



Ministry of  
**JUSTICE**

## **Cremation Regulations**

## **Consolidation and Modernisation**

**Consultation Paper CP 11/07**

16-07-2007

This consultation will end on 22-10-2007





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**JUSTICE**

## **Cremation Regulations**

Consolidation and Modernisation

**A consultation produced by the Ministry of Justice. This information is also available on the Ministry of Justice website at [www.justice.gov.uk](http://www.justice.gov.uk)**



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## Executive summary

The Cremation Regulations 1930, which have effect in England and Wales, have been amended several times since they were made (1952, 1965, 1979, 1985, 2000 & 2006). They are seen by many as old-fashioned and confusing. The case for modernising the language and consolidating the Regulations is very strong. The Government is therefore consulting as widely as possible on what form the new Regulations should take.

The text of the current Regulations as amended is contained in Annex A. The text of the new draft Regulations is contained in Annex B. The covering note explaining the differences between the two sets of Regulations is at Annex C. A limited number of policy changes are discussed in the body of the main document.

There are two main policy changes. Firstly, that the bereaved will have a right to inspect the medical forms before cremation. This will allow for them to discuss any concerns they may have about the death with the medical referee. Only then will the medical referee authorise cremation. This new right is contained in new regulation 17. The Government is still considering what further changes might be required to death certification legislation in the light of the activities of Harold Shipman, who signed more than 200 false cremation forms in order to disguise the murders of his patients. This work is being taken forward at present by the Department of Health.

Secondly, the regulation on the handling of contagious disease cases, which allows certain regulations to be dispensed with or for the Regulations to be temporarily modified or suspended, will no longer be required. In the event of a pandemic, the Regulations would be amended to allow for a simpler procedure for the cremation of bodies.

A number of more minor changes to the Regulations and forms are covered in the section entitled 'The proposals'.

## Introduction

This paper sets out for consultation a draft set of consolidated Cremation Regulations, replacing the 1930 Regulations which are now regarded as out of date and confusing. The new Regulations contain a small number of policy changes which are set out below. The consultation is aimed at all those involved in all aspects of cremating dead bodies, including crematorium owners, medical referees, coroners completing the statutory forms, and funeral directors.

The Regulations apply to England and Wales only.

This consultation is being conducted in line with the Code of Practice on Consultation. The Consultation Criteria, which are set out on page 39, have been followed.

While the proposals are unlikely to lead to additional costs or savings for businesses, charities or the voluntary sector or for the public sector, the nature of the regulations means we have included a Partial Regulatory Impact Assessment (PRIA) commencing on page 21. We would welcome responses not only to the questions contained in the consultation paper but also to the question in the PRIA which seeks views on likely impacts. Copies of the consultation paper are being sent to:

The Federation of Burial and Cremation Authorities

The Institute of Cemetery and Crematorium Management

The Cremation Society of Great Britain

The British Medical Association

The General Medical Council

All medical referees at crematoria

The Coroners' Society of England and Wales

The Local Government Association

The Association of Chief Police Officers

Coroners Officers Association

HM Treasury

Office for National Statistics

The Cabinet Office

The Home Office

Department for Communities and Local Government

The Department of Health

The Department for the Environment, Food and Rural Affairs

The Department for Trade and Industry Small Business Unit

The Human Tissue Authority

The National Assembly for Wales

The Scottish Executive

The Belfast Crematorium

Department of the Environment, Northern Ireland

The Douglas (Isle of Man) Crematorium

The Jersey (Channel Islands) Crematorium

Churches Together in England

The Inter Faith Network for the UK

The Zoroastrian Trust Funds of Europe

The British Sikh Consultative Forum

The Network of Sikh Organisations

The Catholic Bishops' Conference of England and Wales

The Board of Deputies of British Jews

The Muslim Council of Great Britain

The Hindu Forum of Britain

The Jain Samaj Europe

The British Humanist Association

CRUSE

National Association of Citizen's Advice Bureaux

Victim Support

This list is not, however, meant to be exhaustive or exclusive and responses are welcomed from anyone with an interest in or views on the subject covered by this paper.

## **The proposals**

### **The draft Consolidated Regulations**

As is standard practice with consolidated regulations there are no significant policy changes. We are not introducing new forms, nor changing the role of doctors completing the medical forms. The majority of the new Regulations (see Annexes B and C) repeat long-established policy but modernise the wording and reorder the regulations into what is arguably a more logical sequence.

### **The Current Cremation Regulations**

The current Regulations date from 1930, although their overall content is based on the first set of Cremation Regulations which were made in 1903. These in turn were based on the rules and regulations of the Cremation Society of Great Britain's first crematorium at Woking in Surrey. The Regulations are made under section 7 of the Cremation Act 1902. The current Regulations have been amended on six occasions, in 1952, 1965, 1979, 1985, 2000 and 2006. When they were last amended, the Joint Committee on Statutory Instruments commented on the number of previous amendments and the obsolete language and presentation of the Regulations. They recommended that the then Department for Constitutional Affairs should produce a consolidated set of modernised Regulations at the earliest opportunity. This we agreed to do.

The purpose of the Regulations is to permit the cremation of bodies at crematoria in England and Wales subject to a number of controls over the process. At present, a person wishing to cremate the body of a deceased person applies on a standard form (the Application Form or Form A) for authorisation to cremate. Applicants are normally either the next of kin or the executor but they may be other persons if the person died without a close relative or did not leave a will. Someone who knows the applicant signs the application form, stating that they have no reason to doubt the truth of the information on the form.

Separately to this, the doctor who treated the deceased person during the last illness will complete a medical certificate detailing a number of facts about the nature of the final illness and give a cause of death. This certificate is commonly known as the Form B or "Certificate of Medical Attendant". The doctor will pass the completed form to another doctor, the countersigning doctor. This doctor must not have been involved in the treatment of the deceased person, nor be a partner or relative of the first doctor nor be a relative of the deceased. This doctor will examine the form B and question the first doctor and others involved in treating or caring for the deceased. He or she will also examine the body. He or she will then

give the cause of death on form C. Both forms B and C will then be sent to the medical referee at the crematorium, together with the Form A.

It is the medical referee's duty to study the 3 forms and make any further enquiries that might be necessary before authorising the cremation, using Form F. The medical referee may also refuse to authorise the cremation. If so, he or she must give reasons for that decision.

In cases where a death is unnatural, or the cause is unknown, the death must be referred to the local coroner and the treating doctor should not complete form B. The coroner may, however, discuss the case with the treating doctor and the outcome may be that the doctor can complete Form B after all. If not, the coroner may order a post-mortem examination or decide an inquest should be opened (often both). The coroner will then send a certificate to the medical referee (Form E) advising the medical referee that an inquest has been opened or a post-mortem examination has been performed.

All deaths abroad where the body is brought back to be cremated within England and Wales also require a Form E to be completed, whether or not the cause of death is unnatural or unknown.

In all cases where the body is cremated the cremation authority must complete an entry in the register (Form G).

There are a number of additional forms used less frequently. Occasionally the medical referee may doubt whether the deceased died of natural causes although the coroner is satisfied that he does not need to become involved. In those circumstances, the medical referee has the power to order a post-mortem examination to be performed by a pathologist, subject to the consent of the next of kin. The pathologist will then complete Form D, giving a cause of death.

Anatomical specimens may also be cremated subject to the completion of Form H by the anatomist.

Forms AA, DD and FF are used when *body parts* are cremated. A separate register Form GG is used in such circumstances.

The statutory wording of each of these forms is set out in the schedule to the Regulations. The statutory wording must be strictly followed.

The current Regulations also cover the following areas:

- Permitting body parts to be incinerated where that can be lawfully done.
- Making provision for still-born children and related body parts to be cremated.
- Requiring crematoria to be kept in good order, etc.

- Giving notice to Secretary of State of any opening or closing of crematoria.
- Requiring each crematorium to be open to inspection.
- Restricting cremations to crematoria whose opening has been notified to the Secretary of State.
- Requiring the death to have been registered (or confirmed by the registrar that registration is not required) except where the coroner has issued Form E.
- Requiring both doctor signing Form C and Medical Referee to have a 5 years qualification as a medical practitioner with the General Medical Council or European equivalent.
- Stating that Form C is unnecessary if a post-mortem examination has been performed by a doctor and the results are known (separate from coroner's post-mortem).
- Providing that the Medical Referee may complete Form C provided that he or she has not been involved in the treatment of the deceased person, nor is a partner or relative of the first doctor nor a relative of the deceased; also providing that the Medical Referee may be a coroner or medical officer of health.
- Stipulating that there shall be a Deputy Medical Referee, similarly qualified.
- Providing that both Medical Referee and Deputy Medical Referee may act at another crematorium in an emergency.
- Providing that particular provisions apply where the death occurred in Scotland, Northern Ireland, the Channel Islands or the Isle of Man.
- Providing that the provisions do not apply if a deceased person has been buried for more than twelve months - cremation of the body will be at the discretion of the cremation authority and subject to any conditions within an exhumation licence issued by the Secretary of State.
- Providing exceptional arrangements for plague or pandemic victims whereby the standard forms can be dispensed with.
- Providing that ashes may be disposed of by the applicant or the cremation authority.
- Providing that notification of the cremation should be sent to the registrar of deaths.
- Providing that certificates should be filed in order and retained for fifteen years (after 2 years a photographic copy is acceptable).

- Providing that when a crematorium closes the records should be sent to the Secretary of State unless he otherwise directs.

The current Regulations, including the forms, are set out at Annex A to this document.

### **The draft consolidated regulations in detail**

The most important single change to the current regulations is to allow the applicant, or someone else proposed by the applicant to inspect the forms (in particular the medical forms) prior to the medical referee authorising the cremation. This is seen by the Government as an important Shipman-related reform. Dame Janet Smith's Third Shipman Inquiry Report made clear that many of the forms were wholly inaccurate and Shipman depended on the Form C doctors being deceived by his oral presentation (as treating doctor). Family members may well be able to draw the medical referee's attention to concerns about unexpected symptoms or features of the case.

### **Regulations 17 and 18(2)**

Regulations 17 and 18(2) set out how these new arrangements will operate. The applicant will complete an amended application form (Form I). This will contain a question about the applicant being notified about examining the forms before the medical referee authorises cremation. It will also ask the applicant to provide contact details for themselves or another family member to help ensure that the funeral is not unnecessarily delayed. If the applicant says that he does wish to examine the forms, the medical referee or a member of staff at the crematorium will contact the relevant person and invite them to do so. It will then be for the medical referee to decide what action to take in the light of any concerns that person may have. If necessary, he or she will refer the case to the coroner for consideration or fresh examination. If the case is already being dealt with by the coroner, there will be no question of applicants examining any forms - any concerns relatives may have about the death should be pursued with the coroner and his or her staff separately.

**Question 1: Do you consider that the change underlined above to the application process is practicable and useful?**

**Question 2: Are there any amendments to the Regulation or form, as drafted, which might make the proposed process more effective? Please note the terms of the 48 hour rule as set out in regulation 17(2) of the Regulations.**

## Regulation 14

We consider the current Regulation 14, dealing with deaths from plague and other serious and contagious diseases and which we now consider to be excessively widely drawn, should not be repeated. Instead we propose amending the regulations, as and when required, in italicised regulation number 13. More work needs to be done on the practicalities of what is being proposed and discussions continue within Government on the best way of proceeding. The main aim, however, will be to ensure that doctors can devote as much of their time as possible to treating the sick without being distracted by completing cremation forms. We envisage that coroners will issue a certificate to the effect that the deceased died from the pandemic disease and there is no need for a post-mortem examination or inquest. All other kinds of death will be dealt with according to the normal regulations.

**Question 3: Bearing in mind that this regulation will only be brought into effect as and when required, does it seem a practical way forward?**

Proceeding through the remainder of the regulations in numerical order, it will be noted that there are some additional definitions of words used in the Regulations.

## Regulation 2

This Regulation defines many of the most important terms used elsewhere in the Regulations.

**Question 4a: Are the definitions used within Regulation 2 of the draft regulations sufficiently clear?**

**Question 4b: Should any other words used in the regulations be defined and if so how?**

## *Appointment and removal of medical referees*

### **Appointment and removal of medical referees**

It is proposed that medical referees and deputy medical referees (of which there may be more than one at any crematorium) will no longer be appointed by the Secretary of State. The appointment will, however, still require the consent of the Secretary of State before the medical referee can take up his or her duties. This is seen as a technical change to enable the Secretary of State to be aware of who is

appointed, to be able to contact any referee about a case and to be aware of the quality of referee being appointed. This fits in with the new power (there was previously an implicit power) to remove a medical referee or deputy medical referee from post. The Secretary of State will have an explicit power to remove a medical referee or deputy medical referee from his or her post.

**Question 5: Is it right that the power to appoint a medical referee is transferred to the cremation authority with the Secretary of State giving consent to the appointment?**

**Question 6: Is it right that the Secretary of State should have a power to remove a medical referee from post for the reasons as stated?**

### **Regulation 7**

The requirement for a medical referee to make reports to the Secretary of State is made clearer than it is in the current Regulations - see draft Regulation 7. There is also a new power enabling the Secretary of State to provide guidance to medical referees on their duties. This formalises the current position on guidance issued to medical referees in 2003.

**Question 7: Should there be an explicit power to issue guidance to anyone other than medical referees?**

### **Regulations 10, 11, 12, 18 and 19**

Regulations 10, 11, and 12 as well as 18 and 19 are broadly similar to those they replace in the current regulations.

**Question 8: Do you have concerns about the wording of these Regulations?**

### **Measures to ensure the independence of the countersigning doctor**

There is one perhaps more significant change. There has always been some debate about how much independence the second doctor should have from the first. We add the words "work colleague" to ensure that doctors in the same health care practice or same hospital team do not countersign in cases where it would be difficult, or perceived as difficult, to take a detached view. We intend to expand on this in any fresh guidance on form completion that we issue to doctors.

**Question 9: Does this change cause any practical problems which might prevent doctors from performing the functions required of them?**

### **Regulations 14-16**

There are no significant changes to the current regulations dealing with the cremation of body parts and still births. The new regulation (16) on the cremation of exhumed bodies has been simplified. It is intended to cover cases where the body has been exhumed outside England and Wales and is to be cremated within England and Wales.

**Question 10: Is Regulation 16 adequate for all such cases?**

### **Regulations 20-27**

The remaining Regulations 20-27 broadly replicate the regulations they replace (current Regulations 14A, 14B, 16, 21).

The forms in the schedule to the draft regulations contain a significant number of largely minor changes. They also give opportunities for doctors to provide “free text” explanations for why they believe the deceased died from the given cause of death.

