



SHETLAND ISLANDS COUNCIL

BURIAL GROUND MANAGEMENT RULES

SHETLAND ISLANDS COUNCIL
CIVIC GOVERNMENT (SCOTLAND) Act 1982
RULES FOR THE MANAGEMENT OF BURIAL GROUNDS

By virtue and in terms of the powers conferred on them by Section 112 of the Civic Government (Scotland) Act 1982, Shetland Islands Council constituted under Section 2 of the Local Government etc. (Scotland) Act 1994 hereby make the following rules for the management of all cemeteries and burial grounds under the control of the Council:-

1. INTERPRETATION OF TERMS

In the construction of these rules the following expressions shall have the meanings hereby assigned to them, that is to say,

- (i) "The Council" means the Shetland Islands Council as constituted under Section 2 of the Local Government (Scotland) Act 1974, Town Hall, Lerwick, Shetland.
- (ii) "The Lair Certificate" means the exclusive right of burial granted by the Council, or its predecessors in title as proprietors of the cemetery.
- (iii) "The lair holder" means the person to whom the Certificate is granted and his/her heirs.
- (iv) "The Lair" means the piece of ground in which the exclusive right of burial is granted by the Certificate.
- (v) "Appropriate Officer" means the **Director Infrastructure services or any other person(s) appointed by the Director, being the Officer** authorised by the Council to act as Appropriate Officer of Cemeteries and Burial Grounds.

2. EXCLUSIVE RIGHT OF BURIAL

- (a) The exclusive right of burial in a lair will, subject to these rules, be secured to the purchaser and his or her successors. The Appropriate Officer shall furnish the purchaser with a lair certificate describing the lair. A lair holder duly registered in the books of the Council shall have exclusive right of permitting the lair to be opened and the production of the certificate will be held as sufficient authority. One person only shall be registered as the holder of a lair or lairs, except in the case of Trustees. No lair holder shall be entitled to transfer any or all of their lairs without the sanction of the Council. The Appropriate Officer may on application and after due enquiry,

issue a duplicate certificate in the name of the registered lair holder as indicated in the Council's books on such terms and conditions as seem appropriate.

- (b) On the death of the lair holder, notwithstanding the place of his domicile at his or her death, the right of succession to the lair will be governed by the Law of Scotland. The lair is capable of bequest, subject to the proviso that if more than one beneficiary is entitled to claim in terms of the Will, the Executors appointed thereunder or in the absence of any Executors, the beneficiaries shall nominate one of their number as the lair holder.

In the event that the lair holder dies intestate the lair forms part of the estate of the lair holder and falls to be distributed in accordance with the terms of the Succession (Scotland) Act 1964, as amended and all relevant regulations made thereunder.

The transfer shall be made by an appropriate entry in the Council's books. A memorandum of the transfer may be endorsed upon the lair certificate. The entry in the Council's books shall be conclusive as to the ownership of the right of burial.

- (c) The lair holder shall not be entitled to sell the right granted by the certificate except to the Council.
- (d) No heir of the lair holder or transferee shall have any right or interest in the lair or liberty to use same until evidence of title is exhibited to the Council and all purchase and burial dues have been paid.
- (e) The person instructing the burial is personally liable for all burial dues and fees.
- (f) Non-resident fees are charged where the applicant's permanent address is outwith Shetland.
- (g) Where a burial ground has less than 10 years capacity remaining, pre-purchase of exclusive right of burial may not be permitted.

3. NOTICE OF BURIAL

- (a) Notice of an interment, whether of coffin or of cremated remains, must be given to the Appropriate Officer on the approved form to allow not less than one clear working day between the receipt of the notification following the production of satisfactory evidence of title to the lair and the burial. If the applicant wishes to choose a new lair, the clear working day will commence from the time of choosing the lair. The necessary order for digging the grave, for which a charge will be made, as determined from time to time by the Council, will then be issued on confirmation of the funeral arrangements and on receipt of an interment instruction form. No interment shall take

place outwith normal working hours unless in the case of urgency and then only with the consent of the Appropriate Officer.

