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The Information Centre
An t-Ionad Fiosrachaidh

Funeral Expense Assistance (Scotland) Amendment Regulations 2024

Introduction

The [draft Funeral Expense Assistance \(Scotland\) Amendment Regulations 2024](#) were laid in the parliament on 1 October, accompanied by several impact assessments. This paper summarises the policy, the recommendations by Scottish Commission on Social Security and Scottish Government response, before suggesting three themes for discussion with the Cabinet Secretary.

Background

Funeral Support Payment

The [Funeral Support Payment](#) (FSP) was introduced in 2019 as the ‘Scottish equivalent’ of DWP’s [Funeral Expenses Payment](#). It provides a one-off payment to people on qualifying benefits who are responsible for funeral costs. This is normally the nearest relative. It pays a ‘flat rate’ (currently £1,257.75) and makes a contribution towards certain additional costs such as burial fees and some travel costs.

The person applying for FSP must be ordinarily resident in Scotland, the deceased must have been resident in the UK. The funeral must normally be in the UK, although in some cases, it can be in the EU/EAA.

Applications and payments made

[Latest statistics](#) show that by the end of June 2024:

- Since FSP started in 2019, a total of 26,850 clients had received it.
- Around 600 to 800 applications are received for FSP each month.
- From April to June 2024, the average processing time was 12 days and 71% of claims were authorised.
- The average payment made in 2024 is £2,065.
- [Estimated take-up is 61%](#).

What the regulations do

The regulations make changes to:

- allow Funeral Support Payment to be made for a ‘water cremation,’
- clarify the circumstances in which those with protected rights under the EU Withdrawal Agreement can receive FSP either in the UK or in EU/EEA countries,
- extend the circumstances in which FSP can be used to pay for funeral outwith the UK to include any country in ‘exceptional circumstances,’
- remove the requirement that UK funeral costs are capped at the costs in the area the deceased was resident, and
- allow the amount paid out from a funeral plan (or similar) to be deducted from the amount provided in FSP. (This is more specific than the current requirement that, if someone has ‘sufficient available funds’ through a funeral plan then no FSP is paid).

Scottish Commission on Social Security (SCoSS)

SCoSS [reported on draft regulations in June](#) describing them as largely uncontroversial. SCoSS made 3 recommendations, 2 of which were accepted by the Scottish Government, and made 3 observations.

Table 1: SCoSS recommendation and Scottish Government response

SCoSS Recommendation	Response
1. Make clear that the cost of a funeral outside the deceased person’s local authority can be used to benchmark eligible costs where necessary.	Decline. “We do not think this is necessary” If there is no specific comparator in that local authority, then costs will be considered according to whether they are reasonable.
2. Develop guidance on ‘exceptional circumstances’, particularly where the deceased is a foreign national who wished to be buried or cremated in their country of origin.	Accept. Scottish Government officials and SCoSS have met to develop this guidance.
3. Gather data to monitor and assess the impact of the changes – particularly on funerals abroad and use of ‘exceptional circumstances’	Accept. The first data will be gathered six months after the regulations come into force but may not be made public.

Impact Assessments

The regulations were published with several impact assessments:

- Business and Regulatory Impact Assessment.
- Equality Impact Assessment.
- Islands Communities Impact Assessment.
- Fairer Scotland Duty Assessment.
- Children’s Rights and Wellbeing Impact Assessment.

Key points from these are summarised below.

Consultation

Overall, stakeholders regarded the regulations positively. The Scottish Government engaged with the Funeral Poverty and Funeral Support Payment reference group the National Association of Funeral Directors, the Society of Allied and Independent Funeral Directors, Shetland Council Burial Services, Argyll and Bute Council, Scotmid Funeral Directors and Funeral Solution Expert (BRIA).

Cost and other impacts

Approximately 12% of FSP applications are for funerals held outwith the area in which the deceased resided. Applying a reasonability test rather than capping costs could benefit over 700 clients per annum at an additional cost of around £80,000 p.a compared to current practice (BRIA).

The EQIA suggested that providing for reasonable costs outwith the local area could have a positive effect on island communities, religious minorities and ethnic minorities all of whom may not have their chosen type of funeral available in their local authority. Additionally, disabled people could benefit by being able to use the closest burial ground or crematorium which may not be the one in the local authority.

Suggested Themes for Discussion

Theme 1: Funerals outwith the local area

Funeral Support Payment pays a 'flat rate' and certain other reasonable costs. This includes costs such as burial and cremation fees, certain documentation and a contribution to travel costs.

The regulations remove the requirement that the amount awarded for costs is capped at the costs that apply in the area of residence. The requirement that costs are reasonable continues to be in place.

The impact assessments suggested that this would be of particular benefit to island communities and religious minorities, whose chosen type of funeral may not be available locally. It would also enable people to take up the option of alkaline hydrolysis, which even if approved for use in Scotland, might be unlikely to be available everywhere.

Members may wish to discuss:

- 1. Will the regulations make it more likely that people will apply for support with funerals outwith their local area? How has this been factored into costs?**
- 2. What statistical information will Social Security Scotland publish on Funeral Support Payment awarded for UK funerals outwith the local area?**

Theme 2: Funerals outwith the UK

The Business and Regulatory Impact Assessment notes that: “Less than 1% of FSP applications are for funerals abroad.”

Currently, FSP can be paid for funerals abroad only if the person responsible for the funeral is in the ‘protected cohort’ of those still covered by EU social security co-ordination rules. In very general terms this applies to EU/EAA nationals living in the UK and UK nationals living in the EU/EAA since before Brexit.

These regulations allow FSP to be paid for funerals anywhere outside the UK in exceptional circumstances for anyone who meets the eligibility criteria. The costs will be capped at those payable in the local authority where the deceased had been resident.

The Scottish Government accepted SCoSS’s recommendations to develop guidance on ‘exceptional circumstances’ and to monitor the impact of the changes made in these regulations.

In their reply the Scottish Government stated that:

“where data is of sufficient quality and coverage, Scottish Government analysis will use this to measure the impact of these changes with the first data gather scheduled for six months after the regulations come into force. This will feed into any future evaluation work but the data may not be shared publicly.”

Robust guidance will be in place before the regulations come into force on 2 December (BRIA).

Members may wish to discuss:

- 3. What might be considered ‘exceptional circumstances’ allowing Funeral Support Payment to be paid for a funeral outwith the UK?**
- 4. What statistical information will Social Security Scotland publish on Funeral Support Payment awarded for funerals outwith the UK?**

Theme 3: Alkaline Hydrolysis

The regulations allow Funeral Support Payment to be paid for alkaline hydrolysis – also known as ‘water cremation’. This is not yet available in Scotland, but the Scottish Government consulted on allowing it in 2023. The SCoSS report states that: “it appears very likely” that it will be approved for use in Scotland.

Alkaline Hydrolysis is currently available in Ireland. The Island Communities Impact Assessment notes that:

“We will continue to work with Health and Social Care colleagues following the publication of the consultation analysis report on alkaline hydrolysis in April

2024, to establish if alkaline hydrolysis will be introduced as a regulated method of body disposal in Scotland and if so, when it is likely to be introduced.”

Members may wish to discuss:

- 5. Can the Cabinet Secretary update the Committee on progress in considering whether to approve alkaline hydrolysis for use in Scotland?**

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