### **Ending countersignature by funeral directors**

In our view the only significant change is that funeral directors can no longer countersign the application form. Anecdotal evidence indicates that funeral directors often state that they know the applicant in circumstances where they do not: in such cases the applicant has not been seen prior to entering the funeral director’s premises. We appreciate, however, that unless accompanied by a friend or relative who can properly countersign, the applicant will have to find someone else and that in a few cases this may be time-consuming.

**Question 11: Do you consider that funeral directors should no longer be allowed to countersign the application form?**

**Question 12: Do you consider the order of the draft regulations logical and easy to follow?**

## Questionnaire

**Question 1: Do you consider that giving families the right to see the forms prior to authorisation by the medical referee is practicable and useful?**

**Question 2: Are there any amendments which might make the proposed process referred to in Question 1 more effective?**

**Question 3: Bearing in mind that the regulation dealing with pandemics (Reg 13) will only be brought into effect as and when required, does it seem a practical way forward?**

**Question 4a: Are the definitions used within Regulation 2 of the draft regulations sufficiently clear?**

**Question 4b: Should any other words used in the regulations be defined and if so how?**

**Question 5: Is it right that the power to appoint a medical referee is transferred to the cremation authority with the Secretary of State giving consent to the appointment?**

**Question 6: Is it right that the Secretary of State should have a power to remove a medical referee from post for the reasons as stated?**

**Question 7: Should there be an explicit power to issue guidance to anyone other than medical referees?**

**Question 8: Do you have concerns about the wording of regulations 10, 11, 12, 18 & 19?**

**Question 9: Does the exclusion of work colleagues being able to sign the confirmatory medical form cause any practical problems which might prevent doctors from performing the functions required of them?**

**Question 10: Is draft regulation 16 relating to the cremation of exhumed bodies adequate for all such cases?**

**Question 11: Do you consider that funeral directors should no longer be allowed to countersign the application form?**

**Question 12: Do you consider that the order of the draft regulations is logical and easy to follow?**

**Question 13: Should any other words used in the regulations be defined and if so how?**

**Thank you for participating in this consultation exercise**

## About you

Please use this section to tell us about yourself

<b>Full name</b>	
<b>Job title</b> or capacity in which you are responding to this consultation exercise (e.g. member of the public etc)	
<b>Date</b>	
<b>Company name/organisation</b> (if applicable):	
<b>Address</b>	
<b>Postcode</b>	
If you would like us to acknowledge receipt of your response, please tick this box	(please tick box) <input type="checkbox"/>
Address to which the acknowledgement should be sent, if different from above	

**If you are a representative of a group**, please tell us the name of the group and give a summary of the people or organisations that you represent.

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## How to respond

Please send your response by 22 October 2007 to:

**Brian Patterson**  
**Ministry of Justice**  
**Coroners Unit**  
**5th Floor, Steel House**  
**11 Tothill Street**  
**London**  
**SW1H 9LH**

**Tel: 020 7210 0031**

**Fax: 0870 739 5849**

**Email: [brian.patterson@justice.gsi.gov.uk](mailto:brian.patterson@justice.gsi.gov.uk)**

### Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available on-line at <http://www.justice.gov.uk/index.htm>

### Publication of response

A paper summarising the responses to this consultation will be published in January 2008. The response paper will be available on-line at <http://www.justice.gov.uk/index.htm>

### Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

### Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

The Ministry will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

## Consultation Co-ordinator contact details

If you have any complaints or comments about the consultation **process** rather than about the topic covered by this paper, you should contact the Ministry of Justice Consultation Co-ordinator, Laurence Fiddler, on 020 7210 2622, or email him at [consultation@justice.gsi.gov.uk](mailto:consultation@justice.gsi.gov.uk)

Alternatively, you may wish to write to the address below:

**Laurence Fiddler  
Consultation Co-ordinator  
Ministry of Justice  
5th Floor Selborne House  
54-60 Victoria Street  
London  
SW1E 6QW**

If your complaints or comments refer to the topic covered by this paper rather than the consultation process, please direct them to the contact given under **the How to respond** section of this paper at page 17.

## Partial Regulatory Impact Assessment

### Cremation Regulations

#### **Title of Proposal**

Revised Cremation Regulations 2007

#### **Purpose and intended effect**

#### **Objectives**

1. To modernise by simplifying and making more effective the existing Cremation Regulations and so increase public confidence in the medical procedure preceding cremation.

#### **Background**

The proposed Regulations:

- Are in simpler and clearer language
- Tidy up and make minor changes to existing legislative provision
- Provides a new right for the bereaved to inspect the medical forms in cases of doubt or uncertainty prior to authorisation of the cremation
- Are therefore more effective

In order to achieve this, the Regulations:

- replace the language and order of the existing regulations, which originally date from 1930
- Introduce new regulations in respect of above-mentioned right of families to inspect the medical forms
- Introduce a new regulation in respect of emergency procedures during a pandemic, which will have effect under amendment regulations
- Make a number of other minor changes to existing procedures
- Create new forms for use by applicants, doctors and cremation authorities

## Background

3. In England and Wales cremation has been the most common method of disposing of the dead for a number of years. At present about 70% of deaths result in cremation of the body at English and Welsh crematoria. This percentage has been fairly stable for some years and is not expected to increase further.

4. By destroying the body cremation makes a post-mortem impossible. It is therefore necessary to regulate closely the process that precedes it. The main purpose of the regulations is to permit cremation only when a medically qualified officer (“the medical referee”) is satisfied that there are no grounds for suspecting that the death is unnatural. Where there are such grounds for suspecting that the death is unnatural. Where there are such grounds, the coroner orders a post-mortem examination or opens an inquest. It is thought that homicide cannot be concealed by a murderer arranging for a body to be cremated.

5. The set of Cremation Regulation forms in use now have remained largely unchanged since those in the Schedule to the 1903 Regulations. The applicant (usually the next of kin or the executor) completes the application form (Form A). The treating doctor completes another form (Form B) providing a number of facts about the circumstances surrounding the death and its cause. An independent doctor examines the body and the form completed by the first doctor, questions that doctor and others (nurses, carers) and then completes a confirmatory certificate. These forms are then considered by the medical referee at the crematorium and, after making any further enquiries considered necessary, either the application is refused or authorised.

6. Following the activities of Harold Shipman the Government asked Dame Janet Smith to conduct an inquiry into the circumstances surrounding the murders of his patients. As many of the victims were cremated the Regulations came under scrutiny. The 3<sup>rd</sup> Shipman Inquiry recommended a number of changes to the death certification process including referral of all deaths to a medical coroner, thereby replacing the present cremation regulatory system. The Government has not accepted this recommendation but is considering further changes to the existing death certification procedures. With the exception of the additional right being granted to the bereaved to examine the medical forms the changes proposed here are not part of that process.

#### **Rationale for government intervention**

7. Given the fact that cremation destroys the body and makes a post-mortem examination of the body impossible, it has always been considered necessary to regulate the process whereby this happens. This process remains a desirable one but it needs to be modernised so that the process is clearer to all those involved, thus reducing inconsistencies of approach amongst practitioners. Without any change the regulatory process will continue to be outmoded and confusing to some. The bereaved will continue to lack the important right to inspect the forms before cremation.

8. The Government, led by the Department of Health, is considering further changes to the regulatory processes surrounding death certification in the light of the Shipman murders but in the meantime the case for a robust regulatory system governing cremation remains as strong as ever.

## **Consultation**

### **Cross Government consultation**

9. A draft of these Regulations was circulated within Whitehall. In particular we sought the views of colleagues within the Department of Health, the Office for National Statistics, the Department for Communities and Local Government, the Cabinet Office, the Department for the Environment and Rural Affairs, the Home Office, the Scottish Executive and the National Assembly for Wales. Departments were generally content with the draft circulated and only minor changes have been suggested.

### **Public consultation on proposals in the draft Regulations**

10. The proposed change allowing inspection of the medical forms by the bereaved stems from criticism made by the 3<sup>rd</sup> Report of the Shipman Inquiry, chaired by Dame Janet Smith. This inquiry involved wide consultation, including with representatives from many interest groups such as the medical profession, the families of the victims and those who work with bereaved people more generally.

11. The consultation paper is being circulated to a wide variety of organisations and interest groups. Following consultation the responses received will be considered and published in a response paper along with any consequent amendments to the draft regulations.

## **Costs and benefits**

### **Options for Costs and Funding**

12. We are not offering more than one choice to these draft regulations, given that their main thrust is consolidation and modernisation, as opposed to a completely new system of regulation. It is believed that the very minor operational changes proposed would not add to the costs for the business sector or the consumer.

### **Alternative proposals**

13. We have not considered any alternative proposals, other than leaving the position unchanged. The case for modernising the regulatory framework is seen as a strong one. The case for more radical options was strongly put by the 3<sup>rd</sup> Shipman report and included a system of examining all deaths in equal depth, whether the deceased was to be buried or cremated. The medical referee's role would be replaced by medical examiners who would have full access to medical records. Such proposals are for separate consideration by the Department of Health, which has responsibility for the medical profession and may be in due course be the subject of a separate consultation document issued by them.

### **Cremation Costs**

14. There are 222 crematoria within England and Wales undertaking 380,000 or so cremations each year. Fees payable by the applicant for cremation vary considerably from one cremation authority to another. According to the 2006 Directory of Crematoria issued by the Cremation Society of England and Wales the lowest fee charged in 2006 was £195.00 and the highest was £511.50. Most fees charged lie somewhere towards the middle of this range. The reasons for the differences are unclear but it is understood that the lowest fees are subsidised by the local authority, which sees the service provided as a benefit to the bereaved. Other local authorities (and private crematorium companies) do not take this view. They expect to make a reasonable profit and plough some or all of that profit back into the crematorium infrastructure. Cremation authorities will also charge for memorials (roses, plaques, entries in books of remembrance) about which we have no information. All cremation authorities will need to meet the costs of the cremation itself (the equipment behind the scenes, fuel, staffing, administration costs, lighting, maintenance of the grounds, etc.).

15. The medical referee and the two doctors signing the two medical certificates, receive a fee per cremation. The two doctors each charge an identical rate recommended by the British Medical Association (BMA) (currently £65). The medical referee receives a fee agreed between him or her and the cremation authority, which is we understand normally included within the cremation fee. The BMA evidently discuss the amount with cremation authorities but it is for that to be agreed locally. Fees seem to vary between £5 and £16 per cremation. Approaches to payment of expenses for medical referees travelling to the crematorium will also vary from one authority. Funeral directors will also charge for the work that they do in relation to the cremation although much of this would be equally applicable to a burial. Coroners and registrars of death do not receive any payments (over and above their normal salaries) for work they do in dealing with cremation paperwork.

16. Although we have incomplete figures for all the costs surrounding the average cremation (as opposed to funeral) we believe that the costs will be in the region of £600 borne by the bereaved unless in receipt of state benefits. But this will vary considerably from one cremation authority. This figure includes the standard cremation fee, the medical fees, and the part of the funerals directors' duties relating to the cremation forms - largely ensuring that the forms and other paperwork are completed and delivered in time to the crematorium, but not the hearse, coffin, liaison with the priest, advertisements, etc. The funeral industry's charging structures have long been regarded as opaque and we are therefore obliged to estimate the funeral directors' proportion of the costs. Given that nearly 400,000 cremations take place each year we believe that the cost of cremation in England and Wales is overall in the region of £150m.

### **Costs of our proposals**

17. We do not believe that the changes to the forms will add or reduce the overall costs to any significant degree. On the one the hand, the proposed forms are couched in clearer language and better set out. Once practitioners become familiar with them (and that should be after completing three or four forms in our view) they should not take any longer to complete, even allowing for the free-text section to be completed by the treating doctor. We therefore do not expect the BMA to propose that its members charge more for the new forms than for the old. It should be born in mind that the Secretary of State has the power to impose statutory fees for the completion of the medical forms and would be prepared to consider doing so if there were any suggestion that fees had been unjustifiably raised.

18. The only change where it might be argued that costs will accrue would be where the family wish to inspect the medical certificates before cremation takes place. Each applicant would need to have the new right drawn to his or her attention, presumably by the funeral director at the time the application form is being completed. This should not take more than a minute or so. However, we think that the number of cases where the family will want to inspect the medical forms is likely to be very low. Cases where there are concerns will normally be referred to the coroner (and at this point in any discussion with the funeral director referral to the coroner should always be considered a possibility). We understand the present trend is for increasing numbers of cases to be discussed with the coroner, but as these do not necessarily result in a post-mortem examination or inquest, the medical certificates for cremation will still be required.

19. We believe that in those case where the funeral director advises the cremation authority that the forms are to be inspected the cremation authority will be obliged to make additional contact with the family and allow them to inspect the forms (whether at the crematorium office or elsewhere is for local decision). In a smaller number of cases the medical referee might need to make additional enquiries and explain the situation to the family. We consider such cases, when they do occur, will take from 10 to 30 minutes to resolve, perhaps longer if the treating doctor has to be contacted. Provided this arrangement is efficiently handled delays to funerals should be kept to a minimum. And funeral bookings should not be finalised in any case where the family wants to inspect the form until after that inspection. We accept that some families will not want to delay the funeral even though they may have concerns about the cause of death. In those rare cases where there are serious concerns the family can normally be expected to accept the need for further investigation by the coroner or police.

20. Overall we would be surprised if the total additional costs of dealing with these rare cases will be more than £250,000 per year throughout England and Wales. More work needs to be done in discussion with the relevant organizations but we would expect these costs to be met by funeral directors ( perhaps 20p-£1 per case per funeral director through the need to explain the additional questions = £50,000-£250,000 and hand out a leaflet to families on request), cremation authorities (perhaps £2-£10 per case where the family would wish to see the forms on the assumption that the member of staff dealing with the case takes a minimum of 5 minutes and a maximum of 30 minutes to deal with the family's requirements) and coroners and police (where the death needs to be further investigated - we estimate no more than one case per police area per year).

