

# Historic Environment Scotland

## Àrainneachd Eachdraidheil Alba

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Our ref: 201505692

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Dear Committee

### **Burial and Cremation (Scotland) Bill – Call for views** **The Scottish Parliament Local Government and Regeneration Committee**

Thank you for your invitation to provide evidence as part of your consideration of the Burial and Cremation (Scotland) Bill. I offer the following comments on behalf of Historic Environment Scotland which is the new lead public body established to investigate, care for and promote Scotland's historic environment.

We took up our full statutory role on 1st October 2015. In doing so we have taken on the responsibilities of Historic Scotland and the Royal Commission on the Ancient and Historical Monuments, which has been managing and recording the historic environment for more than a century. We lead and enable Scotland's first historic environment strategy Our Place in Time, which sets out how our historic environment will be managed. It ensures our historic environment is cared for, valued and enhanced, both now and for future generations.

### **Consultation on a proposed Bill relating to burial and cremation and other related matters in Scotland – April 2015**

As part of our previous role (as Historic Scotland) we were grateful for the opportunity to participate in discussions earlier this year prior to the introduction of the Bill at Stage 1. We also welcome that representatives of the historic environment sector in Scotland have played an active part in these early discussions and continue to do so.

From the outset we have supported the intention for clarification, change, and, specifically, recognition of the benefits that a unified set of legislation might provide for burials and cremation practices. We also continue to recognise the need for sensitivity and dignity to be at the heart of this legislation and its implementation.

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### **General principles of the Bill – as introduced on 8 October 2015**

Historic Environment Scotland supports the proposal to place a statutory framework around the management of graveyards and cemeteries.

Many of these sites can contain historic graveyard furniture, gravestones, ruined churches, etc., which, together with the spaces they create, significantly contribute to our historic environment, a sense of place and communities' identities. We believe that in taking forward this new legislative framework, the contribution historic graveyards make to our environment, communities and the archaeological knowledge embedded therein, should be recognised.

Some graveyards contain multi-phase historical evidence in the form of buried archaeological remains of earlier structures, the upstanding remains of former ruinous churches and the evidence of the local populations which supported them. Many of the most significant are designated as being of national importance, for example as scheduled monuments or listed buildings. That said, we would advocate that a holistic view of the importance of graveyards to our historic environment is adopted, one which recognises the contribution they make to the character of an area, local and national history and communities, whether nationally designated or not.

While we see real benefits arising from a new statutory framework, we also recognise the need for updated and complimentary guidance on the maintenance of historic graveyards, to help pick up matters of detail. Indeed, several items of non-statutory guidance have been published over the years by various organisations, several of which were prepared by our predecessor (Historic Scotland) and we will undertake to review and update these in due course.

### **1. Whether proposals for the restoration of lairs are appropriate (sections 25-37)?**

Yes, we consider the provisions outlined in this section to be appropriate. The re-use of lairs in the context of historic graveyards will need careful consideration – the historic value of both the above ground structures and the buried archaeological value of the burials themselves need to be taken into account. This can be complicated where a site is known to have earlier historic associations. As such the requirement at section 24 (4) to seek advice on archaeological considerations and from other persons as appropriate is welcomed. As a minor point we would suggest that the term 'archaeological' is widened to instead reference the standard definition for such matters: cultural heritage; including architectural and archaeological heritage.

**'...persons having appropriate knowledge and qualifications to advise on any cultural heritage, including architectural and archaeological, aspects of the proposal'**

Simply for information to the Committee, there are some examples where historic graveyards are scheduled as monuments of national importance and prior consent from Historic Environment Scotland is required for any new burials within a designated area.

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This is known as ‘Scheduled Monument Consent’. Again, we consider that the provisions in the section will be helpful in identifying and facilitating such circumstances.

### **2. Whether provisions on the reuse of headstones would be appropriate?**

We support the provisions outlined in section 33 on the treatment of headstones, which requires all reasonable steps to be taken to retain these in situ where practical.

Gravestones are historic records and contain important information about individuals and family relationships which is not always available from other sources – as such, we would generally discourage their reuse. It is also important to recognise the wider community value of graveyards as well as the information and potential for genealogical research specifically from headstones and related burial furniture.

While we recognise that laying stones flat can be the cheapest and most pragmatic option to deal with health and safety issues, this does not retain the historic character or historical information in the longer term. Historic Environment Scotland would be happy to lead and facilitate discussions regarding good practice in this area as well as how works should be prioritised.

### **3. The appropriateness and extent of the roles which should be undertaken by inspectors of burial, crematorium and funeral directors (primarily Part 4)?**

We welcome the provisions in Part 4 for the roles proposed for inspectors and the opportunity this allows for the monitoring of compliance with prescribed requirements.

### **Other comments**

#### **Section 6 – Management of burial ground**

We support the provisions outlined in this section for the ability of burial ground maintenance to be addressed via Regulations and would be happy to assist with this and any related guidance. We would particularly welcome the opportunity for such Regulations to clarify the arrangements around ownership/responsibility of graveyard furniture and ruined chapels/churches as part of this process.

#### **Section 22 – Exhumation of human remains**

The exhumation of remains for archaeological purposes was discussed in the Pre-Bill consultation and we now understand that all matters relating to exhumation are now proposed to be dealt with via Regulation. We do see value in clarifying procedures to be followed when undertaking exhumation for archaeological purposes. As such we would welcome the opportunity to advise on this matter further should it be progressed.

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I hope this is helpful. Should you wish to discuss this response, please feel welcome to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A. McKenzie', written in a cursive style.

**Alasdair McKenzie**

Heritage Management Team Leader (SEA)