

PART 2 (as modified in relation to hydrolysis)

Hydrolysis

Hydrolysis

46 Provision of hydrolysis facility: local authority

- (1) A local authority may—
 - (a) provide a hydrolysis facility,
 - (b) enter into arrangements with another person for the provision by that other person of a hydrolysis facility.
- (2) In subsection (1), “hydrolysis facility” means a building fitted with equipment for the carrying out of hydrolysis; and includes land (other than a burial ground) pertaining to such a building.

47 Hydrolysis authority: duties

- (1) The Scottish Ministers may by regulations make provision about—
 - (a) the management and operation of hydrolysis facilities,
 - (b) the maintenance of hydrolysis facilities,
 - (c) the operation of equipment for the carrying out of hydrolysis,
 - (d) persons employed by hydrolysis authorities (including in relation to training, qualifications and membership of professional bodies).
- (2) A hydrolysis authority must comply with any requirement imposed on it by regulations under subsection (1).
- (3) A hydrolysis authority which knowingly contravenes subsection (2) commits an offence.
- (4) A person who commits an offence under subsection (3) is liable on summary conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding level 3 on the standard scale or to both.
- (5) In this section, “hydrolysis authority”, in relation to a hydrolysis facility, means the person having responsibility for the management of the hydrolysis facility.

48 Application for hydrolysis

- (1) A person who wishes a hydrolysis to be carried out in a hydrolysis facility must submit an application to the hydrolysis authority for the hydrolysis facility.
- (2) The Scottish Ministers may by regulations make provision for or in connection with an application mentioned in subsection (1).
- (3) In making such an application, a person must comply with any requirements imposed by or under regulations under subsection (2).
- (4) Regulations under subsection (2) may in particular—
 - (a) specify the form and content of applications,
 - (b) specify persons, or a description of persons, who may issue forms on which applications is to be made,
 - (c) prohibit such persons from altering the forms other than in such ways as may be specified in the regulations,
 - (d) specify persons, or a description of persons, who may submit applications,
 - (e) make provision about documents to be submitted with applications, or
 - (f) make provision for reviews of, or appeals against, decisions of a hydrolysis authority—
 - (i) to grant an application,
 - (ii) to refuse to grant an application.

49 Section 48: offences

- (1) A person commits an offence if the person—
 - (a) provides information in, or in connection with, an application under section 48(1) which the person knows to be false or misleading in a material way, or
 - (b) recklessly provides information in, or in connection with, such an application which is false or misleading in a material way.
- (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

50 Requirements for carrying out hydrolysis

- (1) A person may not carry out a hydrolysis unless—
 - (a) the person is a hydrolysis authority,
 - (b) the hydrolysis authority has granted an application made under section 48 in respect of the hydrolysis, and
 - (c) the hydrolysis is carried out in a hydrolysis facility.
- (2) A person who knowingly contravenes subsection (1) commits an offence.
- (3) A person who commits an offence under subsection (2) is liable on summary conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding level 3 on the standard scale or to both.

Handling of powder

51 Duty of hydrolysis authority before carrying out hydrolysis

- (1) This section applies where—
 - (a) a person (“the applicant”) submits an application to a hydrolysis authority for a hydrolysis to be carried out, and
 - (b) the authority proposes to carry out the hydrolysis.
- (2) Before carrying out the hydrolysis, the hydrolysis authority must take reasonable steps to ascertain in which of the ways mentioned in subsection (3) the applicant wishes the powder from the hydrolysis to be dealt with.
- (3) The ways are—
 - (a) for the powder to be retained by the hydrolysis authority during the specified period and made available for collection before the expiry of that period by the applicant,
 - (b) for the powder to be retained by the hydrolysis authority during the specified period and made available for collection before the expiry of that period by a funeral director appointed by the applicant for that purpose,
 - (c) for the powder to be disposed of by the hydrolysis authority in a specified manner or in a manner indicated by the applicant.
- (4) In this section, “specified” means specified in regulations under section 56(1).

