

Financial Scrutiny Unit Briefing

Burial and Cremation (Scotland) Bill

29 October 2015

15/70

Richard Marsh

The Burial and Cremation (Scotland) Bill was introduced in the Parliament on 8 October 2015. The Health and Sport Committee and Local Government and Regeneration Committee are scrutinising the Bill. The intention of the Bill is to provide a modern, comprehensive legislative framework for burial and cremation.

This briefing examines the Bill's proposals, policy objectives and looks at the financial implications.



CONTENTS

EXECUTIVE SUMMARY	3
THE BILL	4
BACKGROUND	4
BURIAL AND CREMATION REVIEW GROUP.....	4
INFANT CREMATION COMMISSION	5
FUNERAL COSTS	5
REGULATION OF THE FUNERAL INDUSTRY	5
POLICY OBJECTIVES	6
LEGISLATIVE FRAMEWORK.....	6
ALL BURIAL AUTHORITIES TO BE SUBJECT TO THE BILL.....	6
ALTERNATIVE METHODS OF DISPOSING OF HUMAN REMAINS.....	6
PRIVATE BURIAL.....	7
PRIVATE CREMATION	7
DEFINITION OF ASHES.....	7
RIGHT TO INSTRUCT THE DISPOSAL OF HUMAN REMAINS.....	7
MANAGEMENT OF BURIAL GROUNDS	8
BURIAL AND CREMATION RECORDS	8
ALLEVIATING PRESSURE ON BURIAL GROUNDS	8
EXHUMATION.....	9
PANDEMICS	9
CREMATION FORMS.....	9
BURIAL FORMS.....	10
INSTRUCTING THE DISPOSAL OF A PREGNANCY LOSS.....	10
CREMATION REGISTER	11
INSPECTORS	11
REGULATION OF THE FUNERAL INDUSTRY	12
FUNERAL COSTS	12
FINANCIAL ISSUES	12
SCOTTISH GOVERNMENT	12
LOCAL AUTHORITIES	12
COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES.....	13
NHS BOARDS AND PRIVATE HEALTHCARE PROVIDERS.....	13
SUMMARY OF WRITTEN EVIDENCE	13
SOURCES	15

EXECUTIVE SUMMARY

The [Burial and Cremation \(Scotland\) Bill](#) was introduced in the Parliament on 8 October 2015. The Health and Sport Committee and Local Government and Regeneration Committee are scrutinising the Bill. The intention of the Bill is to provide a modern, comprehensive legislative framework for burial and cremation.

The law on burial is set out in the [Burial Grounds \(Scotland\) Act 1855](#), which has not been substantially revised since the nineteenth century. The law on cremation is set out in the [Cremation Act 1902](#) and various regulations, most notably the Cremation (Scotland) Regulations 1935, along with various other sets of regulations which subsequently amended the 1935 Regulations.

The [Infant Cremation Commission](#) was established by the Scottish Ministers in April 2013 in response to historical practices at some crematoriums in Scotland in relation to the cremation of babies. The Infant Cremation Commission report made a number of recommendations to improve practice many of which will be given effect in the Bill.

The [Burial and Cremation Review Group](#) made recommendations to support the sustainability of burial and are and are being taken forward in this Bill. Recommendations ranged from improving burial authorities' ability to manage burial grounds through to ways to support on-going supply of burial space.

There are currently no particular legal or educational requirements to operate as a funeral director. Industry bodies impose particular standards on their members, but there is little compulsion to meet those standards. The Bill contains provisions which allow the Scottish Ministers to introduce a licensing scheme for funeral directors

Funeral costs have been rising for some time with many people struggling to afford the cost of a dignified funeral. Local authorities have duties which enable them to carry out a burial or cremation where no-one else is able to do so. The use of these powers has increased in the past few years.

The Bill itself consists of six parts covering burial, cremation, arrangements, inspection, miscellaneous issues (including licensing, codes of practice and regulation) and general issues. Many of the Bill's provisions are rooted in recommendations made by various review groups, particularly the Infant Cremation Commission and the [Burial and Cremation Review Group](#).

