



**AN BILLE UM RIALÁIL ADHLACADH AGUS
CRÉAMADH, 2011
BURIAL AND CREMATION REGULATION BILL 2011**

*Mar a tionscnaíodh
As initiated*

ARRANGEMENT OF SECTIONS

Section

1. Definitions.
 2. Establishment of a Burial and Cremation Regulatory Authority.
 3. Functions of the Burial and Cremation Regulatory Authority.
 4. Opening, maintenance and inspection of crematoria.
 5. Conditions for cremation.
 6. Opening, maintenance and inspection of cemeteries.
 7. Short title.
-

ACT REFERRED TO

Companies Act 1990

1990, No. 33



AN BILLE UM RIALÁIL ADHLACADH AGUS
CRÉAMADH, 2011
BURIAL AND CREMATION REGULATION BILL 2011

BILL

5

entitled

AN ACT IN THE PUBLIC INTEREST TO REGULARISE THE
PRACTICE OF CREMATION IN IRELAND AND TO
ESTABLISH A SELF-FINANCING BURIAL AND CREM-
ATION REGULATORY AUTHORITY TO OVERSEE THE
10 SUSTAINABLE PLANNING, BUILDING AND OPER-
ATION OF ALL CEMETERIES AND CREMATORIA.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—In this Act—

Definitions.

“Authority” means the Burial and Cremation Regulatory Authority;

15 “burial” means the interring of a dead body;

“cemetery operator” means any burial authority or any person who
has opened a cemetery;

“cremation” means the burning of human remains;

20 “cremation operator” means any burial authority or any person who
has opened a crematorium;

“Minister” means the Minister for the Environment, Community and
Local Government.

25 **2.—(1)** A Burial Regulatory and Cremation Regulatory Auth-
ority will be established to oversee the sustainable planning, building
and operation of all cemeteries and crematoria.

Establishment of a
Burial and
Cremation
Regulatory
Authority.

(2) The Burial and Cremation Regulatory Authority will be self-
financed through the charging of a cemetery levy on all cemetery
and crematoria operators.

30 (3) The Minister shall by order appoint a day to be the establish-
ment day for the purposes of this Act.

(4) The Burial and Cremation Regulatory Authority—

(a) is a body corporate with perpetual succession and a seal;

- (b) may sue, and be sued, in its corporate name;
- (c) may with the approval of the Minister given with the consent of the Minister for Finance, acquire, hold and dispose of land, and
- (d) may acquire, hold and dispose of any other property. 5

(5) Subject to this Act, the Burial and Cremation Regulatory Authority shall be independent in the performance of its functions.

(6) The seal of the Burial and Cremation Regulatory Authority may be authenticated by—

- (a) the signature of the Chairperson or another member of the Authority authorised by the Authority to act in that behalf, and 10
- (b) the signature of the Chief Executive or a member of the staff of the Authority so authorised.

(7) Judicial notice shall be taken of the Burial and Cremation Regulatory Authority and, accordingly, every document— 15

- (a) purporting to be a document made by the Authority, and
- (b) purporting to be sealed with the seal of Authority authenticated in accordance with *subsection (4)*,

shall be received in evidence and be deemed to be such document without further proof unless the contrary is proved. 20

(8) Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal may be entered into or executed on behalf of the Burial and Cremation Regulatory Authority by any person generally or specially authorised by the Authority in that behalf. 25

(9) (a) The Burial and Cremation Regulatory Authority shall consist of not more than 7 members.

(b) The members of the Burial and Cremation Regulatory Authority shall be appointed by the Minister who shall designate one of them as its chairperson. 30

(c) A member of the Burial and Cremation Regulatory Authority appointed by the Minister shall be a person who, in the opinion, of the Minister, has knowledge or experience of matters relevant to the functions of the Authority. 35

(d) The Minister shall in so far as practicable and having regard to the knowledge or experience of matters relevant to the functions of the Authority of the persons concerned, ensure that not less than three members of each gender are appointed to the Authority. 40

(e) Subject to this Act, a member of the Authority shall hold office for a period of 4 years from the date of his or her appointment.

(f) A person may not be appointed to be a member of the Authority for more than 2 consecutive terms. 45

5 (g) A member of the Authority may at any time resign from office by letter to the Minister and the resignation shall take effect on the date specified in the letter or the date the letter is received by the Minister, whichever is the later.

10 (h) A member of the Authority shall, unless he or she sooner dies, becomes disqualified for, resigns, is removed from office or otherwise ceases to be a member, hold office as such member until the expiration of his or her term of office.

15 (i) The Chairperson shall hold office as Chairperson until his or her term of office as a member of the Authority expires, unless that person sooner dies, becomes disqualified from holding office, resigns, is removed from office, or otherwise ceases to be a member, but if reappointed as a member shall be eligible to be designated as the Chairperson.