21. Perhaps 2% of all families (5,000) might wish to exercise the right to examine the medical forms (coroners cases would not be part of this procedure). Of these 20% (1,000) might wish to raise a concern with the medical referee and of these 25% (250) might not be satisfied and ask that the death be investigated by the coroner (at an overall cost of between £10,000 and £50,000 to cremation authorities). Additional post-mortem examinations and inquests may add a modest amount to the costs of the coroners service (assuming half of doubtful cases require a post mortem examination at £100 for 125 cases (£12,500) and no more 10% of these require an inquest costing £500 (£6,000) – cases requiring neither an inquest or post-mortem is £50 (£6,250) With these cases dispersed between different crematoria (unless another Shipman comes to light) we consider that any additional costs should be easy to absorb, whether by the approximately 3,000 funeral directors or 200 cremation authorities or by the 110 coroners in England

and Wales. The benefit to families of having their concerns satisfied by the inspection process will clearly outweigh any additional costs they might incur by, for example, travelling to a crematorium to examine the forms. But as we have suggested the likely uptake is expected to be very low, given that sudden deaths of unknown cause will already be referred to the coroner. A cluster of such cases should, we feel, be a cause for concern which would need to be investigated. We would hope that the medical referee would seek the views of his or her local Primary Care Trust or coroner as necessary. We therefore consider that the administrative burden on business would increase by between £50,000-£250,000 for funeral directors, by £10,000- £50,000 for cremation authorities (of which about 85% are municipally-owned) and £25,000 for coroners. There should be no additional costs for doctors

### **Sectors and groups affected**

22. The new regulations will affect the individuals who work within cremation authorities, the funeral sector, and medical practitioners who complete cremation forms within hospitals or the community. Many municipalities will also be affected as crematoria are predominantly owned by local authorities. They will also affect the bereaved and others making applications for cremation of a deceased person.

#### *Cremation authority staff*

23. Staff at crematoria commonly prepare the cremation forms for consideration by the medical referee. We consider that the draft forms are easier to understand than those currently in force and will not add to the workload of staff apart from initial familiarization. The new right of inspection will require an additional contact with the bereaved on those occasions when the right is exercised. In certain circumstances, for example if the bereaved person is very upset or speaks little English, this may be problematic, but we are sure all crematorium staff pride themselves on dealing with the bereaved whatever the circumstances. There will also need to be additional contact made with the family member, usually by telephone. The purpose of this would be to arrange for the forms to be inspected, whether at the crematorium or elsewhere, perhaps at the medical referee's surgery, if more convenient to all concerned. The register has a new column for recording the outcome of such cases and whether or not applicants choose to exercise the right of inspection.

*Medical referees (see also Doctors below)*

24. We understand that practice varies widely at crematoria - in many cases the medical referee calls in during the working day and examines the forms, making such enquiries as they may think fit. In other cases crematoria staff take the forms to the referee's home address or place of work. The new regulations are not intended to affect such arrangements in any way. In the rare cases where we anticipate that family members will have concerns, the medical referee may be called upon to address them. The medical referee may either make additional enquiries or refer the case to the coroner.

*Funeral directors*

25. The funeral industry includes large organisations such as the Co-operative Funeral Service and small independent companies that cater for a specific locality. Funeral directors will often assist the bereaved in completing the application form for cremation. The new draft application form set out in the schedule has the additional question asking whether a family member, not necessarily the applicant, would wish to examine the medical forms. The purpose of the question will need to be drawn to the attention of the applicant by the funeral director (or staff member). However, we do not anticipate that this will result in any significant additional work for the funeral directors who already undertake this work as a routine part of their work in dealing with families. Indeed, their role in explaining the process to families here should be facilitated by the simpler language of the forms. Since over 70% of bodies are cremated rather than buried funeral directors will be very familiar with the forms required for cremation.

26. It should also be noted that the form can no longer be countersigned by the funeral director. It has been brought to our attention that application forms have been countersigned by funeral directors in circumstances where they do not in fact know the applicant. The funeral director will therefore need to advise the applicant to find another person to countersign the form.

27. We understand that some firms of funeral directors print their own cremation forms. We are not convinced of the rationale for this. As central

government has no way of knowing which firms print forms we have no way of communicating with them about any divergences from the statutory wording or other matters. We recommend that all funeral directors use forms printed by their local cremation authority rather than their own.

#### *Local authorities*

28. Around 10% of the 222 crematoria in England and Wales are privately owned; the remainder is owned by local authorities. We do not anticipate that the new regulations will add to the overall costs of cremation authorities, other than for an initial print run of the new forms, perhaps involving software changes to any electronic system. Such additional costs should be minimal. Our inspections of sets of crematoria forms show that many diverge from the statutory wording and so changes are required in any event. The exact layout of the new forms will be a matter for each cremation authority to determine.

#### *Private cremation authorities*

29. The position in respect of forms printed by private cremation authorities is or should be identical to that of Local Authorities. We do not believe there are any other significant differences affecting private companies.

#### *Doctors*

30. Doctors perform their statutory duties in respect of cremation as private work for which they receive a fee, normally that recommended by the BMA. The new forms or duties for medical referees have already been mentioned as unlikely to generate any additional work. We believe the same is true of the forms which the treating doctor and the confirmatory doctor will be expected to complete. There would not appear to be any grounds for any increase in the fees charged.

31. Doctors, as pathologists (who often sign the cremation confirmatory certificate) also have a power to order a post-mortem examination, on request from the medical referee and with the consent of the next of kin. The power is rarely used but we think it is important to retain this safeguard as a long-stop. Medical

referees occasionally find it useful to arrange for a post- mortem examination in the absence of an exact cause of death but when the coroner is already satisfied that the death is from natural causes he or she need not assume jurisdiction. The cost of the post-mortem examination will need to be negotiated beforehand with the cremation authority. Our proposed regulations are unchanged from the old in respect of the medical referee's powers.

32. Nor are there any significant changes to the requirements for the cremation of body parts which were first introduced in 2000 and amended in 2006. The work here, which will largely be the responsibility of hospitals, is not expected to be affected in any way. This also applies to the forms submitted by anatomy schools which need to be completed for the cremation of anatomical remains.

33. We intend to issue appropriate guidance to all doctors via their professional organisations when the new regulations come into force.

#### *Business*

34. Other than privately-owned cremation authorities, funeral directors and doctors operating in the private sectors there is no significant impact on the business sector.

#### *Voluntary organisations*

35. There are estimated to be around 100 voluntary organisations that have an interest in protecting the welfare of the public within the funeral process. However, we are not aware of any which concentrate on the cremation element of that process. We do not believe that the proposed changes will impact on the work of these voluntary groups.

### *Civil Registrars*

36. Registrars are responsible for registering births, deaths and marriages within specific geographical areas. In particular they are responsible for ensuring that the body has been properly disposed of, whether by burial or cremation, by receipt of a document from the burial or cremation authority. We do not consider that there will be any significant effect on registrars arising from changes to these regulations.

### *Legal System*

37. There should be no impact on legal aid or on the various courts within England and Wales. The only exception will be coroners but we do not consider that there will be any significant effect on them or their courts arising from changes to these regulations. The disposal certificate currently completed by coroners remains largely unchanged.

### **Equality and diversity impact**

38. Cremation takes place at more than 200 crematoria across England and Wales. Ministry officials have accompanied the Federation of Burial and Cremation Authorities (FBCA) on its visits and have been impressed by the generally high and consistent standards at the overwhelming majority of crematoria visited; this is much to the credit of cremation authorities and their staff. We were rather more concerned by the variation in standards amongst medical referees (a point noted by the Shipman Inquiry 3<sup>rd</sup> report). We believe that with added guidance and clearer regulations and forms these differences should be mitigated.

39. These changes should not adversely affect any group of individuals or sectors of society. We recognise that cremation is much more important to some faiths than others (Hinduism and Sikhism, for example as opposed to Judaism and Islam where burial is almost invariably practised). Nor do they produce any adverse impact that solely affects one race, faith or ethnic grouping. The Government is conscious that some faiths hold funerals as soon as possible after death. There is nothing in these regulatory changes which would prevent that. However, our change to allow inspection of the forms may have the consequence of delaying the funeral slightly if further enquiries need to be made into the death. Our guidance

will, however, encourage the process to be carried out as expeditiously as possible.

40. We recognise that some faiths would prefer to cremate the remains of a member of that faith on what is known as a funeral pyre. Any question as to whether the regulations permit funeral pyres is a matter for the courts and outside the scope of these regulations.

### **Impact on small businesses**

40. The cremation regulatory framework interacts with the funeral industry, the funeral director, and with the cremation industry and the cremation authority. The changes proposed to the regulations are concerned very largely with process rather than quantity and do not affect the nature of the interactions. We assess the impact of the regulations on small businesses as minimal and insignificant but we welcome views on this from the business sector. For these purposes we do not regard doctors completing forms as small businesses, given that although this is private work it will normally be undertaken during the working day, whether at the GP's surgery or at an NHS hospital. Even if doctors were treated as small businesses the impact on completing the new forms, which are clearer but slightly more detailed, will be minimal and will not we think justify a significant increase in the fee payable to the doctor for undertaking this work. Nor should there be any increase in the fees payable to the medical referee, who again will deal with clearer forms but with slightly more information to consider.

### *Funeral Directors*

41. Around 4,000 businesses in England and Wales operate in the funeral market. Some are large national organisations (eg Co-operative Funeral Services and Dignity) and some are small local businesses that fall within the small business criteria. The structure is opaque and it is not clear to the customer whether an individual high street funeral director belongs to one of the large groups or not. In the absence of any evidence to the contrary we judge that around 30% of businesses are "stand-alone" and therefore fall for consideration under this heading. The changes to the regulations will only impact in the most minimal way (by requiring the funeral director to draw his client's attention to the right to inspect the medical forms) but otherwise the only need will be to take account of the new regulations for familiarisation purposes. Guidance on this can be provided to funeral directors via their trade organisations, the National Association of Funeral Directors (NAFD) and the National Society of Allied and Independent Funeral Directors (NSAIF).

*Others*

42. Although other small businesses are involved at some point in the cremation process (florists, organists, gardeners) they play no part in the regulatory process and there is no impact on their business, given that we believe there will not be a decline in the number of cremations as a result of these changes.

**Competition assessment**

43. There are no indications that the proposals will have a significant impact on competition in any sector as they will not alter the structure of any markets to any extent. Crematoria may compete with one another, particularly in urban areas, but there are no grounds for supposing that the changes in the regulations will have any effect at all on whether a bereaved person chooses one crematorium rather than another nearby nor whether a choice is made as to whether a body should be buried or cremated.

**Enforcement and sanctions**

44. The penalties which exist under section 8 of the Cremation Act 1902 as set out in the table below will remain unchanged. We consider that it is important that those involved in the cremation process are deterred from making false statements on forms and that burning of human remains only takes place within the appropriate regulatory framework.

<b>Provision</b>	<b>Penalty</b>	<b>Comments</b>
Burning of human remains other than in accordance with the regulations	[level 3 fine] currently £1,000	No change in penalty
Making false statement to procure a cremation	2 years imprisonment	No change in penalty

**Compensatory simplification**

45 This legislation is intended to revoke all previous secondary legislation relating to cremation: The Cremation Regulations 1930 as amended by the 1952, 1965, 1979, 1985, 2000, 2006 Regulations. It will therefore reduce the confusion of having so many amendments and provide clearer simpler regulatory framework, for which it is easier to provide coherent guidance. Consolidation and clarification are therefore the main compensatory measures which these Regulations will achieve.

**What (if any) likely impacts do you think should be taken into consideration? Please give reasons for your views.**

### **Extra copies**

Further paper copies of this consultation can be obtained from this address and it is also available on-line at <http://www.justice.gov.uk/index.htm>

### **Publication of response**

A paper summarising the responses to this consultation will be published in January 2008. The response paper will be available on-line at <http://www.justice.gov.uk/index.htm>

### **Representative groups**

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

### **Confidentiality**

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

The Ministry will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

## **THE CREMATION REGULATIONS 1930 AS AMENDED**

REGULATIONS, DATED OCTOBER 28, 1930, MADE BY THE SECRETARY OF STATE FOR THE HOME DEPARTMENT, UNDER SECTION 7 OF THE CREMATION ACT, 1902 (2 EDW. 7. C. 8), AND SECTION 10 OF THE BIRTHS AND DEATHS REGISTRATION ACT, 1926 (16 & 17 GEO. 5 c. 48)

### **Definitions**

"Body parts" means material which consists of, or includes, human cells from—

- (a) a deceased person, whether or not separation from the body occurred before, after or during death; or
- (b) a stillborn child.

"The Act of 1953" means the Births and Deaths Registration Act 1953.

"Cremation Authority" means any burial authority or any company or person by whom a crematorium has been established.

"incinerated" means burnt in an incinerator as part of one of the following activities in section 5.1 of Schedule 1 to the Pollution, Prevention and Control (England and Wales) Regulations 2000—

- (a) activities in Part A(1)(a), (c), (d) and (e);
- (b) activities in Part A(2)(a); and
- (c) activities in Part B(a).

"List of Wastes Regulations" means—

- (a) in relation to England, the List of Wastes (England) Regulations 2005; and
- (b) in relation to Wales, the List of Wastes (Wales) Regulations 2005.

"Medical Referee" means a medical referee or a deputy medical referee appointed in pursuance of Regulation 10.

"permit" means a permit granted under regulation 10 of the Pollution Prevention and Control (England and Wales) Regulations 2000.

## **Maintenance and Inspection of Crematoria**

1. Every crematorium shall be-
  - (a) maintained in good working order;
  - (b) provided with a sufficient number of attendants; and
  - (c) kept constantly in a cleanly and orderly condition:

Provided that a crematorium may be closed by order of the Cremation Authority if not less than one month's notice be given by advertisement in two newspapers circulating in the locality and by written notice fixed at the entrance to the crematorium.

The Cremation Authority shall give notice in writing to the Secretary of State of the opening or closing of any crematorium.

2. Every crematorium shall be open to inspection at any reasonable time by any person appointed for that purpose by the Secretary of State or by the Ministry of Health.

## **Conditions under which cremations may take place**

3. No cremations of human remains shall take place except in a crematorium of the opening of which notice has been given to the Secretary of State.

4 (revoked)

5 (revoked)

6. Except where an inquest has been opened or a post-mortem examination has been made in pursuance of Section 21 (1) of the Coroners (Amendment) Act, 1926, and a certificate given by a Coroner in Form "E" (see Regulation 8), no cremation shall be allowed until the death of the deceased has been duly registered or a certificate has been given in pursuance of section 24(2) of the Act of 1953 that the death of the deceased is not required by law to be registered in England.

The production of a duplicate which has been duly issued in pursuance of Section 24(4) of the Act of 1953 may be accepted in lieu of the production of the original certificate in sub-section (1) or sub-section (2).

7.-(1) No cremation shall be allowed to take place unless application therefor has been made in Form "A" or Form "AA" as the case may be set out in the Schedule hereto and the information requested in that form duly furnished, the following provisions of this Regulation having been complied with.

(2) The application shall be signed by an executor or the nearest relative of the deceased, so, however, that it may be signed by some other person if the cremation authority is satisfied that that person is a proper one to have signed, and a satisfactory reason is given on the application why it is not signed by an executor or the nearest relative but by that other person.