52 Duty of hydrolysis authority following hydrolysis

- (1) This section applies where a hydrolysis has been carried out by a hydrolysis authority.
- (2) Where, by virtue of subsection (2) of section 51, the hydrolysis authority has ascertained that the applicant wishes the powder from the hydrolysis to be dealt with in the way mentioned in subsection (3)(a) of that section, the hydrolysis authority must—
 - (a) retain the powder during the specified period, and

- (b) make the powder available for collection before the expiry of that period by the applicant.
- (3) Where, by virtue of subsection (2) of section 51, the hydrolysis authority has ascertained that the applicant wishes the powder from the hydrolysis to be dealt with in the way mentioned in subsection (3)(b) of that section, the hydrolysis authority must—
 - (a) retain the powder during the specified period, and
 - (b) make the powder available for collection before the expiry of that period by a funeral director appointed by the applicant for that purpose.
- (4) Where, by virtue of subsection (2) of section 51, the hydrolysis authority has ascertained that the applicant wishes the powder from the hydrolysis to be dealt with in the way mentioned in subsection (3)(c) of that section, the hydrolysis authority must dispose of the powder—
 - (a) in a specified manner, or
 - (b) where the applicant has indicated the manner in which the powder is to be disposed of, in that manner.
- (5) In this section—
 - “applicant”, in relation to a hydrolysis, means the person who submitted the application under section 48(1) by virtue of which the hydrolysis was carried out,
 - “specified” has the meaning given by section 51(4).

53 Failure to collect powder

- (1) This section applies where—
 - (a) a hydrolysis authority has complied with the duties in subsection (2) of section 52, but the applicant has failed to collect the powder from the hydrolysis authority before the expiry of the period specified for the purposes of that subsection, or
 - (b) a hydrolysis authority has complied with the duties in subsection (3) of section 52, but the funeral director has failed to collect the powder from the hydrolysis authority before the expiry of the period specified for the purposes of that subsection.
- (2) The hydrolysis authority must take reasonable steps to ascertain whether the applicant wishes—
 - (a) the powder to be retained by the hydrolysis authority during such further period as may be specified and made available for collection before the expiry of that period by the applicant,
 - (b) the powder to be retained by the hydrolysis authority during such further period as may be specified and made available for collection before the expiry of that period by a funeral director appointed by the applicant for that purpose, or
 - (c) the powder to be disposed of by the hydrolysis authority in a specified manner.
- (3) Where, by virtue of subsection (2), the hydrolysis authority has ascertained that the applicant wishes the powder to be dealt with in the way mentioned in paragraph (a) of that subsection, the hydrolysis authority must—
 - (a) retain the powder during the period mentioned in that paragraph, and
 - (b) make the powder available for collection before the expiry of that period by the applicant.
- (4) Where, by virtue of subsection (2), the hydrolysis authority has ascertained that the applicant wishes the powder to be dealt with in the way mentioned in paragraph (b) of that subsection, the hydrolysis authority must—
 - (a) retain the powder during the period mentioned in that paragraph, and
 - (b) make the powder available for collection before the expiry of that period by the funeral director appointed for that purpose by the applicant.
- (5) Where, by virtue of subsection (2), the hydrolysis authority has ascertained that the applicant wishes the powder to be dealt with in the way mentioned in paragraph (c) of that subsection, the hydrolysis authority must dispose of the powder in the specified manner.

- (6) Where, despite having taken the steps mentioned in subsection (2), the hydrolysis authority does not know in which of the ways mentioned in that subsection the applicant wishes the powder to be dealt with, the hydrolysis authority must—
- (a) retain the powder, or
 - (b) dispose of the powder in the specified manner.
- (7) In this section—
- “applicant” has the meaning given by section 52(5),
 - “specified” has the meaning given by section 51(4).

54 Power of funeral director in relation to powder

- (1) This section applies where—
- (a) by virtue of section 52(3), a funeral director has collected powder from a hydrolysis authority, and
 - (b) the applicant has failed to collect the powder from the funeral director before the expiry of the specified period.
- (2) The funeral director must take reasonable steps to ascertain whether the applicant wishes—
- (a) to collect the powder from the funeral director before the expiry of such period as may be agreed between the funeral director and the applicant, or
 - (b) the funeral director to return the powder to the hydrolysis authority.
- (3) Where, by virtue of subsection (2), the funeral director has ascertained that the applicant wishes to collect the powder as mentioned in paragraph (a) of that subsection, the funeral director must make the powder available to the applicant for collection during the period agreed by virtue of that subsection.
- (4) Where the applicant—
- (a) makes known to the funeral director that the applicant wishes to collect the powder as mentioned in subsection (2)(a), but
 - (b) does not collect the powder from the funeral director before the expiry of the period agreed by virtue of that subsection,
- the funeral director may return the powder to the hydrolysis authority.
- (5) Where, by virtue of subsection (2), the funeral director has ascertained that the applicant wishes the funeral director to return the powder to the hydrolysis authority, the funeral director must so return them.
- (6) Where, despite having taken the steps mentioned in subsection (2), the funeral director does not know in which of the ways mentioned in that subsection the applicant wishes the funeral director to deal with the powder, the funeral director may return the powder to the hydrolysis authority.
- (7) In this section—
- “applicant” has the meaning given by section 52(5),
 - “specified” has the meaning given by section 51(4).

