

Burial and Cremation (Scotland) Bill

Marshalled List of Amendments for Stage 2 (Local Government and Regeneration Committee)

The Bill will be considered in the order below (in accordance with the terms of motion S4M-15723)—

Sections 1 to 77	Schedule 1
Section 78	Schedule 2
Sections 79 to 81	Long Title

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

Section 1

Maureen Watt

- 2 In section 1, page 1, leave out lines 12 to 15 and insert—
- <(b) includes land that was, but is no longer, used primarily for the burial of human remains and that—
 - (i) was provided for that purpose in pursuance of a function conferred by an enactment or an obligation imposed by rule of law, or
 - (ii) is specified in regulations made by the Scottish Ministers.>

After section 1

Maureen Watt

- 3 After section 1, insert—
- <Meaning of “burial authority”
- In this Act, “burial authority” means—
- (a) a local authority, or
 - (b) a person (other than a local authority) who owns a burial ground.>

Section 2

Maureen Watt

- 4 In section 2, page 1, line 17, leave out subsection (1)

Maureen Watt

- 5 In section 2, page 1, line 19, leave out <The burial> and insert <Each local>

Section 5

Maureen Watt

- 6 Leave out section 5

Section 6

Maureen Watt

- 7 In section 6, page 2, line 30, leave out from <, and> to end of line 31

Section 8

Maureen Watt

- 8 In section 8, page 4, line 12, at end insert <or>

Maureen Watt

- 9 In section 8, page 4, leave out lines 17 to 19

Section 10

Maureen Watt

- 10 In section 10, page 4, line 39, at end insert <or>

Maureen Watt

- 11 In section 10, page 5, line 1, leave out <(including creating criminal offences)>

Maureen Watt

- 12 In section 10, page 5, line 3, leave out subsection (3)

Maureen Watt

- 13 In section 10, page 5, line 9, leave out from <at> to end of line 10 and insert <by members of the public on payment of such reasonable charge (if any) as the authority may determine.

() A burial authority must make arrangements>

Maureen Watt

- 14 In section 10, page 5, line 12, leave out <a reasonable charge> and insert <such reasonable charge (if any) as the authority may determine>

Maureen Watt

- 15 In section 10, page 5, line 12, at end insert—

<() A burial register must be kept indefinitely.>

Section 12

Maureen Watt

- 16 In section 12, page 5, line 23, leave out subsection (1)

Maureen Watt

- 17 In section 12, page 5, line 28, leave out <other than one which is a local authority>

Maureen Watt

- 18 In section 12, page 5, line 38, leave out <(1) or>

Maureen Watt

- 19 In section 12, page 6, line 3, leave out <(1)(b) or>

Maureen Watt

- 20 In section 12, page 6, line 4, at end insert <(but this subsection is subject to section (*Duty to sell right of burial*).>

After section 12

Maureen Watt

- 21 After section 12, insert—

<Duty to sell right of burial

- (1) Where an application under section 12(2) satisfies the conditions in subsection (2) or (3), the burial authority to which the application is made must grant the application and sell a right of burial to the person making the application (the “applicant”).
- (2) The conditions are that—
 - (a) the application is made to a burial authority that is a local authority,
 - (b) the application discloses that the applicant intends the lair to be used to bury the remains of a person who, at the time the application is made, has died, and
 - (c) immediately before the person’s death, the person was ordinarily resident in the area of the local authority mentioned in paragraph (a).
- (3) The conditions are that—
 - (a) the application is made to a burial authority that is a local authority,
 - (b) the application discloses that the applicant intends the lair to be used to bury the remains of—
 - (i) a still-born child, or
 - (ii) a fetus mentioned in subsection (4), and
 - (c) the applicant is ordinarily resident in the area of the local authority mentioned in paragraph (a).

