



# Burial and Cremation (Scotland) Act 2016

## 2016 asp 20

### PART 3

#### ARRANGEMENTS

##### *Pregnancy loss on or before 24 weeks*

#### **84 Duty of appropriate health authority**

- (1) This section applies where—
  - (a) section 79(1) applies in relation to a woman,
  - (b) the relevant period has expired, and
  - (c) it appears to the appropriate health authority that no arrangements have been or are being made by virtue of section 79, 80 or 81 for the remains of the fetus to be buried or cremated.
- (2) As soon as is reasonably practicable after the expiry of the relevant period, the appropriate health authority must consider whether it would be in the best interests of the woman for the authority to contact the woman for the purpose of seeking to establish—
  - (a) whether the woman wishes to decide who should make arrangements for the remains to be buried or cremated, and
  - (b) in the event that the woman would wish to authorise the authority to make those arrangements, whether the woman would wish to specify the way in which the authority should make the arrangements.
- (3) If the appropriate health authority determines by virtue of subsection (2) that it would not be in the best interests of the woman for the authority to contact her for the purpose mentioned in that subsection, the authority may make arrangements for the remains to be buried or cremated.
- (4) If the appropriate health authority determines by virtue of subsection (2) that it would be in the best interests of the woman for the authority to contact her for the purpose mentioned in that subsection, the authority must take reasonable steps to contact the woman for that purpose.
- (5) Subsection (6) applies if by virtue of subsection (2)—

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*Changes to legislation: There are currently no known outstanding effects for the Burial and Cremation (Scotland) Act 2016, Section 84. (See end of Document for details)*

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- (a) the appropriate health authority is authorised by the woman to make arrangements for the remains to be buried or cremated, and
  - (b) the woman has specified the way in which the authority should make those arrangements.
- (6) The authority may—
- (a) make arrangements for the remains to be buried or cremated, and
  - (b) except where it would not be reasonably practicable to do so, must do so in the way specified by the woman.
- (7) Subsection (8) applies if, at any time after having contacted or taken reasonable steps to contact the woman under subsection (4), it appears to the appropriate health authority—
- (a) that no arrangements have been or are being made for the remains to be buried or cremated, and
  - (b) that in all the circumstances of the case it would be in the woman's best interests for the authority to make those arrangements.
- (8) The authority may make arrangements for the remains to be buried or cremated.
- (9) In this section—
- “appropriate health authority” has the meaning given by section 79(9),
  - “relevant period” has the meaning given by section 80(5).

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**Commencement Information**

**II** S. 84 in force at 4.4.2019 by S.S.I. 2018/380, reg. 2, **sch.** (with reg. 8)

**Changes to legislation:**

There are currently no known outstanding effects for the Burial and Cremation (Scotland) Act 2016, Section 84.