

# **Child Rights and Wellbeing Impact Assessment (CRWIA) for The Funeral Expense Assistance (Scotland) Amendment Regulations**

September 2024

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## **Disclaimer**

This document is a point in time assessment of the likely effects of the Funeral Expense Assistance (Scotland) Amendment Regulations 2024 on the rights and wellbeing of children and young people. This impact assessment should be read in conjunction with the Equality Impact Assessment, Fairer Scotland Duty Assessment, Island Communities Impact Assessment and Business and Regulatory Impact Assessment prepared for this proposal.

Scottish Government acknowledge the importance of monitoring and evaluating the impact of strategic decisions and legislation on children's rights and wellbeing. Any information gathered during implementation of the legislation or strategic decision to which the impact assessment relates, will be used to inform future determinations of impact. Any new strategic decision or new legislation (including amending legislation) would be subject to a new CRWIA in line with the legislative requirements.

# Child Rights and Wellbeing Impact Assessment Template

## Introduction

### 1. Brief Summary

Type of proposal (Please tick):

Bill  SSI

Decision of a strategic nature relating to the rights and wellbeing of children

Name the proposal, and describe its overall aims and intended purpose.

The Funeral Expense Assistance (Scotland) Amendment Regulations 2024

Funeral Expense Assistance, referred to as Funeral Support Payment, replaced the UK Government's Funeral Expenses Payment which is administered by the DWP in September 2019. DWP regulations were largely replicated under the safe and secure approach to transition of legislation. When Funeral Support Payment was first introduced, a Child Rights and Wellbeing Impact Assessment (CRWIA) was not required.

### Policy Changes - Summary

Following the Funeral Support Payment evaluation being published on 1 July 2022<sup>1</sup> and discussions with internal and external stakeholders, we have identified several improvements in line with policy intent that will support bereaved people. The proposed amendments to the regulations are as follows;

- Allow full application of a reasonability test when a person has been buried or cremated outwith the area in which they resided, but the place of the funeral is in the United Kingdom, to allow reasonable costs to be awarded and a consistent approach regardless of where a person is buried or cremated. Currently costs are compared against the costs of a funeral in the local authority where the deceased resided. This could disadvantage clients who choose, or need to have, a funeral outside the local authority area in which the deceased resided as burial and cremation charges can vary in different local authority areas. If the funeral takes place outside the UK and a cost comparison cannot take place, for example there is no crematorium in the deceased's local authority area, reasonability will apply based on the costs the client is likely to incur for that type of funeral in Scotland.
- Extend provision to allow Funeral Support Payment to be awarded in exceptional circumstances if a funeral is held outwith the UK and an award is not allowable under current regulations. This provision will have no restrictions relating to the nationality of deceased or location of funeral, but costs will be restricted. Normal residency rules of the applicant being resident in Scotland and the deceased being resident in the UK, will be applied.

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<sup>1</sup> Scottish Government (2022) [Funeral Support Payment: evaluation - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/funeral-support-payment-evaluation/pages/1-1-introduction.aspx)

- Ensure a person who would have been entitled to support for funerals abroad (EU member states, Iceland, Liechtenstein, Norway or Switzerland) prior to 31 December 2020, when the implementation period (IP) following the UK exit from the EU ended, continue to be entitled. This group includes Irish citizens and EU/EEA or Swiss nationals who have obtained leave to remain in the UK by means other than through the EU settlement scheme, and those who have applied under the EU settlement scheme and are awaiting a decision – the scope of this provision also captures joining family members in the first 3 months of residence.
- Introduce a change to explicitly deduct any available assets of the deceased, including assets available with confirmation and pre-paid funeral plans, that can be used for funeral costs from the award of Funeral Support Payment in all cases. Current regulations state that FSP cannot be awarded if assets of the deceased are sufficient to meet the costs of a funeral and a figure has been set for what is deemed sufficient. This could disadvantage clients who live in areas where funeral costs are higher or if costs for funerals continue to increase beyond the current figure. Stakeholders have not raised any concerns about this change to regulations.
- Amend the definition of funeral to include provision for means of disposal of human remains by alkaline hydrolysis. This means funeral support payment can be sought for this method of human remains disposal. This method uses hot water mixed with chemicals in a pressurised chamber. Various terminology, including water cremation, aquamation and water cremation is used within the funeral industry when referring to alkaline hydrolysis. The Scottish Government published their consultation analysis report on alkaline hydrolysis in April 2024.<sup>2</sup> Alkaline hydrolysis is available outside the UK and the first funeral involving alkaline hydrolysis in Europe is understood to have taken place in Ireland in September 2023.

Start date of proposal's development: 19 September 2023.

Start date of CRWIA process: November 2023.

2. With reference given to the requirements of the UNCRC (Incorporation) (Scotland) Act 2024 which aspects of the proposal are relevant to children's rights?

None of the proposed amendments to the regulations, as outlined above, will impact directly on children and young people up to the age of 18. The provisions in these

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<sup>2</sup> Scottish Government (2024) [Alkaline Hydrolysis \(water cremation\) regulation: consultation analysis report](#)

Regulations amend the FSP Regulations generally and will apply to any individual who meets the eligibility criteria for FSP after the coming into force date.

