

# Burial and Cremation (Scotland) Bill

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## Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 81  
Long Title

Schedules 1 and 2

Amendments marked \* are new (including manuscript amendments) or have been altered.

### Section 1A

**Maureen Watt**

- 2 In section 1A, page 1, line 18, leave out from <means> to end of line 20 and insert <, in relation to a burial ground, means the person having responsibility for the management of the burial ground.>

### Section 2

**Maureen Watt**

- 3 In section 2, page 2, line 2, leave out from <does> to end of line 3 and insert <has the meaning given in section 1 except that it does not include land mentioned in paragraph (b) of that section.>

### Section 3

**Maureen Watt**

- 4 In section 3, page 2, line 5, leave out from beginning to <The> in line 6 and insert <A local>

### Section 4

**Maureen Watt**

- 5 In section 4, page 2, line 9, leave out subsection (1)

**Maureen Watt**

- 6 In section 4, page 2, line 10, leave out first <burial> and insert <local>

**Maureen Watt**

- 7 In section 4, page 2, line 12, leave out second <burial> and insert <local>

**Maureen Watt**

- 8 In section 4, page 2, line 16, after <more> insert <local authorities that are>

**Maureen Watt**

- 9 In section 4, page 2, line 19, leave out first <burial> and insert <local>

**Maureen Watt**

- 10 In section 4, page 2, line 22, leave out from <does> to end of line 23 and insert <has the meaning given by section 1 except that it does not include land mentioned in paragraph (b) of that section.>

**Section 7**

**Maureen Watt**

- 11 In section 7, page 3, line 22, leave out <provided by the> and insert <for which it is the burial>

**Section 8**

**Maureen Watt**

- 12 In section 8, page 3, line 31, leave out <providing the> and insert <for the burial>

**Section 10**

**Maureen Watt**

- 13 In section 10, page 4, line 26, leave out <provided by the> and insert <for which it is the burial>

**Section 12**

**Maureen Watt**

- 14 In section 12, page 5, line 12, leave out <provided by the> and insert <for which it is the burial>

**Section 14**

**Maureen Watt**

- 15 In section 14, page 7, line 18, leave out <it provides> and insert <for which it is the burial authority>

**Section 15**

**Maureen Watt**

- 16 In section 15, page 8, line 9, leave out <that provides> and insert <for>

## **Section 20**

### **Maureen Watt**

- 17 In section 20, page 11, line 36, leave out <provided by the> and insert <for which it is the burial>

### **Maureen Watt**

- 18 Move section 20 to after section 15

## **Section 22**

### **Maureen Watt**

- 19 In section 22, page 12, line 25, at end insert <or>

## **Section 23A**

### **Maureen Watt**

- 20 In section 23A, page 14, line 31, leave out <provided by the> and insert <for which it is the burial>

## **Section 34**

### **Maureen Watt**

- 21 In section 34, page 21, line 23, leave out <provided by the> and insert <for which it is the burial>

## **Section 35**

### **Maureen Watt**

- 22 In section 35, page 22, line 10, after <by> insert <or under>

## **Section 37**

### **Maureen Watt**

- 74 In section 37, page 23, line 4, leave out <and> and insert—  
<( ) the operation of equipment for the carrying out of cremations,>

## **Section 42A**

### **Maureen Watt**

- 75 Leave out section 42A

## Section 46

### Maureen Watt

- 23 In section 46, page 31, line 27, leave out <disposal of the adult's remains> and insert <the adult's remains to be buried or cremated>

### Maureen Watt

- 24 In section 46, page 32, line 23, leave out <disposal of the adult's remains> and insert <the remains to be buried or cremated>

### Maureen Watt

- 25 In section 46, page 32, line 30, leave out <disposal> and insert <the burial or cremation>

## Section 47

### Maureen Watt

- 26 In section 47, page 32, line 35, leave out <disposal of the child's remains> and insert <the child's remains to be buried or cremated>

### Maureen Watt

- 27 In section 47, page 33, line 19, leave out <disposal of the child's remains> and insert <the remains to be buried or cremated>