55 Duties of hydrolysis authority where powder returned

- (1) This section applies where, by virtue of section 54(5), a funeral director returns powder to a hydrolysis authority.
- (2) The hydrolysis authority must take reasonable steps to ascertain whether the applicant wishes—
- (a) the powder to be retained by the hydrolysis authority during the specified period and made available for collection before the expiry of that period by the applicant, or
 - (b) the powder to be disposed of by the hydrolysis authority in a specified manner.
- (3) Where, by virtue of subsection (2), the hydrolysis authority has ascertained that the applicant wishes the powder to be dealt with in the way mentioned in paragraph (a) of that subsection, the hydrolysis authority must—

- (a) retain the powder during the specified period, and
 - (b) make the powder available for collection before the expiry of that period by the applicant.
- (4) Where, by virtue of subsection (2), the hydrolysis authority has ascertained that the applicant wishes the powder to be dealt with in the way mentioned in paragraph (b) of that subsection, the hydrolysis authority must dispose of the powder in the specified manner.
- (5) Where, despite having taken the steps mentioned in subsection (2), the hydrolysis authority does not know in which of the ways mentioned in that subsection the applicant wishes the powder to be dealt with, the hydrolysis authority must—
 - (a) retain the powder, or
 - (b) dispose of the powder in the specified manner.
- (6) In this section—
 - “applicant” has the meaning given by section 52(5),
 - “specified” has the meaning given by section 51(4).

56 Handling of powder: regulations

- (1) The Scottish Ministers may by regulations make further provision about—
 - (a) the retention, return and disposal of powder by a hydrolysis authority, or
 - (b) the retention and return of powder by a funeral director.
- (2) Regulations under subsection (1) may in particular make provision for or in connection with—
 - (a) collection of powder by an applicant or a funeral director,
 - (b) failure to collect powder by an applicant or a funeral director,
 - (c) time periods in relation to collection of powder by an applicant or a funeral director,
 - (d) notices that must or may be given—
 - (i) by a hydrolysis authority to an applicant or a funeral director, or
 - (ii) by a funeral director to an applicant,
 - (e) time periods within which a response to such a notice is to be given,
 - (f) information such a response is to contain,
 - (g) steps a hydrolysis authority or funeral director must or may take if such a response is not given (or is not given timeously),
 - (h) ascertaining how an applicant wishes powder to be disposed of, or
 - (i) taking steps mentioned in section 51(2), 53(2), 54(2) or 55(2).
- (3) In this section, “applicant” has the meaning given by section 52(5).

Register

57 Hydrolysis register

- (1) Each hydrolysis authority must prepare and maintain for each hydrolysis facility for which it is the hydrolysis authority a register containing prescribed information about hydrolyses carried out in the hydrolysis facility (a “hydrolysis register”).
- (2) The Scottish Ministers may by regulations—
 - (a) require a hydrolysis register to be in a specified form and kept in a specified manner, or
 - (b) make such other provision relating to a hydrolysis register as they consider appropriate.

- (3) A hydrolysis authority must make arrangements for each of its hydrolysis registers to be available for inspection by members of the public on payment of such reasonable charge (if any) as the authority may determine.
- (4) A hydrolysis authority must make arrangements for copies of entries in its hydrolysis registers to be supplied, on request, to members of the public on payment of such reasonable charge (if any) as the authority may determine.
- (5) A hydrolysis register must be kept indefinitely.
- (6) An extract from a hydrolysis register kept by a hydrolysis authority, duly certified as a true copy by the hydrolysis authority, is sufficient evidence of the hydrolysis entered in it for the purposes of any court proceedings.
- (7) In this section, “specified” means specified in the regulations.

