
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 380

**The Burial and Cremation (Scotland) Act 2016
(Commencement No. 3, Transitional, Saving
and Transitory Provisions) Regulations 2018**

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Burial and Cremation (Scotland) Act 2016 (Commencement No. 3, Transitional, Saving and Transitory Provisions) Regulations 2018 and come into force on 4 April 2019.

(2) In these Regulations—

“the Act” means the Burial and Cremation (Scotland) Act 2016; and

“the 1935 Regulations” means the Cremation (Scotland) Regulations 1935(1).

Appointed day

2. 4 April 2019 is the day appointed for the coming into force of the provisions of the Act specified in column 1 of the schedule (the subject matter of which is specified in column 2 of the schedule) but, where a purpose is specified in column 3 of that table in relation to a provision in column 1, that provision comes into force only for that purpose.

Inspectors of cremation: transitory provision

3.—(1) Each cremation authority must allow an inspector appointed under section 89(1)(b) (inspectors of cremation) of the Act access at any reasonable time to each crematorium for which it is the cremation authority and any premises (other than a dwellinghouse) associated with the carrying out of the functions of the authority.

(2) In this regulation “premises” includes any installation, container or receptacle associated with the carrying out of the function of a cremation authority.

(3) This regulation ceases to have effect on the coming into force of section 91(1)(a)(ii) (powers of entry to cremation authority premises) of the Act.

Application for cremation: transitional provision

4.—(1) This regulation applies where an application for cremation is submitted to a cremation authority before the appointed day and the cremation has not taken place before that day.

(2) Regulations 7, 8, 12, 13 and 16 (conditions under which cremation may take place) of the 1935 Regulations continue to have effect in relation to the carrying out of the cremation.

(3) Sections 48 (application for cremation), 49 (section 48: offences), 50 (requirements for carrying out cremation) and 51 (duty of cremation authority before carrying out cremation) of the Act do not apply to the carrying out of that cremation.

(4) For the purposes of regulations 7, 8, 12, 13 and 16 of the 1935 Regulations, the definitions in the section entitled “Definitions” and the schedule of those Regulations continue to have effect.

Disposal of ashes: saving provision

5. Where a cremation is carried out before the appointed day—
- (a) regulation 17 (disposal of ashes) of the 1935 Regulations continues to apply,
 - (b) the definition of “cremation authority” in the section entitled “Definitions” in the 1935 Regulations continues to have effect for the purposes of regulation 17 of those Regulations, and
 - (c) sections 52 to 55 (handling of ashes: duties of cremation authorities) of the Act have no effect.

Cremation register: saving provision

6.—(1) Sections 57 (cremation register) and 58 (cremation register: offence) have no effect in respect of any cremation which is carried out before the appointed day.

(2) Regulations 18 and 19 (registration of cremations etc.) of the 1935 Regulations continue to have effect in respect of any cremation carried out before the appointed day.

(3) Where paragraph (2) applies, the definitions in the section entitled “Definitions” and the schedule of the 1935 Regulations continue to have effect for the purposes of regulations 18 and 19 of those Regulations.

Opening of crematoriums: transitional provision

7. Sections 59 (new crematorium: notice) and 60 (section 59: offences) of the Act have no effect in relation to the opening of a crematorium where, before the appointed day, notice of the opening of the crematorium has been given to the Scottish Ministers in accordance with regulation 1 of the 1935 Regulations.

Closing of crematoriums: transitory and saving provision

8.—(1) Where a cremation authority proposes to close a crematorium, the authority must, at least one month before the proposed date for closure—

- (a) give notice of the proposed closure in accordance with paragraph (2), and
 - (b) notify the Scottish Ministers in writing of the proposed closure.
- (2) A notice under paragraph (1)(a) must be—
- (a) published in a newspaper circulating in the area where the crematorium is situated, and
 - (b) affixed to the entrance of the crematorium.

(3) When a crematorium is closed the cremation authority must send all registers and documents relating to the cremations which have been carried out at the crematorium to the Scottish Ministers or dispose of those registers and documents in a manner directed by the Scottish Ministers.

(4) Paragraphs (1) and (2) do not apply in relation to the closing of a crematorium where, before the appointed day, notice has been given by advertisement in two papers circulating in the locality and by written notice fixed at the entrance to the crematorium in accordance with regulation 1 of the 1935 Regulations.

(5) This regulation has effect until section 61 (closure of crematorium) of the Act comes into force.

St Andrew's House,
Edinburgh
18th December 2018

JOE FITZPATRICK
Authorised to sign by the Scottish Ministers