(3) The application shall be verified by being countersigned by a householder to whom the applicant is known who shall certify that the applicant is known to him or her and that he or she has no reason to doubt the truth of any of the information furnished by the applicant.

8. Except as hereafter provided, no cremation shall be allowed to take place unless

(a) A certificate in Form "B" has been given by a registered medical practitioner who has attended the deceased during his last illness and who can certify definitely as to the cause of death, and a confirmatory medical certificate in Form C be given by another medical practitioner, who must be qualified as prescribed in Regulation 9; or

(b) A post-mortem examination has been made by a medical practitioner expert in pathology appointed by the Cremation Authority (or in case of emergency appointed by the Medical Referee), and a certificate given by him in Form D; or

(c) A post-mortem examination has been made and the cause of death has been certified by the Coroner under Section 21(2) of the Coroners (Amendment) Act, 1926, and a certificate has been given by the Coroner in Form "E"; or

(d) An inquest has been opened and a certificate has been given by the Coroner in Form "E".

(dd) The death occurred outside the British Islands and the Coroner has certified on Form "E" that the death was by natural causes and no post-mortem examination or inquest is necessary; or

(e) In relation to a person whose body has undergone anatomical examination pursuant to the provisions of the Anatomy Act 1984(f) a certificate in Form H has been given by a person licensed under section 1 of that Act that the body has undergone such examination.

No cremation shall take place except on the written authority of the Medical Referee given in Form "F".

**8A.**-(1) A confirmatory medical certificate in Form "C" is not required where-

(a) the death of the deceased occurred in a hospital and the deceased was an in-patient there; and

(b) a post-mortem examination has been made by a medical practitioner qualified as prescribed in Regulation 9 and the medical practitioner who gives the certificate in Form "B" knows the results of that examination before giving his certificate.

(2) In this Regulation "hospital" means any institution for the reception and treatment of persons suffering from illness or mental disorder, any maternity home, and any institution for the reception and treatment of persons during convalescence.

**9.** The confirmatory medical certificate in Form "C", if not given by the Medical Referee, must be given by a registered medical practitioner of not less than five years' standing, who shall not be a relative of the deceased or a relative or partner of the doctor who has given the certificate in Form "B."

**10.** Every Cremation Authority shall have a Medical Referee and a Deputy Medical Referee, who must be registered medical practitioners of not less than five years' standing and must possess such experience and qualifications as will fit them for the discharge of the duties required of them by these Regulations. The Medical Referee or Deputy Medical Referee if otherwise qualified may be a person holding the office of Coroner or Medical Officer of Health.

The Deputy Medical Referee shall act in the absence of the Medical Referee and in any case in which the Medical Referee has been the medical attendant of the deceased.

The Secretary of State shall appoint as Medical Referee and Deputy Medical Referee such fit persons as may be nominated by the Cremation Authority.

Any Medical Referee or Deputy Medical Referee appointed by the Secretary of State may in case of emergency act as the Medical Referee or Deputy Medical Referee of a Cremation Authority other than that for which he has been appointed.

**11.** It shall be lawful for the Medical Referee if he has personally investigated the cause of death to give a certificate in Form "C", and if he has made the post-mortem examination to give a certificate in Form "D". The Medical Referee, if a Coroner, may himself give the coroner's certificate in Form "E".

**12. The duties of the Medical Referee shall be as follows:-**

(1) (revoked)

(2) He shall not, (except where a post-mortem examination has been made under Regulation 8 (c), or an inquest has been opened, and a certificate given by a Coroner in Form "E") allow any cremation to take place unless he is satisfied -

(a) by the production of certificate in pursuance of Section 24(1) of the Act of 1953 that the death of the deceased has been duly registered; or

(b) by the production of a certificate in pursuance of Section 24(2) of the Act of 1953 that the death of the deceased is not required by law to be registered in England.

The production of a duplicate which has been duly issued in pursuance of Section 24(4) of the Act of 1953 may be accepted in lieu of the production of the original certificate under sub-section (1) or sub-section (2).

(3) He shall, before allowing the cremation, examine the application and certificates and ascertain that they are such as are required by these regulations and that the inquiry made by the persons giving the certificates has been adequate. He may make any inquiry with regard to the application and certificates that he may think necessary.

(4) He shall not allow the cremation unless he is satisfied that the application is made by an executor or by the nearest surviving relative of the deceased, or, if made by any other person, that the fact that the executor or nearest relative has not made the application is sufficiently explained, and that the person making the application is a proper person to do so.

(5) He shall not allow the cremation unless he is satisfied that the fact and cause of death have been definitely ascertained; and in particular, if the cause of death assigned in the medical certificates be such as, regard being had to all the circumstances, might be due to poison, to violence, to any illegal operation, or to privation or neglect, he shall require a post-mortem examination to be held, and if that fails to reveal the cause of death, shall decline to allow the cremation unless an inquest be opened and a certificate given by the coroner in Form "E".

(6) If it appears that death was due to poison, to violence, to any illegal operation or to privation or neglect, or if there is any suspicious circumstances whatsoever, whether revealed in the certificates or otherwise coming to his knowledge, he shall decline to allow the cremation unless an inquest be opened, and a certificate given by the coroner in Form "E".

Provided that if in any case to which the foregoing rule applies it is shown to the satisfaction of the Secretary of State that by reason of any special

circumstances it is impracticable or undesirable that an inquest shall be held he may by order authorise the Medical Referee to allow the cremation without an inquest being opened and certificate given by the coroner.

(7) If a coroner has given notice that he intends to hold an inquest on the body, he shall not allow the cremation to take place until the inquest has been opened.

(8) He may in any case decline to allow the cremation but must give reasons.

(9) He shall make such reports to the Secretary of State as may from time to time be required.

**12A.**-(1) For purposes of Regulation 12 above the medical referee may accept-

(a) in the case of the remains of a person who has died in Scotland, an application for cremation and certificates substantially to the like effect as Forms "B", "C", "D" and "E" made or given in accordance with regulations which are made under the Cremation Acts 1902 and 1952 and have effect in Scotland;

(b) in the case of the remains of a person who has died in any place outside England, Wales or Scotland, an application containing the particulars requested in Form "A" if it is accompanied by a declaration by the applicant that all the particulars given therein are true to the best of his or her knowledge and belief;

(c) in the case of the remains of a person who has died in Northern Ireland, the Isle of Man or the Channel Islands, certificates substantially to the like effect as Forms "B", "C", "D" and "E" given in accordance with the law relating to cremation for the time being in force in Northern Ireland, the Isle of Man, the Bailiwick of Jersey or the Bailiwick of Guernsey, as the case may be;

(d) in the case of the remains of a person who has died in any place outside the British Islands, Form "E" issued by a coroner.

**13.** The foregoing Regulations 5 to 12A shall not apply to the cremation of the remains of a deceased person who has already been buried for not less than one year. Such remains may be cremated, subject to such conditions as the Secretary of State may impose in the exhumation licence granted by him or otherwise; and any such cremation in which those conditions are not observed shall be deemed a contravention of these regulations.

**14.** In the case of any person dying of plague, cholera, or yellow fever on board ship or in a hospital or temporary place of reception of the sick provided by a Port or other Local Authority under the Public Health Acts or

by a Hospital Committee under the Isolation Hospital Acts, the Medical Referee, if satisfied as to the cause of death, may dispense with any of the requirements of regulations 4, 5, 7, 8, 9, 12 and 12A. These regulations may also be temporarily suspended or modified in any district during an epidemic or for other sufficient reason by an order of the Secretary of State on the application of a Local Authority.

**14A.**-(1) The cremation of body parts can only take place in accordance with this regulation.

(2) Subject to paragraph (6), the Medical Referee may only permit the cremation of body parts to take place if he is satisfied-

(a) by the production of a certificate in Form "DD" or

(aa) by production of evidence that the body parts were removed in the course of a post-mortem examination carried out on the body of the deceased;

(b) by the production of-

(i) a certificate in pursuance of section 24 of the Act of 1953, or

(ii) a certified copy of the entry of the death in the relevant register issued pursuant to sections 30 to 32 of the Act of 1953, or

(iii) a certificate in pursuance of section 11 of the Act of 1953,

that the death of the deceased or stillbirth to which the body parts belonged has been duly registered; and

(c) that application therefore has been made in Form "AA" set out in the Schedule hereto, the information requested in that form duly furnished, the application has been made by an executor or by the nearest surviving relative of the deceased or stillborn, or, if made by any other person, that the fact that the executor or nearest relative has not made the application is sufficiently explained and that the person making the application is a proper person to do so.

(3) Where the death or stillbirth or post-mortem examination took place outside England and Wales, certificates or copies substantially to the like effect as those referred to in paragraph (2)(a) and (b) shall be treated as equivalent to those certificates or copies.

(4) The Medical Referee may make any inquiry with regard to the application and certificates that he may think necessary.

(5) No cremation of body parts shall take place except on the written authority of the Medical Referee given in Form "FF".

(6) In any case where the Medical Referee is not satisfied as to the matters in paragraphs (2)(a) or (b), the Secretary of State, if satisfied that the case is one in which cremation may properly take place, may authorise the Medical Referee to allow the cremation.

**14B.** Body parts, which are not cremated in accordance with regulation 14A, may be incinerated in accordance with a permit which authorises the disposal of a matter listed in code 18 01 02 or 18 01 03 of the List of Wastes Regulations.

**15.** Notwithstanding the foregoing regulations 6 to 12, the Medical Referee may permit the cremation of the remains of a stillborn child if it be certified to be stillborn by a registered medical practitioner or a registered midwife after examination of the body, and if the Referee after such inquiries as he may think necessary is satisfied that it was stillborn, and that there is no reason for further examination; but before permitting such cremation the Medical Referee shall, except where an inquest has been opened and a certificate given by a Coroner in Form "E", require the production of a certificate in pursuance of Section 11(2) of the Act of 1953 that the still-birth has been duly registered.

The production of a duplicate which has been duly issued in pursuance of Section 11(3) of the Act of 1953 may be accepted in lieu of the production of the original certificate under sub-section (1) or sub-section (2).

**15A.** Regulation 15 above shall not apply in the case of the remains of a child stillborn outside England and Wales and in such a case, notwithstanding Regulations 6 to 12A, the medical referee may permit the cremation of the remains of a stillborn child if it be certified to be stillborn by a registered medical practitioner or a registered midwife or a person entitled to practise as a medical practitioner or a midwife in the place where the stillbirth occurred and if the medical referee, after such inquiries as he may think necessary, is satisfied that it was stillborn and that there is no reason for further examination.

### **Disposition of ashes**

**16.** After the cremation of the remains of a deceased person the ashes shall be given into the charge of the person who applied for the cremation if he so desires. If not, they shall be retained by the Cremation Authority and, in the absence of any special arrangement for their burial or preservation, they shall either be decently interred in a burial ground or in land adjoining the crematorium reserved for the burial of ashes, or shall be scattered thereon. In the case of ashes left temporarily in the charge of the cremation authority and not removed within a reasonable time, a fortnight's notice shall be given to the person who applied for the cremation before the remains are interred or scattered.

### **Registration of cremations etc**

**17.** Every Cremation Authority shall appoint a registrar who shall keep a register of all cremations carried out by the cremation authority in Form "G" or Form "GG", whichever is applicable. He shall make the entries relating to each cremation immediately after the cremation has taken place, except, in the case of Form "G", the entry in the last column, which he shall make as soon as the remains of the deceased have been handed to the relatives or otherwise disposed of.

**18.** Any certificate given by a Coroner in Form "E" shall have attached thereto a detachable portion (which shall be in the form set out in the Schedule to these Regulations) for use by the registrar in pursuance of the following Regulation.

**19.-(1) (a)** Subject to the provisions of paragraphs (2) and (3) of this Regulation the registrar shall, within ninety-six hours of the cremation of the body of any deceased person, send to the registrar of births and deaths for the sub-district in which the death took place or, if the death took elsewhere than in England, to the registrar of births and deaths for the sub-district in which the crematorium is situated, a notification of the cremation of the body and of the date and place of such cremation.

(b) Where the body has been cremated without inquest, the notification shall be sent in the manner for the time being prescribed by the Registrar-General under the Act of 1926, for notifications under Section 8(1) of that Act.

(c) Where the body has been cremated after inquest or a post-mortem examination made in pursuance of Section 91(1) of the Coroners (Amendment) Act, 1926, such notification as aforesaid shall be sent upon the detachable portion of the certificate given by the coroner in Form "E".

(2). This Regulation shall not apply to any cremation of human remains which has taken place under Regulation 13.

(3) Where any cremation of human remains has taken place under Regulation 14, the registrar shall (subject to the provisions of any order made by the Secretary of State under that Regulation) within ninety-six hours of the cremation forward to the Registrar-General a copy of the relative entry in the register of cremations together with particulars of the place of death of the deceased and the cause of death as established to the satisfaction of the Medical Referee.

**20.** All applications, certificates, and other documents relating to any cremation shall be marked with a number corresponding to the number in the register, shall be filed in order, and shall be carefully preserved by the Cremation Authority. Provided that the Cremation Authority may, if they

think fit, destroy any such applications, certificates, or other documents (but not the register of cremations or any part of such register)

(a) after the expiry of fifteen years from the date of the cremation to which they relate

(b) after two years if a photographic copy thereof is made.

Any such copy shall be retained until the expiration of the said period of fifteen years.

All such registers and documents shall be open to inspection at any reasonable hour by any person appointed for that purpose by the Secretary of State, the Minister of Health or the Chief Officer of any Police Force.

**21.** When any crematorium is closed as provided in Regulation 1, the Cremation Authority shall send all registers and documents relating to the cremations which have taken place therein to the Secretary of State, or otherwise dispose of them as he may direct.

**22.** I hereby revoke the Regulations made by the Secretary of State on the 26th April, 1920, the 23rd June, 1925, and the 6th May 1927.

*J.R. Clynes*

One of His Majesty's Principal  
Secretaries of State

Home Office  
Whitehall  
28th October, 1930

These regulations were amended by the Cremation Regulations 1952, 1965, 1979, and the Cremation (Amendment) Regulations 1985, 2000, 2006.

## **SCHEDULE.**

### **DRAFT FORMS.**

#### **FORM A.**

##### *Application for Cremation.*

1. *(Name of Applicant)*

*(Address)*

*(Occupation)*

apply to the

to undertake the cremation of the remains of

*(Name of Deceased)*

*(Address)*

*(Occupation)*

*(Age)*                      *(Sex)*

*(Whether married, civil partner, widow, widower, surviving civil partner, neither married nor in a civil partnership)*

The true answers to the questions set out below are as follows:-

1. Are you an executor or the nearest surviving relative of the deceased?

2. If not, state

(a) Your relationship to the deceased.