58 Hydrolysis register: offence

- (1) A hydrolysis authority commits an offence if, without reasonable excuse, the authority contravenes section 57(1) by failing to prepare or maintain a hydrolysis register (which has the meaning given in section 57(1)).
- (2) A hydrolysis authority which commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Hydrolysis facility: further requirements

59 New hydrolysis facility: notice

- (1) This section applies where a person proposes to establish a hydrolysis facility.
- (2) The person must give an inspector of hydrolysis notice of the day on which the person proposes to determine the first application made under section 48(1) for a hydrolysis to be carried out in the hydrolysis facility (the “first application”).
- (3) Notice under subsection (2)—
 - (a) must be given at least 3 months before the day on which the person proposes to determine the first application, and
 - (b) must be in writing.
- (4) The person may not determine the first application unless—
 - (a) an inspector of hydrolysis has given notice in writing to the person that the person may determine the first application on or after a day specified in the notice, and
 - (b) the determination is made on or after that day.

60 Section 59: offences

- (1) A person commits an offence if, without reasonable excuse, the person contravenes subsection (4) of section 59 by determining the first application—
 - (a) without notice having been given to the person under that subsection, or
 - (b) where notice is given to the person under that subsection, before the day specified in the notice.
- (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) In subsection (1), “first application” has the meaning given by section 59(2).

61 Closure of hydrolysis facility

- (1) Where a hydrolysis facility is to close, the hydrolysis authority for the hydrolysis facility must give an inspector of hydrolysis notice in accordance with subsection (2) of the day on which the hydrolysis facility is to close.
- (2) Notice under subsection (1)—
 - (a) must be given—

- (i) where practicable, at least 3 months before the day on which the hydrolysis facility is to close, or
 - (ii) otherwise, on the first day before the hydrolysis facility is to close on which it is practicable to give notice, and
- (b) must be in writing.
- (3) The Scottish Ministers may by regulations make further provision for or in connection with the closure of hydrolysis facilities.
- (4) Regulations under subsection (3) may in particular make provision requiring a hydrolysis authority—
 - (a) to provide specified information to an inspector of hydrolysis,
 - (b) to comply with specified requirements about the transfer of specified information, or
 - (c) to comply with specified requirements about other matters relating to the closure of a hydrolysis facility.
- (5) In this section, “specified” means specified in the regulations.

62 Section 61: offence

- (1) A hydrolysis authority commits an offence if, without reasonable excuse, the authority contravenes subsection (1) of section 61 by failing to give notice under that subsection in accordance with subsection (2)(a) of that section.
- (2) A hydrolysis authority which commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Fees

63 Fees for hydrolysis and other services

- (1) This section applies where the hydrolysis authority for a hydrolysis facility is a local authority.
- (2) The hydrolysis authority may charge such fees as the authority thinks fit in respect of—
 - (a) a hydrolysis carried out in the hydrolysis facility, and
 - (b) any other services provided by the authority relating to hydrolysis.
- (3) The hydrolysis authority must publish fees mentioned in subsection (2)—
 - (a) in paper form, and
 - (b) on the website of the hydrolysis authority.
- (4) The hydrolysis authority may display the fees in any place it considers appropriate.
- (5) The hydrolysis authority must keep under review fees mentioned in subsection (2).

Code of practice

64 Hydrolysis authority: code of practice

- (1) A hydrolysis authority must comply with any code of practice issued by the Scottish Ministers about the carrying out of functions conferred on the authority by or under this Act in relation to the management of a hydrolysis facility (a “hydrolysis code”).
- (2) Before issuing any hydrolysis code, the Scottish Ministers must consult—
 - (a) hydrolysis authorities, and
 - (b) other persons appearing to the Scottish Ministers to have an interest.
- (3) After taking account of any representations received by them by virtue of subsection (2), the Scottish Ministers must lay a draft of the hydrolysis code before the Scottish Parliament.
- (4) The Scottish Ministers may not issue a hydrolysis code unless a draft of the code is approved by resolution of the Scottish Parliament.

- (5) The Scottish Ministers must publish a hydrolysis code in such manner as they consider appropriate.
- (6) The Scottish Ministers must keep under review a hydrolysis code.
- (7) In this section, references to a hydrolysis code include references to a hydrolysis code as revised from time to time by the Scottish Ministers.