

BURIAL AND CREMATION (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Burial

Burial in burial ground

Section 13 – Duty to sell right of burial

39. This section provides for particular circumstances in which a burial authority must sell a right of burial. Subsection (1) provides that where the conditions in subsection (2) or subsection (3) are met, a burial authority must sell a right of burial. Subsection (2) sets out conditions that must be met – these are that (a) the burial authority is a local authority, (b) the right is to be used to bury someone who has died at the time the application is made and (c) immediately before death, the deceased was ordinarily resident in the area of the local authority.
40. The conditions set out at subsection (3) are that (a) the burial authority is a local authority, (b) the right is to be used to bury the remains of a stillborn child or a pregnancy loss (i.e. a loss that occurred before 24 weeks gestation) and (c) that the applicant is ordinarily resident in the area of the local authority to which subsection (3)(a) refers. The effect of this is to ensure that a person who lives in a particular local authority area is able to be buried in that area, and that the parents of a stillborn baby or a woman who experiences a pregnancy loss before 24 weeks gestation are able to bury the remains in the local authority area in which they live.