

New Crematorium Procedure to be followed before opening a new crematorium

Introduction

1. Section 59 of the Burial and Cremation (Scotland) Act 2016 (the 2016 Act) sets out the procedure to be followed by anyone seeking to open a new crematorium in Scotland. These requirements are separate from, and in addition to, obtaining local authority planning permission and any other statutory clearances, such as authorisation to operate from the Scottish Environment Protection Agency (SEPA). It is for the applicant to ascertain what permissions are required.

Notification to Inspector of Cremation

2. Anyone intending to open a new crematorium is required to give written notice to the Inspector of Cremation that they intend to do so. This is a legal requirement under section 59 of the 2016 Act. The notice must be given no less than three months before the planned date of starting operating. It is preferable if the notice is given well in advance of the three month minimum to ensure the Inspector has time to consider the notice and arrange a visit. Notice should be emailed to the Inspector via the Burial and Cremation Team in the Scottish Government at burialandcremation@gov.scot

3. The cremation authority must not start operating the crematorium until the Inspector has given written notice to the cremation authority that they may start accepting applications for cremation. Before this happens, the Inspector will visit the crematorium as part of his consideration. The definition of “operating” in section 59 of the 2016 Act is the day on which the cremation authority proposes to “begin to determine applications for cremation”. Determining applications means considering them and either accepting or declining an application.

What will happen if I do not notify the inspector?

4. Section 60 of the 2016 Act sets out when an individual may have committed an offence in relation to opening a crematorium. A person will commit an offence if they determine the first application for cremation before the inspector has given written notice that the crematorium may open. If those responsible for the crematorium start operating without giving prior notification to the Inspector, they will be committing an offence under section 60.

5. There is a penalty for operating a crematorium without obtaining the agreement of the Inspector of Cremation. If this happens, a report will be made by the Inspector to the Crown Office and Procurator Fiscal Service (COPFS). If prosecuted and convicted, a fine can be imposed. The amount of the fine is set out in section 60 of the 2016 Act at Level 3 on the Standard Scale¹.

¹ <https://www.legislation.gov.uk/ukpga/1995/46/section/225> £1,000 maximum as at March 2019.

Information to be provided to the Inspector of Cremation

6. The following list details the minimum information that must be provided in writing to the Inspector of Cremation. The list is not exhaustive and any additional information that the applicant considers relevant can also be provided:

- The premises: whether purpose built facility or a refurbishment of an old building; include plans if available.
- What the facilities entail: buildings; grounds; where ashes will be scattered/ interred.
- Capacity: the expected number of cremations per year and whether space will be provided for scattering and/or interment of ashes.
- Number of staff that have been/ will be appointed: job titles; experience; training; qualifications.
- The local authority: confirmation that planning has been approved and the necessary completion certificates will be/ have been granted.
- SEPA: what contact there has been and confirmation that permission to operate has been or will be granted before the intended start date.
- The intended date of starting operating.
- Any other relevant information. For example, whether the cremation authority will seek to become (or is) a member of a trade body or other representative group.
- Business registration if appropriate: Companies House; HMRC.

What the Inspector will do once notification has been provided

7. The Inspector will review the information provided and will contact the cremation authority to arrange to visit. The Inspector may request additional information at any time and may need to carry out more than one inspection depending how advanced the preparation is.

Next steps

8. Once the Inspector is satisfied that there are no outstanding matters and there is no reason to object to the crematorium starting to operate, written confirmation will be issued to the cremation authority.

Further information

9. If you have any questions about the procedure please contact the Burial and Cremation Team at the Scottish Government at burialandcremation@gov.scot

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