THE BILL

The [Burial and Cremation \(Scotland\) Bill](#) was introduced in the Parliament on 8 October 2015. The Health and Sport Committee and Local Government and Regeneration Committee are scrutinising the Bill. The intention of the Bill is to provide a modern, comprehensive legislative framework for burial and cremation.

The Scottish Government's [Policy Memorandum](#), outlines that existing legislation dates back over 100 years, and is increasingly unable to meet the needs of Scottish society. The Policy Memorandum states that the Bill will "create legislation which is fit for twenty-first century Scotland" through:

- Repealing primary acts relating to burial and cremation;
- Modernising relevant provisions; and
- Introducing new provisions.

The Bill itself consists of six parts covering burial, cremation, arrangements, inspection, miscellaneous issues (including licensing, codes of practice and regulation) and general issues. Many of the Bill's provisions are rooted in recommendations made by various review groups, particularly the [Infant Cremation Commission](#) and the [Burial and Cremation Review Group](#).

BACKGROUND

BURIAL AND CREMATION REVIEW GROUP

The law on burial is set out in the [Burial Grounds \(Scotland\) Act 1855](#), which has not been substantially revised since the nineteenth century. The law on cremation is set out in the [Cremation Act 1902](#) and various regulations, most notably the Cremation (Scotland) Regulations 1935, along with various other sets of regulations which subsequently amended the 1935 Regulations.

There has not been a comprehensive modernisation of the legislation. Over the last ten years there have been two main efforts to modernise the current system. In 2005 the then Minister for Health established the Burial and Cremation Review Group with the following terms of reference:

"To review the Cremation Acts of 1902 and 1952 (and the Cremation (Scotland) Regulations 1935, as amended) and the Burial Grounds (Scotland) Act 1855 as amended, and to make recommendations on how the legislation could be changed in order to better serve the needs of the people of Scotland. This would, where appropriate, recognise the established role of the Procurator Fiscal Service, and take account of policy developments in England (specifically the Shipman Inquiry's work on death certification) and international good practice."

The Burial and Cremation Review Group issued a report in October 2007 (Scottish Government, 2007) which contained 33 recommendations. Many of the recommendations concerned improvements to the certification of death in Scotland, and were implemented by the [Certification of Death \(Scotland\) Act 2011](#).

Recommendations relating to burial and cremation were not implemented as part of the above Act, and are being taken forward in this Bill. One of the Group's key concerns was to support

the sustainability of burial. Recommendations ranged from improving burial authorities' ability to manage burial grounds through to ways to support on-going supply of burial space, including ending the sale of burial lairs¹ in perpetuity and the ability for burial authorities to reuse lairs in particular circumstances.

INFANT CREMATION COMMISSION

While the Burial and Cremation Review Group made some recommendations about cremation, these were largely superseded by the work of the [Infant Cremation Commission](#). The Commission was established by the Scottish Ministers in April 2013 in response to historical practices at some crematoriums in Scotland in relation to the cremation of babies. The Infant Cremation Commission report made a number of recommendations to improve practice (Scottish Government, 2014), many of which will be given effect in the Bill².

The majority of the Commission's recommendations focussed on providing a more consistent and robust process for applying for the cremation of pregnancy losses and babies. Recommendations were made to remove ambiguity about the extent to which the current legal process for cremation applies to pregnancy losses.

It was also recommended that the application process should be strengthened so applicants are given as much opportunity as possible to consider the implications of various methods of disposal before making a final decision. Further recommendations included requiring applicants to specify what should be done with ashes, and to ensure details of cremations were recorded in the Cremation Register.

While the Commission was concerned mainly with the cremation of pregnancy losses and babies, many of the improvements it recommended applies to cremation more generally, where processes have not been updated for some time. The Bill therefore seeks to modernise and improve the administrative procedures relating to cremation generally.

