POLICY NOTE

THE HYDROLYSIS (SCOTLAND) (NO. 2) REGULATIONS 2026

SSI 2026/XXX

The above Scottish statutory instrument (SSI) will, be made in exercise of the powers conferred by sections 47(1), 48(2), 56(1), 57(1) and (2) (as applied and modified by exercise of the power conferred by section 99(1)) and 106(1) of the Burial and Cremation (Scotland) Act 2016. The instrument is subject to the affirmative procedure.

Summary Box

This SSI makes provision for the regulation of hydrolysis. 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. 1) Regulations 2026 ("the Hydrolysis No. 1 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 the Hydrolysis No. 1 Regulations, to apply provisions of the 2016 Act in relation to hydrolysis. These Regulations supplement provision made by the Hydrolysis No. 1 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 recyled, 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, supplementing the Hydrolysis (No. 1) 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 supplement the Hydrolysis No. 1 Regulations.

The Hydrolysis No. 1 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. In order to assist understanding of the effect of the No. 1 Regulations, the Scottish Government intends to publish a version of Part 2 of the 2016 Act to show it as it applies to hydrolysis.

The modified provisions of the 2016 Act, 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.

The 2016 Act is amended by the Hydrolysis No. 1 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. As noted above, key definitions are amended into section 107 of the 2016 Act by the Hydrolysis No. 1 Regulations.

Those Regulations also make 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.

These Regulations exercise 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 the Hydrolysis No. 1 Regulations, to provide more detailed regulation of hydrolysis. In particular, these Regulations regulate the management and operation of hydrolysis facilities, applications for hydrolysis, the handling of powder (the end product of hydrolysis) and the hydrolysis register.

The Regulations

These Regulations make provision that 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.

Management of hydrolysis facilities

These Regulations impose duties on hydrolysis authorities in relation to the maintenance and operation equipment in a hydrolysis facility. The hydrolysis authority must prepare and maintain a written record of staff training and servicing of equipment.

Hydrolysis authorities will be required to prepare and maintain a publicly accessible hydrolysis management plan. The Regulations set out the minimum information that must be included in it. Management plans aim to increase transparency around how a hydrolysis authority operates, how it provides hydrolysis services, contingency planning and the maintenance of premises and equipment. Hydrolysis authorities must review their management plan on an annual basis to ensure that it remains accurate and up to date.

Records

This instrument will introduce standard application processes and record keeping across all of Scotland's hydrolysis authorities ensuring consistency of information held. Hydrolysis authorities will be required to retain application forms and accompanying documentation and certificates for a period of 50 years from the date of hydrolysis, ensuring that they are kept confidential.

Joint or shared hydrolysis

The Regulations require that the remains of only one adult, child, still-born child or feus are placed in the hydrolysis chamber at the one time and that at the end of the process the remains are transferred to the drying tray before any other remains are placed in the chamber for hydrolysis. The Regulations provide two exceptions to this, which are joint hydrolysis and shared hydrolysis.

It is anticipated that in nearly all remains will by hydrolysed separately. In some cases there can be a joint hydrolysis; such as two siblings or an adult and a small child. The instrument sets out when a joint or shared hydrolysis can take place.

Joint hydrolysis will be an option for stillborn babies, children and adults. Where there is to be a joint hydrolysis a separate application form is required for each adult, child, still-born

child or fetus and written permission must be given by the person authorised to submit each application for the remains to be hydrolysed together.

A shared hydrolysis is the term used when two or more fetuses are hydrolysed together following a pre-24 week pregnancy loss and the application for hydrolysis is made by a health body or authority using a single application form.

As with joint of shared cremation, as set out in the Cremation (Scotland) Regulations 2019, joint or shared hydrolysis will be an option only if the hydrolysis authority is able to provide them.

Application for hydrolysis

This instrument sets out who may submit an application for hydrolysis, what form the application should take, the information to be provided in an application for and that the documentation specified in the application form should be enclosed with the application.

An application form must be completed by the applicant and submitted to the hydrolysis authority. The application form requires information about the applicant and the deceased. There is also a section on what the applicant wants to be done with the powder. These Regulations provide new forms for different types of application (Forms H1 to H7, contained in the schedules of the Regulations) giving uniform statutory forms to be used by all hydrolysis authorities.

Hydrolysis following exhumation

The Regulations require additional documentation to be provided by an applicant when applying for hydrolysis of exhumed remains, in order to show that the exhumation has been appropriately authorised.

Handling and disposal of powder

The 2016 Act (as modified by the Hydrolysis No. 1 Regulations) defines “powder” and sets out in detail the obligations on hydrolysis authorities, funeral directors and individuals for the handling and return of powder to the family.

Hydrolysis authorities and funeral directors will be required to comply with various processes and time limits set out in the 2016 Act and in these Regulations to ensure that the instructions of the applicant are complied with. These relate to the return or disposal of the powder. These Regulations clarify what actions hydrolysis authorities and funeral directors can take to dispose of the powder if the applicant fails to collect following being sent the necessary notification and after minimum time periods have passed.

Hydrolysis register

A hydrolysis register must be kept by each hydrolysis authority to record all hydrolyses of bodies, body parts, pregnancy losses and stillbirths carried out at its hydrolysis facilities. Hydrolysis registers will provide records of all hydrolyses carried out in Scotland. Taken together hydrolysis registers provide a country wide historic record of all hydrolyses carried out.

Under the 2016 Act, hydrolysis authorities are required to keep hydrolysis registers indefinitely. These Regulations make provision about the minimum information required to be contained in the register, ensuring consistent and accurate records across all hydrolysis authorities.

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. 2) 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 hydrolysis (water cremation) 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

[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/

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 directly from this instrument.

Financial Effects

A full Business and Regulatory Impact Assessment (BRIA) was undertaken. These Regulations, supplementing the Hydrolysis No. 1 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. Minor training and administrative impacts may be experienced by hydrolysis authorities and funeral directors, however these are mitigated by positive impacts to the provision of hydrolysis services.

Scottish Government
Directorate for Population Health
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