(b) The reason why the application is made by you and not by an executor or any nearer relative.

3. (revoked)

4. Have the near relatives\* of the deceased been informed of the proposed cremation?

\* The term "near relative" as here used includes widow or widower, parents, children above the age of 16, and any other relative usually residing with the deceased.

5. Has any near relative of the deceased expressed any objection to the proposed cremation? If so, on what ground?

6. What was the date and hour of the death of the deceased?
7. What was the place where deceased died? (Give address and say whether own residence, lodgings, hotel, hospital, nursing home, etc.)
8. Do you know, or have you any reason to suspect, that the death of the deceased was due, directly or indirectly, to
  - (a) violence;
  - (b)(b) poison;
  - (c) privation or neglect?
9. Do you know any reason whatever for supposing that an examination of the remains of the deceased may be desirable?
10. Give name and address of the ordinary medical attendant of the deceased.
11. Give names and addresses of the medical practitioners who attended deceased during his/her last illness.

I declare to the best of my knowledge and belief that the information given in this application is correct and no material particular has been omitted.

Date ..... (Signature) .....

The applicant is known to me and I have no reason to doubt the truth of any of the information furnished by the applicant.

Date ..... (Signature) .....  
(Capacity in which signatory has signed).....  
(Address) .....  
.....  
.....

---

**FORM AA**

*Application for cremation of body parts*

I (*Name of applicant*)

(*Address*)

(*Occupation*)

apply to the

to undertake the cremation of the (*specify organs or tissue to be cremated*)  
of

*(Name of deceased)*

*(Address)*

*(Occupation)*

*(Age)*                      *(Sex)*

*(Whether married, civil partner, widow, widower, surviving civil partner, neither married nor in a civil partnership)*

The true answers to the questions set out below are as follows:-

1. Are you an executor or the nearest surviving relative of the deceased?

2. If not, state

(a) Your relationship to the deceased.

(b) The reason why the application is made by you and not by an executor or any nearer relative.

3. Have the near relatives\* of the deceased been informed of the proposed cremation?

\* The term "near relative" as here used includes widow, widower or surviving civil partner, parents, children above the age of 16, and any other relative usually residing with the deceased.

4. Has any near relative of the deceased expressed any objection to the proposed cremation? If so, on what ground?

5. What was the date and place of the death of the deceased?

6. Give the name and address of the cemetery, churchyard or crematorium where the body of the deceased was buried or cremated.

7. On what date did the burial or cremation take place?

8. Do you know of any reason whatever for supposing that further examination of the body parts of the deceased may be desired?

I declare that to the best of my knowledge and belief the information given in this application is correct and no material particular has been omitted.

Date..... (Signature)

.....

The applicant is known to me and I have no reason to doubt the truth of any of the information furnished by the applicant.

Date..... (Signature)  
.....  
(capacity in which signatory has signed).....  
(Address) .....  
.....

In the case of a stillborn child, in place of the name, address and occupation, insert a description sufficient to identify the body, and in place of the word "deceased" throughout insert the words "stillborn child".

---

**FORM B.**

*Certificate of Medical Attendant*

I am informed that application is about to be made for the cremation of the remains of

*(Name of Deceased)*

*(Address)*

*(Occupation)*

Having attended the deceased before death, and seen and identified the body after death, I give the following answers to the questions set out below; -

1. On what date, and at what hour did he or she die?
2. What was the place where the deceased died? (Give address and say whether own residence, lodging, hotel, hospital, nursing home, &c.,)
3. Are you a relative of the deceased? If so, state the relationship.
4. Have you, so far as you are aware, any pecuniary interest in the death of the deceased?
5. Were you the ordinary medical attendant of the deceased? If so, for how long?
6. Did you attend the deceased during his or her last illness? If so, for how long?
7. When did you last see the deceased alive? (Say how many days or hours before death.)

8. How soon after death did you see the body, and what examination of it did you make?

8A. If the deceased died in a hospital\* at which he was an in-patient, has a post-mortem examination been made by a registered medical practitioner of not less than five years' standing who is neither a relative of the deceased nor a relative or partner of yours and are the results of that examination known to you?

9. What was the cause of death?

Primary

Secondary

I.

Immediate cause

(a)

due to

(b)

due to

(c)

Morbid conditions, if any, giving rise to immediate cause (stated in order proceeding backward from immediate cause.)

II.

Other morbid conditions (if important) contributing to death but no related to immediate cause),

10. What was the mode of death? (Say whether syncope, coma, exhaustion, convulsions, &c.)

What was its duration in days, hours, or minutes?

11. State how far the answers to the last two questions are the result of your own observations, or are based on statements made by others. If on statements made by others, say by whom.

12. Did the deceased undergo any operation during the final illness or within a year before death? If so, what was its nature, and who performed it?

13. By whom was the deceased nursed during his or her last illness? (Give names, and say whether professional nurse, relative, &c. If the illness was a long one, this question should be answered with reference to the period of four weeks before the death.)

14. Who were the persons (if any) present at the moment of death?

15. In view of the knowledge of the deceased's habits and constitution do you feel any doubt whatever as to the character of the disease or the cause of death?

16. Have you any reason to suspect that the death of the deceased was due, directly or indirectly to

(a) violence;

(b) poison;

(c) privation or neglect?

17. Have you any reason whatever to suppose a further examination of the body to be desirable?

18. Have you given the certificate required for registration of death?

I hereby certify that the answers given above are true and accurate to the best of my knowledge and belief, and that I know of no reasonable cause to suspect that the deceased died either a violent or an unnatural death or a sudden death of which the cause is unknown or died in such place or circumstances as to require an inquest in pursuance of any Act.

*(Signature)*

*(Address)*

*(Registered qualifications)*

*(Date)*

NOTE.-This certificate must be handed or sent in a closed envelope by the Medical practitioner who signs it to the Medical practitioner who is to give the confirmatory certificate below except in a case where question 8A above is answered in the affirmative, in which case the certificate must be so handed or sent to the Medical Referee.

\* The term "hospital" as used here means any institution for the reception and treatment of persons suffering from illness or mental disorder, any maternity home, and any institution for the reception and treatment of persons during convalescence.

---

**FORM C**

*Confirmatory Medical Certificate*

I, being neither a relative of the deceased, nor a relative or partner of the medical practitioner who has given the foregoing medical certificate, have

examined it and have made personal inquiry as stated in my answers to the questions below:-

1. Have you seen the body of the deceased?
2. Have you carefully examined the body externally?
3. Have you made a post-mortem examination?
4. Have you seen and questioned the medical practitioner who gave the above certificate?
5. Have you seen and questioned any other medical practitioner who attended the deceased?
6. Have you seen and questioned any person who nursed the deceased during his last illness, or who was present at the death?
7. Have you seen and questioned any of the relatives of the deceased?
8. Have you seen and questioned any other person?

(In the answers to questions 5, 6, 7, and 8, give names and addresses of persons seen and say whether you saw them alone.)

I am satisfied that the cause of death was

and I certify that I know of no reasonable cause to suspect that the deceased died either a violent or an unnatural death or a sudden death of which the cause is unknown or died in such place or circumstances as to, require an inquest in pursuance of any Act.

*(Signature)*

*(Address)*

*(Date)*

*(Registered qualifications)*

*(Office)*

NOTE.-The Certificates in Forms B and C must be handed or sent in a closed envelope to the Medical Referee by one or other of the Medical practitioners by whom they are given.

---

**FORM D**

*Certificate after Post-Mortem Examination*

I hereby certify that, acting\* *on the instructions of*

Medical Referee to the

I made a post-mortem examination of the remains of

*(Name)*

*(Address)*

*(Occupation)*

The result of the examination is as follows:-

I am satisfied that the cause of death was

and that there is no reason *for making any toxicological analysis\*\** or for the holding of an inquest.

*(Signature)*

*(Address)*

*(Date)*

*(Registered qualifications)*

\* Where the Medical Referee himself gives this certificate, strike out the words in italics and insert "as".

\*\* The words in italics should be omitted where a toxicological analysis has been made and its result is stated in this certificate or in a certificate attached to it.

---

**FORM DD**

*Certificate on release of body parts*

I hereby confirm on behalf of *(specify name and address of hospital trust or other authority lawfully holding the body parts)*

that the following body parts are held in respect of

*(Name of deceased)*

*(Address)*

(Age)

(Sex)

who died on (Date) at (Place):

\*Heart \*Brain \*Chest \*Abdominal \*Other organs (*specify*)

\*Delete if not applicable.

I hereby certify that there exists no reason for any further inquiry or examination concerning the above mentioned body parts, and that they are [\*with the consent of the coroner for (*specify coroner's district*)] now released for cremation in a suitably safe and prepared condition.

(Date)

(Signature)

(Full name printed)

(Address)

(Registered qualifications)

(Office)

---

## FORM E

### *Coroner's Certificate*

I certify that:-

\* (a) I have opened an inquest on the body of the undermentioned deceased person:

\* (b) a post-mortem examination of the body of the undermentioned deceased person has been made by my direction or at my request and as a result thereof I am satisfied that an inquest is unnecessary

\* (c) I am satisfied that the death occurred outside the British Islands and that the death was by natural causes and no post-mortem examination or inquest is necessary

\* Delete whichever is inapplicable

I am satisfied that there are no circumstances likely to call for a further examination of the body.

### PARTICULARS OF DECEASED PERSON

Full names (if known)

Sex

Age

Date of death

Place of death

Registration district and sub-district  
in which the death is to be registered

Date ..... Signature .....

Coroner for the ..... of .....

*Notification of Cremation.*  
(Births and Deaths Registration Act 1926, s 3(1))

This is to give notice that the body of

deceased, who died on

at

was cremated on

at

Signature

..... (Registrar of Crematorium)

Date .....

---

**FORM F**

*Authority to Cremate*

Whereas application has been made for the cremation of the remains of

(*Name\**)

\* In the case of a stillborn child, in place of the name, address, and occupation, insert a description sufficient to identify the body, and in place of the words "that the cause of death has been definitely ascertained" insert the words "that the child was stillborn".

(*Address*)

(*Occupation*)

And whereas I have satisfied myself that all the requirements of the Cremation Act, 1902, and of the Regulations made in pursuance of that Act, have been complied with, that the cause of death has been definitely ascertained, and that there exists no reason for any further inquiry or examination:

I hereby authorise the Superintendent of the Crematorium at  
to cremate the said remains

*(Signature)*

*Medical Referee to the*

*(Date)*

NOTE.-This authority should be signed in duplicate-one copy to be retained  
with certificates and the other sent by the Medical Referee to the  
Superintendent of the Crematorium.

---

**FORM FF**

*Authority to cremate body parts*

Whereas application has been made for the cremation of the body parts of

*(Name\*)*

\*In the case of a stillborn child, in place of name, address and occupation,  
insert a description sufficient to identify the body.

*(Address)*

*(Occupation)*

And whereas I have satisfied myself that all the relevant requirements of the  
Cremation Act 1902, and of the Regulations made in pursuance of that Act,  
have been complied with, and that there exists no reason why the body  
parts should not be cremated:

I hereby authorise the Superintendent of the Crematorium at  
to cremate the said body parts.

*(Signature)*

*Medical Referee to the*

*(Date)*

NOTE. This authority should be signed in duplicate - one copy to be  
retained with the certificates and the other sent by the Medical Referee to  
the Superintendent of the Crematorium.

**FORM G**

*Register of Cremations*

*carried out by*

*at the Crematorium of*

No.	Date of cremation	Name, Residence, and occupation of deceased	Age and sex	Whether married, a civil partner, neither married nor in a civil partnership	Date of death	Name and address of person who applied for cremation	Name and addresses of persons signing certificates	District where death has been registered	How ashes were disposed of

**FORM GG**

*Register of Cremations of Body Parts*

*carried out by*

*at the Crematorium at*

No	Date of cremation	Name, Residence and Occupation of deceased	Age and sex	Date of Death	Date and place of burial/cremation of body	Body part(s) being cremated	Name and address of person who applied for cremation

NOTE. Additional particulars may be added in the form of Register by the Cremation Authority.

**FORM H**

*Certificate of Anatomical Examination*

I, (*full name in block capitals*) .....  
am licensed to practise anatomy under the Anatomy Act 1984.

I certify that the body of

Full name .....

Age ..... Sex .....

who died on ..... at .....  
has undergone anatomical examination pursuant to the Anatomy Act 1984  
at

(*address of medical school or other place*) .....

Signature .....

Date .....

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STATUTORY INSTRUMENTS

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**2007 No. [ ]**

**CREMATION, ENGLAND AND WALES**

**The Cremation Regulations 2007**

*Made* - - - - - \*\*\*  
*Laid before Parliament* \*\*\*  
*Coming into force* - - - \*\*\*

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SCHEDULE 1 — Forms

SCHEDULE 2 — Instruments revoked

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 7 of the Cremation Act 1902<sup>(1)</sup> and section 10 of the Births and Deaths Registration Act 1926<sup>(2)</sup>:

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<sup>(1)</sup> 1902 c. 8. Section 7 was amended by section 2 of the Cremation Act 1952 (c.31) and Part V of Schedule 11 to the Finance Act 1949 (c.47).

<sup>(2)</sup> 1926 c. 48.

## PART 1

### Preliminary

#### Citation, commencement and extent

1.— (1) These Regulations may be cited as the Cremation Regulations 2007 and shall come into force on [ ].

(2) These Regulations extend to England and Wales only.

#### Interpretation

2. — (1) In these Regulations—

“the 1953 Act” means the Births and Deaths Registration Act 1953<sup>(3)</sup>;

“the 1988 Act” means the Coroners Act 1988<sup>(4)</sup>;

“body parts” means material which consists of, or includes, human cells from—

(a) a deceased person, whether or not separation from the body occurred before, after or during death; or

(b) a still-born child;

“confirmatory medical certificate” means a certificate confirming the cause of death of the deceased person issued under regulation 12(2)(b);

“cremation” means, in relation to any human remains, the action of burning those remains;

“cremation authority” means any burial authority or any company or person by whom a crematorium has been established;

“deputy medical referee” means a person appointed under regulation 6(2);

“inquest” means an inquest into the death of the deceased person under section 8 of the 1988 Act;

“medical referee” means a person appointed under regulation 6(1);

“near relative” means the spouse, civil partner, parents or children above the age of 16 of, or any other relative usually residing with, the deceased person;

“still-born” and “still-birth” applies to any child which has issued forth from its mother after the twenty-fourth week of pregnancy and which did not at any time after being completely expelled from its mother, breathe or show any other signs of life.