FUNERAL COSTS

Funeral costs have been rising for some time with many people struggling to afford the cost of a dignified funeral. Local authorities have duties under the [National Assistance Act 1948](#) and the [Social Work \(Scotland\) Act 1968](#) which enable them to carry out a burial or cremation where no-one else is able to do so. The use of these powers has increased in the past few years.

There has been much scrutiny of funeral costs recently. Citizens Advice Scotland ([CAS](#)) published research in (CAS, 2015) setting out local authority fees for cremation, the sale of lairs and the interment cost. CAS noted the wide range of local authority fees, from £388 for the purchase of a lair in Western Isles to £1,527 in East Dunbartonshire, and from £512 for a cremation in Inverclyde to £749 in Perth and Kinross.

CAS also argued that local authority costs are the element over which people have least control, since they can choose to use a particular funeral director but are essentially unable to use the services of a local authority other than the one in which the deceased lived (CAS, 2014).

REGULATION OF THE FUNERAL INDUSTRY

¹ A lair is the Scottish term for a plot in a burial ground.

² On June 17, 2014, the Minister for Public Health announced the establishment of a [National Investigation](#) into infant cremations in Scotland led by former Lord Advocate Dame Elish Angiolini DBE QC. The investigation is currently on-going with further information available at the investigation team's own [National Cremation webpages](#).

There are currently no particular legal or educational requirements to operate as a funeral director. Bodies such as the National Association for Funeral Directors ([NAFD](#)) and the National Society of Allied and Independent Funeral Directors ([SAIF](#)) impose particular standards on their members, but there is little compulsion to meet those standards. Membership of either body is not required to operate as a funeral director.

The Bill contains provisions which allow the Scottish Ministers to introduce a licensing scheme for funeral directors. The Scottish Government's Policy Memorandum suggests that *"This power would be used only where it could be shown to provide benefit. It is intended that the industry will be kept under review so that an informed decision can be made in due course."*

POLICY OBJECTIVES

The policy objectives of the Bill, outlined in the Scottish Government's [Policy Memorandum](#), are summarised below. The policy objectives are described in more detail in the Policy Memorandum, including the alternative approaches considered for each policy objective.

LEGISLATIVE FRAMEWORK

The Bill aims to put in place new legislation to provide a modern and comprehensive legal framework for burial and cremation in Scotland. The current legislation is fragmented, dated and is thought to be increasingly unfit-for-purpose. The Bill aims to provide a robust and long-lasting legislative framework.

All current primary legislation will be repealed. Regulations from The Cremation (Scotland) Regulations 1935 to the [Cremation \(Scotland\) Amendment Regulations 2003](#) are all made under enabling powers in the 1902 Act and so will fall when that Act is repealed.

ALL BURIAL AUTHORITIES TO BE SUBJECT TO THE BILL

The Bill will ensure consistency by requiring all burial authorities (i.e. local authority burial authorities and private burial authorities) to comply with the legislation. Existing provisions relating to burial authorities apply only to local authorities, although private burial authorities tend to follow the legislation nonetheless.

ALTERNATIVE METHODS OF DISPOSING OF HUMAN REMAINS

Burial and cremation are the only current methods of disposing of human remains in use in Scotland, and the only methods to which the extant legislation applies. The Bill will ensure that all methods of disposing of human remains, whether available already or developed in the future, are covered by the legislation.

The Burial and Cremation Review Group considered new disposal methods, including resomation³ and promession⁴. The policy objective is to ensure that any such techniques that were to be introduced in Scotland could be regulated for under the new legislative framework.

Additionally, the Burial and Cremation Review Group considered existing alternative methods of burial, such as green or natural burials. Such methods are already generally covered by existing legislation, but there are no particular provisions which apply to procedures or issues specific to these methods.

³ Resomation involves placing the body in a chemical solution, which breaks down the body to leave bone ash and a sterile liquid.

