



Cv19

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20Part 2
Cremations

Interpretation
6(1)In this Part of this Schedule—

“the 2016 Act” means the Burial and Cremation (Scotland) Act 2016
25(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.

30Application
7This 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)35the 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
8(1)The Scottish Ministers may determine that section 49 of the 2016 Act
40(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.

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(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.

5Suspension of provisions relating to collection of ashes
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)10section 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.

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—

(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.

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(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
15 revoked, and

(b) a local authority is making arrangements for a person's remains to
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) 20 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) 25 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
30 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
35 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.

(6) 40 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.