- (b) All burials must be authorised by the Appropriate Officer prior to funeral arrangements being publicly announced.
- (c) Arrangements for burials can be made through the undertaker and with the appropriate officer of the Council, or with the appropriate officer of the Council only.
- (d) If the Certificate of Right of Burial cannot be produced, the Appropriate Officer will require that an indemnity form be completed by the member of the family or Executor arranging the burial.
- (e) Application for the interment of cremated remains must be made to the Appropriate Officer and the same information supplied as in the case of the burial of a coffin.
- (f) If the Certificate of Right of Burial cannot be produced the Appropriate Officer may at his or her sole discretion, allow the burial to take place on such terms and conditions as may seem appropriate, including the provision of indemnities and/or caution by the person instructing the burial and no liability shall be incurred by the Council, its Officers, or employees whatsoever.

4. BURIALS

- (a) The Council shall have the sole authority to declare a lair to be full. No further burials shall be permitted in any such lair so declared to be full.
- (b) The digging of graves and the infilling of graves shall be effected by the employees of the Council and contractors appointed by them only. Excavated spoil, in accordance with standard cemetery practice, may be placed temporarily on an adjacent grave pending conclusion of the burial.
- (c) The Funeral Director is responsible for the provision of sufficient bearers to convey the coffin from the hearse to the graveside and lowering of the coffin into the grave. If persons acting on behalf of the Council are required to assist, neither they nor the Council will be held accountable for damage to hearse or coffin.
- (d) No burials will be permitted where the body has not been placed in a coffin.
- (e) No animals or pets will be permitted to be buried in any cemetery or burial ground in the Council's ownership.

5. BURIAL OF CREMATED REMAINS

- (a) Designated areas for the interment of cremated remains will be provided in some burial grounds, or arrangements may be necessitated within an existing interment.
- (b) Cremated remains shall not be scattered in any part of a cemetery or burial ground.

6. MEMORIALS

- (a) A lair holder shall be entitled to have a memorial stone or monument erected constructed of appropriate material such as natural stone, stainless steel and contain no plastic. Such memorial shall not protrude in any way over the part of the lair to be opened for burial or out with the confines of the lair and to be erected by a council-approved memorial stonemason. No erection of or inscription on any monument shall be permitted until approval of the Appropriate Officer on a Memorial Permit Application with a drawing of what is proposed.
- (b) Memorial Permit Application by a lair holder for an upright memorial greater than the below dimensions requires further consideration by the Council and may not be permitted

Permitted Memorial Dimensions:

	Upright Memorial	Cremated Remains Lairs Unfixed Natural Stone Tablet	Memorial Vase Dimensions Requiring Memorial Permit Application and Fixing
	Maximum	Maximum	Minimum
Depth/Front to Back	300mm	600mm	305mm
Width/Side to Side	760mm	760mm	305mm
Height/Base to Top	1500mm	130mm	254mm

- (c) Where concrete plinths have not been pre-installed by the Council, foundations for memorials must be constructed in accordance with such recommendations issued by the National Association of Monumental Masons.
- (d) Kerbs, copes, corner stones etc. shall not be permitted.
- (e) Memorials may not be erected during funerals and at such times where burial ground access is restricted.

- (f) The lair holder is liable for the risks of any damage by or to any monument or memorial on the lair, the Council will not be responsible for any loss or damage.
- (g) Memorial stonemasons must be approved by the Council in order to operate within burial grounds. Approved memorial stonemason's are required to achieve certain criteria in order to gain approval such as:
- Proof of a BS8415 Memorial Fixer Qualification;
 - Proof of Public Liability Insurance cover and Employers' Liability Insurance cover;
 - The production of appropriate risk assessments.
- (h) Where memorial works have been undertaken without an approved Memorial Permit Application, the Council may be entitled at the lair holder's expense to remove the memorial. Until the cost of such removal is paid and a Memorial Permit Application submitted from a council-approved memorial stonemason, the right to use the lair shall be withheld.
- (i) The lair holder shall keep memorial stones or monuments in a neat, safe and proper condition of which the Appropriate Officer shall be the sole judge. Failing attention to this requirement after written notice to the lair holder at their last known address and sufficient time to respond, the Council shall be entitled at the lair holder's expense either to repair the memorials or to cause to have them moved and until the cost of such repairs or removal is paid the right to use the lair shall be withheld.

