POLICY NOTE

THE BURIAL AND CREMATION (APPLICATIONS AND REGISTERS) (MISCELLANEOUS AMENDMENT) (SCOTLAND) REGULATIONS 2025

SSI 2025/360

The above instrument was made in exercise of the powers conferred by sections 8(2), 48(2), 57(1) and (2) and 106(1) of The Burial and Cremation (Scotland) Act 2016. The instrument is subject to negative procedure.

Summary Box

This instrument ("the Regulations") amends the Burial (Applications and Register) (Scotland) Regulations 2024 ("the Burial Applications Regulations") and the Cremation (Scotland) Regulations 2019 ("the Cremation Regulations") to update the burial and cremation application forms and amend requirements of the cremation register. The SSI also updates wording in the Burial Applications Regulations to make it clearer. The Regulations come into force on 2 March 2026.

Policy Objectives

The Regulations amend the application forms for burial and cremation contained in the Burial Applications Regulations and the Cremation Regulations respectively. The amendments update the forms and amend them to improve useability, including some restructuring.

The guidance notes will be removed from the cremation application forms so that they can be updated, for example to reflect changes in documentation produced in other jurisdictions that is required for cremations in Scotland, without the need for secondary legislation.

Regulation 8(3) of the Cremation Regulations is updated to ensure that the relevant sections of the restructured application forms require to be completed and that relevant documentation is provided by the applicant with the application for cremation.

The revised burial application forms include reference to the burial of powder, which is the end product of hydrolysis (which will be a new form of disposal of human remains, provided the Hydrolysis (Scotland) (No. 1) Regulations 2026 and the Hydrolysis (Scotland) (No. 2) Regulations 2026 are approved by the Scottish Parliament).

The Regulations alter the requirements for the cremation register that are set out in the Cremation Regulations by removing the prescribed form for the register and instead setting out the information that cremation authorities must include in the register.

Transitional provision is made to ensure that an application form submitted prior to these Regulations coming into force remain valid for a burial or cremation, as the case may be, which takes place on or after the amendments take effect. Similarly, transitional provision is made to ensure that changes to the cremation register apply only to cremations that take place on or after the date on which these Regulations come into force.

The Regulations also update the Burial Applications Regulations to change the wording on making an application following anatomical examination. This amendment is being made following a commitment to the Delegated Powers and Regulatory Reform Committee (DPLRC) to clarify the wording.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights. In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, the Burial and Cremation (Applications and Registers) (Miscellaneous Amendment) (Scotland) Regulations 2025 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

These Regulations update the Burial Applications Regulations and the Cremation Regulations. Both sets of Regulations were developed in collaboration with the Burial Working Group and the Cremation Working Group respectively.

A public consultation on the Cremation Regulations was undertaken in 2017[1]. A public consultation in relation to the Burial Applications Regulations was undertaken in 2023[2]. The consultation analysis for the Cremation Regulations[3] and for the Burial Applications Regulations[4] have been published. Both of these followed on from an earlier consultation[5] in 2015 on the Burial and Cremation (Scotland) Bill asking for opinions on reviewing and updating existing legislation for burial and cremation. The responses[6] were in favour of doing so.

Following the introduction of the Burial Applications Regulations and the Cremation Regulations, the Scottish Government sought and took on board ongoing feedback on the use of the application forms set out in the schedules of each SSI. There has also been ongoing

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[1] https://consult.gov.scot/burial-cremation/the-cremation-scotland-regulations-2017/
[2] https://www.gov.scot/publications/management-burial-grounds-application-burial-exhumation-private-burial-restoration-lairs-regulation-scotland/
[3] https://consult.gov.scot/burial-cremation/consultation-on-a-proposed-bill-relating-to-burial/user_uploads/cremation-consultation-analysis-report.pdf
[4] https://www.gov.scot/publications/scottish-governments-consultation-management-burial-grounds-application-burial-exhumation-private-burial-restoration-lairs-regulation-scotland-consultation-analysis-report/pages/1/
[5] https://www.gov.scot/publications/consultation-proposed-bill-relating-burial-cremation-related-matters-scotland-web/
[6] https://www.gov.scot/publications/consultation-analysis-report-proposed-bill-relating-burial-cremation-matters-scotland/

engagement with the funeral sector and other stakeholders. This feedback has informed the amendments made by these Regulations, which are being made where appropriate to do so.

The DPLRC in its consideration of the Burial Applications Regulation recommended the wording in regulation 3(2)(a)(v) be updated at the first opportunity for readability and to provide clarity in relation to applications for cremation following anatomical examination. That recommendation has been acted on in these Regulations.

Impact Assessments

The Scottish Government has considered a series of impact assessments related to these Regulations:

Child Rights and Wellbeing – The Scottish Government has carried out a Child Rights and Wellbeing Impact Assessment (CRWIA) and this has been published alongside these Regulations on legislation.gov.uk. The CRWIA has concluded that there is no impact on the rights or wellbeing of children.

Equality Impact Assessment – The Scottish Government is satisfied that there is no clear indication that the Regulations are likely to have major impacts on groups with protected characteristics. An initial screening assessment concluded that there was no need to complete a full EQIA.

Fairer Scotland Duty – The Scottish Government is satisfied a full assessment is not required. An initial screening assessment concluded that these Regulations do not introduce any differential socio-economic disadvantages or exacerbate negative outcomes for individuals and households already affected by issues of low income. The Regulations in themselves are not a strategic decision but stem from the 2016 Act which precedes the commencement of the Fairer Scotland Duty which came into force on 1 April 2018.

Islands Communities – After an initial screening assessment, the Scottish Government is satisfied that the effect of this instrument is not anticipated to result in a disadvantage for an island community compared to the mainland or compared to another island group(s). A full assessment has therefore not been required.

Strategic Environment Assessment – After an initial screening assessment, the Scottish Government is satisfied that there is no environmental impact arising from this instrument.

Financial Effects

The Minister for Public Health and Women's Health confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Directorate for Population Health

November 2025