SCOTTISH STATUTORY INSTRUMENTS

2024 No. 335 (C. 23)

BURIAL

CREMATION

The Burial and Cremation (Scotland) Act 2016 (Commencement No. 6 and Transitional Provisions) Regulations 2024

Made - - - -	*12th November 2024*
Laid before the Scottish Parliament	*14th November 2024*
Coming into force - -	*1st March 2025*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 112(2), (3) and (4) of the Burial and Cremation (Scotland) Act 2016(**a**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Burial and Cremation (Scotland) Act 2016 (Commencement No. 6 and Transitional Provisions) Regulations 2024 and come into force on 1 March 2025.

(2) In these Regulations "the Act" means the Burial and Cremation (Scotland) Act 2016.

Appointed Day

2.—(1) 1 March 2025 is the day appointed for the coming into force of the provisions of the Act specified in column 1 of the table in the schedule (the subject matter of which is described in column 2 of the table).

(2) Where a purpose is specified in column 3 of the table, the corresponding provision in column 1 comes into force in accordance with paragraph (1) only for that purpose.

(3) Subject to regulation 3(3), 1 March 2026 is the day appointed for the coming into force of sections 14 (duration and extension of right of burial) and 16 (right of burial: notification of pending extinguishment) of the Act.

Right of burial and duty to sell right of burial: transitional provision

3.—(1) An application for the sale of a right of burial under regulation 4 of the Burial and Cremation (Scotland) Act 2016 (Commencement No. 1, Transitory and Transitional Provisions) Regulations 2016(**b**) which was made, but not determined, before 1 March 2025, is on and after that day, to be treated as if it were an application for the sale of a right of burial under section 12 of the Act and section 13 (duty to sell right of burial) of the Act applies.

(**a**) 2016 asp 20.
(**b**) S.S.I. 2016/417.

(2) For the purposes of this regulation, an application that has not been determined is an application that has not been granted or refused by the relevant burial authority.

(3) Sections 14 and 16 of the Act have no effect in respect of burial rights sold before 1 March 2026.

Right to erect headstone: transitional provision

4.—(1) An application for the right to erect a headstone under regulation 4 of the Burial and Cremation (Scotland) Act 2016 (Commencement No. 1, Transitory and Transitional Provisions) Regulations 2016 which was made, but not determined, before 1 March 2025 is, on and after that day, to be treated as if it were an application for the right to erect a headstone under section 19 of the Act.

(2) For the purposes of this regulation, an application that has not been determined is an application that has not been granted or refused by the relevant burial authority.

JENNI MINTO
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
12th November 2024

SCHEDULE

Regulation 2(1) and (2)

Provisions of the Act coming into force on 1 March 2025

Column 1	*Column 2*	*Column 3*
Provisions of the Act	***Subject matter***	***Purpose***
Section 8	Application to carry out burial	For all remaining purposes.
Section 9	Unauthorised burial: offences	
Section 10	Burial register	For all remaining purposes.
Section 11	Burial register: offence	
Section 12	Right of burial	
Section 13	Duty to sell right of burial	
Section 15	Commonwealth War Graves Commission: right of burial	
Section 18	Registers under section 17: offence	
Section 19	Right to erect headstone	
Section 91	Powers of entry and inspection	
Section 92	Section 91: offence	

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force particular sections of the Burial and Cremation (Scotland) Act 2016 ("the Act").

Regulation 2(1) and (2) and the schedule bring into force on 1 March 2025, sections 8 (application to carry out burial), 9 (unauthorised burial: offences), 10 (burial register), 11 (burial register: offence), 12 (right of burial), 13 (duty to sell right of burial), 15 (Commonwealth War Graves Commission: right of burial), 18 (registers under section 17: offence), 19 (right to erect headstone), 91 (powers of entry and inspection) and 92 (section 91: offences) of the Act, insofar as not already in force.

Regulation 2(3) brings sections 14 (duration and extension of right of burial) and 16 (right of burial: notification of pending extinguishment) into force on 1 March 2026.