7. FLORAL ARRANGEMENTS, TRIBUTES AND PLANTING

- (a) Shetland Islands Council's burial grounds are within lawn type settings, they should remain uncluttered to present a respectful aesthetic whilst allowing safe and efficient grounds maintenance, therefore any tributes including non-funeral floral arrangements should be placed within the memorial area which is 300mm from the base of the memorial, up to 600mm from the top of the lair where there is no memorial present and up to 760mm wide. Any tributes are placed at the owner's own risk, the Council does not accept any liability for loss or damage. Tributes will be mown around. If they have significantly deteriorated, present a grass cutting hazard, or have strayed from the lair they will be removed and be disposed of.
- (b) Funeral wreaths will generally be uplifted for disposal 21 days after interment. Any person wishing to keep their floral tribute(s) must make their own arrangements to remove them before the 21st day from interment. The Council will endeavour to leave one memorial wreath in the memorial area until such time as it significantly deteriorates.

- (c) In order to prepare burial grounds for the grass cutting season, from 1st February the Council will uplift for disposal, all wreaths and flowers not in suitable receptacles see 7(d) from lairs which have permanent memorials placed also, any other tribute exceeding the memorial area or considered hazardous to grass cutting machine operators. Any person wishing to keep their tributes must make their own arrangements to remove them before the 31st January.
- (d) Vases/similar receptacles and any non-floral tributes should be made from stainless steel or natural stone and be within the memorial area of the lair. Items made from glass, clay, cement etc. are unsuitable as they quickly break and become hazardous. Any item exceeding the vase dimensions in 6(b) requires Memorial Permit Application and fixing.
- (e) Any plants or early flowering bulbs may be tolerated and should be within the memorial area of the lair. Late flowering bulbs such as daffodils should not be planted as they flower and die back during grass cutting season, presenting grass cutting challenges.
- (f) Planting of trees and bushes are not permitted due to root/branch spread and will be removed. Definition of tree/bush shall be at the discretion of the Appropriate Officer.

8. MEMORIAL BENCHES

- (a) Installation of memorial benches within all cemeteries will be at the discretion of the Appropriate Officer.
- (b) Application to have a memorial bench placed within a Cemetery must be made in writing to the Appropriate Officer.
- (c) The applicant is responsible for the general maintenance of the bench.
- (d) If the memorial bench is vandalised or damaged beyond economical repair, the bench will be removed and disposed of at the discretion of the Appropriate Officer. Shetland Islands Council will not be responsible for replacement of the damaged bench. The applicant will be notified of the removal at their last known address.
- (e) Applications will be dealt with in date order, and the applicant given the choice of available sites for the memorial bench.

9. PROPERTIES (KIRKS) WITHIN BURIAL GROUNDS USED FOR NON-RELIGIOUS WORSHIP USE

- (a) Any purchaser of the property should understand the obligations they take on relating to the essential dignity and respect they must show by ceasing any works which may cause disrespect to the bereaved on the funeral day and when visitors wish to pay their respects and reflect, at any time.
- (b) Any purchaser of the property must be aware that the surrounding burial ground is an active burial ground where new exclusive rights of burial continue to be sold for future interments and understand that all burial grounds need to be maintained, therefore accessibility is required by SIC Burial Services staff and contractors, at any time.
- (c) Purchasers will ensure that the property is maintained to a safe standard. Section 29 of the Building (Scotland) Act 2003 contains provisions that the local authority has as duty to act, where the authority has become aware of a building that constitutes a danger to persons in or about the building, to the public generally or to adjacent buildings or places. Where the buildings are not made safe, the local authority may recover from the owner any expenses reasonably incurred in carrying out the work themselves.
- (d) Events must be agreed, at least two weeks in advance by Shetland Islands Council Burial Services to ensure that events do not coincide with funerals, to allow grave side services and post interment visits to continue with respect and dignity.
- (e) Events are not permitted outside the property within the burial ground or in burial ground specific car parks.
- (f) Any purchaser of the property (kirk) is purchasing the footprint of the property only. Servitudes to the property are for pedestrian access only. Permission for any additional access, laying down of services, utilities, planning consent for change of use etc. must be sought from the Council. Ground immediately surrounding kirks within burial grounds may contain marked and unmarked interments.
- (g) The burial ground and areas outwith the footprint of the building are public spaces, there is no restriction to members of the public accessing them.
- (h) No items should be placed around the property within the burial ground. Any items found in this space will be removed and disposed of.
- (i) The burial ground may not be considered recreational space associated with the building . Drying greens, car parking or ancillary buildings will not be permitted in the burial ground.