FSP can be applied for by 16 and 17 year olds who meet the eligibility criteria. So far as the provisions in these Regulations apply to 16 and 17 year olds, the changes brought forward are intended to have a positive impact on individuals entitled to FSP and the assistance given.

The reasonability test which will allow reasonable costs to be awarded when a burial or cremation takes place out with the area in which the deceased resided, but the place of the funeral is in the United Kingdom, will not impact on children and young people up to the age of 18. The Scottish Government and COSLA have an agreement to waive fees for burials and cremations for still born children and children aged from 0-17. Parents and carers can apply for Funeral Support Payment and, if eligible, may receive a flat rate payment of £1,257.75 and assistance with additional costs such as those incurred to travel to or arrange the funeral. The proposed change to introduce a reasonability test does not change this provision.

The exceptional circumstances provision will allow for a funeral to take place outside the UK in exceptional circumstances. This provision will support clients who are incurring unexpected costs for a funeral outside the UK. This change effects all eligible people applying for FSP under this new provision and may have a small, positive, indirect impact on children or young people.

We want to ensure that a person who would have been entitled to support for funerals abroad (EU member states, Iceland, Liechtenstein, Norway or Switzerland) prior to 31 December 2020, when the implementation period following the UK exit from the EU ended, continue to be entitled. This includes Irish citizens and EU/EEA or Swiss nationals who have obtained leave to remain in the UK by means other than the EU settlement scheme, and those who have applied under the EU settlement scheme and are awaiting a decision. The scope of this provision also captures joining family members in their first 3 months of residence. This proposed amendment to FSP regulations is not expected to impact on a large amount of people and may have a small, positive, indirect impact on children and young people.

The change to deduct any available assets of the deceased that can be used for funeral costs from the award of FSP has no impact on children under 18. Current FSP regulations state that no deductions are to be made from a FSP award if the deceased person was under the age of 18 on the date of their death and no changes are being made to this aspect of FSP provisions.

By including alkaline hydrolysis within FSP regulations, a parent or carer for a child could receive an award of FSP for a funeral which involved alkaline hydrolysis, assuming FSP eligibility criteria are met. This proposed amendment to FSP provision may have a small, positive, indirect impact on children and young people but it is mainly to encompass alkaline hydrolysis within the regulations to ensure Funeral

Support Payment can be awarded when a funeral involves this method of body disposal.

3. Please provide a summary of the evidence gathered which will be used to inform your decision-making and the content of the proposal.

From:

- existing research/reports/policy expertise
- consultation/feedback from stakeholders
- consultation/feedback directly from children and young people

N/A as no aspects of the Funeral Expense Assistance (Scotland) Amendment Regulations 2024 directly impact on children.

4. Further to the evidence described at '3' have you identified any 'gaps' in evidence which may prevent determination of impact? If yes, please provide an explanation of how they will be addressed (Guidance Section 3.2, page 22).

N/A

5. Analysis of Evidence.

N/A

6. What changes (if any) have been made to the proposal as a result of this assessment?

N/A

## Conclusion

7. As a result of the evidence gathered and analysed against all UNCRC requirements, what is the potential overall impact of this proposal on children's rights? :

Children's Rights

Positive  Negative  Neutral  No impact

8. If you have identified a positive impact on children's rights, please describe below how the proposal will protect, respect, and fulfil children's rights in Scotland.

N/A

9. If a negative impact has been identified please describe below. Is there a risk this could potentially amount to an incompatibility?

N/A

## Mitigation Record

What options have been considered to modify the proposal in order to mitigate negative impact or potential incompatibility issues?

Please summarise mitigation actions taken below

### Issue or risk Identified per article/ Optional Protocol

N/A

### Action Taken/ To Be Taken

N/A

### Date action to be taken or was taken

N/A

10. As a result of the evidence gathered and analysed against all wellbeing indicators, will the proposal contribute to the wellbeing of children and young people in Scotland?

Yes  No

If yes, please provide an explanation below:

11. How will you communicate to children and young people the impact that the proposal will have on their rights?

This template will be published, and we have ensured in the drafting of this document that the language used is accessible to children and young people and extra care has been given to ensure that they understand the content. Although issues in relation to the UK exit from the EU are not the easiest to make accessible. We have provided a description of what alkaline hydrolysis entails to aid understanding.

## Post Assessment Review and sign-off

12. Planning for the review of impact on children's rights and wellbeing.

As part of the decision-making process, plans for reviewing the impact on children's rights and wellbeing will be developed.

- How will the impact of the proposal on children's rights and wellbeing be monitored?

13. When will you review and update the CRWIA if required?

Although we have not identified any direct impact on children with this proposal, we will gather data to assess the impact of the amendment regulations as part of our evaluation and monitoring process. We will consider any potential impact on children and young people if they come to light.

14. Sign off

Policy Lead Signature & Date of Sign Off: Michelle Rungay, 01 August 2024

Deputy Director Signature & Date of Sign Off: Ian Davidson, 30 August 2024

Date CRWIA team first contacted: 16 January 2024



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