(2) In calculating the 48 hour period referred to in regulations 17(2) and 18, any period which falls on—

(a) a Saturday or Sunday;

(b) Christmas Day or Good Friday; or

(c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971<sup>(5)</sup> in England and Wales

must be disregarded.

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<sup>(3)</sup> 1953 c. 20.

<sup>(4)</sup> 1988 c.13.

<sup>(5)</sup> 1971 c.80.

## PART 2

### Maintenance and inspection of crematorium

#### **Maintenance of crematorium**

3. A crematorium must be—
- (a) maintained in good working order;
  - (b) provided with a sufficient number of attendants; and
  - (c) kept in a clean and orderly condition.

#### **Opening and closing of crematorium**

4.— (1) A cremation authority may make an order for the closure of a crematorium if notice of the proposed order is given at least one month before the date on which the order will be made.

(2) Notice must be given by publishing an advertisement in a local newspaper circulating in the place where the crematorium is situated.

(3) In addition, notice must be displayed at the entrance to the crematorium in a place where it can be conveniently read.

(4) A crematorium authority must give notice in writing to the Secretary of State of the opening or closing of any crematorium.

#### **Inspection of crematorium**

5. A crematorium must be open for inspection at any reasonable time by any person appointed for that purpose by the Secretary of State.

## PART 3

### Medical referee

#### **Medical referee and deputy medical referee**

6.—(1) Each cremation authority must appoint a medical referee.

(2) Each cremation authority must appoint such number of persons as deputy medical referees as it thinks appropriate.

(3) A person may not be appointed under this regulation without the consent of the Secretary of State.

(4) A person may not be appointed as a medical referee or a deputy medical referee unless he—

- (a) is a registered medical practitioner of not less than five years' standing; and
- (b) has sufficient experience and qualifications to discharge the duties required by these Regulations.

(5) The Secretary of State may remove a medical referee or deputy medical referee from office for incapacity or misbehaviour.

(6) The functions of a medical referee of a cremation authority may be performed by—

- (c) the deputy medical referee appointed by the cremation authority; or
- (d) a medical referee or deputy medical referee of a cremation authority other than that for which he has been appointed,

in the following circumstances—

- (i) during any period when the medical referee is absent or unavailable;
- (ii) in any case in which the medical referee has been the medical attendant of the deceased person; or
- (iii) during any vacancy in the office of medical referee; or
- (iv) at any other time, with the consent of the medical referee.

(7) A medical referee may—

- (e) if he has investigated the cause of death of the deceased person, issue a confirmatory medical certificate;
- (f) if he has made the post-mortem examination of the body of the deceased person, issue a certificate under regulation 19(5); and
- (g) if he is a coroner, issue a certificate under regulation 12(3).

(8) References in these regulations to the medical referee are (where appropriate) to be read as including a deputy medical referee.

#### **Report to the Secretary of State**

7. If and when required by the Secretary of State, a medical referee must provide the Secretary of State with a report containing such information as the Secretary of State may require.

#### **Guidance by the Secretary of State**

8. The Secretary of State may issue guidance about the experience and qualifications that a person appointed as a medical referee or deputy medical referee is expected to have.

## **PART 4**

### **Conditions for cremation**

#### **Place where cremation may take place**

9. No cremation of human remains may take place except in a crematorium, the opening of which has been notified to the Secretary of State.

#### **Forms**

10.— (1) Subject to the following provisions of this regulation, the forms set out in Schedule 1 must be used in the cases to which they apply.

(2) In relation to a death which occurred in any place outside England, Wales or Scotland, an application for cremation which—

- (a) contains all the particulars requested in the form set out in Schedule 1; and
- (b) is accompanied by a declaration by the applicant that the information in the application is correct to the best of his or her knowledge or belief,

may be used.

(2) Subject to paragraph (5), in relation to a death which occurred in Scotland, an application for cremation and certificates—

- (a) substantially to the like effect to those set out in Schedule 1; and
- (b) which are used in accordance with the law relating to cremation for the time being in force in Scotland,

may be used.

(3) Subject to paragraph (5), in relation to a death which occurred in Northern Ireland, the Isle of Man or the Channel Islands, certificates—

- (a) substantially to the like effect to those set out in Schedule 1; and
- (b) which are used in accordance with the law relating to cremation for the time being in force in Northern Ireland, the Isle of Man, the Bailiwick of Jersey or the Bailiwick of Guernsey, as the case may be,

may be used.

(4) In relation to the cremation of body parts, if the death, still-birth or post-mortem examination took place outside England and Wales, certificates or copies substantially to the like effect as those referred to in regulation 14(1)(a) and 14(2) may be used.

### **Application for cremation**

**11.**—(1) Subject to paragraph (2), an application for a cremation must be made by—

- (a) an executor of the deceased person; or
- (b) a near relative.

(2) An application for a cremation may be made by any other person if the medical referee is satisfied—

- (a) that the applicant is a proper person to make the application; and
- (b) as to the reason why the application is not made by an executor of the deceased person or a near relative.

(3) This regulation does not apply to the cremation of—

- (a) the remains of a still-born child under regulation 15; or
- (b) the exhumed remains of a deceased person who has already been buried for a period of one year or more under regulation 16.

### **Cremation of remains of deceased person**

**12.**—1.(a) No cremation of the remains of a deceased person may take place unless—

- (i) except where a certificate is given by a coroner under paragraph (3), a certificate is given under section 24(1), (2) or (4) of the 1953 Act (certificates as to registration of death) in relation to the death of the deceased person; or
- (ii) a certified copy of the entry in the relevant register is issued under sections 30 to 32 of the 1953 Act in relation to the death of the deceased person;

- (a) paragraph (2), (3), or (4) applies; and
- (b) written authority for the cremation is given by the medical referee.

(2) This paragraph applies if—

- (a) a medical certificate is given by a registered medical practitioner who has attended the deceased person during his last illness and who can certify the cause of his death; and
  - (b) subject to paragraph (5), a confirmatory medical certificate is given by—
    - (i) a medical referee; or
    - (ii) a registered medical practitioner of not less than five years' standing who is not—
      - (aa) a relative of the deceased person;
      - (bb) the medical practitioner who issued the medical certificate under paragraph (2)(a); or
      - (cc) a relative, work colleague or partner of the medical practitioner who issued the medical certificate under paragraph (2)(a).
- (3) This paragraph applies if a certificate is given by a coroner that—
- (a) a post-mortem examination has been made under section 19(1) of the 1988 Act and the cause of death of the deceased person has been certified by the coroner under section 19(3) of that Act;
  - (b) an inquest has been opened; or
  - (c) the death of the deceased person occurred outside the British Islands and no post-mortem examination or inquest is necessary.
- (4) This paragraph applies if a certificate is given by a person who has carried out an anatomical examination of the body of the deceased person<sup>(6)</sup> that such an examination of the body of the deceased person has taken place.
- (5) A confirmatory medical certificate is not required where—
- (a) the death of the deceased person occurred in a hospital in which the deceased person was an in-patient; and
  - (b) a person mentioned in paragraph (2)(b)(i) or (ii) has made a post-mortem examination of the body of the deceased person and the medical practitioner giving the medical certificate under paragraph (2)(a) knows the result of that examination before giving that certificate.
- (6) This regulation does not apply to the cremation of—
- (a) *the remains of a deceased person under regulation 13; or*
  - (b) *body parts under regulation 14;*
  - (c) *the remains of a still-born child under regulation 15; or*
  - (d) *the exhumed remains of a deceased person who has already been buried for a period of one year or more under regulation 16.*
- (7) In this regulation, “hospital” means any institution for the reception and treatment of persons suffering from illness or mental disorder, any maternity home, and any institution for the reception and treatment of persons during convalescence.

***Cremation of remains of deceased person during epidemic of [pandemic influenza]***

- 13.** *The cremation of the remains of a deceased person may take place if—*
- (a) *regulations 10 and 11 have been complied with;*

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<sup>(6)</sup> By virtue of section 16(1) of the Human Tissue Act 2004 (c.30), no person shall carry out an anatomical examination otherwise than under the authority of a licence granted for those purposes.

- (b) a certificate is given by a coroner that the death of the deceased person was due to [pandemic influenza] and that no post-mortem examination or inquest is necessary; and*
- (c) written authority for the cremation is given by the medical referee.*

#### **Cremation of body parts**

**14.—**(1) No cremation of body parts may take place unless—

- (a) (i) a certificate is given under section 24(1), (2) or (4) of the 1953 Act (certificates as to registration of death) or under section 11(2) or (3) of the 1953 Act (certificates as to registration of still-birth) in relation to the death of the deceased person or still-birth, as the case may be, to which the body parts belonged; or
  - (ii) a certified copy of the entry in the relevant register is issued under sections 30 to 32 of the 1953 Act in relation to the death of the deceased person or still-birth to which the body parts belonged;
- (b) paragraph (2) or (3) applies; and
- (c) written authority for the cremation is given by the medical referee.

(2) This paragraph applies if a certificate is given on behalf of the hospital trust or other authority holding the body parts that there is no reason for further inquiry or examination of the body parts and that they are released for cremation.

(3) This paragraph applies if evidence is produced that the body parts were removed in the course of a post-mortem examination made of the body of the deceased.

#### **Cremation of remains of still-born child**

**15.—**(1) Subject to paragraph (4), no cremation of the remains of a still-born child may take place unless—

- (a) a certificate is given under section 11(2) or (3) of the 1953 Act (certificates as to registration of still-birth);
- (b) paragraph (2) or (3) applies; and
- (c) written authority for the cremation is given by the medical referee.

(2) This paragraph applies if a certificate is given by a registered medical practitioner or registered midwife who has examined the body and who can certify that the child was still-born.

(3) This paragraph applies if a declaration is given by a person who is qualified to give information concerning the birth that—

- (a) no registered medical practitioner or registered midwife was present at the birth or has examined the body; or
- (b) a certificate under paragraph (2) cannot be obtained from a registered medical practitioner or registered midwife who was present at the birth,

and that the child was not born alive.

(4) In relation to a child still-born outside England and Wales, no cremation may take place unless—

- (a) a certificate is given by—
  - (i) a registered medical practitioner or registered midwife; or
  - (ii) a person entitled to practise as a medical practitioner or midwife in the place where the still-birth occurred

- who has examined the body and who can certify that the child was still-born; and
- (b) written authority for the cremation is given by the medical referee.

**Cremation of exhumed remains of deceased person who has already been buried for one year or more**

16. The cremation of the exhumed remains of a deceased person who has already been buried for a period of one year or more may take place subject to such conditions as the Secretary of State may impose in the exhumation licence granted by him or otherwise.

**Right to inspect certificates and to make representations to medical referee**

- 17.—(1) Where a person who is a near relative or an executor of the deceased—
- (a) has asked the cremation authority to notify him of the receipt of a certificate given under regulation 12(2) to 12(4), 14(2), 15(2) or 15(4)(a); and
  - (b) has given the cremation authority a telephone number where he may be contacted by the cremation authority for that purpose,
- the cremation authority must, by telephone on the number provided, notify that person of the receipt of a certificate given under regulation 12(2) to 12(4), 14(2), 15(2) or 15(4)(a).
- (2) Within 48 hours beginning with the time at which the cremation authority notified the person under paragraph (1), that person may—
- (a) at any reasonable hour, inspect a certificate given under regulation 12(2) to 12(4), 14(2), 15(2) or 15(4)(a); and
  - (b) make representations to the medical referee about any matter contained in such a certificate or the inquiry made by the person who gave the certificate.
- (3) *This regulation does not apply to the cremation of the remains of a deceased person under regulation 13.*

**Authorisation of cremation by medical referee**

- 18.—(1) Subject to regulation 19(5), the medical referee may not authorise a cremation—
- (a) under regulation 12(b), unless he is satisfied—
    - (i) that the requirements of regulations 10, 11 and 12 have been complied with;
    - (ii) that the inquiry made by the person giving a certificate under regulation 12(2) to 12(4) has been adequate; and
    - (iii) that the fact and cause of death of the deceased person have been ascertained or a coroner has opened an inquest.
  - (b) *under regulation 13(c), unless he is satisfied that the requirements of regulations 10, 11 and 13(b) have been complied with;*
  - (c) under regulation 14(1)(c), unless he is satisfied that the requirements of regulations 10, 11 and 14 have been complied with; or
  - (d) under regulation 15, unless he is satisfied—
    - (i) that the requirements of regulation 15 has been complied with;
    - (ii) that the examination made by the person giving the certificate under regulation 15(2) or 15(4)(a) has been adequate; and
    - (iii) that there is no reason for further examination; and

subject to paragraph (2), in any case where notification has been given under regulation 17(1), at least 48 hours have passed since the notification was given by the cremation authority.

(2) Where—

- (a) the cremation authority has been unable to comply with regulation 17(1) within 48 hours, beginning with the time at which the cremation authority received the certificate under regulation 12(2) to 12(4), 14(2), 15(2) or 15(4)(a); and
- (b) the medical referee is satisfied that all reasonable efforts have been made by the cremation authority to comply with regulation 17(1),

the medical referee may authorise the cremation.

### **Authorisation of cremation by medical referee – supplementary**

**19.**—(1) Before authorising a cremation, the medical referee may make such inquiry with regard to—

- (a) the application for cremation;
- (b) a certificate given under regulation 12(2) to 12(4), 13(b), 14(2), 15(2) or 15(4)(a); or
- (c) a declaration given under regulation 15(3),

as he thinks fit.

(2) Inquiries under paragraph (1) may be made of the medical referee's own motion or as a result of representations made under regulation 17(2)(b).

(3) If inquiries are made as a result of representations made under regulation 17(2)(b), the medical referee must inform the person who made the representations of the result of the inquiries he makes.

(4) The medical referee may request a person to make a post-mortem examination of the body of the deceased person<sup>(7)</sup> to be made if—

- (a) the cause of death given on the medical certificate or confirmatory medical certificate may be due to poison, violence, any illegal operation, privation or neglect; and
- (b) he has obtained the appropriate consent<sup>(8)</sup> for a post-mortem examination.

(5) The medical referee may authorise a cremation if a certificate is given by the person who has made a post-mortem examination under paragraph (4) and who can certify the cause of death to the satisfaction of the medical referee.

(6) If, following a post-mortem examination under paragraph (4),—

- (a) the medical referee is not satisfied as to the cause of death; or
- (b) it appears to the medical referee that there are other suspicious circumstances connected to the death of the deceased, whether revealed in the medical certificates or otherwise,

he may not authorise the cremation unless an inquest is opened and a certificate is given by the coroner under regulation 12(3).