- (4) 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.
- (5) In subsection (3)(b)(i), “still-born child” has the meaning given by section 56(1) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965.>

Section 13

Maureen Watt

- 22** In section 13, page 6, line 5, at end insert—
- <() This section applies in relation to any right of burial other than one that vests in the Commonwealth War Graves Commission.>

Maureen Watt

- 23** In section 13, page 6, line 9, leave out <right> and insert <period for which the right subsists>

After section 13

Maureen Watt

- 24** After section 13, insert—
- <Commonwealth War Graves Commission: right of burial**
- (1) Subsection (2) applies where a burial authority sells a right of burial to the Commonwealth War Graves Commission.
 - (2) The right subsists in perpetuity.>

Maureen Watt

- 25** After section 13, insert—
- <Right of burial: notification of pending extinguishment**
- (1) Subsection (2) applies where—
 - (a) a right of burial falls to be extinguished by virtue of section 13(1) or (4), and
 - (b) the burial authority that sold the right—
 - (i) is aware of the name and address of the right-holder, or
 - (ii) can, after reasonable enquiry, ascertain them.
 - (2) At least 3 months before the day on which the right of burial falls to be extinguished, the burial authority must notify the right-holder—
 - (a) of the date on which the right falls to be extinguished,
 - (b) of the right-holder’s right to apply for an extension of the right under section 13(2),
 - (c) that, where no such application is made, the right will be extinguished, and

- (d) that the right will be extinguished if such an application is refused under section 13(5).
- (3) In this section, “right-holder”, in relation to a lair, means the person in whom the right of burial in the lair is vested.>

Section 14

Maureen Watt

- 26 In section 14, page 6, line 28, leave out <establish> and insert <prepare>

Maureen Watt

- 27 In section 14, page 6, line 33, at end insert <, and
- (d) subject to subsection (2A), the names and addresses of persons in whom the right of burial vests (where such persons do not fall within paragraph (c)).
- (2A) If the burial authority is unaware of, or is unable after reasonable enquiry to ascertain, the names and addresses of the persons mentioned in subsection (2)(d), the authority need not comply with the duty imposed by that subsection.>

Maureen Watt

- 28 In section 14, page 6, line 38, at end insert—
- <() An extract from a register maintained by a burial authority under this section, duly certified as a true copy by the burial authority, is in relation to matters contained in the extract sufficient evidence of those matters for the purposes of any court proceedings.>

After section 14

Maureen Watt

- 29 After section 14, insert—
- <Registers under section 14: offences**
- (1) A burial authority commits an offence if, without reasonable excuse, the authority contravenes section 14(2) by failing to prepare or maintain a register as required under that section.
- (2) A burial authority which commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.>

After section 15

Maureen Watt

- 30 After section 15, insert—

<Burial authority: code of practice

Burial authority: code of practice

- (1) A burial authority must comply with any code of practice issued by the Scottish Ministers about the carrying out of functions conferred on the authority by or under this Act in relation to the management of a burial ground (a “burial code”).
- (2) Before issuing any burial code, the Scottish Ministers must consult—
 - (a) burial authorities, and
 - (b) other persons appearing to the Scottish Ministers to have an interest.
- (3) After taking account of any representations received by them by virtue of subsection (2), the Scottish Ministers must lay a draft of the burial code before the Scottish Parliament.
- (4) The Scottish Ministers may not issue a burial code unless a draft of the code is approved by resolution of the Scottish Parliament.
- (5) The Scottish Ministers must publish a burial code in such manner as they consider appropriate.
- (6) The Scottish Ministers must keep under review a burial code.
- (7) In this section, references to a burial code include references to a burial code as revised from time to time by the Scottish Ministers.>

Section 16

Maureen Watt

- 31** In section 16, page 7, line 35, at end insert—
- <() make provision for or in connection with the charging of fees by local authorities in respect of applications to carry out private burials,>

Maureen Watt

- 32** In section 16, page 8, line 23, at end insert <or>

Maureen Watt

- 33** In section 16, page 8, line 29, leave out <subsection (2)> and insert <this section>

Maureen Watt

- 34** In section 16, page 8, line 30, at end insert <or
- () the remains of a fetus mentioned in subsection (7),>

Maureen Watt

- 35** In section 16, page 8, line 33, at end insert—
- <(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.>

Section 17

Maureen Watt

- 36 In section 17, page 8, line 35, leave out from beginning to <establish> in line 36 and insert <Each local authority must prepare>

