

Angus Council Rules and Regulations for Burial Grounds

For the general management regulation and control of cemeteries and burial grounds within the Angus area in terms of Section 17 of the Burial Ground (Scotland) Act 1855 as amended by Local Government (Scotland) Act 1973 Section 169 as amended by Local Government (Scotland) Act 1994 (C.39 Section 180 (1) and Schedule 13) as amended by Burial and Cremation (Scotland) Act 2016 (Parts 2 and 3)

1. Interpretation

In these regulations

'Council' means the Angus Council as constituted by the Local Government (Scotland) Act 1994 and includes any authorised employee

'Director' means the Service Director or their successor in office, appointed by the Council and shall include any member of their staff authorised to act on their behalf.

'Burial Ground' means any Churchyard or Cemetery and any extension to either.

'Remains' means any human remains, and remains of any stillborn children and the wrappings or garments of such remains.

'Coffin' means any box or container enclosing remains.

'Casket' means any box or container enclosing cremated remains.

'Lair' means an area of ground within a Burial Ground set aside for burials being of sufficient size to permit the burial of an adult body and which may be divided horizontally into individual graves so that separate burials may take place. (See also Regulation 13).

- 2. Control and Management Delegated to the Director** These Regulations apply to Burial Grounds in the control of or under the management of the Council and such control and management shall be exercised on their behalf by the Director subject to such instructions as may be given from time to time by the Council. All persons carrying out work in the Burial Ground shall be subject to the instructions of the Director and except with the prior written permission of the Director, no burial shall take place, no cremated remains shall be scattered, no gravestone or other memorial shall be placed in a burial ground and no additional inscription shall be made on a gravestone or other memorial. The Council will delegate to the Director the authority to make such minor variations to the rules, as deemed appropriate, for the benefit of the bereaved and where this will not be significantly detrimental to the Council or the enforcement of the remainder of the rules.

3. Register

The Director shall maintain a Register of Burials for each Burial Ground and shall enter therein a record of all burials which shall be made in the Burial Ground, specifying the exact part of the ground and depth at which each coffin or casket is buried including the compartment letter and lair number (if any) and date of the burial together with such additional information as he may deem appropriate.

4. Identity of Lairs

For the purpose of distinguishing the portions of the Burial Ground used for burials, each particular lair shall be identified, where a Burial Ground has divided into compartments, by a distinguishing letter for the particular compartment and also in every case by a distinguishing number.

5. Purchase of Right of Burial

Persons desiring an exclusive right of burial may purchase such a right in respect of such lairs and at such prices and in such conditions as may be approved by the Council. The exclusive right of

burial to a lair is for 100 years, it is then up to the lair holder to renew the exclusive right of burial.

One person only shall be recorded as the holder of an exclusive right of burial and joint holding is prohibited.

Each purchaser of such a right shall, on payment of the price, be furnished with a certificate by the Director specifying the lair, the name and address of the purchaser and all other appropriate details and certify that particulars of the purchase have been recorded in the Register of Lair Holders to be kept by the Council. The person whose name is so recorded in the Register of Lair Holders shall be held to the holder of the exclusive right of burial in respect of the lair in question.

6.Sale of Consecutive Lairs

The sale of exclusive rights of burial in respect of lairs shall take place only in respect of consecutive lairs as may be determined by the Director. No lair holder may hold the exclusive right of burial for more than three lairs. A coffin lair may hold up to a maximum of 3 coffin interments and a casket lair a maximum of 4 however should this not be achievable due to factors out with the control of the authority no recompense will be given. In burial grounds where lairs are allocated free of charge only one lair may be allocated to a lair holder who must be an Angus resident.

7.Succession

a) Unless the holder of the right of burial dies testate (ie leaves a Will regulating who will succeed to the right of burial), the order of succession to such rights shall be held as follows:

- i. Surviving spouse:
- ii. Surviving child: (starting with the eldest)
- iii. Surviving grandchild:
- iv. Other direct issue:

In the event of the lair holder not being survived by a spouse or direct issue, the rules of Intestate Succession set out in Part 1 of the Succession (Scotland) Act 1964 shall apply, with the proviso that, in order to comply with the prohibition against joint holding above, the rule of primogeniture shall apply, so that both in sub-sections (ii) to (iv) above and in any other case where any class of relative would otherwise be entitled to succeed jointly to the lair, the eldest will take precedence irrespective of gender.