### Maureen Watt

- 28 In section 47, page 33, leave out lines 26 and 27

## Section 47A

### Maureen Watt

- 76 In section 47A, page 33, line 31, after <is> insert <to be>

### Maureen Watt

- 77 In section 47A, page 33, line 33, at beginning insert <If the appropriate health body considers that it would be in the woman's best interests to do so,>

### Maureen Watt

- 78 In section 47A, page 33, line 35, leave out <or>

### Maureen Watt

- 79 In section 47A, page 33, line 39, leave out <authority> and insert <body,
- (c) if she wishes to authorise the body under paragraph (b), whether she wishes to authorise the body to make those arrangements—

- (i) as soon as practicable after the pregnancy is terminated, or
- (ii) after the expiry of the 7-day period.>

**Maureen Watt**

- 29** In section 47A, page 34, line 3, leave out <disposed of> and insert <buried or cremated>

**Maureen Watt**

- 80** In section 47A, page 34, line 4, leave out subsections (4) and (5)

**Maureen Watt**

- 30** In section 47A, page 34, line 12, leave out <in the prescribed form and manner>

**Maureen Watt**

- 81** In section 47A, page 34, line 14, at end insert—  
    <“7-day period” means the period of 7 days beginning with the day on which the pregnancy is terminated,>

**Maureen Watt**

- 82** In section 47A, page 34, line 15, after <is> insert <to be>

**Maureen Watt**

- 83** In section 47A, page 34, line 17, leave out from <at> to first <service> in line 20 and insert <the woman is in the care of a Health Board as regards the termination, that Health Board,  
    (b) if the woman is in the care of an independent health care service as regards the termination>

**After section 47A**

**Maureen Watt**

- 84** After section 47A, insert—  
    <**Section 47A: health body authorised to make arrangements**  
    (1) This section applies where—  
        (a) a woman’s pregnancy is terminated after its 24th week by virtue of section 1(1)(b), (c) or (d) of the Abortion Act 1967, and  
        (b) an appropriate health body is authorised by virtue of section 47A(2)(b) to make arrangements for the remains of the fetus to be buried or cremated.  
    (2) The appropriate health body—  
        (a) may make arrangements for the remains to be buried or cremated, and  
        (b) if by virtue of section 47A(2)(b)(i) it is authorised to do so in a specified way, must do so in that way.  
    (3) The appropriate health body may make the arrangements—

- (a) if the authorisation was given by virtue of section 47A(2)(c)(i), as soon as practicable after the pregnancy is terminated,
  - (b) if the authorisation was given by virtue of section 47A(2)(c)(ii) and not withdrawn before the expiry of the 7-day period, after the expiry of that period.
- (4) In this section, “appropriate health body” and “7-day period” have the meanings given by section 47A(7).>

**Maureen Watt**

**85** After section 47A, insert—

**<Arrangements on termination after 24 weeks**

- (1) This section applies where—
  - (a) a woman’s pregnancy is terminated after its 24th week by virtue of section 1(1)(b), (c) or (d) of the Abortion Act 1967, and
  - (b) it appears to the appropriate health authority that no arrangements have been or are being made by virtue of section 47A(2) for the remains of the fetus to be buried or cremated.
- (2) The appropriate health authority must give the woman an opportunity to decide—
  - (a) whether she wishes to make the arrangements for the remains of the fetus to be buried or cremated, or
  - (b) whether she wishes to authorise the appropriate health authority to make those arrangements—
    - (i) in a way specified by the woman, or
    - (ii) in a way specified by the authority.
- (3) For the purposes of subsection (2)(b), the appropriate health authority must inform the woman if it would not be reasonably practicable for the authority to arrange for the remains to be buried or cremated in a particular way.
- (4) Subsection (5) applies if—
  - (a) the woman informs the appropriate health authority that she does not wish to make arrangements for the remains of the fetus to be buried or cremated,
  - (b) the woman is unable to make a decision under subsection (2), or
  - (c) the woman does not inform the appropriate health authority of a decision that she has made under subsection (2).
- (5) The appropriate health authority may make arrangements for the remains to be buried or cremated.
- (6) The appropriate health authority must keep a record of prescribed information.
- (7) In this section, “appropriate health authority”, in relation to a woman whose pregnancy is terminated as mentioned in subsection (1), means—
  - (a) if the time when the pregnancy is terminated the woman is in the care of a Health Board, that Health Board,
  - (b) if at the time when the pregnancy is terminated the woman is in the care of an independent health care service, that independent health care service.>