Maureen Watt

- 37 In section 17, page 8, line 37, at end insert <(a “private burial register”)>

Maureen Watt

- 38 In section 17, page 8, line 38, leave out subsection (2) and insert—
- <(2) The Scottish Ministers may by regulations—
 - (a) require a private burial register to be in a specified form and kept in a specified manner,
 - (b) require specified information to be recorded in a private burial register,
 - (c) make provision about when such information is to be recorded, or
 - (d) make such other provision relating to a private burial register as they consider appropriate.
 - (2A) A local authority must make arrangements for its private burial register to be available for inspection by members of the public on payment of such reasonable charge (if any) as the authority may determine.
 - (2B) A local authority must make arrangements for copies of entries in its private burial register to be supplied, on request, to members of the public on payment of such reasonable charge (if any) as the authority may determine.
 - (2C) A private burial register must be kept indefinitely.
 - (2D) An extract from a private burial register kept by a local authority, duly certified as a true copy by the local authority, is sufficient evidence of the private burial entered in it for the purposes of any court proceedings.
 - (2E) In subsection (2), “specified” means specified in the regulations.>

Section 18

Maureen Watt

- 39 Leave out section 18

After section 19

Maureen Watt

- 40 After section 19, insert—
- <**Private burial register: offences**
 - (1) A local authority commits an offence if, without reasonable excuse, the authority contravenes section 17(1) by failing to prepare or maintain a private burial register.

- (2) A local authority which commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.>

Section 20

Maureen Watt

- 41 In section 20, page 10, line 14, after <12> insert <or (*Duty to sell right of burial*)>

Maureen Watt

- 42 In section 20, page 10, line 15, at end insert—
- <(2A) The burial authority must publish fees mentioned in subsection (2) in accordance with subsection (2B).
- (2B) The fees must be published—
- (a) in paper form, and
 - (b) on the website of the burial authority.
- (2C) A burial authority may display the fees in any place it considers appropriate.>

Section 22

Maureen Watt

- 43 In section 22, page 10, leave out line 34

Maureen Watt

- 44 In section 22, page 11, line 11, at end insert <or>

Maureen Watt

- 45 In section 22, page 11, leave out lines 16 to 18

After section 22

Maureen Watt

- 46 After section 22, insert—
- <Exhumation application: offences**
- (1) A person commits an offence if the person—
- (a) provides information in, or in connection with, an application made by virtue of regulations under section 22 which the person knows to be false or misleading in a material way, or
 - (b) recklessly provides information in, or in connection with, such an application which is false or misleading in a material way.
- (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.>

Section 23

Maureen Watt

- 47 In section 23, page 12, line 17, leave out from <and> to <fit> in line 20

Maureen Watt

- 48 In section 23, page 12, line 22, at end insert—

<() In upholding a decision under subsection (6), the sheriff may—

- (a) confirm, vary or remove any of the conditions subject to which the application was granted, and
- (b) impose such other conditions in relation to the exhumation as the sheriff thinks fit.>

Maureen Watt

- 49 In section 23, page 12, line 31, leave out second <or> and insert <and>

Maureen Watt

- 50 In section 23, page 12, line 32, after <such> insert <other>

Maureen Watt

- 51 In section 23, page 12, line 33, leave out subsection (9)

After section 23

Maureen Watt

- 52 After section 23, insert—

<Exhumation register

- (1) Each burial authority must prepare and maintain for each burial ground provided by the authority a register containing prescribed information about exhumations of human remains carried out in the burial ground.
- (2) Each local authority must prepare and maintain a register containing prescribed information about exhumations of human remains the private burial of which was authorised by the authority under section 16(3).
- (3) In this section, a register prepared and maintained under subsection (1) or (2) is referred to as an “exhumation register”.
- (4) The Scottish Ministers may by regulations—
 - (a) require an exhumation register to be in a specified form and kept in a specified manner, or
 - (b) make such other provision relating to an exhumation register as they consider appropriate.

