



# Public Health etc. (Scotland) Act 2008

## 2008 asp 5

### PART 6

#### MORTUARIES ETC.

##### *Protection of public from risks arising from bodies*

#### **93 Power of sheriff to order removal to mortuary and disposal**

- (1) The sheriff may—
  - (a) if satisfied that there is a significant risk to public health, make an order authorising the local authority to—
    - (i) remove the body of a person mentioned in section 92(1)(a) to a mortuary or other similar premises; and
    - (ii) dispose of that body before the expiry of the period specified in the order;
  - (b) if satisfied that the risk to public health is such that it is necessary for the body to be disposed of immediately, make an order authorising the authority to dispose of that body as soon as reasonably practicable.
- (2) Where an authority is authorised by virtue of this section to remove or dispose of a body, an officer of the authority or any other person authorised by the authority (in either case, an “authorised officer”) may—
  - (a) enter any premises for the purposes of removing that body;
  - (b) on entering premises by virtue of paragraph (a), take any other person authorised by the authorised officer and, if that officer has reasonable cause to expect any serious obstruction in obtaining access, a constable; and
  - (c) take such other steps as are reasonably required in connection with that removal or disposal.
- (3) The power of entry in subsection (2)(a)—
  - (a) may be exercised at any time; and
  - (b) includes power to use reasonable force.

<sup>F1</sup>(4) .....

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*Changes to legislation: There are currently no known outstanding effects for the Public Health etc. (Scotland) Act 2008, Section 93. (See end of Document for details)*

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- (5) Any reasonable expenses incurred by the authority by virtue of an order under subsection (1) are recoverable from the estate of the deceased person.
- (6) A person commits an offence if that person, without reasonable excuse, intentionally obstructs any person exercising any function which that person is authorised by virtue of this section to exercise.

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**Textual Amendments**

- F1** S. 93(4) repealed (4.4.2019) by Burial and Cremation (Scotland) Act 2016 (asp 20), s. 112(2), **sch. 2** (with s. 111); S.S.I. 2018/380, reg. 2, sch. (with reg. 8)

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**Commencement Information**

- I1** S. 93 in force at 1.10.2009 by S.S.I. 2009/319, art. 2(a), **Sch. 1**

**Changes to legislation:**

There are currently no known outstanding effects for the Public Health etc. (Scotland) Act 2008, Section 93.