(7) If a coroner has given notice that he intends to hold an inquest, the medical referee may not authorise the cremation until the inquest has been opened.

(8) If a medical referee refuses to authorise the cremation he must give reasons.

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<sup>(7)</sup> By virtue of section 16(1) of the Human Tissue Act 2004 (c.30), no person shall make a post-mortem examination otherwise than under the authority of a licence granted for those purposes.

<sup>(8)</sup> Part 1 of the Human Tissue Act sets out the persons who may consent to a post-mortem examination.

### Incineration of body parts

**20.**—(1) Body parts, which are not cremated under regulation 14, may be incinerated in accordance with a permit which authorises the disposal of a matter listed in code 18 01 02 or 18 01 03 of the List of Wastes Regulations.

(2) In this regulation—

“incinerated” means burnt in an incinerator as part of one of the following activities in section 5.1 of Schedule 1 to the Pollution, Prevention and Control (England and Wales) Regulations 2000<sup>(9)</sup>—

- (a) activities in Part A(1)(a), (c), (d) and (e);
- (b) activities in Part A(2)(a); and
- (c) activities in Part B(a);

“List of Wastes Regulations” means—

- (a) in relation to England, the List of Wastes (England) Regulations 2005<sup>(10)</sup>; and
- (b) in relation to Wales, the List of Wastes (Wales) Regulations 2005<sup>(11)</sup>; and

“permit” means a permit granted under regulation 10 of the Pollution Prevention and Control (England and Wales) Regulations 2000.

## PART 5

### Disposition of ashes and registration of cremations

#### Disposition of ashes

**21.**—(1) After the cremation of human remains the cremation authority will give the ashes to the person who made the application for cremation.

(2) If the person who made the application for cremation does not want to be given the ashes, the cremation authority will give the ashes to an executor of the deceased or near relative (who was not the applicant) or, failing that, the cremation authority will retain the ashes.

(3) Subject to any special arrangement for the burial or preservation of ashes, any ashes retained by the cremation authority will be decently interred in a burial ground or in land adjoining the crematorium reserved for the burial of ashes, or scattered there.

(4) In relation to ashes left temporarily in the care of the cremation authority, the authority may not inter or scatter the ashes unless 14 days notice of their intention to do so has been given to the person who made the application for cremation.

#### Functions of registrar

**22.**—(1) A cremation authority must appoint a registrar.

(2) A registrar must keep a register of all cremations carried out by the cremation authority and entries in the register will include the following particulars—

- (a) the date of the cremation;

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<sup>(9)</sup> S.I. 2000/1973; section 5.1 of Schedule 1 was substituted by S.I. 2002/2980 and regulation 10 was amended by S.I. 2004/107 and 2002/1559; there are other amending instruments but none is relevant.

<sup>(10)</sup> S.I. 2005/895; amended by S.I. 2005/1673.

<sup>(11)</sup> S.I. 2005/1820.

- (b) the name, address and occupation of the deceased person;
  - (c) the age and sex of the deceased person;
  - (d) whether the deceased person was married, a civil partner, a widow, widower or surviving civil partner, or single;
  - (e) the date on which the deceased person died;
  - (f) in relation to the cremation of body parts under regulation 13—
    - (i) the date and place of the burial or cremation of the body of the deceased person; and
    - (ii) the body part(s) being cremated;
  - (g) the name, address and occupation of the person who made the application for cremation;
  - (h) the name and address of any person who—
    - (i) gave a certificate under regulation 12(2) to 12(4), 13(b), 14(2), 15(2) or 15(4)(a);
    - (ii) produced evidence under regulation 14(3); or
    - (iii) gave a declaration under regulation 15(3);
  - (i) the name and address of any person who has inspected a certificate given under regulation 12(2) to 12(4), 14(2), 15(2) or 15(4)(a);
  - (j) the district where the death has been registered; and
  - (k) the way in which the ashes were disposed of.
- (3) The registrar must, within 96 hours after the cremation of the remains of a deceased person under regulation 12, send to—
- (l) the registrar of births and deaths for the sub-district in which the death took place; or
  - (m) in relation to deaths which took place outside of England and Wales, to the registrar of births and deaths for the sub-district in which the crematorium is situated,
- a notification of the cremation of the body and the date and place of such cremation—
- (i) where the remains have been cremated after a post-mortem examination under section 19(1) of the 1988 Act or an inquest, in the detachable portion of the certificate given by the coroner under regulation 12(3); or
  - (ii) where the remains have been cremated without an inquest, in the form prescribed by regulation 49(1) of the Births and Deaths Regulations 1987<sup>(12)</sup>.
- (4) *The registrar must, within 96 hours after the cremation of the remains of a deceased person under regulation 13, send to the Registrar-General—*
- (n) *a copy of the entry in the register of cremations in respect of the cremation; and*
  - (o) *particulars of the place of death of the deceased person and that the cause of his death was due to [pandemic influenza].*

### **Retention of documents relating to cremation**

**23.—**(1) The cremation authority must preserve the application for cremation and any certificates or other documents relating to a cremation, or an electronic copy of such documents, for a period of 15 years from the date of the cremation to which they relate.

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<sup>(12)</sup> S.I. 1987/2088.

(2) Where an electronic copy is preserved under paragraph (1), the cremation authority must preserve the documents from which the electronic copy was made for a period of 2 years from the date of the cremation to which they relate.

(3) In relation to a crematorium which is closed in accordance with regulation 4, the cremation authority must—

- (a) dispose of any registers and documents relating to the cremations which have taken place in the crematorium in accordance with directions given by the Secretary of State; or
- (b) if no such directions are given, send any registers or documents to the Secretary of State.

#### **Inspection of register and documents relating to cremation**

24. The register kept under regulation 22(2) and the documents retained under regulation 23(1) or 23(2) will be open to inspection, during reasonable hours and on reasonable notice.

## **PART 6**

### **Revocations, savings and transitional provisions**

#### **Revocations**

25. Subject to the following regulations, the instruments specified in Schedule 2 are revoked.

#### **Savings**

26.—(1) Any person who, immediately before these Regulations come into force, was a medical referee or deputy medical referee under regulation 10 of the Regulations, dated the 28th October 1930, made by the Secretary of State under section 7 of the Cremation Act 1902 and section 10 of the Births and Deaths Registration Act 1926 (“the 1930 Regulations”) shall be treated as having been appointed as a medical referee under regulation 6(1) or a deputy medical referee under regulation 6(2), as the case may be.

(2) Any person who, immediately before these Regulations come into force, was a registrar under regulation 17 of the 1930 Regulations shall be treated as having been appointed as a registrar under regulation 22(1).

#### **Transitional provisions**

27. Notwithstanding their revocation, the 1930 Regulations shall continue to apply to an application for cremation made immediately before these Regulations come into force.

By authority of the Secretary of State

Date

Minister of State,  
Department for Constitutional Affairs

SCHEDULE 1

Regulation 10(1)

Forms

**Form 1**

**Application for cremation**

Please complete this form in full, if a part does not apply enter "N/A".

**Part 1 The applicant**

Name

Address

Occupation

Are you an executor of the deceased or a near relative<sup>13</sup>?    Yes    No

\_\_\_\_\_

<sup>13</sup> Near relative means the spouse or partner, parent, or child over the age of 16 of, or any other relative usually residing with, the deceased.

**Part 2 The deceased**

Name

Address

Occupation

Age at date of death

Male

Female

Married, civil partner, widow, widower, surviving civil partner, single<sup>14</sup>

**Part 3 The application**

Name of cremation authority

1) If you are not an executor of the deceased or a near relative, please give the nature of your relationship to the deceased and explain why you are making the application rather than an executor or near relative

2) Have the near relatives of the deceased been informed of the proposed cremation? Yes No

If no, please give reasons

3) Has any near relative of the deceased expressed any objection to the proposed cremation? Yes No

If yes, please give details

<sup>14</sup> Delete as appropriate.

4) Please give the date and time of the death of the deceased

5) Please give the address where the deceased died and state whether it was the deceased's own residence, lodgings, hotel, hospital, nursing home etc

6) Do you know, or have any reason to suspect, that the death of the deceased was due, directly or indirectly, to violence, poison, privation or neglect? Yes No

7) Do you know any reason whatever for supposing that an examination of the deceased's remains may be desirable? Yes No

If you have answered yes to questions 7 or 8, please give reasons below

8) Please give the name and address of the deceased's usual medical practitioner

9) Please give the name and address of the medical practitioners who attended the deceased during his last illness

10) Before the cremation takes place, do you want to inspect the certificates given by the medical practitioner which give details as to the deceased's cause of death?

Yes No

If yes, please give a telephone number where the cremation authority may contact you to notify you that the certificates are available to inspect

**Part 4 Statement of truth**

I apply to the above named cremation authority to carry out the cremation of the remains of the deceased.

I believe that the facts stated in the application are true and that no material particular has been omitted.

Print full name

Signed

Date

**To be completed by a person who personally knows the applicant**

I certify that the applicant is known to me and that I have no reason to doubt the truth of any of the information given in this form by the applicant. I am not an employee of, or connected in any way with, the funeral directors arranging the funeral of the deceased.

Print full name

Address

Signed

Date

## Form 2

### Application for cremation of body parts<sup>15</sup>

Please complete this form in full, if a part does not apply enter "N/A".

#### Part 1 The applicant

Name

Address

Occupation

Are you an executor of the deceased or a near relative<sup>16</sup>?    Yes    No

#### Part 2 The deceased<sup>17</sup>

**Name**

---

<sup>15</sup> Body parts means material consisting of, or including, human cells from a deceased person or stillborn child.

<sup>16</sup> Near relative means the spouse or partner, parent, or child over the age of 16 of, or any other relative usually residing with, the deceased.

<sup>17</sup> In the case of a stillborn child, in place of the name, address and occupation, insert a description sufficient to identify the body and in place of the word deceased throughout this form insert the words "stillborn child".

Address

Occupation

Age at date of death

Male

Female

Married, civil partner, widow, widower, surviving civil partner, single<sup>18</sup>

**Part 3 The application**

Name of cremation authority

1) If you are not an executor of the deceased or a near relative, please give the nature of your relationship to the deceased and explain why you are making the application rather than an executor or near relative

2) Have the near relatives of the deceased been informed of the proposed cremation? Yes No

If no, please give reasons

3) Has any near relative of the deceased expressed any objection to the proposed cremation? Yes No

If yes, please give details

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<sup>18</sup> Delete as appropriate.



I believe that the facts stated in the application are true and that no material particular has been omitted.

Print full name

Signed

Date

**To be completed by a person who personally knows the applicant**

I certify that the applicant is personally known to me and that I have no reason to doubt the truth of any of the information given in this form by the applicant. I am not an employee of, or connected in any way with, the funeral directors arranging the funeral of the deceased.

Print full name

Address

Signed

Date

## Form 3

### Medical Certificate

Regulation 12(2)(a) of the Cremation Regulations 2006

Please complete this form in full, if a part does not apply enter "N/A".

#### Part 1 The deceased

Name

Address

Occupation

#### Part 2 The report on the deceased

1) Please give the date and time of the death of the deceased

2) Please give the address where the deceased died and state whether it was the deceased's own residence, lodgings, hotel, hospital, nursing home etc

3) Are you a relative of the deceased?      Yes    No

If yes, please state the nature of your relationship

4) Have you, so far as you are aware, any pecuniary interest in the death of the deceased?    Yes    No

If yes, please give details

5) Were you the deceased's usual medical practitioner?    Yes    No

If yes, please state for how long

If no, please give details as to your medical role

6) Did you attend the deceased during his or her last illness?      Yes    No

If yes, please state for how long

7) Please state the number of days and hours before the deceased's death that you last saw the deceased alive

8) Please state the time that you saw the body of the deceased and the examination that you made of the body

9) From your medical notes, and the observations of yourself and others immediately before and at the time of the deceased's death, please describe the symptoms and other conditions which led to your conclusions as to the cause of death

10) If the deceased died in hospital<sup>19</sup> at which he was an in-patient, has a post-mortem examination been made by a registered medical practitioner of not less than five years standing who is neither a relative of the deceased nor a relative, team member, health centre colleague or partner of yours and are the results of that examination known to you?                      Yes    No

11) Please give the cause of death

Primary

  
  

Secondary

  
  

Immediate cause

  
  

(a)

  
  

due to (b)

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<sup>19</sup> Hospital means any institution for the reception and treatment of persons suffering from illness or mental disorder, any maternity home, and any institution for the reception and treatment of persons during convalescence.

12) Did you seek a second opinion as to the above cause of death? Yes No

If yes, please give details

13) Did the deceased undergo any operation during the final illness or within a year before death Yes No

If yes, please give details as to the nature of the operation and who performed it

14) Do you have any reason to believe that the operation shortened the life of the deceased? Yes No

If yes, please give details

15) Please give details as to whom nursed the deceased during his or her last illness (Say whether professional nurse, relative, etc. If the illness was a long one, this question should be answered with reference to the period of four weeks before the death.)

16) Please state the persons (if any) who were present at the moment of death

17) If there were persons present at the moment of death, did those persons have any concerns regarding the cause of death? Yes No  
If yes, please give details

18) In view of your knowledge of the deceased's habits and constitution do you have any doubts whatever as to the character of the disease or the cause of death? Yes No

19) Have you any reason to suspect that the death of the deceased was due directly or indirectly to the following?

Violence Yes No

Poison Yes No

Privation or neglect Yes No

20) Have you any reason to whatever to suppose a further examination of the body to be desirable? Yes No

If you have answered yes to questions 18, 19 or 20 please give details below

21) Has a coroner been informed about the death? Yes No

If yes, please state the outcome

22) Have you given the certificate required for registration of death? Yes No

If no, please state who has

23) Was an implant placed in the body (e.g. a pacemaker<sup>20</sup>) Yes No

If yes, has it been removed? Yes No

**Part 3 Statement of truth**

I am informed that an application is to be made for the cremation of the remains of the deceased.

I attended the deceased during his last illness before his/her death, and have seen and identified the body after death and have spoken to any person in attendance at the death.

I certify that the information I have given above is true and accurate to the best of my knowledge and belief and that I know of no reasonable cause to suspect that the deceased died either a violent or unnatural death or a sudden death of which the cause is unknown or died in such a place or circumstances as to require an inquest in pursuance of any Act.

Name

Address

Registered qualifications  
and reference number

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<sup>20</sup> Such implants may damage cremation equipment if not removed from the body of the deceased prior to cremation.

**Cremation Regulations** Consultation Paper

Signed

Date

Once completed, this certificate must be handed or sent in a closed envelope by the medical practitioner who signs it to the medical practitioner who is to give the confirmatory medical certificate. However, if question 10 is answered in the affirmative, the certificate must be so handed or sent to the medical referee at the cremation authority at which the cremation is to take place.

