (3) The nearest relative is the person who immediately before the adult's death was—
 - (a) the adult's spouse or civil partner,
 - (b) neither married to nor in a civil partnership with the adult but was living with the adult as if they were married to each other and had been so living for a period of at least 6 months (or if the adult was in hospital immediately before death had been so living for such period when the adult was admitted to hospital),
 - (c) the adult's child,
 - (d) the adult's parent,
 - (e) the adult's brother or sister,
 - (f) the adult's grandparent,
 - (g) the adult's grandchild,
 - (h) the adult's uncle or aunt,
 - (i) the adult's cousin,
 - (j) the adult's niece or nephew,
 - (k) a friend of long standing of the adult.
- (4) If the adult's spouse or civil partner—

Changes to legislation: There are currently no known outstanding effects for the Burial and Cremation (Scotland) Act 2016, Section 65. (See end of Document for details)

- (a) is permanently separated (either by agreement or under an order of a court) from the adult, or
 - (b) has deserted, or has been deserted by, the adult and the desertion continues,
- subsection (3) is to be read as if paragraph (a) were omitted.
- (5) Relationships in different paragraphs of subsection (3) rank in the order of those paragraphs and for the purposes of that subsection (including that subsection as modified by subsection (4))—
- (a) a relationship of the half-blood is to be treated as a relationship of the whole blood,
 - (b) the stepchild of an adult is to be treated as the child of the adult.
- (6) Where more than one person falls within a paragraph of subsection (3)—
- (a) each such person ranks equally for the purpose of the paragraph, and
 - (b) either (or any) person falling within the paragraph may be the nearest relative.
- (7) For the purposes of subsection (3), a person's relationship with the adult is to be left out of account if—
- (a) immediately before the adult's death the person was under 16 years of age,
 - (b) the person does not wish or is unable to make arrangements for the remains to be buried or cremated, or
 - (c) it is not reasonably practicable to communicate with the person in the time available.
- (8) In this section—
- “adult” means a person who is 16 years of age or over,
 - “arrangements on death declaration” means a declaration by an adult specifying the person by whom the adult wishes the arrangements to be made for the burial or cremation of the adult's remains on the adult's death.
- (9) This section is subject to section 92 of the Public Health etc. (Scotland) Act 2008.

Commencement Information

II S. 65 in force at 4.4.2019 by S.S.I. 2018/380, reg. 2, **sch.** (with reg. 8)

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