- (5) The appropriate authority must make arrangements for its exhumation register to be made available for inspection by members of the public on payment of such reasonable charge (if any) as the authority may determine.
- (6) The appropriate authority must make arrangements for copies of entries in its exhumation register to be supplied, on request, to members of the public on payment of such reasonable charge (if any) as the authority may determine.
- (7) An exhumation register must be kept indefinitely.
- (8) An extract from an exhumation register, duly certified as a true copy by the appropriate authority, is sufficient evidence of the exhumation entered in it for the purposes of any court proceedings.
- (9) In this section—
 - “appropriate authority”—
 - (a) in relation to an exhumation register maintained under subsection (1), means a burial authority,
 - (b) in relation to an exhumation register maintained under subsection (2), means a local authority,
 - “specified” means specified in the regulations.>

Maureen Watt

53 After section 23, insert—

<Exhumation register: offences

- (1) An appropriate authority commits an offence if, without reasonable excuse, the authority contravenes section (*Exhumation register*)(1) or (2) by failing to prepare or maintain an exhumation register.
- (2) An appropriate authority which commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) In this section, “appropriate authority” has the meaning given by section (*Exhumation register*)(9).>

Section 24

Maureen Watt

54 In section 24, page 12, leave out line 39 and insert—

- <(a) the lair is in a poor state of maintenance and repair or that there are no indications that any person is taking an interest in the lair,>

Maureen Watt

55 In section 24, page 13, line 5, leave out <(but may not exhume any human remains)> and insert—

- <(b) open or move any tomb or other structure that is in or on the lair.
- () The burial authority may not exhume any human remains that are buried in the lair.>

Maureen Watt

- 56 In section 24, page 13, leave out lines 25 and 26

Section 27

Maureen Watt

- 57 In section 27, page 16, line 1, at end insert—

<() Subsection (5) is to be read as if it did not contain any references (however expressed) to the spouse or civil partner of a person if the person’s spouse or (as the case may be) civil partner—

- (a) is permanently separated (either by agreement or under an order of a court) from the person, or
- (b) has deserted, or has been deserted by, the person and the desertion continues.>

Maureen Watt

- 58 In section 27, page 16, line 3, at end insert <, and

() references to the spouse of the person (“the deceased”) include references to a person who immediately before the deceased’s death was living with the deceased as if they were married to each other and had been so living for a period of at least 6 months (or if the deceased was in hospital immediately before death had been so living for such period when the deceased was admitted to hospital).>

Section 29

Maureen Watt

- 59 In section 29, page 16, line 29, at end insert—

<() open or move any tomb or other structure that is in or on the lair,>

Maureen Watt

- 60 In section 29, page 16, line 30, after <are> insert <buried>

Maureen Watt

- 61 In section 29, page 16, line 32, after <are> insert <buried>

Section 30

Maureen Watt

- 62 In section 30, page 17, line 7, at end insert—

<() open or move any tomb or other structure that is in or on the lair,>

Maureen Watt

- 63 In section 30, page 17, line 8, after <are> insert <buried>

Section 34

Maureen Watt

64 Leave out section 34 and insert—

<Register of restored lairs

- (1) Each burial authority must prepare and maintain for each burial ground provided by the authority a register containing prescribed information about things done by the authority for the purposes of, or in connection with, the functions conferred on the authority by sections 24 to 33 (a “register of restored lairs”).
- (2) The Scottish Ministers may by regulations—
 - (a) require a register of restored lairs to be in a specified form and kept in a specified manner, or
 - (b) make such other provision relating to a register of restored lairs as they consider appropriate.
- (3) A burial authority must make arrangements for each of its registers of restored lairs to be made available for inspection by members of the public on payment of such reasonable charge (if any) as the authority may determine.
- (4) A burial authority must make arrangements for copies of entries in its registers of restored lairs to be supplied, on request, to members of the public on payment of such reasonable charge (if any) as the authority may determine.
- (5) A register of restored lairs must be kept indefinitely.
- (6) An extract from a register of restored lairs kept by a burial authority, duly certified as a true copy by the burial authority, is in relation to the matters contained in the extract sufficient evidence of those matters for the purposes of any court proceedings.
- (7) In subsection (2), “specified” means specified in the regulations.>