## Form 4

### Confirmatory medical certificate

Regulation 12(2)(b) of the Cremation Regulations 2006  
Please complete this form in full, if a part does not apply enter "N/A".

#### Part 1 The deceased

Name

Address

Occupation

#### Part 2 The report on the deceased

1) Have you questioned the medical practitioner who gave the Certificate of medical practitioner? Yes No

If no, please give reasons

2) Have you questioned any other medical practitioner who attended the deceased? Yes No

If yes, please give details<sup>21</sup>

3) Have you questioned any person who nursed the deceased during his last illness, or who was present at the death?    Yes    No

If yes, please give details<sup>1</sup>

4) Have you questioned any of the relatives of the deceased?    Yes    No

If yes, please give details<sup>1</sup>

5) Have you questioned any other person?    Yes    No

If yes, please give details<sup>1</sup>

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<sup>21</sup> In the answers to questions 2, 3, 4, and 5, give names and addresses of persons questioned and say whether you spoke to them in person or by telephone. Any failure to answer one of these questions in the affirmative may be treated as inadequate enquiry.

6) Please state whether you agree or disagree with the cause of death given by the doctor signing the Certificate of medical practitioner and give reasons

7) Have you made a post-mortem examination?      Yes      No

**Part 3 Statement of truth**

I certify that I am not a relative of the deceased or a relative or partner of the medical practitioner who has given the Certificate of medical practitioner and that I have seen the body of the deceased and have carefully examined the body externally.

I am satisfied that the cause of death of the deceased was as follows—

I certify that the information I have given above is true and accurate to the best of my knowledge and belief and that I know of no reasonable cause to suspect that the deceased died either a violent or unnatural death or a sudden death of which the cause is unknown or died in such a place or circumstances as to require an inquest in pursuance of any Act.

Name

Address

Registered qualifications  
and reference number

Signed

Date

Once completed, this certificate and the Certificate of medical practitioner must be handed or sent in a closed envelope by one of the medical practitioners giving the certificates to the medical referee at the cremation authority at which the cremation is to take place.

## Form 5

### Certificate of coroner

Regulation 12(3) of the Cremation Regulations 2006

Please complete this form in full, if a part does not apply enter "N/A".

#### Part 1 The deceased

Name

Age at date of death

Male

Female

Date of death

Place of death or where body found

Registration district and sub-district in which the death is to be registered

Cause of death<sup>22</sup>

---

<sup>22</sup> Leave blank if unascertained.

**Part 2 Certification of coroner**

I certify that<sup>23</sup>—

(a) a post-mortem examination of the body of the deceased has been made by my direction or at my request and as a result I am satisfied that an inquest is unnecessary.

(b) I have opened an inquest on the body of the deceased.

(c) the death occurred outside the British Islands and no post-mortem examination or inquest is necessary.

In my opinion there is no need for any further examination of the body.

**Part 3 Notification by registrar of crematorium as to cremation**

(Section 3(1) of the Births and Deaths Registration Act 1926)

I give notice that the body of

who died on

, at

was cremated on

at

Print full name

Signed

Date

---

<sup>23</sup> Delete whichever is inapplicable.

## Form 6

### Certificate of person who carried out anatomical examination

Regulation 12(4) of the Cremation Regulations 2006

Please complete this form in full, if a part does not apply enter "N/A".

#### Part 1 The deceased

Name

Age  Male Female

Date of death

#### Part 2 Certification by person who carried out anatomical examination

I am able to carry out anatomical examinations under the authority of a licence issued under the Human Tissue Act 2004.

I certify that, under the authority of that licence, I have carried out an anatomical examination on the body of the deceased at the following place—

Print full name

Signed  Date

## Form 7

### Certificate releasing body parts for cremation

Regulation 14(2) of the Cremation Regulations 2006

Please complete this form in full, if a part does not apply enter "N/A".

#### Part 1 The deceased

Name

Address

Age

Male

Female

Date and place of deceased's death

#### Part 2 Body parts for release

I confirm on behalf of

that the following body parts are held in respect of the deceased—

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Heart, Brain, Chest, Abdominal, other Organs<sup>24</sup>

I certify that that there is no reason for any further inquiry or examination concerning the above body parts and that they are [with the consent of the coroner for the following district]<sup>1</sup> now released for cremation in a suitably safe and prepared condition—

Name

Address

Registered qualifications  
and reference number

Office

Signed

Date

---

<sup>24</sup> delete if not applicable.

## Form 8

### Authorisation of cremation by medical referee

Please complete this form in full, if a part does not apply enter "N/A".

#### Part 1 The deceased<sup>25</sup>

Name

Address

Occupation

#### Part 2 Authorisation by medical referee

An application has been made for the cremation of the remains of the deceased.

I am satisfied that—

- (a) the requirements of the Cremation Regulations 2006 have been complied with;
- (b) that the inquiry/examination made by the person who gave the relevant certificates has been adequate; and
- (c) (i) in relation to the cremation of the remains of a deceased person, that the fact and cause of death has been definitely ascertained or, if not ascertained, a coroner has opened an inquest;  
(ii) in relation to the cremation of the remains of a stillborn child, that there is no reason for further examination.

Accordingly, I authorise the Superintendent of the following crematorium to cremate the remains of the deceased within that crematorium—

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<sup>25</sup> In the case of a stillborn child, in place of the name, address and occupation, insert a description sufficient to identify the body and in place of the word deceased throughout this form insert the words "stillborn child".

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Print full name

Office

Signed  Date

This authority should be signed in duplicate, one copy to be retained with certificates and the other sent by the medical referee to the Superintendent of the crematorium.

## Form 9

### Authorisation of cremation of body parts by medical referee

Please complete this form in full, if a part does not apply enter "N/A".

#### Part 1 The deceased<sup>26</sup>

Name

Address

Occupation

#### Part 2 Authorisation by medical referee

An application has been made for the cremation of the body parts of the deceased.

I am satisfied that the requirements of the Cremation Regulations 2006 have been complied with.

Accordingly, I authorise the Superintendent of the following crematorium to cremate the remains of the deceased within that crematorium—

Print full name

Office

Signed  Date

This authority should be signed in duplicate, one copy to be retained with certificates and the other sent by the medical referee to the Superintendent of the crematorium.

---

<sup>26</sup> In the case of a stillborn child, in place of the name, address and occupation, insert a description sufficient to identify the body.

## Form 9

### Certificate after post-mortem examination

Regulation 19(5) of the Cremation Regulations 2006

Please complete this form in full, if a part does not apply enter "N/A".

#### Part 1 The deceased

Name

Address

Occupation

#### Part 2 Certification of person making post-mortem examination

I have been requested to conduct a post-mortem examination on the body of the deceased—

In accordance with a licence issued for this purpose under the Human Tissue Act 2004 and the appropriate consents required by that Act having been obtained, I have made a post-mortem examination of the remains of the deceased and I am satisfied as to the following matters—

I am satisfied that the cause of death was

I am satisfied that there is no reason [for making any toxicological analysis or]<sup>27</sup> for the holding of an inquest<sup>28</sup>.

Name

Address

Registered qualifications  
and reference number

Signed

Date

---

<sup>27</sup> These words should be omitted where a toxicological analysis has been made and its result is stated in this certificate or in a certificate attached to it.

<sup>28</sup> If the cause of death is such as to require that an inquest be held, the coroner should issue a certificate and meet the costs of the post-mortem examination by paying the fee prescribed by the Secretary of State.

## SCHEDULE 2

Regulation 25

## Instruments revoked

<i>Instrument</i>	<i>Reference</i>
Regulations, dated 28th October 1930, made by the Secretary of State under section 7 of the Cremation Act 1902 and section 10 of the Births and Deaths Registration Act 1926	S.R. & O. 1930/1016
The Cremation Regulations 1952	S.I. 1952/1568
The Cremation Regulations 1965	S.I. 1965/1146
The Cremation Regulations 1979	S.I. 1979/1138
The Cremation (Amendment) Regulations 1985	S.I. 1985/153
The Cremation (Amendment) Regulations 2000	S.I. 2000/58
The Cremation (Amendment) Regulations 2006	S.I. 2006/92

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations, with effect from [ ], revoke and replace the Regulations made by the Secretary of State under section 7 of the Cremation Act 1902 and section 10 of the Births and Deaths Registration Act 1926, dated 28th October 1930 (“the 1930 Regulations”). They reproduce many of the provisions made in the 1930 Regulations and introduce new provisions.

Part 2 sets out the requirements for the maintenance and inspection of crematorium. Part 3 contains the provisions relating to the medical referee. Provision is made so that more than one deputy medical referee may be appointed and for the deputy medical referee to perform the functions of the medical referee in a wide range of circumstances. A medical referee or deputy may also perform the functions of a medical referee appointed for another cremation authority in certain circumstances.

Part 4 sets out the conditions under which the cremation of human remains may take place, in particular, the documentation that must be provided before a cremation may be authorised. The forms in Schedule 1 to the Regulations must be used in the cases to which they apply.

Regulation 17 makes new provision for an executor of the deceased person or near relative (as defined in new regulation 2) to request that the cremation authority gives notice to them of the receipt of certificate relating to the cremation. The person is required to give a contact telephone number to the cremation authority who must notify the person, by telephone, when the certificate comes in. The person then has 48 hours within which he can inspect the certificate (at the crematorium) and make representations (if any).

Regulation 18(2) enables the medical referee to authorise a cremation if he is satisfied that the cremation authority has made all reasonable efforts to make contact with the near relative/executor who has requested to inspect the certificates but has been unable to do so.

Part 5 deals with the disposition or interment of ashes, the registration of such cremations as have taken place and the preservation of the documents relating to the cremation.

Part 6 contains transitional and savings provisions. Regulation 26 provides that medical referees, deputy medical referees and registrars appointed under the 1930 Regulations are treated as having been appointed under the new Regulations. Regulation 27 provides that the 1930 Regulations continue to apply to an application for cremation made immediately before the new Regulations come into force.

**ANNEX C**

**Draft Cremation Regulations 2006**

This note is to be read in conjunction with the draft Cremation Regulations 2006. The draft Regulations consolidate the provisions of the 1930 Cremation Regulations and the 6 instruments which amend those Regulations. They use more modern language than that used in the 1930 Regulations and they are set out in a modern style and in a more logical order. The draft Regulations no longer mention the forms by name, as the modern practice is to require that the forms in the Schedule are used in the cases to which they apply.

The following table lists each new regulation against the provision in the 1930 Regulations from which is derived and explains any new provisions or where existing provisions have been omitted from the new draft Regulations.

<i>Draft regulation number</i>	<i>Regulation number in 1930 Regulations from which provision derived</i>
2.	This rule is derived from the "definitions" rule of the 1930 Regulations. New definitions have been added and other definitions, which are used in one regulation only, have been moved to the regulation in which the term is used. Paragraph (2) relates to a new provision in regulation 17 and 18 which permits near relatives to inspect cremation certificates and to make representations to the medical referee.
3.	1 (first paragraph).
4.	1 (second and third paragraph). The new provision only requires advertisement in one local newspaper.
5.	2.
6(1) to (6).	10.  The provision that a coroner may be a medical referee has been omitted since any person may be appointed as a medical referee provided he meets the requirements of regulation 6(4).  The new provision clarifies that more than one deputy medical referee may be appointed for each cremation authority. It also enables a medical referee (or deputy) to perform the duties of a medical referee from a different area in wider circumstances. A deputy medical referee may also perform the duties of the medical referee in a wider range of circumstances.
6(7).	11.
7.	12(9).
8	N/A
9.	3.
10(1).	This has no specific origin but replaces the various requirements to use a particular named form.

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10(2) to (4).	12A(1)(a) to (c). Sub-paragraph (d) is not repeated as new regulation 12(3)(c) already makes this provision.
10(5).	14A(3).
11.	7(2). Regulations 7(1) and (3) of the 1930 regulations not specifically repeated as, by virtue of new regulation 9(1), the application form contained in the Schedule will be required to be used.
12(1).	6 and last sentence of 8. The new provision also enables a certified copy of the entry in the relevant register issued under sections 30 to 32 of the Births and Deaths Act 1953 to be given.
12(2).	8(a) and 9.
12(3).	8(c), (d) and (dd).
12(4).	8(e).
12(5) and (7).	8A
13.	<p>This is a new regulation which is shown in italics as it will not appear in the regulations when they are made next year. In the event of a pandemic the Cremation Regulations 2006 will be amended by further statutory instrument and the provisions shown in italics in this draft will be inserted (subject to any amendment following comments made). This means that it is not necessary to repeat regulation 14 of the 1930 Regulations.</p> <p>In the event of a pandemic, a cremation will be able to take place if—</p> <p>a coroner certifies that the death was due to [pandemic] and no PM or inquest is necessary (this is a modified form E procedure).</p> <p>The nature of the pandemic will be inserted in square brackets.</p>
14.	14A(1) and (2).
15.	15 and 15A. Additional provision is also made so that the medical referee may accept a declaration as to stillbirth, which is permitted by s 11(1)(b) of the Births and Deaths Act 1953.
16.	13.
17.	<p>This is a new provision which enables an executor of the deceased or near relative (as defined in new regulation 2) to request that the cremation authority gives notice to them of the receipt by them of a cremation certificate. A person is required to give a contact telephone number and when the certificate comes in the cremation authority is required to telephone the person to so inform them. That person then has 48 hours within which he can inspect the certificate (at the crematorium) and make representations (if any).</p>
18 and 19.	<p>12 and 14A(4) and (5). The provisions which allowed the Secretary of State to authorise a cremation have been omitted.</p> <p>Provision is made so that the medical referee is able to authorise a cremation if he is satisfied that the cremation authority has made all reasonable efforts to make contact with the near relative/executor who has requested to inspect the certificates but has been unable to do so.</p>

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20.	14B and definitions.
21.	16.
22.	17 and 19.
23.	20 and 21.
24.	20.
25 to 27	These regulations are not derived from the 1930 Regulations. Regulation 23 revokes the 1930 Regulations and the amending instruments. Regulation 24 provides that medical referees, deputy medical referees and registrars appointed under the 1930 Regulations are treated as having been appointed under the new Regulations. Regulation 25 provides that the 1930 Regulations continue to apply to an application for cremation made immediately before the new Regulations come into force.

The draft forms are currently in a Word document. It is intended to convert the draft forms into pdf format once the content has been agreed and a more modern format will be adopted.

## The Consultation Criteria

The six consultation criteria are as follows:

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the time scale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

**These criteria must be reproduced within all consultation documents.**

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