Regulations 3 and 4 make transitional provision in relation to the right of burial and duty to sell the right of burial and the right to erect a headstone. Regulation 3 makes provision for applications that have been made, but not yet determined by a burial authority before sections 12 and 13 have come into force. In such cases, the application is to be treated as if it were an application for the sale of a right of burial under section 12 of the Act, and section 13 applies. Regulation 3(3) provides that sections 14 and 16 of the Act have no effect in respect of burial rights sold before 1 March 2026. Regulation 4 makes provision for an application to erect a headstone that has been made prior to section 19 coming into force. Such an application is to be treated as if it were an application for the right to erect a headstone under section 19 of the Act

The Bill for the Act received Royal Assent on 28 April 2016. By virtue of section 112(1) of the Act, sections 100 (power to suspend or modify certain enactments), 106 (regulations: parliamentary procedure), 107 (interpretation), 108 (ancillary provision), 112 (commencement) and 113 (short title) came into force on the day after Royal Assent.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

The following provisions of the Burial and Cremation (Scotland) Act 2016 have been brought into force by commencement regulations made before the date of these Regulations.

Provision	*Date of Commencement*	*Instrument No.*
Sections 1 to 7	28 December 2016	S.S.I. 2016/417
Section 8 (partially)	2 June 2023	S.S.I. 2023/145
Section 10 (partially)	2 June 2023	S.S.I. 2023/145
Section 17	28 December 2016	S.S.I. 2016/417
Section 20	28 December 2016	S.S.I. 2016/417
Section 21	2 June 2023	S.S.I. 2023/145
Section 22 (partially)	2 June 2023	S.S.I. 2023/145
Section 23 (partially)	2 June 2023	S.S.I. 2023/145
Section 27	2 June 2023	S.S.I. 2023/145
Section 30 (partially)	2 June 2023	S.S.I. 2023/145
Section 42 (partially)	2 June 2023	S.S.I. 2023/145
Section 44	2 June 2023	S.S.I. 2023/145
Sections 45 to 60	4 April 2019	S.S.I. 2018/380
Section 63	4 April 2019	S.S.I. 2018/380
Section 64	2 June 2023	S.S.I. 2023/145
Sections 65 to 85	4 April 2019	S.S.I. 2018/380
Sections 87 and 88	4 April 2019	S.S.I. 2018/380

Section 89(1)(a) and (c) and (2) to (6)	28 December 2016	S.S.I. 2016/417
Section 89(1)(b)	4 April 2019	S.S.I. 2018/380
Section 90	2 June 2023	S.S.I. 2023/145
Section 93 (partially)	28 December 2016	S.S.I. 2016/417
Section 93 (so far as not already in force)	4 April 2019	S.S.I. 2018/380
Section 95	2 June 2023	S.S.I. 2023/145
Section 97	24 March 2021	S.S.I. 2021/126
Section 98	1 June 2018	S.S.I. 2018/157
Section 99	4 April 2019	S.S.I. 2018/380
Section 101	28 December 2016	S.S.I. 2016/417
Section 103	4 April 2019	S.S.I. 2018/380
Section 104(1) (partially)	28 December 2016	S.S.I. 2016/417
Section 104 (so far as not already in force)	4 April 2019	S.S.I. 2018/380
Section 105	2 June 2023	S.S.I. 2023/145
Section 109	4 April 2019	S.S.I. 2018/380
Schedule 1	4 April 2019	S.S.I. 2018/380
Section 110 (partially)	28 December 2016	S.S.I. 2016/417
Section 110 (so far as not already in force)	4 April 2019	S.S.I. 2018/380
Section 111	4 April 2019	S.S.I. 2018/380
Schedule 2 (partially)	28 December 2016	S.S.I. 2016/417
Schedule 2 (so far as not already in force)	4 April 2019	S.S.I. 2018/380

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£5.78

http://www.legislation.gov.uk/id/ssi/2024/335

ISBN 978-0-11-106135-0