**Maureen Watt**

86 After section 47A, insert—

**<Duty of health body where still-birth likely to occur**

- 5 (1) This section applies where an appropriate health body informs a woman that the appropriate health body considers that it is likely that the woman’s pregnancy will end with a still-birth (other than in consequence of the termination of the pregnancy by virtue of section 1(1)(b), (c) or (d) of the Abortion Act 1967).
- (2) If the appropriate health body considers that it would be in the woman’s best interests to do so, the appropriate health body must give the woman an opportunity to decide—
- 10 (a) whether she wishes to make the arrangements for the remains of the fetus to be buried or cremated,
- (b) whether she wishes to authorise the appropriate health body to make those arrangements—
- (i) in a way specified by the woman, or
- (ii) in a way specified by the body,
- 15 (c) if she wishes to authorise the body under paragraph (b), whether she wishes to authorise the body to make those arrangements—
- (i) as soon as practicable after the still-birth occurs, or
- (ii) after the expiry of the 7-day period.
- 20 (3) For the purposes of subsection (2)(b), the appropriate health body must inform the woman if it would not be reasonably practicable for the body to arrange for the remains to be buried or cremated in a particular way.
- (4) The appropriate health body must keep a record of prescribed information.
- (5) In this section—
- 25 “7-day period” means the period of 7 days beginning with the day on which the still-birth occurs,
- “appropriate health body”, in relation to a woman, means—
- (a) if at the time when the woman is informed of the matter mentioned in subsection (1) the woman is in the care of a Health Board, that Health Board,
- 30 (b) if at the time when the woman is informed of the matter mentioned in subsection (1) the woman is in the care of an independent health care service, that independent health care service.>

**Malcolm Chisholm**

86A As an amendment to amendment 86, line 7, leave out from beginning to <so,> in line 8

**Maureen Watt**

87 After section 47A, insert—

**<Section 47A: health body authorised to make arrangements**

- (1) This section applies where—

- (a) a still-birth occurs other than in consequence of the termination of a woman’s pregnancy by virtue of section 1(1)(b), (c) or (d) of the Abortion Act 1967, and
  - (b) the appropriate health body is authorised by virtue of section (*Duty of health body where still-birth likely to occur*)(2)(b) to make arrangements for the remains of the fetus to be buried or cremated.
- (2) The appropriate health body—
- (a) may make arrangements for the remains to be buried or cremated, and
  - (b) if by virtue of section (*Duty of health body where still-birth likely to occur*)(2)(b)(i) it is authorised to do so in a specified way, must do so in that way.
- (3) The appropriate health body may make the arrangements—
- (a) if the authorisation was given by virtue of section (*Duty of health body where still-birth likely to occur*)(2)(c)(i), as soon as practicable after the still-birth occurs,
  - (b) if the authorisation was given by virtue of section (*Duty of health body where still-birth likely to occur*)(2)(c)(ii) and not withdrawn before the expiry of the 7-day period, after the expiry of that period.
- (4) In this section, “7-day period” and “appropriate health body” have the meanings given by section (*Duty of health body where still-birth likely to occur*)(5).>

**Section 47B**

**Maureen Watt**

- 88 In section 47B, page 34, line 28, at end insert <, and
- (b) it appears to the appropriate health body that no arrangements have been or are being made by virtue of section (*Duty of health body where still-birth likely to occur*)(2) for the remains of the fetus to be buried or cremated.>

**Maureen Watt**

- 31 In section 47B, page 35, line 1, leave out <disposal of the remains of the still-born child> and insert <remains of the still-born child to be buried or cremated>