⁴ Promession involves the body being freeze-dried and then vibrated into ashes, which are then buried.

The Bill provides a power for the Scottish Ministers to make regulations to extend the application of specified provisions of the Bill, subject to any specified modifications, in relation to the operation of specified current and any new techniques as they are developed and become available.

PRIVATE BURIAL

The Bill ensures that private burials are regulated so that they are carried out within a clear legal framework. For the purposes of the Bill, a private burial is one that takes place outwith a recognised burial ground, including a private family burial ground or home burial. Private burial is currently possible but is not covered by existing legislation and there are few controls in place.

The Bill will enable a standard process for private burials, including requiring that an application must be made to the relevant local authority and approved before a home burial can take place. This will enable a consistent approach across Scotland and ensure details of home burials are recorded accurately and the information can be collated by Registers of Scotland.

PRIVATE CREMATION

Private cremation is currently illegal in Scotland, this covers any cremation outside a recognised crematorium. The Burial and Cremation Review Group recommended that this should continue to be the case, and the Bill will make this position clear. The Bill will define a crematorium, and make it an offence for a cremation to be carried out anywhere else.

DEFINITION OF ASHES

The policy objective is to establish a clear, unambiguous definition of ashes. There is currently no single understanding of what is meant by ashes. The Scottish Government's Policy Memorandum suggests that:

“The cremation industry has tended to work to a particular definition which does not necessarily accord with non-professionals’ concept of ashes. This has led to misunderstandings between crematoriums and individuals who have applied for a cremation. In some cases the applicant has been told that no ashes will be recovered, only to later discover that some remnants were recovered but were not considered by crematorium staff to constitute ashes.”

The proposed approach is to define ashes within the context of a definition of cremation for the purposes of the Bill. This will meet the recommendation of the Infant Cremation Commission and will establish a single definition.

RIGHT TO INSTRUCT THE DISPOSAL OF HUMAN REMAINS

There is currently no legislation setting out who may instruct the disposal of human remains. In practice, it is normally the nearest relative who arranges for the disposal of the body and who chooses the method of disposal. The meaning of “nearest relative” in this context is not clear, and this can lead to disagreements

The Bill sets out who may instruct the disposal of human remains, and provides an order of priority, which replicates section 50 of the [Human Tissue \(Scotland\) 2006 Act](#). This will remove any uncertainty about who is entitled to instruct the disposal of human remains.

The Bill specifies who should have the right to instruct the disposal of human remains for various circumstances, including the death of an adult, the death of a child and a stillborn baby. In each instance, the specific circumstances of the situation are recognised by providing a

slightly different list of who may instruct the disposal. Separate provisions are made to cover the disposal of a pregnancy loss.

MANAGEMENT OF BURIAL GROUNDS

The Bill will support burial authorities in their management of burial grounds. There is currently no single source of guidance on the management and maintenance of burial grounds. There is some uncertainty over what actions can be, particularly in making headstones and memorials safe.

The Bill provides the Scottish Ministers with the power to make regulations to enable burial authorities to manage burial authorities. The [Local Authorities Cemeteries' Order 1977](#), which has effect in England and Wales, will provide a useful model for the regulations. The regulations will give burial authorities powers to carry out any activities they feel necessary or desirable for the general management of a burial ground. In addition to these powers, it is intended to place a duty on burial authorities to ensure the safety of burial grounds.

BURIAL AND CREMATION RECORDS

The Bill places a duty on all parties which are required to maintain records under the Bill to do so indefinitely. This includes burial and cremation authorities, as well as NHS Boards and private healthcare providers in the context of making arrangements for the disposal of a pregnancy loss.

The Bill enables the retention to be done electronically, but does not require this. Burial and cremation authorities will be encouraged to use and develop appropriate electronic systems in the longer term. A working group of the [National Committee on Infant Cremation](#) is considering forms and record keeping, and will work with stakeholders to develop a consistent process to the electronic management of records.

