POLICY NOTE

THE REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES (SCOTLAND) ACT 1965 (PROHIBITION ON DISPOSAL OF A BODY WITHOUT AUTHORISATION) AMENDMENT REGULATIONS 2024

SSI 2024/281

The above instrument was made in exercise of the powers conferred by section 27A(2) and (6)(a) of The Registration of Births, Deaths and Marriages (Scotland) Act 1965. The instrument is subject to the negative procedure.

Summary Box

The purpose of this instrument is to amend Regulations 4 and 5 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (Prohibition on Disposal of a Body without Authorisation) Regulations 2015 so that a person who has died in England, Wales or Northern Ireland and whose death is subject to a coroner investigation, can be buried or cremation in Scotland with the consent of the Coroner, before the conclusion of the coroner investigation and prior to death registration.

Policy Objectives

The purpose of this instrument is to ensure that in circumstances where a person dies in England, Wales or Northern Ireland and the burial or cremation is to take place in Scotland, that coroner certificates will be accepted as sufficient authorisation in Scotland to enable the burial or cremation to take place, where the death is subject to an ongoing coronial investigation and no certificate of registration of death is yet available from the registrar.

This ensures that burial or cremation can occur in Scotland in the same circumstances as in England, Wales and Northern Ireland and ensures that bereaved families are not required to wait until the conclusion of a coroner investigation before arranging the burial or cremation, so long as the coroner has issued a certificate releasing the body for disposal.

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 Registration of Births, Deaths and Marriages (Scotland) Act 1965 (Prohibition on Disposal of a Body without Authorisation) Amendment Regulations 2024 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

The regulations were developed with input from key stakeholders including representatives of funeral directors and burial and cremation authorities.

The Scottish Government also worked in close collaboration with the UK Ministry of Justice and the Northern Irish General Registers Office and Coroner's Office.

Impact Assessments
The Scottish Government has considered a series of impact assessments related to these regulations:

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 that a full assessment is not required in this case. 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.

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. The CRWIA has concluded that there is no impact on the rights or wellbeing of children.

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). The Scottish Government is satisfied that 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
A Business and Regulatory Impact Assessment has been undertaken and completed for this policy and has been published alongside the laying of these Regulations. The Regulations have positive impacts on businesses which are supporting bereaved families as the Regulations are intended to reduce any delay to a funeral which is caused by an ongoing coronial investigation or inquest in England, Wales or Northern Ireland. No negative impacts have been identified.

Scottish Government
Directorate for Population Health
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