

PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

EXPLANATORY NOTES

THE ACT – OVERVIEW

Part 6

Mortuaries Etc.

Protection of public from risks arising from bodies

Section 93 Power of sheriff to order removal to mortuary and disposal

184. This section allows the sheriff, if satisfied that there is a significant risk to public health, to make an order authorising the local authority to remove the body of a person mentioned in section 92 to a mortuary or other similar premises and to dispose of the body within the period set out in the order. If the sheriff is satisfied that the risk to public health is such that the body must be disposed of immediately, disposal by the local authority may be ordered as soon as reasonably practicable.
185. Subsection (2) gives powers to local authority officers or other persons authorised by local authorities (in either case an “authorised officer”) to enter premises, to take other persons and, if the authorised officer has reasonable cause to expect any serious obstruction in obtaining access, a constable, and take any other steps reasonably required in connection with removing and disposing of the body. In entering premises, the authorised officer may use reasonable force and enter at any time. This section of the Act does not affect any other legislation which regulates or authorises burial or cremation, and the requirements of the Cremation (Scotland) Regulations 1935 (as amended) continue to apply.
186. Any reasonable expenses incurred by the authority in carrying out a function authorised by an order under this section can be recovered from the estate of the deceased person. Any person who, without reasonable excuse, intentionally obstructs an officer of the local authority or another authorised person from carrying out any functions authorised by this section commits an offence and will be liable to a penalty, as outlined in section 120.