**Maureen Watt**

- 32 In section 47B, page 35, line 6, leave out <disposal of the remains> and insert <remains of the still-born child to be buried or cremated>

**Maureen Watt**

- 33 In section 47B, page 35, line 9, leave out <disposed of> and insert <buried or cremated>

**Maureen Watt**

- 34 In section 47B, page 35, line 10, leave out <record prescribed information in the prescribed manner> and insert <keep a record of prescribed information>



**Maureen Watt**

- 35 In section 47B, page 35, leave out lines 32 and 33

**Section 47C**

**Maureen Watt**

- 36 In section 47C, page 36, line 2, leave out <disposal> and insert <burial or cremation>

**Maureen Watt**

- 37 In section 47C, page 36, line 6, leave out <appropriate> and insert <prescribed>

**Maureen Watt**

- 38 In section 47C, page 36, line 9, leave out <disposal of the remains> and insert <remains to be buried or cremated>

**Section 47D**

**Maureen Watt**

- 39 In section 47D, page 36, line 19, after <been> insert <or are being>

**Section 48**

**Maureen Watt**

- 40 In section 48, page 36, line 25, leave out from <making> to end of line 26 and insert <entitled by virtue of section 46(2) or 47(2) to make the arrangements for the remains of an adult or child to be buried or cremated.>

**Maureen Watt**

- 41 In section 48, page 36, line 30, leave out <means of disposal> and insert <the burial or cremation>

**Maureen Watt**

- 42 Move section 48 to after section 47

**Section 49**

**Maureen Watt**

- 43 In section 49, page 37, line 4, leave out <disposal> and insert <burial or cremation>

**Maureen Watt**

- 44 Move section 49 to after section 47

## After section 49

### Maureen Watt

89 After section 49, insert—

#### <Section 54A: health body authorised to make arrangements

- (1) This section applies where—
  - (a) a woman’s pregnancy ends before or on completion of its 24th week,
  - (b) after being parted from the woman the fetus does not breathe or show any other signs of life,
  - (c) at the time when the pregnancy ends the woman is in the care of a relevant health body, and
  - (d) the relevant health body is authorised by virtue of section 54A(2)(c) to make arrangements for the remains of the fetus to be buried or cremated.
- (2) The relevant health body—
  - (a) may make arrangements for the remains to be buried or cremated, and
  - (b) if by virtue of section 54A(2)(c)(i) it is authorised to do so in a specified way, must do so in that way.
- (3) The relevant health body may make the arrangements—
  - (a) if the authorisation was given by virtue of section 54A(2)(d)(i), as soon as practicable after the pregnancy ends,
  - (b) if the authorisation was given by virtue of section 54A(2)(d)(ii) and not withdrawn before the expiry of the 7-day period, after the expiry of that period.
- (4) In this section, “7-day period” and “relevant health body” have the meanings given by section 54A(5).>

## Section 50

### Maureen Watt

90 In section 50, page 37, line 24, at end insert <, and

- ( ) it appears to the appropriate health authority that no arrangements have been or are being made by virtue of section 54(2) for the remains of the fetus to be buried or cremated.>

### Maureen Watt

45 In section 50, page 37, line 27, leave out <disposal of the remains of the fetus> and insert <remains of the fetus to be buried or cremated>

### Maureen Watt

46 In section 50, page 37, line 39, leave out <disposed of> and insert <buried or cremated>

## **Section 51**

### **Maureen Watt**

- 47 In section 51, page 38, line 33, leave out <disposed of> and insert <buried or cremated>

### **Maureen Watt**

- 48 In section 51, page 39, line 3, leave out <disposed of> and insert <buried or cremated>

## **Section 52**

### **Maureen Watt**

- 49 In section 52, page 39, line 15, leave out <disposal of remains> and insert <remains of a fetus to be buried or cremated>

### **Maureen Watt**

- 50 In section 52, page 39, line 18, leave out <disposal of the remains> and insert <remains to be buried or cremated>

### **Maureen Watt**

- 51 In section 52, page 39, line 22, leave out <disposal of the remains> and insert <remains to be buried or cremated>

