

**Child Rights and Wellbeing
Impact Assessment (CRWIA)
for (The Registration of
Births, Deaths and Marriages
(Scotland) Act 1965
(Prohibition on Disposal of a
Body without Authorisation)
Amendment Regulations
2024)**

October 2024

Child Rights and Wellbeing Impact Assessment (CRWIA) for (The Registration of Births, Deaths and Marriages (Scotland) Act 1965 (Prohibition on Disposal of a Body without Authorisation) Amendment Regulations 2024)

Child Rights and Wellbeing Impact Assessment

1. Brief Summary

Type of proposal (Please delete as necessary):

- Scottish Statutory Instrument

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

These Regulations will amend the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (Prohibition on Disposal of a Body without Authorisation) Regulations 2015 (“the 2015 Regulations”), and are being brought forward for the reasons listed below.

Under Scottish legislation, all deaths must be registered before burial or cremation can occur. Where deaths occur in Scotland, and for the vast majority of deaths occurring in the rest of the UK, this does not lead to any significant delays in arranging burial or cremation in Scotland.

However, where a death occurs in another UK nation (and the coroner in that jurisdiction is involved in investigating it), registration of the death may not occur for many months. The coroner may issue a certificate giving permission for burial or cremation where the death is still to be registered. In England, Wales and Northern Ireland, a coroner may therefore release the body and provide authorisation for the burial or cremation to proceed.

In order for a burial or cremation to occur in Scotland in respect of a death in England or Wales the death must be registered by the registrar. However the coroner’s investigation must be completed before the death is registered there. Coroner’s investigations, it is understood, can take many months to complete.

In order to mitigate against this delay, this SSI will amend the 2015 Regulations to allow the relevant certificate issued by the coroner to be accepted where there is a

coroner's investigation and the coroner has released the body for a burial or cremation to take place in Scotland.

Start date of proposal's development: 04 October 2024

Start date of CRWIA process: 04 October 2024

2. With reference given to the requirements of the UNCRC (Incorporation) (Scotland) Act 2024 ([Annex 1](#)), which aspects of the proposal are relevant to/impact upon children's rights?

No aspects of the SSI impact upon children's rights.

These Regulations will allow the appropriate certificate issued by the coroner for deaths outwith Scotland to be accepted for a burial or cremation to take place in Scotland in cases where the death is subject to a coroner's investigation.

It is therefore a technical change, prescribing additional documentation, to allow a burial or cremation to go ahead in Scotland, with the permission of the coroner, before completion of a coroner's investigation and the issue of the death certificate by the registrar. This will apply in a very narrow number of circumstances so will minimally have relevance to children and young people who are relatives of the deceased, particularly as there are very few under 18s who are in charge of organising funerals so it is extremely unlikely this will interact with children and young people in this circumstance.

Overall there is the potential that without this change, families of the bereaved be waiting many months for the burial or cremation to go ahead in Scotland. However this will be in a small number of cases and it cannot be categorically said that in all of these cases there will be children and young people involved or within the family of the deceased. Therefore, while there is a small potential for this proposal to have relevance to children and young people, it does not engage with any of the specific rights set out in the UNCRC act.

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

Evidence from:

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

In order to be affected by this change, the death must have occurred in another UK nation, be subject to investigation or enquiries by the coroner and the body returned to Scotland for burial or cremation. Discussions with the funeral industry have led to

estimates of around 150 deaths of this nature per year. It is not known how many children will be affected by those deaths.

An Inspector of Burial, Cremation and Funeral Directors who presently inspects all 33 crematoriums in Scotland annually, has undertaken 10 pilot inspections of funeral director businesses in Autumn 2023 in anticipation of these Regulations. The Inspector has also contributed views taking account of the knowledge and experience gained in carrying out his current inspection duties each year, including complaints or reports from members of the public or funeral sector about issues in the sector.

The Inspector reports that he does not recall having any communication with anyone under 18 arranging a funeral as an applicant. This is aligned with Scottish Government's officials' understanding of the negligible number of children who are responsible for arranging a funeral, based on experience and knowledge obtained in the course of developing the 2016 Act and related regulations, and policy work generally in this area.

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

Research related to children in the funeral sector or consultation directly with children is not available. However, stakeholder engagement suggests that the number of children involved with the funeral sector is negligible. Further, the purpose and aim of the Regulations is not anticipated to have a direct impact on children. If, in the course of implementation, it becomes known that there is further relevance to children, any gaps in evidence from children will be gathered relating to the funeral sector in line with wider public engagement.

5. Analysis of Evidence

Available evidence suggests that there is unlikely to be any direct or indirect impact on the rights and wellbeing of children as described above these Regulations make provision around documentation which those in charge of interment, burial or cremation must have. They will have limited impact on children, given the small numbers who will be affected by this change and the very small numbers of children who engage with the funeral sector. Where any impact is experienced by a child through being a family member of the deceased, that impact will be similar to the impact on an adult person who is also bereaved.

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

The evidence suggests there is unlikely to be any notable impact on children either negatively or positively. The Scottish Government took note of this information, which confirms officials' existing understanding of how the proposed Regulations

may impact children. No changes were made to the proposed Regulations as a result, and the evidence reaffirmed the approach to proposal's development.

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?

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 it 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 a negative impact or potential incompatibility?

Please summarise mitigation actions taken below

Issue or risk identified and relevant UNCRC requirement

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 ([Annex 2](#)), will the proposal contribute to the wellbeing of children and young people in Scotland? (Guidance Section 2.3.2, pages 20-22).

Safe:	Not Applicable
Healthy:	Not Applicable
Achieving:	Not Applicable
Nurtured:	Not Applicable
Active:	Not Applicable
Respected:	Not Applicable
Responsible:	Not Applicable
Included:	Not Applicable

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?

As these Regulations will have no impact on the rights of children, no direct communication strategy is planned. Information about the impact of the Regulations will be made public in general terms. The CRWIA will be published on the [legislation.gov.uk](https://www.legislation.gov.uk) website alongside the SSI so those wishing to access it can do so. The CRWIA has been written in an accessible and child friendly format so those reading it can understand its content and how it does not impact on their rights.

Post Assessment Review and sign-off

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

The Scottish Government intends to monitor any impact of the Regulations on children’s rights and wellbeing through regular monitoring and review of the Regulations and their operationalisation.

13. Sign off

Policy Lead Signature & Date of Sign Off: Rachael Thomson, 11/10/24

Deputy Director Signature & Date of Sign Off: Simon Cuthbert-Kerr, 11/10/24

Date CRWIA team first contacted: 09/10/24



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The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-83601-928-2 (web only)

Published by The Scottish Government, October 2024

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1518491 (10/24)

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