



Burial and Cremation (Scotland) Act 2016

2016 asp 20

PART 1

BURIAL

Private burial

22 Private burial

- (1) The Scottish Ministers may by regulations make provision for or in connection with private burials.
- (2) In this Part, “private burial” means the burial of human remains in a place other than a burial ground.
- (3) A person who proposes to carry out a private burial may do so only if the burial is authorised by the relevant local authority.
- (4) In carrying out a private burial, a person must comply with any requirements imposed by or under regulations under subsection (1).
- (5) Regulations under subsection (1) may in particular—
 - (a) make provision about applications to carry out private burials,
 - (b) specify the form and content of applications,
 - (c) enable applications to be made in respect of burials of persons who, at the time of making the application, are not deceased,
 - (d) make provision about documents to be submitted with, or in relation to, applications,
 - (e) make provision for the time at which such documents are to be submitted,
 - (f) make provision about persons, or a description of persons, who are required to submit such documents,
 - (g) make provision for or in connection with the charging of fees by local authorities in respect of applications to carry out private burials,
 - (h) specify persons or a description of persons—
 - (i) from whom consent to proposed private burials is to be obtained, and

Changes to legislation: There are currently no known outstanding effects for the Burial and Cremation (Scotland) Act 2016, Section 22. (See end of Document for details)

- (ii) by whom consent to proposed private burials is to be signified as having been obtained in, or in relation to, applications to carry out private burials,
 - (i) require persons making such applications to provide the local authority to which the application is made with any further information in connection with the application that the authority considers necessary,
 - (j) specify the circumstances in which a local authority receiving an application to carry out a private burial—
 - (i) must authorise the carrying out of the burial,
 - (ii) may authorise the carrying out of the burial,
 - (iii) must not authorise the carrying out of the burial,
 - (iv) must or may authorise the carrying out of the burial subject to conditions specified by the authority or in the regulations,
 - (k) make provision for or in connection with—
 - (i) notices by local authorities of the authorities' decisions relating to applications to carry out private burials,
 - (ii) notices relating to those notices by persons making the applications or by such other persons, or other persons of such descriptions, as may be specified in the regulations,
 - (l) specify the form and content of notices mentioned in paragraph (k),
 - (m) make provision for reviews of or appeals against—
 - (i) decisions of the local authority to authorise the carrying out of private burials,
 - (ii) decisions of the local authority to refuse to authorise the carrying out of private burials,
 - (iii) any conditions subject to which a private burial is authorised, or
 - (n) make provision for or in connection with—
 - (i) the size of any area of land on which private burials may be carried out,
 - (ii) by reference to any such size, the maximum number of private burials that may be carried out on the land,
 - (iii) minimum distances between lairs on such land.
- (6) In this section—
- “human remains” does not include—
 - (a) human remains that have been cremated, or
 - (b) the remains of a fetus mentioned in subsection (7),
 “relevant local authority”, in relation to land on which a private burial is proposed to be carried out, means the local authority for the area in which the land is situated.
- (7) 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.

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Commencement Information

II [S. 22](#) in force at 2.6.2023 for specified purposes by [S.S.I. 2023/145](#), reg. 2, [sch.](#)

Changes to legislation:

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