ALLEVIATING PRESSURE ON BURIAL GROUNDS

The Bill seeks to address the increasing pressure on available land for burials in Scotland. The policy will also help support the long-term sustainability of particular burial grounds, as well as the sustainability of burial as an option generally. It is also expected to contribute to the reduction of burial costs.

The Bill enables full, partially full and unused lairs to be restored to use in certain circumstances. The Bill sets out the criteria for burial authorities to identify which lairs may be available for possible restoration. The Bill will be supplemented by regulations which will provide in detail the statutory procedure that must be followed by the burial authority to enable the restoration of lairs.

A lair which contains human remains will be considered potentially suitable for restoration only where the last interment was at least 100 years ago and where the lair appears to be abandoned. A lair which does not contain human remains (i.e., an unused lair) will be considered potentially suitable if 50 years have passed since it was last sold and it appears to the burial authority to be abandoned.

The test of whether a lair is abandoned is not set out in the Bill, but the Scottish Government intends to provide guidance on the restoration process which will set out the factors a burial authority should consider when determining if a lair is abandoned. After a burial authority has identified a suitable lair, it must consult with various organisations to ensure there is no reason why the lair cannot be restored to use.

The burial authority will be required to contact the owner of the lair. In cases where the owner is found and objects to the proposed restoration, the process cannot continue. If the owner cannot be found or no objections are lodged by this stage, the burial authority is required to undertake a public notification exercise.

While the process required is lengthy, it is likely that burial authorities will recover multiple lairs for restoration to use each time, including over numerous burial grounds. Burial authorities will be expected to use this process strategically to identify and recover enough lairs to provide additional capacity for a number of years.

EXHUMATION

There is currently no legislation covering the exhumation of human remains. Typically, the person who wishes to have a body exhumed asks the burial authority for a feasibility report and then applies to a sheriff for an exhumation order. The Scottish Government's Policy Memorandum outlines the need to improve this "cumbersome, costly and time-consuming procedure, and provide a clear legal process for applying for an exhumation."

The Bill provides the Scottish Ministers with the power to make regulations about exhumation procedures. The Scottish Government does not have the necessary knowledge or experience to make decisions about whether or not to authorise an exhumation, so applications will be considered by way of an application to an inspector.

The regulations will set out the application process for an exhumation. It is expected that this process will be much faster than the current process, and will attract no legal costs. A decision by the inspector to refuse an application will be able to be appealed to the sheriff, whose decision shall be final.

It is intended that the regulations will also set out an additional process to enable certain categories of exhumation to be dealt with differently. Typically, these will be applications for the exhumation of remains which are interred at a shallow depth, such as ashes, or the remains of an infant, which need to be exhumed and reinterred at a lower depth to enable an additional interment in the same lair.

PANDEMICS

The Cremation (Scotland) Regulations 1935 allow the temporary suspension of the regulations in the event of an epidemic. Any mass fatality event is likely to overwhelm the ability to deliver burial and cremation services if it is necessary to continue using standard procedures.

The Bill will enable the Scottish Ministers to suspend or modify any enactment relating to cremation and burial as required for public health reasons. This will be done through regulations, which will be given effect using a form of emergency procedure in the Scottish Parliament, so that it can come into force at short notice for a limited period of time.

CREMATION FORMS

Applications for cremation are made using Form A as prescribed by the Cremation (Scotland) Regulations 1935. The form has been amended several times since its introduction and the Scottish Government's Policy Memorandum suggests "*there is some legal dubiety about its application to some categories of cremation.*"

The Bill includes a regulation-making power which allows the Scottish Ministers to prescribe the form to be used to apply for a cremation. The form will be statutory and will cover all types of cremations.

The form will set out a range of options, and applicants will be required to specify their wishes. Options will include allowing funeral directors to collect ashes on behalf of applicants. In all instances, the form will note what will happen to ashes where they are not collected by the applicant. The applicant will be required to sign the form to declare that they understand the implications of their decision and what will happen to uncollected ashes.

