POLICY NOTE

THE HYDROLYSIS (SCOTLAND) (NO. 1) REGULATIONS 2026

SSI 2026/XXX

The above Scottish statutory instrument (SSI) will be made in exercise of the powers conferred by sections 99(1), 106(1) and 108 of the Burial and Cremation (Scotland) Act 2016 and section 27A(2) and (6) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965. The instrument is subject to the affirmative procedure.

Summary Box

This SSI establishes hydrolysis as an alternative method of body disposal in Scotland and makes provision for its regulation. Hydrolysis will sit alongside burial and cremation as an option for the disposal of human remains.

Policy Objectives

The Scottish Government committed to modernising the law on funeral arrangements in Scotland bringing in recommendations from the Burial and Cremation Review Group including the recommendation[1] that the Scottish Government allow alternatives to burial or cremation. There is also support from the public for new methods to be made available following two consultations[2, 3].

These Regulations ("the Regulations"), together with the Hydrolysis (Scotland) (No. 2) Regulations 2026 ("the Hydrolysis No. 2 Regulations") will enable hydrolysis to be made available in Scotland.

The Burial and Cremation (Scotland) Act 2016 ("the 2016 Act"[4]) provides a modern, comprehensive legislative framework for burial and cremation. Section 99 of the 2016 Act enables the Scottish Ministers to make regulations to extend the application of the 2016 Act to encompass new methods of disposal of human remains. That power is exercised in these Regulations, to apply provisions of the 2016 Act in relation to hydrolysis. These Regulations are supplemented by provision made by the Hydrolysis No. 2 Regulations.

The objective of both sets of Regulations is to provide people in Scotland with a possible alternative choice to burial and cremation. In 2023, the Scottish Government ran a public consultation[5] on regulating hydrolysis. No other alternative methods of body disposal were as advanced as hydrolysis at the time of the consultation. The Scottish Government will continue to monitor and review the position as other methods of body disposal are developed.

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[1] https://consult.gov.scot/burial-cremation/consultation-on-a-proposed-bill-relating-to-burial/supporting_documents/Burial%20and%20Cremation%20Review%20group.pdf
[2] https://www.gov.scot/publications/consultation-proposed-bill-relating-burial-cremation-related-matters-scotland-web/documents/
[3] https://www.gov.scot/publications/alkaline-hydrolysis-water-cremation-regulation-scotland/
[4] https://www.legislation.gov.uk/asp/2016/20/contents/enacted
[5] https://www.gov.scot/publications/alkaline-hydrolysis-water-cremation-regulation-scotland/pages/8/

Responses to the consultation were generally in favour with analysis[6] of responses showing their focus was on three main themes: perceived potential environment benefits, personal choice and evidence of the benefits of hydrolysis from research and expanding availability in other countries.

Hydrolysis is often presented as a more environmentally friendly and sustainable option on death. Research[7] at Durham University suggests that hydrolysis has a lower environmental impact than burial or cremation. A report[8] from the Health Council of the Netherlands found that available research suggested that hydrolysis compared favourably to both burial and cremation on three markers of sustainability:

- reduced use of finite resources;
- fewer harmful emissions; and
- reduced use of available space.

Hydrolysis is not available anywhere in the United Kingdom. It is currently commercially available in the USA, Canada, South Africa, Australia, New Zealand, and Ireland. According to the Cremation Association of North America[9], there are hydrolysis facilities in more than half the states of the USA, while more US states have legalised the process.

As hydrolysis is a final disposal of human remains, like cremation, it will be subject to the same oversight, requirements and conditions as cremation is. In addition, these Regulations will enable hydrolysis authorities to be established, creating new business opportunities.