After section 34

Maureen Watt

65 After section 34, insert—

<Register of restored lairs: offences

- (1) A burial authority commits an offence if, without reasonable excuse, the authority contravenes section (*Register of restored lairs*)(1) by failing to prepare or maintain a register of restored lairs.
- (2) A burial authority which commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.>

After section 36

Maureen Watt

66 After section 36, insert—

<Provision of crematorium: local authority

- (1) A local authority may—
 - (a) provide a crematorium,
 - (b) enter into arrangements with another person for the provision by that other person of a crematorium.
- (2) In subsection (1), “crematorium” means a building fitted with equipment for the carrying out of cremations; and includes land (other than a burial ground) pertaining to such a building.>

Section 37

Maureen Watt

- 67** In section 37, page 19, line 15, leave out <means a person who owns a> and insert <, in relation to a crematorium, means the person having responsibility for the management of the>

Maureen Watt

- 68** In section 37, page 19, leave out lines 16 and 17

Section 38

Maureen Watt

- 69** In section 38, page 19, line 20, leave out <that owns> and insert <for>

Maureen Watt

- 70** In section 38, page 19, line 32, at end insert <or>

Maureen Watt

- 71** In section 38, page 19, leave out lines 37 to 39

Section 40

Maureen Watt

- 72** In section 40, page 20, line 18, at end insert—
<() In subsection (1)(c), “crematorium” means a building fitted with equipment for the carrying out of cremations.>

Section 41

Maureen Watt

- 73** In section 41, page 20, line 20, leave out <owned by it> and insert <for which it is the cremation authority>

Maureen Watt

74 In section 41, page 20, line 25, at end insert <or>

Maureen Watt

75 In section 41, page 20, line 26, leave out <(including creating criminal offences)>

Maureen Watt

76 In section 41, page 20, line 28, leave out subsection (3)

Maureen Watt

77 In section 41, page 20, line 34, leave out from <at> to end of line 35 and insert <by members of the public on payment of such reasonable charge (if any) as the authority may determine.

() A cremation authority must make arrangements>

Maureen Watt

78 In section 41, page 20, line 37, leave out <a reasonable charge> and insert <such reasonable charge (if any) as the authority may determine>

Maureen Watt

79 In section 41, page 20, line 37, at end insert—

<() A cremation register must be kept indefinitely.>

After section 42

John Wilson

1 After section 42, insert—

<Location of crematorium

- (1) No crematorium may be constructed within 200 metres of any residential property.
- (2) No residential property may be constructed within 200 metres of any crematorium.
- (3) In this section “residential property” has the meaning given in section 59 of the Land and Buildings Transaction Tax (Scotland) Act 2013.>

Section 43

Maureen Watt

80 In section 43, page 21, line 8, leave out <Subsection (2) applies where a cremation authority> and insert <This section applies where a person>

Maureen Watt

81 In section 43, page 21, line 9, leave out subsection (2) and insert—

- <(2) The person must give an inspector of cremation notice of the day on which the person proposes to determine the first application made under section 38(1) for a cremation to be carried out in the crematorium (the “first application”).
- (3) Notice under subsection (2)—
 - (a) must be given at least 3 months before the day on which the person proposes to determine the first application, and
 - (b) must be in writing.
- (4) The person may not determine the first application unless—
 - (a) an inspector of cremation has given notice in writing to the person that the person may determine the first application on or after a day specified in the notice, and
 - (b) the determination is made on or after that day.>

After section 43

Maureen Watt

82 After section 43, insert—

<Section 43: offences

- (1) A person commits an offence if, without reasonable excuse, the person contravenes subsection (4) of section 43 by determining the first application—
 - (a) without notice having been given to the person under that subsection, or
 - (b) where notice is given to the person under that subsection, before the day specified in the notice.
- (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) In subsection (1), “first application” has the meaning given by section 43(2).>

