

Delegated Powers and Law Reform Committee
Tuesday, 9th December 2025
35th Meeting, 2025 (Session 6)

Instrument Responses

Burial and Cremation (Applications and Registers) (Miscellaneous Amendment) (Scotland) Regulations 2025 (SSI 2025/360)

On 27 November 2025 the Committee asked the Scottish Government:

1. In new regulation 8(3)(e) of the Cremation Regulations, substituted by regulation 2 of the instrument, reference is made to the heading of section 87 of the Burial and Cremation (Scotland) Act 2016 as amended by a future SSI which has not yet been laid. Can you confirm that this reference will be amended in the event that the future SSI is annulled/not approved?
2. In schedule 3, could Form A3 be clearer, in section 2a, with regard to the box on the right before the words “(The midwife, registered nurse or medical professional has issued a letter or certificate to confirm that a pregnancy loss has taken place)”? This contrasts with the equivalent part of burial form BF3, section 3A, which has the same text but in its own line, without the brackets, and prefaced with “Please tick to confirm that....”
3. Could confirmation be provided that the policy intention is to remove “address of the deceased” from the required information specified in new schedule 10 (Cremation Register – body parts)?
4. The previous Form BF4 contained an “authorisation for burial” section (section 4), and all the other Forms contain an “authorisation” section. However, new Form BF4 (in schedule 14) does not. Is this in line with the policy intention?
5. In Form BF5 (schedule 15), Accompanying Documents section, would “tick” (which is used as standard in these forms) be clearer than “check”?
6. In Forms A1, A2, A3, A5 and A6 there is an inconsistency in the formatting of the boxes for filling in significant dates, for example of birth/death of the deceased. Forms A1, A2 and A3 are likely to be completed by a bereaved individual rather than a public authority. For these forms in particular, would it be clearer, and reduce the chance of mistakes, if the boxes were formatted in the conventional way?

On 2 December 2025 the Scottish Government responded:

1. Yes. The Scottish Government considers that it is more user-friendly to refer to the heading for section 87 as it will be at the time this instrument comes into force (to include hydrolysis), provided the future SSI (the Hydrolysis (Scotland) (No. 1) Regulations 2026, which were laid in draft on 3 December and come into force on the same day as this instrument) is approved. If that SSI is not approved, we will seek to use a correction slip to amend the reference to hydrolysis in the heading for section 87 and the associated footnote.
2. The quoted text from form A3 is the same as on the current form (contained in the Cremation (Scotland) Regulations 2019). To date, the Scottish Government is not aware of users having any difficulty in understanding or completing that section of the form and is satisfied that the form is sufficiently clear.

3. The policy intention was to remove the address from schedule 10. The new schedule 10 sets out the information to be contained in a register in respect of the cremation of body parts. “Address” is not information to be contained in the register in respect of cremations of whole bodies, under the existing or amended version of schedule 9. An address may not be held where body parts are cremated after being held for anatomy purposes. The Scottish Government considers that an address need not be included on the register for this type of cremation.
4. It was not intentional to remove section 4. However, regulation 3(3)(d) of the Burial (Applications and Register) (Scotland) Regulations 2024 does not require that particular section to be completed. It therefore has no operative legal effect. Section 4 is currently completed by burial authorities as an administrative step, to confirm that they have all the necessary documentation to go ahead with the burial. They will still need to take that step in the absence of section 4 on the application form and the Scottish Government will set that out in guidance for the avoidance of any doubt.
5. The Scottish Government is satisfied that an instruction to “check” a box is commonly understood language that will be easily capable of being followed by the user.
6. There are a number of places where the date is requested in the form of four boxes followed by four more boxes, each time with the instruction to complete it as “DD/MM/YYYY”. That reflects the current drafting of the forms in the Cremation (Scotland) Regulations 2019. To date, the Scottish Government is not aware of any issues with those boxes being completed incorrectly. In other places the more conventional spacing (two boxes, two boxes, four boxes) is used. The Scottish Government does not consider that the inconsistency will present any difficulties for users of the forms.