Introduction to "hydrolysis"

Hydrolysis is a method of disposal of human remains using hot water with the addition of potassium hydroxide, with or without sodium hydroxide, to accelerate the natural decomposition process. Usually the body is wrapped in a silk or woollen shroud, or other biodegradable material, before being placed into a chamber that may be pressurised or heated. The body's organic substances dissolve in the liquid. There are three end products:

(1) The bones. These are dried and ground into a white powder ("powder"). As with cremation ashes, this powder can be given to the next of kin.
(2) Any prostheses, fillings, and medical devices. These can be collected and disposed of or recycled, as is the case with cremation.
(3) The residual liquid. This effluent, which is DNA-free, is cooled before being treated, if necessary, and discharged as a waste product (subject to necessary consents from Scottish Water or SEPA, as applicable).

These Regulations, supplemented by the Hydrolysis (No. 2) Regulations, will enable hydrolysis to become available as an option for the disposal of human remains in Scotland and will establish the regulatory framework for hydrolysis facilities and their operators. Other

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[6] https://www.gov.scot/publications/scottish-governments-consultation-analysis-report-regulation-alkaline-hydrolysis-scotland-water-cremation/pages/6/
[7] https://www.durham.ac.uk/research/current/thought-leadership/2024/05/water-cremation-sustainable-body-disposal-is-coming-to-scotland/
[8] https://www.healthcouncil.nl/documents/2020/05/25/admissibility-of-new-techniques-of-disposing-of-the-dead
[9] https://www.cremationassociation.org/alkalinehydrolysis.html

organisations have a role in ensuring the safe operation of hydrolysis, including Scottish Water, SEPA and local authorities when considering planning applications.

Overview of the Regulations

These Regulations are supplemented by the Hydrolysis No. 2 Regulations.

These Regulations do three things:

(1) Extend the application of Part 2 of the 2016 Act to hydrolysis, subject to some modifications;
(2) Textually amend the 2016 Act; and
(3) Make consequential amendments to other legislation.

Extension of the application of Part 2 of the 2016 Act

The Regulations apply the provisions of Part 2 of the 2016 Act, which concerns cremation, in relation to hydrolysis, subject to some non-textual modifications that are set out in schedule 1 of the Regulations. This creates a new framework for the regulation of hydrolysis. The modified provisions, in conjunction with some textual amendments to the 2016 Act, introduce important definitions.

"Hydrolysis" is the disposal of human remains and any soluble material in which the remains are wrapped in a chamber using hot water and potassium hydroxide (with or without the addition of sodium hydroxide) and includes—

(a) where a grinding process is applied to the solid remains after being removed from the chamber, that process, and
(b) where any other process is applied to those remains, that other process.

This definition will be contained in section 107(1) of the 2016 Act (interpretation).

The end product of hydrolysis is "powder", which is the equivalent of ashes following cremation. The place where hydrolysis ("hydrolyses" in plural) is carried out is a hydrolysis facility. The person responsible for the management of that facility is a hydrolysis authority.

Textual amendments to the 2016 Act

The 2016 Act is amended by these Regulations to ensure that hydrolysis sits as an alternative to burial and cremation and can be subject to the same inspection regime as burial authorities, cremation authorities, burial grounds and crematoriums.

Consequential amendments to legislation

Various consequential amendments are made to primary and secondary legislation, to reflect that hydrolysis is an option for the disposal of human remains, sitting alongside burial and cremation.

The Hydrolysis (Scotland) (No. 2) Regulations 2026

The Hydrolysis (No. 2) Regulations supplement these Regulations. They do so by exercising regulation-making powers in the provisions of Part 2 of the 2016 Act, as they apply in relation to hydrolysis and as if modified in accordance with these Regulations, to provide more detailed regulation of hydrolysis. In particular, the Hydrolysis No. 2 Regulations regulate the management and operation of hydrolysis facilities, applications for hydrolysis, the handling of powder and the hydrolysis register.

The provisions made by the Hydrolysis No. 2 Regulations is very similar to the provision made by the Cremation (Scotland) Regulations 2019, in order to regulate hydrolysis in the same was as cremation is currently regulated in Scotland.