Section 44

Maureen Watt

83 In section 44, page 21, line 13, at end insert—

- <(A1) Where a crematorium is to close, the cremation authority for the crematorium must give an inspector of cremation notice in accordance with subsection (A2) of the day on which the crematorium is to close.
- (A2) Notice under subsection (A1)—
 - (a) must be given—
 - (i) where practicable, at least 3 months before the day on which the crematorium is to close, or
 - (ii) otherwise, on the first day before the crematorium is to close on which it is practicable to give notice, and
 - (b) must be in writing.>

Maureen Watt

84 In section 44, page 21, line 14, after <make> insert <further>

Maureen Watt

85 In section 44, page 21, line 16, at end insert <requiring a cremation authority—
() to provide specified information to an inspector of cremation,>

Maureen Watt

86 In section 44, page 21, line 17, leave out from beginning to <authority> in line 19

Maureen Watt

87 In section 44, page 21, line 20, at end insert <, or
() to comply with specified requirements about other matters relating to the closure
of a crematorium.>

After section 44

Maureen Watt

88 After section 44, insert—
<**Section 44: offence**
(1) A cremation authority commits an offence if, without reasonable excuse, the authority contravenes subsection (A1) of section 44 by failing to give notice under that subsection in accordance with subsection (A2)(a) of that section.
(2) A cremation authority which commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.>

Section 45

Maureen Watt

89 In section 45, page 21, line 23, leave out <a cremation authority> and insert <the cremation authority for a crematorium>

Maureen Watt

145 In section 45, page 21, line 25, leave out <a crematorium owned by the authority> and insert <the crematorium, and
() any other services provided by the authority relating to cremation>

Maureen Watt

90 In section 45, page 21, line 25, at end insert—
<() The cremation authority must publish fees mentioned in subsection (2)—
(a) in paper form, and

- (b) on the website of the cremation authority.
- () The cremation authority may display the fees in any place it considers appropriate.>

After section 45

Maureen Watt

91 After section 45, insert—

<Cremation authority: code of practice

- (1) A cremation authority must comply with any code of practice issued by the Scottish Ministers about the carrying out of functions conferred on the authority by or under this Act in relation to the management of a crematorium (a “cremation code”).
- (2) Before issuing any cremation code, the Scottish Ministers must consult—
 - (a) cremation authorities, and
 - (b) other persons appearing to the Scottish Ministers to have an interest.
- (3) After taking account of any representations received by them by virtue of subsection (2), the Scottish Ministers must lay a draft of the cremation code before the Scottish Parliament.
- (4) The Scottish Ministers may not issue a cremation code unless a draft of the code is approved by resolution of the Scottish Parliament.
- (5) The Scottish Ministers must publish a cremation code in such manner as they consider appropriate.
- (6) The Scottish Ministers must keep under review a cremation code.
- (7) In this section, references to a cremation code include references to a cremation code as revised from time to time by the Scottish Ministers.>

Section 56

Maureen Watt

92 In section 56, page 28, line 26, at end insert <(but subject to subsections (2A) and (2B)).

- (2A) If the person is a child who, immediately before the death, was being looked after by another local authority, that other local authority must make arrangements for the remains to be buried or cremated.
- (2B) If the person is not a child and, immediately before the death, the person was in the care of, or receiving assistance from, another local authority, that other local authority must make arrangements for the remains to be buried or cremated.>

Maureen Watt

93 In section 56, page 28, line 27, after <(2)> insert <, (2A) or (2B)>

Maureen Watt

94 In section 56, page 28, line 29, at end insert <, and

- () whether the person was of a particular religion or belief.>

Maureen Watt

- 95 In section 56, page 28, line 30, leave out <deceased>

Maureen Watt

- 96 In section 56, page 28, line 31, at end insert <, (2A) or (2B).

() In this section—

“belief” has the meaning given by section 10(2) of the Equality Act 2010,

“child” has the meaning given by section 93(2)(a) of the Children (Scotland) Act 1995,

“religion” has the meaning given by section 10(1) of the Equality Act 2010.