The form will also specify that in certain circumstances, particularly those involving the cremation of babies, it may not be possible to recover ashes. However, given new processes introduced in the wake of the Infant Cremation Commission's recommendations, it is now expected that ashes will be recovered in the vast majority of cremations. Where this does not happen, the Inspector of Crematoriums will investigate; this will be stated on the application form.

BURIAL FORMS

There are currently no statutory forms for burial, and each burial authority uses forms of their own design. This leads to a wide variation in the forms used and the information required of an applicant.

The Bill will give the Scottish Ministers the power to make regulations to prescribe the process and the forms to be used to apply for all burials. The prescribed process will require the applicant to complete the form as set out in secondary legislation. The burial authority must ensure that the statutory form is completed fully and accurately, or the application will not be accepted.

INSTRUCTING THE DISPOSAL OF A PREGNANCY LOSS

Many of the Infant Cremation Commission's recommendations were in response to historic poor practices at crematoriums in Scotland. The majority of its recommendations were designed to improve the process, both in terms of the formal application procedure and the considerations to be made about the woman who has experienced the pregnancy loss.

There is currently [Chief Medical Officer \(CMO\) guidance](#) (April 2015) on how the disposal of a pregnancy loss should be carried. The CMO guidance is concerned with the processes that a hospital should follow, and does not cover some elements that are now considered to be best practice.

The Bill provides the Scottish Ministers with the power to make regulations about the process for applying for a cremation or burial. This process includes the cremation or burial of a pregnancy loss, providing a statutory framework that does not exist currently. The same regulation-making power will be used to prescribe forms for making such an application.

The Bill sets out that a woman who has experienced the pregnancy loss has the right to make the decision about disposal. Options include the woman making arrangements herself or authorising the hospital to make the arrangements.

The woman may also nominate another person to make the decision on her behalf. No woman who experiences a pregnancy loss will be required to make a decision about how it is disposed of, and she may choose to be uninvolved in arrangements for disposal.

The Bill sets out the circumstances in which the hospital should make the decision about how the loss is to be disposed of, which include where the woman is unwilling or unable to make a decision, or has not made a decision by the end of the period during which a decision should be made (six weeks from the date of the loss), or has not nominated someone to make the decision.

The hospital will also make the decision where any person nominated by the mother has similarly been unwilling, unable or has otherwise not made a decision by that same point. The woman who has experienced the loss may also at any time during the specified period authorise the hospital to carry out the arrangements.

In line with the Infant Cremation Commission's recommendations, shared cremation (i.e., several pregnancy losses cremated together) will remain an option. The Bill will work in conjunction with guidance on this subject issued by the Chief Medical Officer and a Code of Practice developed by a working group of the National Cremation Committee.

CREMATION REGISTER

Cremation authorities are required to record the details of each cremation carried out in a cremation register. No such register exists for the cremation of pregnancy losses, although all crematoriums record such cremations in a separate, non-statutory register.

The Bill contains a requirement that each cremation authority will be required to keep a register of every cremation undertaken and that all categories of cremation are to be recorded in the register. The form of this register will be prescribed using regulation-making powers contained in the Bill. The information that is to be recorded will be set out in a form, prescribed by regulations.

The intention is that the way in which a pregnancy loss is recorded in the cremation register will not identify the woman who experienced the loss. Instead, it will link to a unique identifying number used by the hospital when it applies for the cremation; where the woman herself applies for the cremation, the relevant application form will allow the cremation authority to assign a number to the cremation which can in turn be recorded in the cremation register.

Where ashes are collected by the applicant or the applicant's representative, it is intended that the date on which the ashes were collected and by whom will be recorded in the cremation register. The register should be open to the public and the Bill will also set out the process by which people can access the cremation register.

INSPECTORS

The Bill allows for formal, independent inspection of various parts of the funeral industry. It is expected that the introduction of inspectors will improve standards where necessary, address bad practice and improve public confidence in the funeral industry as a whole.