The Regulations

(1) Application of Part 2 of the 2016 Act to hydrolysis with non-textual modifications of the Burial and Cremation (Scotland) Act 2016

Once Part 2 of the 2016 Act is applied in relation to hydrolysis and non-textually modified in accordance with the provisions in schedule 1 of these Regulations, Part 2 of the 2016 Act will set out the framework for the regulation of hydrolysis. The following paragraphs set out the effect of the provisions of Part 2 of the 2016 Act, as they apply in relation to hydrolysis.

In order to assist with understanding of these Regulations and improve accessibility of the legislation, the Scottish Government intends to publish a version of Part 2 of the 2016 Act to show it as it applies in relation to hydrolysis.

Omission of section 45

Section 45 is omitted as the definitions of “hydrolysis” and “powder” will be contained in section 107(1) of the 2016 Act instead.

Provision of hydrolysis facility: local authority

Section 46 provides that a local authority may provide a hydrolysis facility, or enter into arrangements with another person to provide a hydrolysis facility on behalf of the local authority. “Hydrolysis facility” is defined as a building fitted with equipment for the carrying out of hydrolysis and includes land (other than a burial ground) pertaining to such a building.

Hydrolysis authority: duties

Section 47 allows the Scottish Ministers to make provision in regulations about the management and operation of hydrolysis facilities; the maintenance of hydrolysis facilities; the operation of any hydrolysis equipment used in a hydrolysis facility; and persons employed by hydrolysis authorities (including in relation to training, qualifications and membership of professional bodies).

Hydrolysis authorities must comply with any requirements imposed by regulations and it is an offence for a hydrolysis authority to knowingly contravene them. On summary conviction such an offence attracts imprisonment for no more 12 months, a fine not exceeding level 3 on

the standard scale or both. A "hydrolysis authority" is a person having responsibility for the management of a hydrolysis facility.

Application for hydrolysis

Section 48 sets out the process for applying for hydrolysis. Subsection (1) provides that a person must apply for a hydrolysis to the hydrolysis authority where the hydrolysis is to be carried out. Subsection (2) gives the Scottish Ministers the power to make regulations in respect of the application process. A person, in making an application for hydrolysis, must comply with any requirements set out in those regulations.

Section 49 sets out offences related to the application for hydrolysis. It is an offence for a person to knowingly provide information which is false or misleading in a material way, in, or in connection with, an application. It is also an offence to recklessly provide information that is false or misleading in a material way in, or in connection with, such an application. On summary conviction, these offences are punishable by a fine not exceeding level 3 on the standard scale.

Requirements for carrying out hydrolysis

Section 50 sets out restrictions on the carrying out of hydrolysis. A person may not carry out a hydrolysis unless the person is a hydrolysis authority, an application for hydrolysis has been granted and the hydrolysis is carried out in a hydrolysis facility. It is an offence to knowingly contravene these requirements. On summary conviction, contravention attracts imprisonment for a term not exceeding 12 months, a fine not exceeding level 3 on the standard scale or both.

Duty of hydrolysis authority before carrying out hydrolysis

Section 51 places a duty on a hydrolysis authority to take reasonable steps to ascertain how an applicant wants the powder to be dealt with before carrying out the hydrolysis. The options for what may be done with the powder are set out in subsection (3). These are for the hydrolysis authority to keep the powder for the applicant to collect; keep the powder for the funeral director to collect; or dispose of the powder in a way indicated by the applicant or as specified in regulations made by the Scottish Ministers.

An applicant will be required to indicate what they wish to be done with the powder when applying for a hydrolysis. A hydrolysis will not be able to take place if the applicant does not provide this information. A hydrolysis authority is expected to discuss the options with an applicant, including advising where particular options are not available (for example, where an applicant wishes the hydrolysis authority to scatter or bury powder while the applicant is present). An applicant will be able to specify a way in which powder should be handled (from particular options) but may also authorise the hydrolysis authority to dispose of it in a way specified in regulations made by the Scottish Ministers.

