



Burial and Cremation (Scotland) Act 2016

2016 asp 20

PART 4

INSPECTION

89 Appointment of inspectors

- (1) The Scottish Ministers may appoint such persons as they think fit to be—
 - (a) inspectors of burial,
 - (b) inspectors of cremation,
 - (c) inspectors of funeral directors.
- (2) A person appointed under subsection (1) is referred to in this Part as an “inspector”.
- (3) The Scottish Ministers must pay to an inspector such remuneration as the Scottish Ministers may determine.
- (4) An inspector is to be appointed on such other terms and conditions as the Scottish Ministers may determine.
- (5) The Scottish Ministers may in the case of such of the inspectors as they may determine—
 - (a) pay such pensions, allowances or gratuities to or in respect of them as may be so determined,
 - (b) make such payments towards the provision of pensions, allowances or gratuities to or in respect of any of them as may be so determined, or
 - (c) provide and maintain such schemes (whether contributory or not) for the payment of pensions, allowances or gratuities to or in respect of them as may be so determined.
- (6) In this section, “funeral director” has the meaning given by section 31(1) of the Certification of Death (Scotland) Act 2011.

Commencement Information

II S. 89(1)(a)(c)(2)-(6) in force at 28.12.2016 by [S.S.I. 2016/417](#), [reg. 2](#), [sch.](#) (with [reg. 4](#))

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Burial and Cremation (Scotland) Act 2016, PART 4. (See end of Document for details)

12 S. 89(1)(b) in force at 4.4.2019 by S.S.I. 2018/380, reg. 2, sch. (with regs. 3, 8)

90 Inspections: regulations

- (1) The Scottish Ministers may by regulations make provision for or in connection with—
 - (a) the carrying out of inspections of burial grounds and burial authorities by inspectors of burial appointed under section 89(1),
 - (b) the carrying out of inspections of crematoriums and cremation authorities by inspectors of cremation so appointed,
 - (c) the carrying out of inspections of funeral directors by inspectors of funeral directors so appointed.
- (2) In subsection (3), burial authorities, cremation authorities and funeral directors are referred to as “relevant bodies”.
- (3) Regulations under subsection (1) may in particular make provision for or in connection with—
 - (a) other functions of inspectors in relation to inspections,
 - (b) circumstances in which inspections are to be carried out,
 - (c) the frequency of inspections,
 - (d) reports by inspectors in relation to inspections,
 - (e) steps that may be taken by inspectors for the purpose of ensuring compliance with—
 - (i) requirements or conditions contained in enactments, codes of practice or guidance applicable to relevant bodies, or
 - (ii) conditions in any licence necessary to operate as a relevant body,
 - (f) steps that may be taken by inspectors to enforce such requirements or conditions,
 - (g) the procedure to be followed, and timescales applicable, in relation to such steps,
 - (h) where by virtue of paragraph (e) or (f) an inspector proposes to suspend the operation of activities of relevant bodies, or suspend or revoke any licence necessary to operate as a relevant body—
 - (i) recommendations by inspectors to the Scottish Ministers in relation to the proposal,
 - (ii) information to be provided by inspectors in connection with such recommendations,
 - (iii) decisions of the Scottish Ministers in relation to such recommendations,
 - (i) reviews of or appeals against—
 - (i) decisions of inspectors made by virtue of the regulations, and
 - (ii) decisions of the Scottish Ministers mentioned in paragraph (h)(iii),
 - (j) investigations of complaints against relevant bodies (in particular or in general) and the procedure to be followed in relation to such investigations, or
 - (k) sanctions inspectors may impose in relation to such investigations.

Status: This version of this part contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the
Burial and Cremation (Scotland) Act 2016, PART 4. (See end of Document for details)

Commencement Information

I3 S. 90 in force at 2.6.2023 by S.S.I. 2023/145, reg. 2, sch.

