

# Implementation of the Burial and Cremation (Scotland) Act 2016

## Spring 2017 Newsletter

(Cremation Regulations, Inspector of Funeral Director, Inspection Regulations and Arrangements)

The Burial and Cremation (Scotland) Act 2016 received Royal Assent on 28<sup>th</sup> April 2016. Each section of the Act must now be brought into force, subject to parliamentary scrutiny where necessary, in order for it to become Scottish law.

Since the publication of the last newsletter in December 2016 significant progress has been made and a number of important milestones have been achieved. The Burial and Cremation Legislation Team would like to say a huge thank you to those who have played their part in progressing this important work

### Summary

**Cremation Regulations** - The Scottish Government Burial and Cremation Legislation Team has been working closely with stakeholders to develop the cremation regulations and associated cremation application forms. The details of the consultation on the cremation regulations and details of how to respond are outlined on page 2 of this newsletter.

**Inspector of Funeral Directors** - Scottish Ministers have appointed Scotland's first ever Inspector of Funeral Directors. Natalie McKail will take up post in July and further details of the successful candidate and the role of the Inspector can be found on page 3 of this newsletter.

**Inspection Regulations** - The 2016 Act gives Scottish Ministers powers to set out the duties of the Inspectors in regulations. These regulations are currently being developed and will be consulted upon during the summer of this year. These regulations will also include detail of the sanctions that will be available to inspectors.

In addition to developing regulations, the Legislation Team have been attending NHS Early Pregnancy Loss meetings all over Scotland engaging with key health professionals who work directly with women who have experienced pregnancy loss. The 2016 Act requires Scottish Ministers to prescribe forms and registers which will become statutory and a requirement for ALL NHS boards. . The Legislation Team will continue to engage with NHS Boards throughout the summer to develop suitable forms in order to lay the regulations relating to sections 69-86 - *Arrangements on Pregnancy Losses*, in Parliament in September which will result in those sections all coming in to force at the same time as the inspector and cremation sections.

## Summary of proposed implementation timescales\*

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### May 2017

w/c 1<sup>st</sup> – Cremation Regulations consultation opens

### June 2017

9<sup>th</sup> Cremation Regulations consultation closes

### July 2017

**Parliamentary summer recess –  
3rd July – 3rd September**

Part 3 Prescribed forms and registers issued for consultation

Inspection Regulations for consultation

### September 2017

Lay Cremation and Inspection Regulations in Parliament

Lay Part 3 Arrangements Regulations and Commencement Regulations in Parliament

### October 2017

**Parliamentary October recess –  
9<sup>th</sup> October – 23<sup>rd</sup> October**

### November 2017

Arrangements, Cremation, Inspection and Commencement Regulations come in to force

\*please note that these are suggested dates and are subject to Parliamentary Timescales (therefore, may change).

## Cremation Regulations Consultation

The purpose of the consultation is to seek views on draft regulations being made under the 2016 Act. The contents of the draft regulations are a culmination of many years of work and have been informed by the Parliamentary Bill process, stakeholder working groups, more general stakeholder engagement and the Inspector of Crematoria.

### Content of the consultation

The consultation covers issues relating to:

- Management of crematoriums
- Maintenance and operation of crematoriums
- Operations of cremators
- Joint cremation
- Shared cremation of pregnancy loss
- Application for cremation
- Electronic signatures
- Handling of ashes
- Cremation register
- Cremation of body parts following hospital post-mortem examination
- Schedules: Application for Cremation Forms and Registers

We have included some questions on specific issues that we are seeking views on but we also welcome comments on any other part of the content of the regulations.

### What happens next?

When the consultation period ends, the Scottish Government will review all responses and update the Cremation Regulations accordingly

The final set of regulations will be styled professionally and formally submitted to the Minister for Public Health and Sport to be approved. Once approved, the final regulations will be laid in Scottish Parliament.

### Parliamentary timescales

Once laid in Parliament the regulations will be subject to affirmative parliamentary procedure. This means that they are required to be laid for a total of 54 sitting days (sitting days do not include recess dates but do include weekends). During those 54 allocated sitting days, the regulations will be subject to scrutiny by interested Committees. The Committees will have various evidence sessions with the Minister for Public Health and Sport, officials and may also call for evidence from interested parties.

Once the Committees are content with the regulations, they will be formally signed by the Minister and be given an official date for coming into force.

Once the sections and regulations come into force, these sections will become Scottish law and MUST be adhered to.

## Where you can find the consultation



The consultation on the Cremation Regulations is now available at the following links:

**ICCM:** <http://www.iccm-uk.com/iccm/index.php?pagename=crem%20regs%20amendment>

**FBCA:** <http://www.fbca.org.uk/>

The consultation papers are also available directly from our team. Please email [BurialandCremation@gov.scot](mailto:BurialandCremation@gov.scot) to request the documents.