Duty of hydrolysis authority following hydrolysis

Section 52 requires a hydrolysis authority to comply with the applicant's stated wishes about how powder is to be disposed of as per section 51.

Failure to collect powder

Section 53 sets out the procedure to be followed by a hydrolysis authority where it has retained powder but the applicant or funeral director has not collected it as agreed. The hydrolysis authority must take reasonable steps to ascertain whether the applicant wishes the powder to be retained for longer to enable the applicant or a funeral director to collect it. The hydrolysis authority may agree with the applicant a timescale within which the powder must be collected. The applicant may also authorise the hydrolysis authority to dispose of the powder in a specified manner.

Subsections (3) and (4) provide that the options available to the applicant are for the hydrolysis authority to retain the powder for a further agreed period, for the powder to be collected by the applicant, or for the funeral director or for the hydrolysis authority to dispose of the powder in an agreed manner. If the hydrolysis authority is unable to ascertain the wishes of the applicant, subsection (6) enables the hydrolysis authority to either retain or dispose of the powder in a manner specified in regulations made by the Scottish Ministers.

Power of funeral director in relation to powder

Section 54 sets out the options available to a funeral director when they have collected powder from the hydrolysis facility on behalf of the applicant but the applicant has subsequently failed to collect it from the funeral director as agreed. Subsection (2) requires the funeral director to take further steps to ascertain the wishes of the applicant. The applicant may ask the funeral director to retain the powder for a further period before collecting it.

Where the applicant provides further instructions to the funeral director, the funeral director is obliged to comply with those instructions. If the applicant then does not collect the powder as agreed, the funeral director may return it to the hydrolysis facility. If the applicant informs the funeral director that he or she wishes the funeral director to return the powder to the hydrolysis authority, the funeral director must do so. If the applicant does not provide any further instructions, the funeral director may return the powder to the hydrolysis facility.

Duties of hydrolysis authority where powder returned

Section 55 places duties on a hydrolysis authority where a funeral director has returned powder to the hydrolysis authority. The hydrolysis authority must take reasonable steps to ascertain whether the applicant wishes the hydrolysis authority to retain the powder for a period specified in regulations made by the Scottish Ministers for collection or for the hydrolysis authority to dispose of them in a manner specified in regulations made by the Scottish Ministers. The hydrolysis authority must retain the powder for a period specified in regulations made by the Scottish Ministers until collected by the applicant, if that is what the applicant indicates. The hydrolysis authority must dispose of the powder in a manner specified in regulations made by the Scottish Ministers if the hydrolysis authority has ascertained that the applicant wishes the powder to be dealt with in that way.

Where the hydrolysis authority has taken reasonable steps to ascertain the views of the applicant regarding the way in which the applicant wishes the powder to be dealt with but does not know the applicant's wishes, the hydrolysis authority may retain the powder or dispose of it in a manner specified by the Scottish Ministers in regulations. The hydrolysis

authority has discretion to dispose of it in a manner specified in regulations made by the Scottish Ministers.

Handling of powder: regulations

Section 56 confers power on the Scottish Ministers to make regulations relating to the retention, return and disposal of powder by hydrolysis authorities or the retention and return of powder by funeral directors.

Hydrolysis register

Section 57 requires each hydrolysis authority to prepare and maintain a register for each hydrolysis facility it operates. The register will be known as the hydrolysis register. The section sets out the requirements for the register and allows the Scottish Ministers to make regulations to set out the form of the hydrolysis register and how it must be kept, as well as other provisions. The hydrolysis register is to be a public document, and a hydrolysis authority must provide access to the register, and may impose a reasonable charge for doing so.

The hydrolysis authority may make arrangements to supply copies of entries in the register to members of the public on request for a reasonable charge. Any extract from the register certified as a true copy by the hydrolysis authority is sufficient evidence of the hydrolysis for the purpose of any court proceedings.