- b) Notwithstanding the above provision, the holder of a lair shall be entitled to bequeath the same to any person, but always subject to the prohibition against joint holding.
- c) No person claiming right to succeed to a deceased holder shall be recognised or his name registered in the Register of Lair Holders without proving his right to the satisfaction of the Council. When application is made by a party who claims to succeed, the Council may order such public or other notice of the application to be made as they judge proper and the expense in that event shall be paid by the applicant.
- d) No transfer shall have effect unless sanctioned by the Council who shall have the right of pre-emption at the price originally paid in respect of the lair.
- e) Assignations or bequests by a now deceased proprietor of any lair, must be recorded in the register within twelve months of the death of the said deceased proprietor, otherwise the deed, in so far as regards such lair, shall be ineffectual. However, the Council reserves the right to give effect to an assignation or bequest if it sees fit.

8. The Right to Erect a Memorial

- a) A Lair Holder shall not be entitled to erect a gravestone, kerbing, lair rails, fences and decorative artefacts except with the express permission of the Director and shall make payment of the fee contained within the scale of charges laid down by the Council for such purpose.

The erection of kerbing, lair rails, fences and decorative artefacts including loose surfacing is only permitted subject to the following conditions: edging, surfacing or other artefacts placed within the cultivated headstone border in front of the headstone must not present a hazard to any users of the Cemetery or overlap on to adjacent lairs or interfere with funeral maintenance operations nor obstruct the re-opening of any lair. All decorative artefacts must be contained within the headstone border of the pertaining lair(s). All gravestones must be of natural stone, synthetic materials or timber will not be permitted. Memorial benches, trees and plaques will only be permitted with the written approval of the Director and can only be installed with the permission of the lair holder. An inscription on the rear of headstones is prohibited. The erection of tombs or walls is not permitted unless the prior written approval of the Director has been given. The Director shall be entitled to request the removal of any items that do not adhere to these conditions or do not have written approval, the Director shall be entitled to remove the items and recover the full cost of doing so from the proprietor.

- b) A clearly detailed photo, sketch or drawing of the gravestone and any other associated items with all dimensions, together with any inscription, motifs etc. must be submitted to the Director for approval and all work must be performed to the satisfaction of the Director.

Foundations must be properly constructed to such a depth as may be approved by the Director who must also approve the siting of the gravestone. All new headstone foundations will be installed by Angus Council unless by prior agreement and completed to the current National Association of Memorial Masons specification. A Lair Holder wishing to add an inscription on a gravestone must submit these additions to the Director for approval.

The maximum acceptable width of a memorial for a 36 inches (92cm) lair is 32 inches (82cm); and for a 39 inches (100cm) lair is 35 inches (90cm).

For memorials being placed on more than a single lair, the maximum permitted width does not apply. The maximum height for a memorial, including base, on a cremation casket lair is one metre (100cm).

- c) All enclosures and all gravestones, monuments, tablets and other erections must be kept in good order and repair at the expense of the Lair Holder or any person deriving right therefrom who shall be required to make any repair called for by the Council or to remove the offending gravestone, monument, tablet or other erection within 30 days after written or public notice to do so, failing which the Council may make such repair or removal, the expense of the same to be recoverable from the Lair Holder and no interment shall take place in the lair until such expense shall be recovered.
- d) The Director has the power to remove dangerous, damaged or dilapidated monuments and memorials if after complying with all current legislation on removal of such monuments, memorials etc. the last known proprietor cannot be traced. Thereafter, if the said dangerous, damaged and or dilapidated monument, memorial etc are not claimed within one year from the date of removal, the Director will have the power to dispose of the same as he sees fit.
- e) No hewing or dressing of stones or operations of any kind will be permitted within any cemetery unless sanctioned by the Director and all rubbish or refuse remaining after the erection or monuments or other operations duly sanctioned must be immediately removed at the expense of the person executing the work.
- f) The Director reserves the right to temporarily remove memorials in the course of normal management of the burial grounds.
- g) The erection of plaques on cemetery walls will only be allowed with the written permission of the Director.

