

BURIAL AND CREMATION (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Burial

Lair: restoration to use

Section 33 – Notification: right-holder

96. This section applies where no objection has been made to the lair being restored to use under section 32(3). Subsection (2) requires the burial authority to give notice to the person who holds the right of burial in relation to the lair of its intention to restore the lair to use (referred to for this purpose as the “right-holder”). The burial authority must do this if it knows the name and address of the right-holder or is able, after reasonable enquiry, to ascertain that information.
97. Notice given under subsection (2) must contain particular information set out in subsection (3), including the burial authority’s proposal to restore the lair to use; the right-holder’s right to agree or object to the proposal in writing within the prescribed time limit; any documents the right-holder is required to give the burial authority when consenting or objecting to the proposal; an explanation of the consequences of consenting or objecting to the proposal; the right-holder’s responsibilities in relation to the maintenance of the lair; and any costs which the right-holder is liable for in respect of any maintenance of the lair.
98. Subsection (4) provides that this notice must be given in the prescribed form and manner.
99. Subsection (5) provides that if the right-holder responds to the notice to object to the lair being restored to use, the lair cannot be reused and cannot be considered for restoration to use for 10 years from the date on which the burial authority receives the objection.