

The Legislative Framework

1 Do you agree that existing legislation relating to burial and cremation should be repealed and replaced by a new legislative framework?

Yes

Please enter any additional comments here:

2 Are there any particular powers that are required by Burial Authorities or Cremation Authorities that are not provided for by current legislation?

Are there any particular powers that are required by Burial Authorities or Cremation Authorities that are not provided for by current legislation?:

Burial authorities require the legislative power to decide who has the right of inheritance to the lair.

3 Do you agree that the proposed Burial and Cremation (Scotland) Bill should apply to all cemeteries and crematoria in Scotland, regardless of whether they are publically or privately operated? If not, please set out reasons why not.

Yes

If not, please set out reasons why not.:

4 Do you agree that the Bill should contain provisions which apply to all facilities where any new method of disposal which might be introduced in Scotland are carried out?

Yes

Please enter any additional comments here.:

5 Do you agree that the Bill should contain provisions to regulate environmentally friendly methods of disposal that are already available in Scotland?

Yes

Please enter any additional comments here.:

6 Should the Burial and Cremation (Scotland) Bill contain provisions pertaining to home burial?

Yes

Please enter additional comments here:

7 In making legal provision for home burial, what factors should be considered?

In making legal provision for home burial, what factors should be considered?:

Health and safety at work act should be followed. Any excavation must be done by suitably qualified people. Most gravediggers employed by local authorities are qualified to City and Guilds NPTC level 2 certificate in H&S and the burial process.

8 Are there any reasons why private cremation should not remain illegal?

Yes

Please enter additional comments here:

Health hazards, contravenes C.O.S.H legislation and S.E.P.A guidelines.

9a Do you agree that alternative methods of disposing of the dead should be regulated for in this way?

Yes

9b Are there any particular alternative methods that should be considered?

Are there any particular alternative methods that should be considered?:

No response

9c Are there any particular methods which should be prevented from being used in Scotland?

Are there any particular methods which should be prevented from being used in Scotland?:

No response

10 Do you agree with this definition of ashes? If not, how should ashes be defined?

Yes

If not, how should ashes be defined?:

11 Do you agree that a minimum distance of 200 yards (182.9 metres) should be required between crematoria and housing? If not, please explain why not.

Don't Know

If not, please explain why not.:

12 What are your views on the use of enforcement powers or penalty powers in response to such a minimum distance being breached?

Please enter your comments here.:

No response

The Right to Instruct the Disposal of Human Remains

13 Do you agree that the right to instruct the disposal of a body on death in the case of an adult should be vested in the nearest relative using the definition at Section 50 of the Human Tissue (Scotland) Act 2006? If not, why not?

Yes

If not, why not?:

I agree with the order of the list but not in the wording.

For the avoidance of any doubt the mentioned relative in (c), (e), (g), (h), (i) and (j) should also be an adult.

In the proposed current wording a relative of any age can give instruction to the disposal of a body.

e.g - (c) The adults child.

This would then become (c) The adults adult child.

In whom should this power be vested instead?:

No response

14 In the case of the death of a person under the age of 16 years , do you agree that the right to instruct the disposal of the body should follow the proposal at paragraph 43? If not, why not? In whom should this power be vested instead? How should this be defined in legislation?

Yes

In whom should this power be vested instead?:

See answer 13

How should this be defined in legislation?:

No response

15 Do you agree with the proposal for who should have the right to instruct the disposal of the body in the event of a stillbirth?

Yes

If not, why not?:

Who should have the right to instruct the disposal of the body in the event that the mother or father are unable to do so?:

How should this right be defined in legislation? :

16 Do you agree with the proposal of allowing someone not listed to instruct the disposal of human remains in the case of a stillborn baby, pregnancy loss and the death of a child only on cause shown?

Yes

Not Answered

Please enter any additional comments here.:

No response

The Management of Cemeteries

17 Do you agree that Scottish Ministers should have the power to make regulations pertaining to the general management of cemeteries, including giving Burial Authorities the right to take action to address unsafe, damaged and abandoned lairs and memorials?

Yes

Please enter any additional comments here.:

18 Alternatively, would the introduction of non-statutory guidance provide a useful option between the current situation where no guidance exists and the introduction of regulations?