9. Planting & Cultivation in Headstone Borders

All Burial Grounds shall be laid out as lawns and cultivations and plantings shall not extend beyond the defined headstone border. When flowers or shrubs are planted in any lair, the selection of shrubs or plants shall be approved by the Director and any such work and maintenance thereof shall be undertaken by employees of the Council and a charge made to the Lair Holder or person authorising such work for which a charge shall be fixed by the Council. Unauthorised plantings will be removed on instruction from the Director.

The Director reserves the right to prune or remove all such planting if it shall be in his opinion that by spreading of roots, branches or otherwise injury may be caused to adjoining grounds, or disruption to the management of the Burial Ground.

10. Notice of Interment etc.

- a) Notice of any proposed interment shall be given to the Director by completing the prescribed form stating, INTERALIA, the name, designation, age, residence, occupation (if any) of the deceased, the date of death and the particular day and hour proposed for the interment and by delivering the prescribed form to any office of the Council listed in Schedule 1 hereto. The form (BG/2) must be accompanied by the appropriate lair certificate or, in the event of the lair certificate not being available the successor to the right of burial should complete a transfer form (BG/22) or in the event of the successor not being available an indemnity form (BG/13) signed by a responsible person and will need to be accompanied by the relevant registration of death certificate. In order to qualify for interment on the day indicated in the desired Burial Ground, which shall be one of the Burial Grounds listed in Schedule 2 hereto, the form must be delivered to the Director by 10am on the day from which the preparation period indicated in the said Schedule 2 is to run.
- b) Subject to (c) below, acceptance of a notice of proposed interment by the Director shall confer an entitlement to interment within the desired Burial Ground on the day indicated on Schedule 2, but in the event of an application for interment indicating a preference for a particular location or lair within the Burial Ground, no automatic entitlement to interment on the said day shall arise.
- c) Where local conditions adversely affect the interment, the Director may at his discretion refuse to carry out the interment at the place or time proposed in the prescribed form, in which case a new place or time shall be fixed in consultation with the undertaker.

11. Interments

- a) The maximum depth for a burial to take place in a new lair shall be 7ft (214cm). This depth is not guaranteed due to a number of factors out with the control of the authority such as ground or weather conditions. Where possible a new lair may be offered in order to achieve the full 7ft (214cm) depth and should this not be feasible the interment will take place at the maximum achievable depth. When a lair is opened, whether for a coffin or cremation casket interment the burial will take place at the maximum available depth unless it is known that no other coffin interment will be required in that lair then an interment may be requested at 5ft (153cm) for a coffin or 4ft (122cm) for a cremation casket.

In such cases the Lair Holder arranging the interment on behalf of the deceased must undertake to free and relieve the Council of all liability and expense in respect of any claim which may be made against the Council in connection with the request and subsequent interment by submission of the appropriate Waiver Form.

No coffin or body or casket shall be buried in any lair in such a manner as to allow any part of it to be less than 3ft (92cm) below the level of any ground adjoining the lair. However, in exceptional circumstances and with the Director's written approval, 2ft (61cm) is the absolute minimum.

- b) No coffin or body shall be buried in a grave unless it is effectively separated from any coffin or body interred in the lair on a previous occasion by means of a layer of earth not less than 2 inches (50mm) thick.

- c) When any lair is reopened for the purpose of making another burial therein no person shall disturb any coffin, or remains interred therein or remove therefrom any soil containing residual matter from any antecedent interment, but the Council shall not be responsible for the consequences of any coffin, casket or remains being disturbed as a result of the reopening of a lair resulting in the contents of thereof lying in an unanticipated position provided that the Council has shown all due care in the opening of such lair and in the replacement of disturbed contents except as provided in (d) infra.
- d) The Director shall be permitted to temporarily remove the casket for the purposes of a coffin burial at a greater depth after obtaining from the Funeral Director or other person organising the funeral, a Form of Indemnity relieving the Council of all claims or consequences of the disturbance.