## Responding to the consultation



We welcome any comments you have on the questions raised about the regulations, the cremation application forms and the cremation register. Under the Code of Practice on open government, responses will be made available to the public; unless respondents ask that their comments remain confidential.

Please email your response to [BurialandCremation@gov.scot](mailto:BurialandCremation@gov.scot)  
**The closing date for responses is:**  
**09 June 2017.**

If you require any additional information please contact Katrina McNeill at [katrina.mcneill@gov.scot](mailto:katrina.mcneill@gov.scot) or on 0131 244 3097.

Responses can also be sent in writing to the Burial and Cremation Legislation Team, Area 3 East, St Andrew's House, Regent Road, Edinburgh, EH1 3DG.

# Inspectors

## **Inspection Regulations**

The functions and duties of the Inspector of Cremation, Inspector of Funeral Directors and Inspector of Burial are currently being considered and will be consulted upon in the near future.

### ***Inspector of Funeral Directors***

In December 2016, section 89 (Appointment of Inspectors) of the Burial and Cremation (Scotland) Act 2016 was enacted. This enabled Scottish Ministers to recruit an Inspector of Funeral Directors.

The post was advertised at the end of 2016 and Ministers have now appointed Natalie McKail to be Scotland's first Inspector of Funeral Directors. Natalie will spend the first 18 months of her two year appointment undertaking a review of the funeral profession, with a view to making recommendations to Scottish Ministers on how the profession should be regulated, including whether to introduce licensing.

Following this initial period, the Inspector will be expected to formally inspect the Funeral Director industry in line with the powers set out in the Burial and Cremation (Scotland) Act 2016.

### ***Inspector of Crematoria***

The Inspector of Crematoria (Robert Swanson) was appointed in April 2015 under the Cremation Act 1902, as a response to a recommendation made by the Infant Cremation Commission, chaired by Lord Bonomy. The appointment was initially on a part-time basis however has now been elevated to a full time post due to the commitments and workload. The Inspector has completed his initial formal inspections of Scotland's crematoriums, and has submitted his report to Scottish Ministers.

The Inspector's first report can be found at the following link:  
<http://www.gov.scot/Publications/2017/05/6372>

The Inspector will be required to produce annual reports which will be used to provide an overview of how each crematorium is performing, including identifying areas where improvements are required.

### ***Inspector of Burial***

It is intended that an Inspector of Burial will be recruited in due course however this is not in the immediate plans.

## Meet the new Inspector of Funeral Directors



### **Natalie McKail**



Natalie has over 20 years' experience in Local Government, latterly as a senior manager with City of Edinburgh Council. Natalie was appointed as the Lead Officer for the Mortonhall Improvement Programme where she successfully led and delivered service improvements, as well as rebuilding trust and understanding between the Council and affected parents and also the wider public. Throughout her career Natalie has gained significant experience in conducting thorough investigations and inspections within a wide range of premises and has experience of introducing licensing and registration schemes.

Natalie will take up post in July 2017.

## Provisions and indicative future implementation timetables

By the end of 2017, the following sections of the Burial and Cremation (Scotland) Act 2016 will have been considered by Scottish Ministers and will be in force (subject to parliamentary timescales):

Provisions of the 2016 Act	Subject matter(s)
<b>Part 2: Cremation sections 45 - 64</b>	Cremation and Ashes definitions; handling of ashes; cremation register; opening and closing of crematoriums, offences, fees for cremation and cremation authority code of practice.
<b>Part 3: Arrangements section 65 - 86</b>	Arrangements on death of an adult or a child; application to sheriff; pregnancy loss after 24 weeks; pregnancy loss on or before 24 weeks; pregnancy loss register; offences and local authority functions.
<b>Part 4: Inspection sections 90-92</b>	Inspections – regulations; powers of entry and inspection and offences.

### Indicative future implementation timescales

Different parts of the 2016 Act will be commenced at different times. Where Regulations are to be made, they will be designed in collaboration with stakeholders and will be subject to public and stakeholder consultation. The timescales below are high level and indicative only.

#### 2017:

- Initial focus on pregnancy loss and cremation, including the commencement of Part 3 of the 2016 Act (Arrangements)
- Draft regulations for consultation
- Public consultation
- Submit regulations to parliament
- New powers for inspector of cremation

#### 2018:

- Focus on burial application process, private burial and exhumation
- Lair restoration to use
- Burial ground management regulations

#### 2019 and beyond:

- Regulation of funeral directors
- Inspector of burial

### Scottish Government Burial and Cremation Legislation Team contact details:

If you have any queries, would like more information or are interested in being involved in any part of the implementation process please e-mail the team on:

[burialandcremation@gov.scot](mailto:burialandcremation@gov.scot)

or speak to us on:

Cheryl Paris – 0131 244 3226  
 Katrina McNeill – 0131 244 3097  
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