() In this section, references to a child who is “looked after” by a local authority are to be construed in accordance with section 17(6) of the Children (Scotland) Act 1995.>

Section 57

Maureen Watt

- 97 Leave out section 57

Section 59

Maureen Watt

- 98 In section 59, page 30, line 6, leave out <crematoriums> and insert <cremation>

Section 60

Maureen Watt

- 99 Leave out section 60

Section 61

Maureen Watt

- 100 In section 61, page 30, line 28, at beginning insert <the carrying out of>

Maureen Watt

- 101 In section 61, page 30, line 28, after <authorities> insert <by inspectors of burial appointed under section 59(1)>

Maureen Watt

- 102 In section 61, page 30, line 29, at beginning insert <the carrying out of>

Maureen Watt

- 103 In section 61, page 30, line 29, after <authorities> insert <by inspectors of cremation so appointed>

Maureen Watt

- 104 In section 61, page 30, line 30, at beginning insert <the carrying out of>

Maureen Watt

- 105 In section 61, page 30, line 30, after <directors> insert <by inspectors of funeral directors so appointed>

Maureen Watt

- 106 In section 61, page 30, line 34, at end insert—
<() other functions of inspectors in relation to inspections,
() circumstances in which inspections are to be carried out,>

Maureen Watt

- 107 In section 61, page 30, line 35, leave out from <mentioned> to end of line 36

Maureen Watt

- 108 In section 61, page 30, line 37, leave out <such>

Maureen Watt

- 109 In section 61, page 31, line 3, at end insert <or
() conditions in any licence necessary to operate as a relevant body,>

Maureen Watt

- 110 In section 61, page 31, line 18, at end insert <or>

Section 62

Maureen Watt

- 111 In section 62, page 31, line 26, at end insert <, or
(iv) a health authority.>

Maureen Watt

- 112 In section 62, page 31, line 27, leave out <or records> and insert <, records or registers>

Maureen Watt

- 113 In section 62, page 31, line 29, leave out <or records> and insert <, records or registers>

Maureen Watt

- 114** In section 62, page 31, line 35, at end insert <, or
() (in the case of the power conferred by subsection (1)(a)(iv)) determining whether a health authority is complying with requirements relating to records or registers imposed on it by this Act.>

Maureen Watt

- 115** In section 62, page 32, line 3, at end insert—
<() In this section, “health authority” means a Health Board or an independent health care service.>

Section 63

Maureen Watt

- 116** In section 63, page 32, line 13, leave out <60 or>

Section 64

Maureen Watt

- 117** In section 64, page 32, line 32, at end insert <, or
(ii) improve the keeping of relevant documents, records or registers.
() In subsection (4)(b)(ii), “relevant documents, records or registers” means documents, records or registers which a person mentioned in section 62(1)(a) is required, under or by virtue of this Act, to have or maintain.>

Section 65

Maureen Watt

- 118** In section 65, page 33, line 8, leave out <premises> and insert <businesses>

Maureen Watt

- 119** In section 65, page 33, line 9, leave out subsections (2) to (4) and insert—
<() A person may not carry on business as a funeral director unless the person holds a licence issued under the scheme in relation to the business.
() Where a person carries on more than one business as a funeral director, the person must hold a separate licence in respect of each such business.>

Section 66

Maureen Watt

- 120** In section 66, page 34, line 3, leave out <conditions> and insert <such conditions as may be specified in the regulations>

Maureen Watt

121 In section 66, page 34, leave out lines 16 and 17

After section 66

Maureen Watt

122 After section 66, insert—

<Licence for funeral director’s business: offences

- (1) A person commits an offence if the person knowingly carries on business as a funeral director at any time when the person does not hold a licence issued under a scheme made under section 65(1) in relation to the business.
- (2) For the purposes of subsection (1), a person does not hold a licence in relation to a business at any time when—
 - (a) no licence has been issued as mentioned in subsection (1) in relation to the business,
 - (b) a licence so issued in relation to the business has, in accordance with regulations under section 66—
 - (i) expired without being renewed,
 - (ii) been suspended, or
 - (iii) been revoked.
- (3) A person commits an offence if the person—
 - (a) provides information in, or in connection with, an application made by virtue of section 66 which the person knows to be false or misleading in a material way, or
 - (b) recklessly provides information in, or in connection with, such an application which is false or misleading in a material way.
- (4) A person who commits an offence under subsection (1) or (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.>

Maureen Watt

123 After section 66, insert—

<Funeral director: code of practice

Funeral director: code of practice

- (1) A funeral director must comply with any code of practice issued by the Scottish Ministers about the carrying out of a funeral director’s functions (a “funeral director’s code”).
- (2) Before issuing any funeral director’s code, the Scottish Ministers must consult—
 - (a) persons appearing to the Scottish Ministers to be representative of the interests of funeral directors in Scotland, and
 - (b) other persons appearing to the Scottish Ministers to have an interest.

