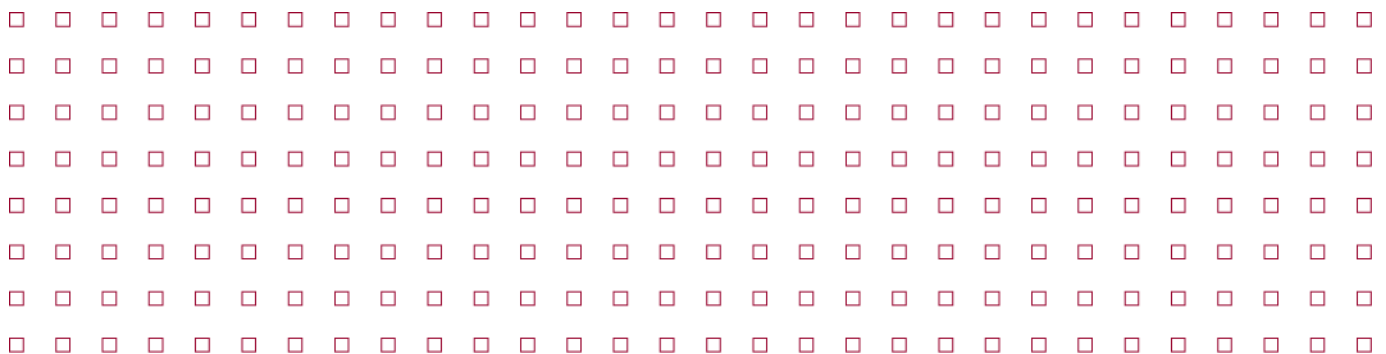




The Cremation (England and Wales) Regulations 2008

Guidance for cremation authorities
and crematorium managers

20 February 2012



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The Cremation (England and Wales) Regulations 2008

1. The Cremation Regulations 2008 came into effect on 1 January 2009. They modernised and consolidated all previous regulations, replacing the Cremation Regulations 1930 (as amended). A copy of the regulations is attached to this guidance. The forms can be downloaded from our website at www.justice.gov.uk/guidance/burials-and-coroners/cremation. All references to regulations in this guidance are to the 2008 Regulations.
2. The previous forms may not be used.
3. All cremation managers should be familiar with the text of the regulations. In particular, cremation managers should be aware of the right for applicants to inspect the medical certificates (forms Cremation 4 and Cremation 5) prior to the authorisation of the cremation by the medical referee. This was introduced when these regulations came into force.
4. Since the introduction of these regulations, the numbers of applicants who have exercised this right has been relatively low; however, it is important that families are permitted to exercise this right, should they choose to. Where a post-mortem examination is commissioned by the medical referee, we consider that the applicant should, on request, also be able to inspect the post-mortem examination report. However, there is no right to inspect any medical documentation where the case has been referred to the coroner and they have issued form Cremation 6.
5. The forms make it clear that it is a criminal offence under the Cremation Act 1902 to wilfully make a false statement in order to procure a cremation. If you are aware that an applicant or anyone else has made a false or fraudulent statement then you should consider reporting the matter to the police. Please note that the Ministry of Justice cannot investigate criminal matters.

Cremation of non-viable foetal remains

6. Foetal remains under 24 weeks gestation are not subject to the provisions of the Cremation Act 1902 or the regulations. Further information about the disposal of such remains is published by the Human Tissue Authority (www.hta.gov.uk) and the Stillbirth and Neonatal Death Society (www.uk-sands.org). Also see the Human Tissue Authority Code of Practice – The removal, storage and disposal of human organs and tissue (Code 5) published in July 2006 www.hta.gov.uk/policiesandcodesofpractice/codesofpractice.cfm and SANDS Pregnancy Loss and Death of Baby – Guidelines for Professionals Chapters 16 and 17 (hard copies are available from SANDS Head Office telephone: 020 7436 7940; www.uk-sands.org).

The forms

7. It is important that you fully adhere to the statutory wording on the forms. The only adaptations which you may make are to add the name and address of the crematorium together with contact details. You should not add marginal notes or explanations as these forms have been made and approved by Parliament and cannot be amended or changed without amendment by a statutory instrument. Medical referees are instructed to reject forms which do not follow the statutory wording.

8. There are 13 forms which are explained below.

Form Cremation 1- Application for cremation of remains of deceased person (replaced form A)

9. Cremation managers should ensure that all parts of the form have been completed before the form is passed to your medical referee. However, a form should not be rejected solely because, for example, the applicant does not know the postcode of the place of death or deceased person's medical practitioner. We have encouraged funeral directors to assist applicants in providing such information.

10. Question 10 asks about hazardous implants. The medical referee will need to check the information provided carefully and compare it with that provided by the certifying medical practitioner. The funeral director may also be able to provide information or confirm that the implant has been removed. A list of potentially hazardous implants is at Annex C.

11. Part 5 of the form deals with applicant's right to inspect the medical certificates (forms Cremation 4 and Cremation 5) before the medical referee authorises cremation. We expect funeral directors to advise the applicant of the right in neutral terms and neither to encourage nor deter applicants from exercising it (the guidance to funeral directors contains a suggested form of wording). Clearly if the death needs to be referred to the coroner after form Cremation 1 has been completed, and a post-mortem examination takes place and/or an inquest is opened, the right of inspection will no longer apply as there will be no forms Cremation 4 and Cremation 5 to inspect.