### **Maureen Watt**

- 52 In section 52, page 39, line 24, leave out <disposal of the remains> and insert <remains to be buried or cremated>

### **Maureen Watt**

- 53 In section 52, page 39, line 28, leave out <disposed of> and insert <buried or cremated>

### **Maureen Watt**

- 54 In section 52, page 39, line 38, leave out <disposal of the remains> and insert <remains to be buried or cremated>

## **Section 52A**

### **Maureen Watt**

- 91 In section 52A, page 40, line 7, leave out <disposal> and insert <burial or cremation>

### **Maureen Watt**

- 92 In section 52A, page 40, line 11, leave out <disposal> and insert <burial or cremation>

**Maureen Watt**

- 93 In section 52A, page 40, line 13, at end insert—  
<( ) In this section, “appropriate health authority” has the meaning given by section 50(6).>

**Section 53**

**Maureen Watt**

- 55 In section 53, page 40, line 16, leave out <the disposal of remains> and insert <remains to be buried or cremated>

**Maureen Watt**

- 56 In section 53, page 40, line 18, leave out <disposal of the remains> and insert <remains to be buried or cremated>

**Maureen Watt**

- 57 In section 53, page 40, line 29, leave out <disposal of the remains> and insert <remains to be buried or cremated>

**Section 54**

**Maureen Watt**

- 58 In section 54, page 41, line 3, at beginning insert <it appears to the appropriate health authority that>

**Maureen Watt**

- 59 In section 54, page 41, line 3, after <been> insert <or are being>

**Maureen Watt**

- 60 In section 54, page 41, line 3, leave out <disposal of the remains of the fetus> and insert <remains of the fetus to be buried or cremated>

**Maureen Watt**

- 61 In section 54, page 41, line 10, leave out <disposal of the remains> and insert <remains to be buried or cremated>

**Maureen Watt**

- 62 In section 54, page 41, line 16, leave out <disposal of the remains> and insert <remains to be buried or cremated>

**Maureen Watt**

- 63 In section 54, page 41, line 24, leave out <disposal of the remains> and insert <remains to be buried or cremated>

**Maureen Watt**

- 64 In section 54, page 41, line 28, leave out <disposal of the remains> and insert <remains to be buried or cremated>

**Maureen Watt**

- 65 In section 54, page 41, line 34, leave out <disposal of the remains> and insert <remains to be buried or cremated>

**Maureen Watt**

- 66 In section 54, page 41, line 38, leave out <disposal of the remains> and insert <remains to be buried or cremated>

**Section 54A**

**Maureen Watt**

- 94 In section 54A, page 42, line 2, leave out <a relevant body informs a> and insert—  
<( ) a woman is in the care of a relevant health body, and  
( ) the relevant health body informs the>

**Maureen Watt**

- 95 In section 54A, page 42, line 5, leave out from beginning to <section,> in line 10 and insert—
- <(2) If the relevant health body considers that it would be in the woman’s best interests to do so, the relevant health body must give the woman an opportunity to decide—
- 5 (a) whether she wishes to make the arrangements for the remains of the fetus to be buried or cremated,
- (b) whether she wishes to authorise an individual of or over 16 years of age to make those arrangements—
- (i) in a way specified by the woman, or
- (ii) in a way specified by the body,
- 10 (c) whether she wishes to authorise the relevant health body to make those arrangements—
- (i) in a way specified by the woman, or
- (ii) in a way specified by the body,
- 15 (d) if she wishes to authorise the body under paragraph (c), whether she wishes to authorise the body to make those arrangements—
- (i) as soon as practicable after the pregnancy ends, or
- (ii) after the expiry of the 7-day period.
- (3) For the purposes of subsection (2)(c), the relevant health body must inform the woman if it would not be reasonably practicable for the body to arrange for the remains to be buried or cremated in a particular way.
- 20 (4) The relevant health body must keep a record of prescribed information.