Yes

Please enter additional comments here.:

It may be best to place some intermediate guidance before full implementation of legislation.

19 Are there any reasons why a minimum burial depth of 3 feet from the surface to the top of the coffin should not be implemented?

Yes

Should there be any exemptions?:

This should not be applied retrospectively and should apply only to new lairs after legislation is implemented.

Many burials have taken place with the assumption that there would be room for one more interment even though there would be less than 3 feet of covering from coffin to surface.

Please enter any additional comments here.:

Burial and Cremation Records**20 Do you agree that records and forms relating to burial and cremation in Scotland should be stored and transferred electronically wherever possible?**

Yes

Should any exclusions apply?:

There is a need to ensure proper data security as well as ensuring appropriate public access to them.

Should this be applied to all forms of disposing of human remains in Scotland?:

Yes. However there is a case that there is no need for such records for the cremation of amputated limbs etc.

21 Should records and forms relating to burial and cremation be kept for 50 years or is it better that they are kept indefinitely?

Indefinitely

If you specified 'other', please enter your comments below.:

Alleviating pressure on burial grounds**22 Do you agree that the sale of lairs in perpetuity should be ended?**

Yes

Please enter additional comments here.:

23 Does the proposed alternative approach provide a suitable balance between enabling people to buy lairs and safeguarding lairs for the future?

Yes

Please enter additional comments here.:

24a Should there be any restrictions about to whom the owner of a Lair can transfer his or her interest?

Yes

24b Should this be restricted to family members?

Yes

25 Do you agree that Burial Authorities should no longer be able to sell multiple lairs or blocks of lairs to an individual?

No

Please enter additional comments here.:

Some lairs can only be excavated to take 2 or less interments. This is due to rock formations or other obstacles. In these instances families should be offered 2 lairs side by side.

26 The Burial and Cremation Review Group recommended that Burial Authorities may refuse to sell a Lair if it believes that it is not for imminent use. How long should constitute 'imminent' in this situation?

How long should constitute 'imminent' in this situation? :

For immediate interment

How could this be tested?:

No response.

27 Do you agree with the proposal that full lairs and partially-full and unused lairs should be considered for reuse in certain circumstances with appropriate safeguards in place?

Yes

Please enter any additional comments here.:

No comments.

28 Is a period of 75 years sufficient before reuse of a full lair can be considered?

No

Please enter additional comments here.:

I suggest 100 years as it is unlikely that after this time anyone would have any real life memory of persons interred in lair.

29a Does the initial consultation provide sufficient assurance that relevant specialist interests have been consulted?

Don't Know

Please enter any additional comments here.:

Have faith communities been consulted?

29b Should any other specific organisations or groups be consulted at this stage?

Yes

30a Does the process set out allow for sufficient notice to be given that a lair is being proposed for reuse?

Yes

Please enter additional comments here.:

No comments.

30b Should any particular methods of notification be used in addition to those noted?

Yes

Please enter any addition comments.:

Through faith groups , community councils and a notification of the rules should be given when lair papers are issued and each interment thereafter.

31 What can be done to make sure that there are no financial disincentives to opposing to the reuse of a grave?

What can be done to make sure that there are no financial disincentives to opposing to the reuse of a grave?:

All ground maintainence work and making unsafe memorials safe would be the responsibility of the burial authority.

32 Other than family members, who should be able to object to the proposed reuse of a lair?

What considerations should be made to determine whether an objection from a non-family member is legitimate? :

Anyone.

33 What considerations should be made to determine whether an objection from a non-family member is legitimate?

What considerations should be made to determine whether an objection from a non-family member is legitimate? :

If the gravesite, persons interred or memorial is of historical significance,

34a If the Burial Authority decides not to reuse a lair on the basis of an objection from a non-family member, should that person become liable for the maintenance of the lair?

No

34b If not, should the Burial Authority remain responsible?

Yes

35 Do you agree that the 'dig and deepen' method should be used to allow the reuse of full lairs?

Don't Know

Please enter additional comments here.:

Only if legislation determines how deep previously interred coffins should be re-interred. There are serious safety considerations to be discussed regarding this not to mention the expense to hire or purchase excavating machinery which can excavate deeper than most currant cemetery excavators.