(10) The Minister may for stated reasons remove a member of the Authority from office if, in the opinion of the Minister—

20 (a) the member has become incapable through ill health of effectively performing the functions of the office,

(b) the member has committed stated misbehaviour,

25 (c) the member has a conflict of interest of such significance that, in the opinion of the Minister, the person should cease to hold the office,

(d) the member's removal appears to be necessary for the effective performance of the Authority.

(11) A person shall be disqualified from holding and shall cease to hold office as a member of the Authority if he or she—

30 (a) is adjudicated bankrupt,

(b) makes a composition or arrangement with his or her creditors,

(c) is convicted on indictment of an indictable offence,

(d) is convicted of an offence involving dishonesty,

35 (e) has a declaration under section 150 of the Companies Act 1990 made against him or her or is subject or is deemed to be subject to a disqualification order by virtue of Part VII of that Act,

(f) ceases to be ordinarily resident in the State, or

40 (g) falls within any paragraphs (a) to (d) of section 12(1).

(12) Where a member of the Authority dies, becomes disqualified from holding office or otherwise ceases to be a member, the Minister may appoint a person to be a member of the Authority to fill the resultant casual vacancy.

(13) A person appointed to be a member of the Authority under *subsection (12)* shall hold office for the remainder of the term of office of the member who occasioned the casual vacancy.

(14) A person who occasions or fills a casual vacancy shall, for the purposes of *subsection (6)* be considered to have served a term as a member of the Authority even though he or she held office for part only of the term. 5

Functions of the Burial and Cremation Regulatory Authority.

3.—(1) Subject to the Act, a key function of the self-financing Burial and Cremation Regulatory Authority following its establishment will be to regularise the practice of cremation in Ireland and to oversee the sustainable planning, building and operation of all cemeteries and crematoria across the State. 10

(2) The Authority shall approve the building and operation of all crematoria and cemeteries and license the practice of cremation in the State. 15

(3) The Minister will establish a Strategic Plan on a 10 yearly basis for the planning, building, operation and maintenance of all cemeteries and crematoria and shall report at least once during the term of each Oireachtas to the Dáil and Seanad.

Opening, maintenance and inspection of crematoria.

4.—(1) Any persons or company intending to open or close a crematorium must— 20

(a) at least three months before it opens a crematorium, give written notice of its intention to do so to the Burial and Cremation Regulatory Authority and before all relevant planning and other permissions have been applied for; 25
and

(b) at least three months before it closes a crematorium, give notice of its intention to do so by—

(i) publishing an advertisement in a local newspaper circulating in the place where the crematorium is situated; and 30

(ii) displaying a notice at the entrance to the crematorium in a place where it can be conveniently read.

(2) The cremation operator must ensure that a crematorium is—

(a) maintained in good working order; 35

(b) provided with a sufficient number of attendants; and

(c) kept in a clean and orderly condition.

(3) The cremation operator must ensure that the Columbarium Wall is maintained and kept in a clean and orderly condition.

(4) A cremation operator must make its crematorium open for inspection at any reasonable time by any person appointed for that purpose by the Burial and Cremation Regulatory Authority and the crematorium may be inspected by such person. 40

5.—No cremation may take place—

Conditions for cremation.

(a) except in a crematorium the opening of which has been notified and approved by the Burial and Cremation Regulatory Authority and other relevant authorities,

5 (b) unless an application for cremation has been made to and approved by the relevant authorities.

6.—(1) Any persons or company intending to open or close a cemetery must,—

Opening, maintenance and inspection of cemeteries.

10 (a) at least six months before submitting a planning application to a local authority, give written notice and full plans of its intentions to the Burial and Cremation Regulatory Authority;

(b) and if, following approval by the local authority, give notice of its intentions by—

15 (i) publishing an advertisement in a local newspaper circulating in the place where the cemetery is situated; and

(ii) displaying a notice at the entrance to the cemetery in a place where it can be conveniently read.

20 (2) The cemetery operator must ensure that a cemetery is—

(a) maintained in good working order;

(b) provided with a sufficient number of attendants; and

(c) kept in a clean and orderly condition.

25 (3) If applicable the cemetery operator must ensure that the Columbarium Wall is maintained and kept in a clean and orderly condition.

30 (4) A cemetery operator must make its cemetery open for inspection at any reasonable time by any person appointed for that purpose by the Burial and Cremation Regulatory Authority and the cemetery may be inspected by such person.

(5) The Authority will have national responsibility for the long term maintenance of all cemeteries and will fully consult with all relevant stakeholders in this regard.

35 7.—This Act may be cited as the Burial and Cremation Regulation Act 2011. Short title.