Hydrolysis register: offence

Section 58 makes it an offence for a hydrolysis authority to fail to prepare or maintain a hydrolysis register without reasonable excuse. A summary conviction will lead to a fine not exceeding level 3 on the standard scale.

New hydrolysis facility: notice

Section 59 sets out the requirements placed on a person who proposes to establish a hydrolysis facility. Subsection (1) requires the person to notify an inspector of hydrolysis of the day on which the person proposes to begin to determine applications for hydrolysis, at least 3 months before the day on which the person proposes to determine the first hydrolysis application. The person may not determine the first application unless an inspector has given the person notice that they may determine the first application on or after a day specified in the notice.

New hydrolysis facility: offence

Section 60 provides that a person commits an offence if they determine the first application without having received notice from an inspector of hydrolysis or determine the first application before the date specified in the notice from the inspector. On summary conviction, the penalty for such an offence is a fine not exceeding level 3 on the standard scale.

Closure of hydrolysis facility

Section 61 requires a hydrolysis authority to give written notice of the intended closure of a hydrolysis facility to an inspector of hydrolysis. The period of notice should be 3 months where practicable, or on the first day on which it is practicable to give notice, where 3 months' notice is not practicable. The Scottish Ministers have the power to make further provision in regulations in connection with the closure of hydrolysis facilities.

Closure of hydrolysis facility: offence

Section 62 provides that a hydrolysis authority commits an offence if it fails to give notice to an inspector of hydrolysis as required to do under section 61. On summary conviction, the penalty for this is a fine not exceeding level 3 on the standard scale.

Fees for hydrolysis and other services

Section 63 allows a hydrolysis authority that is local authority to charge such fees as it thinks fit in respect of a hydrolysis and any other services it provides in relation to hydrolysis. The authority must keep these fees under review. This section applies only to local authority hydrolysis authorities as they require a statutory power to charge fees. Private hydrolysis authorities are able to charge fees for hydrolyses and services relating to hydrolysis without the need for statutory provision. A hydrolysis authority which is a local authority must publish its fees in paper form and on the hydrolysis authority's website. The hydrolysis authority may publish its fees in any other place it considers appropriate.

Hydrolysis authority: code of practice

Section 64 provides that a hydrolysis authority must comply with any new or revised code of practice which may be issued by the Scottish Ministers in relation to the management of a hydrolysis facility. The Scottish Ministers will be required to consult with hydrolysis authorities and any other relevant parties before issuing such a code of practice or revising an existing code of practice. A code of practice may not be issued until it has been approved by a resolution of the Scottish Parliament. The Scottish Ministers must keep any code of practice under review and must publish it in whatever manner they consider appropriate.

(2) Textual amendment of the 2016 Act

These Regulations make textual amendments to the 2016 Act to reflect that hydrolysis will be available as an option for the disposal of human remains.

One amendment is made to Part 1 of the 2016 Act, concerning burial. Section 22 (private burial) is amendment to ensure that when private burials are regulated, powder from hydrolysis is treated the same way as ashes are.

Numerous amendments are made to Part 3 of the 2016 Act, concerning arrangements on death. Until now, the only arrangements that could be made on death (or following loss of pregnancy or still-birth) were burial or cremation. The amendments to Part 3 ensure that hydrolysis will also be an option.

Part 4 of the 2016 Act (inspection) is amended to enable the Scottish Ministers to appoint inspectors of hydrolysis and to ensure that hydrolysis facilities and authorities can be subject to the same inspection regime as burial and cremation authorities, burial grounds and crematoriums.

Part 6 of the 2016 Act (miscellaneous) is also amended. An amendment to section 98 (guidance on funeral costs) will ensure that hydrolysis authorities must be consulted by the Scottish Ministers before they can issue guidance on the costs associated with making arrangements for a funeral. Section 100 (power to suspect or modify certain enactments) is amended so that the Scottish Ministers' power to make provision suspending or modifying an enactment for the purposes of protecting public health includes the power to suspect or modify enactments relating to hydrolysis.