36 Are any other techniques available that should be considered?

Don't Know

Please enter additional comments here:

37 Do you agree that headstones and memorials may be reused if appropriate?

Don't Know

Please enter additional comments here.:

38 Do you agree that headstones and memorials should be removed from lairs if they cannot be made safe?

Don't Know

In this instance, what should happen to headstones and memorials that are removed? :

Most, if not all memorials, should be able to be made safe by laying them flat.

39a Are any other approaches for easing the pressure on burial land suitable for use in Scotland?

Yes

39b For example, should above ground mausoleums, similar to those found in Europe, be considered?

Don't Know

40 Is a period of 25 years sufficient before the use of a partially-full or unused lair can be considered?

Don't Know

Please enter additional comments here.:

I would say yes for an unused lair.

41 Is 12 months long enough to advertise the intended reuse of a full lair or use of a partially-full or unused lair?

Yes

Where should the Burial Authority's intention be advertised? :

Stakeholders newsletters, local press, website, cemetery notice boards, communication with faith groups and community councils.

42 Where a Burial Authority intends to reuse a lair having undertaken all appropriate consultations, should it be required to make clear to prospective purchasers that the lair is being reused or is part of a lair that is partly full?

Yes

Please enter additional comments:

43a Do the safeguards described provide sufficient reassurance to ensure that lairs are not reused inappropriately?

Yes

Please enter additional comments here:

43b Are any other safeguards required – for example, should the Burial Authority be required to seek a court order to reuse a lair?

No

Please enter additional comments here:

As current legislation states it is an offence to tamper with buried human remains without a court order.

Gaining a court order should only apply if the burial authority is using the dig deeper method.

Please enter additional comments here.:

44 Should certain categories of grave – such as Commonwealth War Graves – be automatically excluded from consideration for reuse?

Yes

Please enter additional comments here.:

However, families of armed forces members buried in war graves should be allowed to be interred with them if there is sufficient room.

Exhumation

45 Do you agree with the proposals to streamline the process for authorising exhumations, including an additionally streamlined process for particular categories of exhumation?

Yes

Please enter additional comments here.:

46 Do you agree with the proposal to provide an alternative process where the purpose of the exhumation is to allow the reuse of a full lair, including that the Burial Authority need not seek specific authorisation once it has carried out specified notifications that it intends to reuse the grave?

Don't Know

Please enter additional comments here:

47 Do you agree that authorisation for exhumations should be carried out by the inspector, rather than the Scottish Government?

Yes

Please enter additional comments here:

48 Do you agree with the proposed approach for the exhumation of cremated remains?

No

Please enter additional comments here.:

Cremeted remains are normally interred 2 feet of so deep. This requires them to be exhumed to allow any coffin interments and then re-interred when the burial has took place. This requires the burial authority to seek a court order. Any legislation should be streamlined to allow the burial authority the legal provision of exhuming cremated remains to allow a coffin interment to take place without the need of permission from a court or an inspector

I agree with the proposed approach when cremated remains are being exhumed with the purpose of moving them permanantly.

Pandemics and Mass-Fatality Events

49a Do you agree that the Bill should set out the process for applying for and authorising an exhumation for archaeological purposes?

Yes

49b Should any particular issues be taken into account or conditions applied?

Should any particular issues be taken into account or conditions applied? :

No response

50 Do you agree that the same power to suspend regulations relating to cremation in response to pandemics or other similar incidents should be extended to any relevant burial regulations?

Yes

Please enter any additional comments:

No comments

Cremation forms and procedures

51 Do you agree with the principle that a single form should be prescribed for applying for cremations or is it preferable that separate forms should be provided for applying for different categories of cremation?

Yes

Please set out your reasons for your view. :

A single, consistant and statuary form needs to be developed using easily understood terminology that while being concise is also sensitive to the occassion.

52 Do you agree that each of these categories should be provided for in cremation application forms?

Yes

Please enter additional comments here.:

53 Do you agree that Form A should contain these options for any ashes which are recovered?

Yes

Please enter additional comments here:

The form allows bereaved families to move on.

54a Do you agree that no cremation which is applied for using Form A should be able to proceed unless the applicant has specified what should happen to the ashes?

No

Please enter additional comments here.:

54b Do the categories above cover all relevant options or should other options be offered?

No, other options should be offered.

