



# Burial and Cremation (Scotland) Act 2016

## 2016 asp 20

### PART 1

#### BURIAL

##### *Burial in burial ground*

#### **13 Duty to sell right of burial**

- (1) Where an application under section 12(1) satisfies the conditions in subsection (2) or (3), the burial authority to which the application is made must grant the application and sell a right of burial to the person making the application (the “applicant”).
- (2) The conditions are that—
  - (a) the application is made to a burial authority that is a local authority,
  - (b) the application discloses that the applicant intends the lair to be used to bury the remains of a person who, at the time the application is made, has died, and
  - (c) immediately before the person’s death, the person was ordinarily resident in the area of the local authority mentioned in paragraph (a).
- (3) The conditions are that—
  - (a) the application is made to a burial authority that is a local authority,
  - (b) the application discloses that the applicant intends the lair to be used to bury the remains of—
    - (i) a still-born child, or
    - (ii) a fetus mentioned in subsection (4), and
  - (c) the applicant is ordinarily resident in the area of the local authority mentioned in paragraph (a).
- (4) The fetus is one which—
  - (a) is parted from a woman before or on completion of the 24th week of the woman’s pregnancy, and
  - (b) after being so parted, does not breathe or show any other signs of life.
- (5) In subsection (3)(b)(i), “still-born child” has the meaning given by section 56(1) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965.