(5) In this section—

“7-day period” means the period of 7 days beginning with the day on which the fetus is parted from the woman and does not breathe or show any other signs of life,>

25

**Malcolm Chisholm**

**95A** As an amendment to amendment 95, line 2, leave out from beginning to <so,> in line 3

**Maureen Watt**

**96** Move section 54A to after section 49

**Section 55**

**Maureen Watt**

**67** In section 55, page 42, line 18, leave out <disposal> and insert <burial or cremation>

**Maureen Watt**

**97** In section 55, page 42, line 18, leave out <50> and insert <47A>

**Section 56**

**Maureen Watt**

**68** In section 56, page 43, line 6, leave out <disposal of the remains> and insert <remains to be buried or cremated>

**Section 62**

**Maureen Watt**

**98** In section 62, page 46, line 3, leave out <management or operation> and insert <carrying out of any function>

**Maureen Watt**

**99** In section 62, page 46, line 7, leave out <the business of>

**Section 63**

**Maureen Watt**

**69** In section 63, page 46, line 34, leave out <or record> and insert <, record or register>

**Maureen Watt**

**70** In section 63, page 46, line 38, leave out <or records> and insert <, records or registers>

## After section 66B

**Lesley Brennan**

**1** After section 66B, insert—

*<Guidance on funeral costs*

### **Guidance on funeral costs**

- (1) The Scottish Ministers may publish guidance on the costs associated with making arrangements for a funeral.
- (2) The guidance may in particular cover the desirability of such costs being affordable.
- (3) Before issuing such guidance, the Scottish Ministers must consult—
  - (a) burial authorities,
  - (b) cremation authorities,
  - (c) funeral directors,
  - (d) any other persons they consider appropriate.
- (4) The Scottish Ministers must lay a copy of any guidance published under this section before the Scottish Parliament.>

## Section 73

**Maureen Watt**

**100** In section 73, page 53, line 4, leave out subsection (6)

## After section 73

**Maureen Watt**

**101** After section 73, insert—

### **<Regulations under section 66(1): requirements**

- (1) Before laying a draft of a Scottish statutory instrument containing regulations under section 66(1) before the Scottish Parliament, the Scottish Ministers must—
  - (a) prepare a draft of the regulations,
  - (b) consult the persons mentioned in subsection (2) about the draft regulations, and
  - (c) in preparing the draft Scottish statutory instrument, have regard to any representations received by them by virtue of paragraph (b).
- (2) The persons are—
  - (a) persons appearing to the Scottish Ministers to be representative of the interests of funeral directors in Scotland, and
  - (b) any other persons the Scottish Ministers consider appropriate.
- (3) When laying a draft of a Scottish statutory instrument containing regulations under section 66(1) before the Scottish Parliament, the Scottish Ministers must also lay before the Parliament a document which—

- (a) summarises any representations received by them by virtue of subsection (1)(b), and
- (b) describes any changes made to the draft regulations prepared under subsection (1)(a) whether as a result of those representations or otherwise.>

## **Section 75**

### **Maureen Watt**

- 71** In section 75, page 53, line 26, after <ground"> insert <(other than in sections 2 and 4)>

### **Maureen Watt**

- 72** In section 75, page 54, line 10, at end insert—  
<“still-birth” and “still-born child” have the meanings given by section 56(1) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965.>

## **Schedule 2**

### **Maureen Watt**

- 102** In schedule 2, page 57, line 7, leave out <School> and insert <Scottish>

### **Maureen Watt**

- 103** In schedule 2, page 57, leave out lines 28 to 33

### **Maureen Watt**

- 104** In schedule 2, page 57, line 34, column 2, leave out <3> and insert <3(2)>

### **Maureen Watt**

- 105** In schedule 2, page 57, column 2, leave out lines 35 and 36

### **Maureen Watt**

- 106** In schedule 2, page 58, leave out lines 5 and 6

### **Maureen Watt**

- 107** In schedule 2, page 58, line 9, column 2, leave out <paragraphs 1 and 2> and insert <paragraph 1(3) and (4)>

## **Long Title**

### **Maureen Watt**

- 73** In the long title, page 1, line 3, after first <and> insert <regulation of burial authorities, cremation authorities and funeral directors; to enable provision to be made for the>



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