Please enter additional comments here:

There must be limitations to length of time until a body must be cremated regardless of non specification of what happens to the ashes.
After cremation option (a) of paragraph 121 should then become active.

55 Do you agree that Form A should state that it may not be possible to recover ashes after the cremation of a very young child?

No

Please enter additional comments here.:

Form A should state that every effort will be made to recover ashes but in some circumstances this may not be possible.

56a Is the process for enabling a person other than the applicant to collect any ashes recovered appropriate?

Yes

Please enter additional comments here.:

No comments

56b Are the timings proposed suitable?

No

Please enter additional comments here:

I feel that 8 weeks is appropriate. After they are returned to the crematorium and option (a) in paragraph 121 should become active.

57 If ashes are left at the crematorium, how long should be required to elapse before the crematorium can make arrangements to dispose of the ashes?

If ashes are left at the crematorium, how long should be required to elapse before the crematorium can make arrangements to dispose of the ashes?:
8 weeks.

58a Do you agree that the application should be countersigned by someone who is not a member of the applicant's family and who is not involved in the arrangements for the cremation?

Yes

58b Will this prove impractical?

No

Please enter addtional comments:

A list of eligible counter signees should be drawn up.

58c Should the legislation specify categories of people who may countersign cremation application forms?

Yes

Please enter additional comments.:

59 Should application for other categories of cremation require a countersignature?

Don't Know

Please enter additional comments here:

In the case of still born or pregnancy loss there are many members of the medical services who could countersign.
For other catagories if a member of the applicants family or someone connected to arranging the cremation are not allowed to countersign then it is difficult to see where another signature could come from.
It could mean families having to ask the deceaseds G.P to sign and this could lead to extra financial charges.

60a Given the similarities between the proposed forms, would a single application form applying to the cremation of people born alive and stillborn babies be appropriate, allowing for specific sections of the form to be completed depending on the kind of cremation?

Yes

60b Would separate forms for each category be more appropriate?

Yes

Please enter additional comments here.:

A single form is preferred but clarity may be needed for the process of amputation cremation.

61 What information should be considered essential for the cremation application?

What information should be considered essential for the cremation application?:

Applicants details

Deceaseds details

Applicants relationship to the deceased

A signed understanding that there may be no cremated remains

A signed understanding of the disposal method of remains

62a What is the best way to enable Cremation Authorities to undertake this scrutiny?

What is the best way to enable Cremation Authorities to undertake this scrutiny?:

No response

62b What level of seniority is appropriate for this role?

What level of seniority is appropriate for this role? :

No response

62c Should the crematorium manager be legally responsible for this scrutiny, even if the actual scrutiny is delegated to a suitably senior member of staff?

Don't Know

62d Should a senior Cremation Authority staff member be required to countersign the form to confirm that all legal requirements have been met?

Don't Know

Please enter additional comments here.:

63 Is there any need for the introduction of statutory forms for applying for a burial?

Don't Know

Please enter additional comments here:

Pregnancy Loss

64 Is a comparable process for the burial of a pregnancy loss of less than 24 weeks gestation required?

Don't Know

Please enter additional comments here.:

65 Is an alternative process required before the cremation of a pregnancy loss where there is no medical certificate?

Don't Know

Please enter additional comments here:

66 Do you agree with these proposals for the form used to seek the mother's agreement to the hospital organising the cremation of a pregnancy loss of less than 24 weeks' notice?

Don't Know

Please enter additional comments here:

67a Do you agree with the proposal for who should have the right to instruct the disposal of the remains in the event of a pregnancy loss of less than 24 weeks gestation?

Don't Know

67b If not, in whom should this right be vested?

If not, in whom should this right be vested?:

No response

Please enter additional comments here:

68a Do you agree with the proposal to provide a list of people who have the right to instruct the disposal of the remains in the event that the woman is unable to do so?

Don't Know

68b If so, who should be included in this list.

If so, who should be included in this list.:

No response

Please enter any additional comments here:

69a Should there be a maximum time for which a pregnancy loss can be stored by a hospital before it is cremated as part of a shared cremation?

69b How long should this be?