In Part 7 of the 2016 Act (general provisions), section 104 (consultation requirements for regulations) is amended to ensure that hydrolysis authorities must be consulted when making regulations under certain provisions. Section 107 (interpretation) is also amended to insert key definitions into the 2016 Act.

(3) Consequential amendments

Consequential amendments are made to various pieces of primary and secondary legislation by these Regulations. These amendments ensure that provisions mentioning the options available on death include hydrolysis, and that hydrolysis facilities are aligned with crematoriums.

The Certification of Death (Scotland) Act 2011 and the Certification of Death (Scotland) Act 2011 (Authorisation of Cremation – Death Outwith Scotland) Regulations 2015 are amended to ensure that the same requirements apply in relation to hydrolysis as apply in relation to cremation for deaths outwith Scotland or abroad.

Amendments are also made to ensure that where a death is investigated by the procurator fiscal, the same requirements apply in relation to the release of a body for hydrolysis as apply in relation to the release of a body for cremation. Regulation 9 and schedule 8 of the Cremation (Scotland) Regulations 2019 ("2019 Regulations") are revoked. Regulation 9 provides that where the death of a person has been investigated by the procurator fiscal, a certificate in the form of Form E1 (set out in schedule 8) confirming that the remains of the deceased may be cremated is specified for the purpose of 27A(2)(a) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 for the disposal of the remains of that person by cremation.

Going forwards, a Form E1 will be required for the disposal of human remains by cremation or hydrolysis, where the death has been investigated by the procurator fiscal. Regulation 9 and schedule 8 of the 2019 Regulations are restated, but including reference to hydrolysis, through amendments to the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (Prohibition on Disposal of a Body without Authorisation) Regulations 2015.

The City of Edinburgh District Council Order Confirmation Act 1991 is amended to repeal sections 8 to 10 from the provisional order contained in the schedule. These provisions are superseded by the provisions made by the 2016 Act.

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 Hydrolysis (Scotland) (No. 1) Regulations 2026 are compatible with the UNCRC requirements as defined by section 1(2) of that Act.

EU Alignment Consideration

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

Consultation

The Regulations were developed in consultation with the Hydrolysis Regulations Working Group. A public consultation[10] was undertaken in relation to the policy behind this SSI and the Hydrolysis (Scotland) (No. 2) Regulations 2026 in Autumn 2023. The consultation analysis[11] for the 2023 public consultation has been published and shows ongoing support for regulating hydrolysis. An earlier consultation[12] in 2015 on the Burial and Cremation (Scotland) Bill asked for opinions on bringing in legislation to allow for alternatives to burial or cremation and the responses[13] were in favour of doing so.

Impact Assessments

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

Child Rights and Wellbeing – The Scottish Government have carried out a Child Rights and Wellbeing Impact Assessment (CRWIA) and this has been published alongside the laying of 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 proposed 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

[10] https://www.gov.scot/publications/alkaline-hydrolysis-water-cremation-regulation-scotland/
[11] https://www.gov.scot/publications/scottish-governments-consultation-analysis-report-regulation-alkaline-hydrolysis-scotland-water-cremation/
[12] https://www.gov.scot/publications/consultation-proposed-bill-relating-burial-cremation-related-matters-scotland-web/
[13] https://www.gov.scot/publications/consultation-analysis-report-proposed-bill-relating-burial-cremation-matters-scotland/

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 is therefore not required.

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

Financial Effects

A full Business and Regulatory Impact Assessment (BRIA) was undertaken. These Regulations will enable hydrolysis authorities to be established, creating new business opportunities. There may be an impact on the number of burials or cremations carried out depending on take up of hydrolysis by the public.

Scottish Government
Directorate for Population Health
November 2025