

# **BURIAL AND CREMATION (SCOTLAND) ACT 2016**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 2 – Cremation**

#### **Crematorium: further requirements**

##### ***Section 59 – New crematorium: notice***

154. **Section 59** sets out the requirements placed on a person who proposes to establish a crematorium. Subsection (1) requires the person to notify an inspector of cremation of the day on which the person proposes to begin to determine applications for cremation. Subsection (3) sets out that a notice given by virtue of subsection (2) must be given at least 3 months before the day on which the person proposes to determine the first cremation application and must be in writing. Subsection (4) provides that the person may not determine the first application unless an inspector has given the person notice that he or she may determine the first application on or after a day specified in the notice. The determination may not take place before the day specified by the inspector in the notice.

##### ***Section 60 – Section 59: offences***

155. This section provides that a person commits an offence if they contravene subsection 59(4) by determining the first application without having received notice from an inspector of cremation or determining the first application before the date specified in the notice from the inspector. On summary conviction, the penalty for such an offence is a fine not exceeding level 3 on the standard scale.

##### ***Section 61 – Closure of crematorium***

156. Subsection (1) requires a cremation authority to give written notice of the intended closure to the inspector of cremation. Subsection (2)(a)(i) states that the period of notice should be 3 months where practicable. Subsection (2)(a)(ii) sets out that the cremation authority must give written notice on the first day on which it is practicable to give notice, where it is not able to give 3 months' notice. This approach allows various situations to be covered, including where a cremation authority decides to close a crematorium and where the closure is not voluntary (e.g. closure due to insolvency).
157. Subsection (3) gives the Scottish Ministers the power to make further provision in regulations in connection with the closure of crematoriums. By virtue of subsection (4) regulations may make provision obliging a cremation authority to comply with requirements about the provision of information to an inspector of cremation and to comply with any requirements about any other matters relating to the closure.

***Section 62 – Section 61: offence***

158. A cremation authority commits an offence if it fails to give notice to an inspector of cremation as required to do by subsection 61(2)(a). On summary conviction, the penalty for this is a fine not exceeding level 3 on the standard scale.