The Bill contains a power for the Scottish Ministers to appoint inspectors to undertake various functions in respect of the funeral industry. This includes crematoriums, burial authorities and funeral directors. The Bill allows for the appointment of as many inspectors as is considered necessary to ensure a full and robust inspection regime.

The duties of the inspectors will include carrying out inspections and providing reports after each inspection, making recommendations to improve working practices and initiating enforcement action when necessary. Inspectors will also be able to investigate complaints.

REGULATION OF THE FUNERAL INDUSTRY

There are few formal requirements to operate as a funeral director and that there is little independent scrutiny of funeral directors. In particular, it can be difficult to prevent someone operating as a funeral director, even where their practices are below expected requirements.

The Bill is constructed so that any regulation of the funeral industry will be introduced in stages. The first stage will be the appointment of inspectors of funeral directors. It is intended that inspectors of funeral directors will make recommendations to the Scottish Ministers about the value of further regulation.

The Bill also contains a power to allow the Scottish Ministers to make regulations to introduce a licensing scheme for funeral directors in future once the inspection regime is established. If it were decided that further regulation of the sector was desirable, Scottish Ministers could then proceed to the next stage and introduce a licensing scheme.

FUNERAL COSTS

The Scottish Government's Policy Memorandum states that there is a limit to what can be achieved legislatively, but the wider policy objective is to influence funeral costs wherever possible. The Bill is relatively limited in what it can do to influence costs, largely because the policy areas involved are considered to be reserved. Topics such as competition law and consumer protection are reserved, and the Bill therefore cannot legislate for these subjects.

FINANCIAL ISSUES

The Scottish Government's [Financial Memorandum](#) sets out the costs associated with the measures introduced by the Bill. The Scottish Government expects the Bill to "*have relatively few costs for key stakeholders*". The Bill seeks to "*improve existing procedures rather than introducing new processes, and may result in some minor savings*".

The sectors for which costs are considered, in the Financial Memorandum, are funeral directors, burial authorities, cremation authorities, NHS Boards and other healthcare providers and the Scottish Government. These costs are summarised below.

SCOTTISH GOVERNMENT

The costs associated with the appointment of inspectors are the main element of the Bill which will have cost implications for the Scottish Government. Overall, the estimated cost to the Scottish Government of the appointment of one full-time Inspector of Crematoria, one full-time Inspector of Burial and two full-time Inspectors of Funeral Directors is estimated as being between £252,000 and £296,000 per year.

The licensing of funeral directors will require administrative support from an additional Scottish Government post. The post would also be responsible for processing licensing fees. Salary costs would be between £25,500 and £29,000 (including salary and tax and National Insurance contributions).

LOCAL AUTHORITIES

The Scottish Government's Financial Memorandum states "*The majority of costs on local authorities will arise when they are carrying out their functions as a burial authority or a cremation authority.*" The Financial Memorandum outlines costs to burial authorities and

cremation authorities separately (covering both local authorities and private authorities). Other areas considered that apply specifically to local authorities are not expected to introduce any additional costs for local authorities.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

The Scottish Government's Financial Memorandum states that the Bill *"is not expected to impose any particular long-term additional costs on funeral directors, other than the potential introduction of a licensing scheme which would require the payment of a fee."*

The revision and standardisation of application forms for cremation and the introduction of a statutory form to be used when applying for a burial may lead to "minor savings" for funeral directors.

The Scottish Government estimates that a single license fee, which took no account of the scale of each business, based solely on recovering the costs of the scheme would cost funeral directors between £756 and £888 per licence. The Financial Memorandum states these estimates *"are indicative, and have a high margin of uncertainty."*

The Scottish Government expects that no other part of the Bill will have financial implications for funeral directors.

The Scottish Government's Financial Memorandum outlines potential cost savings for burial authorities. Base on lower cost estimate (£30,000), a burial authority is likely to generate £130,000 of income from restoring 200 lairs covering the costs of the process and producing a profit of around £100,000.