- (3) After taking account of any representations received by them by virtue of subsection (2), the Scottish Ministers must lay a draft of the funeral director's code before the Scottish Parliament.
- (4) The Scottish Ministers may not issue a funeral director's code unless a draft of the code is approved by resolution of the Scottish Parliament.
- (5) The Scottish Ministers must publish a funeral director's code in such manner as they consider appropriate.
- (6) The Scottish Ministers must keep under review a funeral director's code.
- (7) In this section, references to a funeral director's code include references to a funeral director's code as revised from time to time by the Scottish Ministers.>

Section 67

Maureen Watt

124 Leave out section 67

Section 68

Maureen Watt

125 Leave out section 68

After section 68

Lesley Brennan

146 After section 68, 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 70

Maureen Watt

126 In section 70, page 36, line 7, at end insert <or>

Maureen Watt

127 In section 70, page 36, leave out lines 10 and 11

Before section 72

Maureen Watt

128 Before section 72, insert—

<Information and registers to be kept in electronic form

- (1) Subsection (2) applies where a person—
 - (a) is required under or by virtue of this Act to keep any information, or
 - (b) is required under this Act to prepare and maintain a register.
- (2) The person must keep the information or the register in electronic form.>

Section 73

Maureen Watt

129 In section 73, page 37, line 29, leave out <17(1)> and insert <17(2)>

Maureen Watt

130 In section 73, page 38, line 5, leave out <Part 4> and insert <section 61>

Section 74

Maureen Watt

131 In section 74, page 38, line 23, after <22(1),> insert <37(1),>

Maureen Watt

132 In section 74, page 38, line 23, leave out <60,>

Maureen Watt

133 In section 74, page 38, line 28, leave out <18(1),>

Section 75

Maureen Watt

134 In section 75, page 38, line 32, leave out <2(1)> and insert <(Meaning of “burial authority”)>

Maureen Watt

- 135 In section 75, page 39, line 2, leave out <has the meaning given by section 37(5)> and insert <(other than in section 40) has the meaning given by section (*Provision of crematorium: local authority*)(2)>

Maureen Watt

- 136 In section 75, page 39, line 2, at end insert—
<“exhumation register” is to be construed in accordance with section (*Exhumation register*)(3),>

Maureen Watt

- 137 In section 75, page 39, line 4, at end insert—
<“inspector of cremation” means an inspector of cremation appointed under section 59(1),>

Maureen Watt

- 138 In section 75, page 39, line 6, at end insert—
<“private burial register” has the meaning given by section 17(1),
“register of restored lairs” has the meaning given by section (*Register of restored lairs*)(1),>

Maureen Watt

- 139 In section 75, page 39, line 8, leave out <24(6)> and insert <(Right of burial: notification of pending extinguishment)(3)>

Maureen Watt

- 140 In section 75, page 39, line 8, at end insert—
<() Any references in this Act (other than in section 12(3)(b)) to burial (or reburial) include references to burial (or reburial) on or above the ground.>

Maureen Watt

- 141 In section 75, page 39, line 11, leave out subsection (3)

Schedule 2

Maureen Watt

- 142 In schedule 2, page 42, line 6, at end insert—
<School Board of Health Act 1919 Section 4(1)(e).>

Maureen Watt

- 143 In schedule 2, page 42, line 25, column 2, at beginning insert—

<Section 169(1).>

Maureen Watt

144 In schedule 2, page 42, line 33, leave out <paragraph 3> and insert <paragraphs 3 and 92(52)>

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