

PE1415/F

Chief Medical Officer, Public Health and Sport Directorate

Public Health Division - Health Protection
Death Certification Implementation Team



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Government**

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(by email: petitions@scottish.parliament.uk)



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Dear Ms Wilson

PETITION PE 1415

Thank you for your letter of 18 May 2012 regarding the above petition by John Steele.

Following the Committee's further consideration of the petition on 15 May 2012, your correspondence directed us to three subsequent queries on which we have provided responses as set out below.

As excavation of land within burial grounds, churchyards or cemeteries is not regulated by the 1855 Act; how is it regulated?

We have been unable to identify any regulations which relate to the excavation of burial grounds, however our understanding is that this does not mean mass excavation could be permitted by the local authorities (who have general responsibility for the management of burial grounds under the 1855 Act).

Any excavation within burial grounds would be likely to result in the exhumation of human remains and indeed may be the main purpose of any such excavation. For this reason, an application to the Sheriff Court would be required, as is currently the case for any exhumation.

What is the timetable for taking forward the rest of the recommendations made by the Burial and Cremation Review Group, in particular the recommendation for a cheaper and more streamlined process for exhumations?

The Review Group's recommendations 25 and 26 relate to exhumation. These propose that "A new streamlined administrative procedure, not involving the courts, should be introduced to regulate exhumations" and "Following on completion of the re-use procedures burial

authorities should be empowered to authorise exhumations in accordance with regulations by Scottish Ministers”.

It should be stressed that neither recommendation was made with mass / archaeological excavation in mind. Whilst paragraph 75 of the review group report notes that “The system should be sufficiently flexible to enable an application to be made for a blanket exhumation order”, this is quite specifically in the case of proposed cemetery re-use “where it would not be practicable to require separate applications for each individual lair”.

As regards the timetable, recommendation 25 and 26 will form part of the wider burial related activity to be taken forward in due course, given the prioritisation of death certification work as set out in our previous response to the Committee.

When this work is taken forward would it be possible to also give consideration to the issue of archaeological excavations with a view to making a recommendation?

It may be possible to explore the issue of archaeological excavation of burial grounds with a view to including it within the still pending activity from the Death Certification, Burial and Cremation Consultation.

I hope this information is of assistance to the Petitions Committee.

ANNETTE STUART