How long should this be?:

No response

70 Should the forms for the cremation of a pregnancy loss of less than 24 weeks gestation be statutory?

Don't Know

if not, why not?:

71 Should the form used by the hospital to release a pregnancy loss to the mother be statutory?

Don't Know

Please enter additional comments here:

72 Should there be a prescribed form for the application for cremation of a pregnancy loss of less than 24 weeks gestation where the cremation is organised by the mother?

Don't Know

Please enter additional comments here:

73a Do you agree that the application should be countersigned by someone who is not a member of the applicant's family and who is not involved in the arrangements for the cremation?

Don't Know

73b Will this prove impractical?

Don't Know

73c Should the legislation specify categories of people who may countersign cremation application forms?

Don't Know

Please enter additional comments here:

Cremation Register

74a Is this list comprehensive?

Yes

74b Should any other information be required to be recorded in the Cremation Register?

Should any other information be required to be recorded in the Cremation Register?:

Location of interment of ashes

NHS reference number

75 Does this proposal provide sufficient confidentiality in the case of the cremation of a pregnancy loss?

Yes

76 Are there any reasons why the Cremation Register should not be a public document, assuming that appropriate data protection and confidentiality considerations are in place?

No

If yes, please enter additional comments here.:

77 Do you agree that the Cremation Register should be retained indefinitely?

Yes

Please enter additional comments here:

Accreditation of Cremation Authority staff

78 Should the accreditation requirements described in paragraph 176 be set out in a Code of Practice or in legislation?

Yes

Please enter additional comments here:

Accreditation requirements should be set out in legislation and compliance with these requirements monitored by the inspector of crematoria.

79a How should a person's accreditation be checked?

How should a person's accreditation be checked?:

No response

79b How often should a person's accreditation be checked or renewed?

How often should a person's accreditation be checked or renewed?:

No response

Inspector of Crematoria

80 Do you agree that the role of Inspector should be responsible for crematoria and cemeteries?

Yes

Please enter additional comments here:

81a Do you agree that the Inspector should be responsible for particular additional functions, as described?

Yes

81b Are there any other functions that the inspector should carry out?

Yes

Please enter additional comments here.:

Inspector should have the power to fast track exhumation of ashes to allow coffin interments to take place

82 Should there be a formal schedule of inspection to ensure that every Cremation Authority and Burial Authority is inspected at least once during a given period?

Yes

Regulation of the Funeral Industry

83a Would regulation of the funeral industry be beneficial?

Yes

83b What would regulating the industry achieve that cannot be achieved already?

What would regulating the industry achieve that cannot be achieved already?:

Regulating funeral directors and burial authorities may achieve a price cap on the cost of funerals.

Issuing funeral directors a licence to operate within Scotland's burial authorities. With this licence funeral directors must provide certain standards and guarantees. Failure to do so would incur penalty points. After a certain amount of penalty points have been accrued they would have their operating licence suspended.

83c What are the disadvantages of regulating the funeral industry?

What are the disadvantages of regulating the funeral industry?:

It may have financial repercussions on burial authorities and funeral directors to meet regulation demands.

Small family run funeral directors that have operated in the same area for many years may collapse.

Local authority costs may be passed on to local residents.

84a If the funeral industry were to be regulated, what approach would be most useful for Scotland?

If the funeral industry were to be regulated, what approach would be most useful for Scotland?:

A fully licenced system.

84b Do the examples given from other jurisdictions provide useful models, ranging from a fully licensed system to a process of self-regulation?

Yes

85 Do you agree that an additional inspector role, separate from the Inspector of Crematoria, would be required to support a regulatory regime?

No

Please enter additional comments here:

One inspector to regulate and lead both .

Funeral Poverty

86 Do you agree with the proposal that Local Authorities should have a legal duty to ensure that their up-to-date burial and cremation costs are published on their website in clear and accessible way?

Yes

Please enter any additonal comments:

As should funeral directors. At present they give a rough estimation but the final bill is usually higher.

87 Should Local Authorities be required by law to charge funeral costs on a cost-recovery basis only?

Don't Know

Please enter additional comments here:

An analysis of this should be carried out to gauge the impact of this on local authorities, the service user and other stakeholders.

Any Other Relevant Issues

89 Please use this space to provide information about relevant issues which are not covered in the consultation paper or any topic which you think should be considered:

Please use this space to provide information about relevant issues which are not covered in the consultation paper or any topic which you think should be considered::