The Form of Indemnity must be signed by the Lair Holder, whom failing nearest relative of the Lair Certificate Holder, whom failing the person signing the Notice of Interment or a person nominated by him.

- e) Within 24 hours of any burial in a walled grave or vault, the coffin shall be embedded in concrete and covered with a layer of concrete not less than six inches (150mm) or enclosed in a separate cell or compartment of brick, slates, stone, flagging or precast concrete slabs of a suitable mix in any case not less than two inches (50mm) thick in such a manner as to prevent as far as may be practicable the escape of any noxious gas from the interior of the cell or compartment.
- f) Except as provided for above, no coffin or part thereof or remains shall be permitted to be removed from any grave with a view to making room for a new interment except with the relevant legal authority.
- g) Where all coffins are of 14 inches (305mm) in depth or less and where the lair depth of 7ft (214cm) has been achieved three coffins may be interred, where the lair depth is 6ft (183cm) and been achieved two coffins may be interred and where the lair depth is 5ft (153cm) and been achieved only one coffin may be interred.

The maximum acceptable width of a coffin with handles extended for a 36 inches (92cm) lair is 26 inches (57cm); and for a 39 inches (100cm) lair 29 inches (63cm). Where a coffin width exceeds the above size then 2 adjacent lairs will require to be purchased. The coffin will then be placed in the centre of the two lairs as will any further interments.

All types of coffins and cremation caskets must be biodegradable and which from a health and safety perspective allow both council staff and undertakers a safe method of work for the interment. The size and nature of the coffin and the ground conditions prevailing at the time may also determine the maximum available depth on re-opening of the Lair and may reduce the number of burials available in the future.

12. Burial of Caskets

The Council may set aside sections of designated Burial Grounds solely for the provision of burial space for the interment of caskets containing cremated remains. Designated Burial Grounds are those listed in Schedule 3 of these Rules and Regulations and any amendment of the said schedule. In these Cremation Casket Lairs a maximum of four caskets may be interred at 4ft (122cm) only.

13. Scattering of Cremated Remains

No person may scatter cremated remains in any part of the Burial Ground except with the express written permission of and subject to conditions and fee imposed by the Director. The Council may set aside portions of any Burial Ground for the purpose of scattering cremated remains. Any such scattering of cremated remains must not cause an offence to public decency or a danger to public health.

14. Burial of Un-coffined Bodies

Un-coffined bodies may only be buried with the express written consent of the Director who may impose such conditions as he deems fit with a view to protecting public health and maintaining public decency.

15. Conduct

Visitors to any Burial Grounds shall not pull flowers or in any way injure shrubs or trees. No person shall enter or depart from any Burial Ground by any other way than by the entrance gates; and children under 12 years of age must be accompanied by a responsible adult. No inebriated or disorderly persons will be admitted, and no person shall cause any dog to be in a Burial Ground unless it is kept on a short lead.

16. Hours of Opening

The Burial Grounds shall normally be opened to the public during daylight hours, unless amended by the Council at any time.

17. Vehicles

Subject to such provisions as the Council may from time to time make for the assistance of disabled persons, persons other than persons attending burials, Council employees carrying out their duties and stonemasons or tradesmen on Council approved business are prohibited from taking vehicles, motorcycles or power assisted cycles into Burial Grounds, except during times set aside for such purpose by the Council and under such conditions as may be determined by the Council.

18. Alterations to Rules and Regulations

The Council reserves power to alter all or any of the Rules and Regulations when deemed necessary and to enact others in their place and should difference or dispute arise as the real intent, meaning or interpretation of the rules and regulations, price of burials, places of interment, fees or otherwise, the same shall be taken up and disposed of by the Council whose decisions shall be final and conclusive.

Approved by Angus Council 22 November 2022