PROSPECTIVE

91 Powers of entry and inspection

- (1) An inspector may if authorised to do so by the Scottish Ministers—
 - (a) enter any premises (other than a dwelling-house) associated with the carrying out of any function of—
 - (i) a burial authority,
 - (ii) a cremation authority,
 - (iii) a funeral director, or
 - (iv) a health authority,
 - (b) require the production of any documents, records or registers which a person mentioned in paragraph (a) is required to have or maintain under or by virtue of this Act, and
 - (c) inspect and take copies of such documents, records or registers.
- (2) The powers in subsection (1) may be exercised by an inspector only for the purposes of—
 - (a) ascertaining whether an offence under or by virtue of this Act has been or is being committed,
 - (b) carrying out any function conferred on the inspector by virtue of regulations under this Act, or
 - (c) (in the case of the power conferred by subsection (1)(a)(iv)) determining whether a health authority is complying with requirements relating to records or registers imposed on it by this Act.
- (3) If an inspector exercises a power of entry by virtue of subsection (1), the inspector may take onto the premises such other persons, and such materials and equipment, as the inspector considers necessary.
- (4) A power of entry under subsection (1) must be exercised at a reasonable hour.
- (5) An inspector who proposes to exercise a power conferred under subsection (1) must, if so required, produce evidence of the inspector's identity and authorisation before exercising the power.
- (6) In this section, “health authority” means a Health Board or an independent health care service.

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Burial and Cremation (Scotland) Act 2016, PART 4. (See end of Document for details)

PROSPECTIVE

92 Section 91: offences

- (1) A person commits an offence if the person fails, without reasonable excuse, to comply with a requirement made by an inspector under section 91(1)(b) to produce a document, record or register.
- (2) A person commits an offence if the person wilfully obstructs an inspector in the exercise of—
 - (a) the power of entry conferred under section 91(1)(a),
 - (b) the power to inspect or take copies of documents, records or registers conferred under section 91(1)(c), or
 - (c) a power conferred by virtue of regulations under section 90.
- (3) A person who commits an offence under subsection (1) or (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

93 Reports

- (1) Each inspector must prepare and publish annual reports.
- (2) The first annual report prepared by an inspector under subsection (1)—
 - (a) is to be published before the expiry of the period of 12 months beginning with the day on which the inspector is appointed, and
 - (b) is to relate to that period.
- (3) Each subsequent annual report—
 - (a) is to be published no later than 12 months after publication of the preceding annual report, and
 - (b) is to relate to the period beginning with publication of the preceding annual report and ending with publication of the subsequent annual report.
- (4) An annual report by an inspector—
 - (a) must contain information about the activities carried out by the inspector during the period to which the report relates,
 - (b) may contain recommendations that the inspector considers would, if implemented—
 - (i) improve the services provided by cremation authorities, burial authorities or (as the case may be) funeral directors, or
 - (ii) improve the keeping of relevant documents, records or registers.
- (5) In subsection (4)(b)(ii), “relevant documents, records or registers” means documents, records or registers which a person mentioned in section 91(1)(a) is required, under or by virtue of this Act, to have or maintain.
- (6) As soon as reasonably practicable after publication, annual reports must be laid before the Scottish Parliament.
- (7) An inspector may, at any time the inspector thinks appropriate, prepare a report about any matters relating to the inspector's functions (an “ad hoc report”).

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Changes to legislation: There are currently no known outstanding effects for the Burial and Cremation (Scotland) Act 2016, PART 4. (See end of Document for details)

- (8) If an inspector prepares an ad hoc report, the inspector—
- (a) must send a copy of the report to the Scottish Ministers,
 - (b) may, if the inspector thinks it appropriate—
 - (i) publish the report,
 - (ii) lay the report before the Scottish Parliament.

Commencement Information

I4 S. 93 in force at 28.12.2016 for specified purposes by S.S.I. 2016/417, reg. 2, sch. (with reg. 4)

I5 S. 93 in force at 4.4.2019 in so far as not already in force by S.S.I. 2018/380, reg. 2, sch. (with reg. 8)

Status:

This version of this part contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Burial and Cremation (Scotland) Act 2016, PART 4.