

*Status: Point in time view as at 25/03/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Coronavirus Act 2020, PART 2. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 14 **S**

#### REVIEW OF MEDICAL CERTIFICATES OF CAUSE OF DEATH AND CREMATIONS: SCOTLAND

#### **PART 2** **S**

##### CREMATIONS

##### *Interpretation*

- 6 (1) In this Part of this Schedule—  
“the 2016 Act” means the Burial and Cremation (Scotland) Act 2016 (asp 20);  
“the 2019 Regulations” means the Cremation (Scotland) Regulations 2019 (S.S.I. 2019/36).
- (2) Expressions used in this Part of this Schedule and in the 2016 Act have the same meanings as in that Act.

##### *Application*

- 7 This Part of this Schedule applies at any time the Scottish Ministers are of the view that—
- (a) the incidence or transmission of coronavirus constitutes a serious and imminent threat to public health, and
  - (b) the exercise of powers conferred by this Part of this Schedule will be an effective means of expediting the disposal of bodies and better utilise resources.

##### *Suspension of offence relating to signing of declaration*

- <sup>x18</sup> (1) The Scottish Ministers may determine that section 49 of the 2016 Act (offences relating to applications for cremation) is not to have effect in relation to signing the declaration in an application for cremation made under section 48(1) of the 2016 Act in accordance with the 2019 Regulations on or after such date as may be specified in the determination.
- (2) A determination under sub-paragraph (1) may be revoked by the Scottish Ministers making a determination to that effect.
- (3) The Scottish Ministers must publish any determination made under this paragraph in such manner as they consider appropriate.

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**Editorial Information**

- X1** The power conferred under this provision to make or revoke a determination may be exercised by means of a notice published in [The Gazette](#)

*Suspension of provisions relating to collection of ashes*

- <sup>x2</sup>9 (1) The Scottish Ministers may determine that the provisions listed in sub-paragraph (2) are to have no effect from such date as may be specified in the determination.
- (2) The provisions are—
- (a) section 53 of the 2016 Act (failure to collect ashes);
  - (b) section 54 of the 2016 Act (power of funeral director in relation to ashes);
  - (c) section 55 of the 2016 Act (duties of cremation authority where ashes returned);
  - (d) regulation 12(1), (2) and (3) of the 2019 Regulations;
  - (e) regulation 13(2), (3) and (4) of the 2019 Regulations.
- (3) A determination under sub-paragraph (1) may be revoked by the Scottish Ministers making a determination to that effect.
- (4) The Scottish Ministers must publish any determination made under this paragraph in such manner as they consider appropriate.

**Editorial Information**

- X2** The power conferred under this provision to make or revoke a determination may be exercised by means of a notice published in [The Gazette](#)

*Retention of ashes during period provisions are suspended*

- 10 (1) This paragraph applies where—
- (a) a determination has been made under paragraph 9(1) and not been revoked, and
  - (b) a cremation authority or, as the case may be, funeral director is retaining ashes—
    - (i) in respect of which the wishes of the applicant as to how the ashes are to be dealt with are not known, or
    - (ii) that have not been collected.
- (2) The cremation authority or, as the case may be, funeral director must retain the ashes until—
- (a) the ashes are collected by the applicant (or by some other person in accordance with the applicant's wishes), or
  - (b) the determination under paragraph 9(1) is revoked and the duties under paragraph 11 have been met.

*Resumption of duties in relation to retained ashes after revocation*

- 11 (1) This paragraph applies where—

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- (a) a determination under paragraph 9(1) is revoked, and
  - (b) a cremation authority or, as the case may be, funeral director is retaining ashes—
    - (i) in respect of which the wishes of the applicant as to how the ashes are to be dealt with are not known, or
    - (ii) that have not been collected.
- (2) Irrespective of whether of any steps were taken to ascertain the wishes of the applicant in relation to the ashes prior to the revocation of the determination—
- (a) a cremation authority must comply with the duties in section 53(2) of the 2016 Act or, as the case may be, section 55(2) of that Act as soon as reasonably practicable;
  - (b) a funeral director must comply with the duty in section 54(2) of the 2016 Act as soon as reasonably practicable.
- (3) For the purposes of sub-paragraph (2)(a), the specified period in sections 53(2) and 55(2)(a) of the 2016 Act is to be a period of 4 weeks beginning with the date on which the determination under paragraph 9(1) was revoked.

*Suspension of local authority duty to make enquiries as to surviving relatives*

- 12 (1) This paragraph applies where—
- (a) a determination has been made under paragraph 9(1) and not been revoked, and
  - (b) a local authority is making arrangements for a person's remains to be cremated under section 87 of the 2016 Act.
- (2) In making an application under section 48(1) of the 2016 Act, the local authority may elect—
- (a) not to take steps to ascertain how the ashes of the cremated person are to be disposed of at that time, and
  - (b) submit the application without making any declaration to that effect.
- (3) Where the local authority makes such an election, it must retain the ashes until such time as—
- (a) the determination is revoked, and
  - (b) the duty in sub-paragraph (4)(a) has been met.
- (4) As soon as practicable after the revocation of the determination, the local authority must—
- (a) take reasonable steps to ascertain whether there is a surviving relative, and
  - (b) if there is such a relative, in accordance with that relative's wishes, direct the cremation authority to (as the case may be)—
    - (i) make the ashes available for collection,
    - (ii) dispose of the ashes in the manner indicated by the relative or in the specified manner, or
    - (iii) retain the ashes.
- (5) Where the local authority is unable to identify a surviving relative or ascertain a relative's wishes, it may direct the cremation authority to dispose of the ashes in accordance with the 2016 Act.

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- (6) Sub-paragraph (3) does not apply where a relative of the deceased person notifies the local authority of the way in which the ashes should be dealt with.

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