



Burial and Cremation (Scotland) Act 2016

2016 asp 20

PART 3

ARRANGEMENTS

Pregnancy loss on or before 24 weeks

79 Arrangements on pregnancy loss on or before 24 weeks

- (1) This section applies where—
 - (a) a woman's pregnancy ends before or on completion of its 24th week,
 - (b) after being parted from the woman the fetus does not breathe or show any other signs of life,
 - (c) at the time when the pregnancy ends the woman is in the care of an appropriate health authority, and
 - (d) it appears to the appropriate health authority that no arrangements have been or are being made by virtue of section 84(2) for the remains of the fetus to be buried or cremated.
- (2) Before the expiry of the initial period, the appropriate health authority must give the woman an opportunity to decide—
 - (a) whether she wishes to make arrangements for the remains of the fetus to be buried or cremated,
 - (b) whether she wishes to authorise an individual of or over 16 years of age to make those arrangements—
 - (i) in a way specified by the woman, or
 - (ii) in a way specified by the authority, or
 - (c) whether she wishes to authorise the appropriate health authority to make those arrangements—
 - (i) in a way specified by the woman, or
 - (ii) in a way specified by the authority.
- (3) For the purposes of subsection (2)(c), the appropriate health authority must inform the woman if it would not be reasonably practicable for the authority to arrange for the remains to be buried or cremated in a particular way.

Status: This is the original version (as it was originally enacted).

- (4) Subsection (5) applies if, before the expiry of the initial period, the woman informs the appropriate health authority of a decision that she has made under subsection (2).
- (5) As soon as practicable after the woman informs the appropriate health authority of the decision the authority must—
- (a) record the decision in the prescribed form, and
 - (b) take reasonable steps to secure the woman’s signature.
- (6) Subsection (7) applies if the woman does not inform the appropriate health authority before the expiry of the initial period of a decision that she has made under subsection (2).
- (7) As soon as practicable after the expiry of the initial period, the appropriate health authority must—
- (a) record the matters mentioned in subsection (8) in the prescribed form, and
 - (b) take reasonable steps to secure the woman’s signature.
- (8) The matters are—
- (a) if the woman informs the appropriate health authority of a decision she has made under subsection (2), the decision,
 - (b) if the woman does not inform the appropriate health authority of a decision she has made under that subsection, that fact.
- (9) In this section—
- “appropriate health authority”, in relation to a woman whose pregnancy ends as mentioned in subsection (1), means—
- (a) if at the time when the pregnancy ends the woman is in the care of an independent health care service, that independent health care service,
 - (b) if at the time when the pregnancy ends the woman is in the care of a Health Board, that Health Board,
- “initial period” means the period of 7 days beginning with the day on which a fetus, having been parted from the woman whose pregnancy has ended, does not breathe or show any other signs of life.