



Burial and Cremation (Scotland) Act 2016

2016 asp 20

PART 3

ARRANGEMENTS

Pregnancy loss after 24 weeks

74 Arrangements on still-birth

- (1) This section applies where—
 - (a) a still-birth occurs other than in consequence of the termination of a woman's pregnancy by virtue of section 1(1)(b), (c) or (d) of the Abortion Act 1967, and
 - (b) it appears to the appropriate health body that no arrangements have been or are being made by virtue of section 72(2) for the remains of the fetus to be buried or cremated.
- (2) The nearest relative of the still-born child may make arrangements for the remains of the still-born child to be buried or cremated.
- (3) The nearest relative, in relation to the still-born child, is the person who immediately before the still-birth was—
 - (a) the still-born child's parent,
 - (b) the still-born child's brother or sister,
 - (c) the still-born child's grandparent,
 - (d) the still-born child's uncle or aunt,
 - (e) the still-born child's cousin,
 - (f) the still-born child's niece or nephew.
- (4) The nearest relative—
 - (a) may authorise the appropriate health body to make arrangements for the remains of the still-born child to be buried or cremated—
 - (i) in a way specified by the nearest relative, or
 - (ii) in a way specified by the body, but
 - (b) otherwise may not authorise any other person to make arrangements for the remains of the still-born child to be buried or cremated.

- (5) For the purposes of subsection (4)(a), the appropriate health body must inform the nearest relative if it would not be reasonably practicable for the body to arrange for the remains to be buried or cremated in a particular way.
- (6) The appropriate health body must keep a record of prescribed information.
- (7) Relationships in different paragraphs of subsection (3) rank in the order of those paragraphs and for the purposes of that subsection a relationship of the half-blood is to be treated as a relationship of the whole blood.
- (8) 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.
- (9) For the purposes of subsection (3), a person's relationship with the still-born child is to be left out of account if—
 - (a) except in the case of the still-born child's parent, the person, immediately before the child's death, 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.
- (10) In this section, "appropriate health body", in relation to a woman, means—
 - (a) if at the time when the still-birth occurs the woman is in the care of a Health Board, that Health Board,
 - (b) if at the time when the still-birth occurs the woman is in the care of an independent health care service, that independent health care service.