- (j) Burial ground specific car parks should be uncluttered and kept respectfully tidy for the bereaved. It is also essential that staff and contractors have clear access to manoeuvre vehicles towing trailers, during their frequent visits.

10. GENERAL

- (a) The Council will keep registers in which will be entered every burial specifying the lair, the depth of grave, the date of burial, the name and age of the person buried and all other necessary information. Such registers being available for public inspection during normal working hours and without any payment being made therefor.
- (b) The burial grounds shall be opened to the public daily, during such hours and subject to such restrictions as the Council may apply from time to time.
- (c) Children under sixteen years of age must be accompanied by their parent, guardian or an adult.
- (d) Visitors should confine themselves to paths where provided and should not interfere with memorials, floral arrangements, tributes or planting belonging to others.
- (e) Visitors must not pull flowers, or in any way damage shrubs or trees, and the Appropriate Officer or other person in charge for the time being, shall be entitled to remove any person inebriated or who may conduct him or herself improperly or who may cause damage and to prevent any person entering except during permitted hours.
- (f) With the exception of assistance dogs under the control of their owners no person shall permit any dog belonging to them or in their charge to enter or remain in any Cemetery or Burial ground unless it be led on a leash and restricted to recognised paths or to foul any Cemetery or Burial Ground or to damage or destroy any grass, flower, plant, tree or shrub in any Cemetery or Burial Ground.
- (g) Other than with the express permission of the Authorised Officer the public use of radios, compact disc or cassette players and other such sound emitting equipment is forbidden unless used with a personal headset.
- (h) No game or sport should be played within the burial ground.
- (i) Apart from vehicles necessary for the performance of a trade associated with the cemetery management, only disabled persons are permitted vehicular access, all other vehicles should be parked outwith the burial ground or, where applicable, confined to designated parking areas within the burial ground/cemetery.

- (j) The patrons are advised that herbicides will be applied to paths to control seasonal weed growth. In order to ensure survival of any new plant material, the top 250mm of soil should be replaced around the head of the stone prior to planting or containers should be used to accommodate the plant material.
- (k) The Council reserves the right from time to time to repair subsidence in lairs without any prior notification to the lair-holder.
- (l) The Council shall be at liberty from time to time to alter these rules and enforce such others as they may consider appropriate for the proper or better management of the cemeteries/burial grounds.
- (m) The Council shall be at liberty, from time to time, to vary the charges made for burials and allied services.
- (n) These Management Rules supersede any Rules or Regulations however described previously issued by the Council and its predecessors entitle as proprietors of the cemeteries under its control.
- (o) These Management Rules shall be cited as the Shetland Islands Council (Cemeteries and Burial Grounds) Management Rules 2021.
- (p) These Management Rules shall come into force on the date of their execution and shall remain in force thereafter unless revoked or amended.

11. OFFENCES

The Council are empowered in terms of Section 117 of the Civic Government (Scotland) act 1982 to make an exclusion order for a maximum period of one year if they deem that a person has persistently contravened or attempted to contravene these Management Rules and is, in their opinion, likely to contravene them again.

Any person who:-

- (a) On being required to leave a cemetery by an authorised officer of the Council who has reasonable grounds for believing that the person has contravened, is contravening or is about to contravene any of these Management Rules, fails to leave;
- (b) On being informed by an authorised officer who has reasonable grounds for believing that the person is about to contravene any of these Management Rules that he/she is excluded from any cemetery, enters or attempts to enter the cemetery; or
- (c) Being a person subject to an exclusion order under Section 117 of the Act, enters or attempts to enter any Cemetery to which the exclusion order relates;

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding Level 1 on the standard scale of fines referred to in Section 225 of the Criminal Procedure (Scotland) Act 1995.

12. RULES NOT TO AFFECT EMPLOYEES IN THE PERFORMANCE OF THEIR DUTIES

Any act necessary to the proper execution of his/her duty in the premises by any officer of the Council or by any person employed by the Council shall not be deemed an offence against these rules.

NOTES

Copies of these rules can be found on the Council's website www.shetland.gov.uk and from Burial Services, Environment & Estate Operations, Infrastructure Services Department, Gremista, Lerwick, ZE1 OPX.

Any person contravening any of these Management Rules shall be subject to the penalties imposed by sections 116, 117 and 118 of the Civic Government (Scotland) Act 1982 exigible from time to time in terms of the relevant sections of the aforementioned Act.