At the higher cost estimate of £60,000 per reuse process, the projected profit from reclaiming 200 lairs is around £70,000. The Scottish Government's Financial Memorandum suggests *"This revenue will not necessarily be realised immediately."*

The Financial Memorandum considers it *"unlikely that making the cremation register a public document will lead to significant new costs for cremation authorities. It is not expected that any other part of the Bill will have financial implications for cremation authorities."*

NHS BOARDS AND PRIVATE HEALTHCARE PROVIDERS

Only one part of the Bill affects NHS Boards and private healthcare providers, provisions relating to the burial and cremation of pregnancy losses. The Bill will enable some minor changes to be made to the existing processes and is expected to have no financial implications.

The Bill will also require that forms are kept indefinitely. The Scottish Government's Financial Memorandum states that *"most, if not all, records will be stored electronically, the impact of this should be very limited."*

SUMMARY OF WRITTEN EVIDENCE

In line with Scottish Government practice, a full public consultation exercise was carried out between January and April 2015. The consultation paper is available [online](#) and the Scottish Government website provides updated information [online](#) related to the Bill.

Over 180 responses were received from a wide variety of sources, including members of the public, local authorities, the medical profession, the funeral industry and religious and faith groups.

Responses were analysed by the Scottish Government and a report published (available [online](#)) setting out the views expressed during the consultation. The majority of proposals were supported, although some alternative approaches were suggested.

A number of respondents did not support the reuse of burial lairs. A variety of reasons were put forward, but were based mainly on principled objections to human remains being disturbed and the potential for the value of headstones for historical research to be lost.

The analysis of the responses informed the development of the draft Bill. The report indicates the Scottish Government's response to the consultation, including highlighting those areas where policy proposals were changed in light of the consultation.

The responses the Scottish Government was granted permission to publish are available [online](#).

SOURCES

Citizens Advice Scotland (2014) The Real Deal: Funeral Costs. [Online] Available at: <http://www.cas.org.uk/publications/real-deal-funeral-costs> [Accessed 26 October 2015]

Citizens Advice Scotland (2015) The Cost of Saying Goodbye. [Online] Available at: <http://www.cas.org.uk/publications/cost-saying-goodbye> [Accessed 26 October 2015]

Scottish Government (2007) Burial and Cremation Review Group Report and Recommendations. [Online] Available at: <http://www.gov.scot/Resource/Doc/217184/0058192.pdf> [Accessed 27 October 2015]

Scottish Government (2014) Report of the Infant Cremation Commission. [Online] Available at: <http://www.gov.scot/Resource/0045/00453055.pdf> [Accessed 27 October 2015]

The logo for SPICe (The Information Centre) is located in the top left corner. It features the text 'SPICe' in a large, bold, white sans-serif font, with 'The Information Centre' in a smaller, white sans-serif font directly below it. The background of the logo is a dark purple rounded rectangle. To the right of the text, there is a decorative graphic consisting of several white arrows of varying lengths and orientations, pointing generally towards the top right, set against a lighter purple background that blends into the overall page design.

SPICe

The Information Centre

Scottish Parliament Information Centre (SPICe) Briefings are compiled for the benefit of the Members of the Parliament and their personal staff. Authors are available to discuss the contents of these papers with MSPs and their staff who should contact Richard Marsh on extension 85377 or email richard.marsh@scottish.parliament.uk. Members of the public or external organisations may comment on this briefing by emailing us at SPICe@scottish.parliament.uk. However, researchers are unable to enter into personal discussion in relation to SPICe Briefing Papers. If you have any general questions about the work of the Parliament you can email the Parliament's Public Information Service at sp.info@scottish.parliament.uk.

Every effort is made to ensure that the information contained in SPICe briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

Published by the Scottish Parliament Information Centre (SPICe), The Scottish Parliament, Edinburgh, EH 99 1SP

www.scottish.parliament.uk