12. To avoid any delay to the funeral by the applicant inspecting the forms, you should encourage funeral directors and medical practitioners to ensure that forms Cremation 1, Cremation 4 and Cremation 5 are received as soon as possible before the date of the funeral. The applicant may delegate inspection to a nominee or be accompanied by someone. You should make every effort to ensure that the applicant and/or their nominee can inspect the forms in private although we appreciate that it may not always be easy to find a suitable place.

13. The applicant should not be charged a fee to inspect the forms. However, if they want a medical explanation for the cause of death

they should be advised that the medical referee may charge a fee for this (although that is a matter for the medical referee). On the other hand, if the applicant wishes to draw the medical referee's attention to an (alleged) inconsistency or inaccuracy within the medical certificates then there should be no charge for so doing. Cases where the cause of death is not considered to be natural by the medical referee must be referred to the local coroner for further consideration.

14. The inspection should take place at least 24 hours before the funeral is due to take place in order that any further investigation or clarification is carried out by the medical referee or others. The family may wish that the funeral service goes ahead but that the cremation is deferred in case the coroner wishes the body to be examined. In such cases it will be necessary for the body to be returned to the funeral director pending any final decision by the coroner. We anticipate that such cases will be extremely rare.

15. We do not expect there will be great demand for inspection, given that cases where there are clear concerns may have already been referred to the coroner for investigation, and that the majority of families have no concerns with the death. Regulation 32 requires the registrar of each cremation authority to keep a register of the particulars of cremations, including the name and address of any person who exercises the new right to inspect the medical certificates. As we continue to review the operation of the right to inspect it would be very helpful if you would also send details of the cases where the forms have been inspected to the Ministry of Justice.

Form Cremation 2 - Application for cremation of body parts (replaced form AA)

16. There is no right to inspect the associated certificate releasing body parts for cremation (form Cremation 8) because it provides no information about the cause of death and in these cases the body will have already been cremated or buried.

Form Cremation 3 - Application for cremation of stillborn baby

17. You should ensure that the form Cremation 3 is either accompanied by a form Cremation 9 (certificate of stillbirth) or by a declaration given by a person who can give information concerning the birth (see regulation 20(2)). Where the stillbirth took place outside England and Wales, a broadly equivalent form to Cremation 9 can be given (please refer to Regulation 14(4)). There is no right to inspect the certificate of stillbirth as there can be no cause of death for babies who are born showing no signs of independent life from their mother.

Form Cremation 4 - Medical certificate (replaced form B)

18. You should ensure that all questions have been answered before passing the forms to the medical referee. All medical practitioners must be registered and have a licence to practise from the General Medical Council (this includes those with provisional or temporary registration). You can check the details on the General Medical Council website at www.gmc-uk.org.

Form Cremation 5 - Confirmatory medical certificate (replaced form C)

19. Medical referees have been given information about the eligibility of medical practitioners from the European Economic Area (EEA) whose periods of qualification before full registration with the GMC may count towards the 5 year period and is attached at Annex B. It is very important that medical practitioners from outside the EEA and with less than 5 years' full registration do not sign form Cremation 5. You should reject forms completed by such medical practitioners and advise the funeral director so that any fees paid can be refunded or transferred to a suitably qualified medical practitioner.

Form Cremation 6 - Certificate of coroner (replaced form E)

20. The space for the cause of death to be recorded should not be left blank (even if the cause is unascertained) and you should ensure that the deceased's name has been recorded correctly, and that the form has been signed and dated. Any incomplete forms should be returned to the coroner's office for correct completion.

Form Cremation 7 - Certificate following anatomical examination (replaced form H)

21. The form refers to licences granted under the Human Tissue Act 2004 but it can be adapted to deal with older anatomical remains where disposal of the body has been delayed.

Form Cremation 8 - Certificate releasing body parts for cremation (replaced form DD)

22. The body parts must belong to a named person and all the questions on the form should be answered in full. It is for this reason that anonymous material cannot be cremated in accordance with the regulations, and should therefore be incinerated.

Form Cremation 9 - Certificate of stillbirth

23. This form should be linked with form Cremation 3 and the appropriate registration document. If the medical referee is satisfied that cremation can take place, he or she will authorise it on form Cremation 13. Form Cremation 9 can be completed by a registered midwife as well as by a registered medical practitioner.

Form Cremation 10 - Authorisation of cremation of deceased person by medical referee (replaced form F)

24. The medical referee will authorise cremation of a deceased person after he or she is satisfied by the information on the relevant forms (either forms Cremation 1, Cremation 4, Cremation 5, Cremation 6 or Cremation 7) as well as the registration document, if required. (Please note the registration document is not necessary in cases involving the coroner.)

25. If the applicant or the applicant's nominee has asked to inspect the medical certificates you may wish to advise the medical referee. However, if the applicant or nominee has no concerns that they would like to raise with the medical referee, or they do not wish to seek further advice from the medical referee, there is no overwhelming need to do so. If the applicant or nominee has made it clear to staff at the crematorium that they wish to raise matters of concern with a coroner the medical referee should not authorise the cremation until these issues have been resolved. You will need to be in close liaison with the funeral directors and the coroner's office while the situation remains unresolved.

Form Cremation 12 - Authorisation of cremation of body parts by medical referee (replaced form FF)

26. The medical referee will only authorise cremation after consideration of a form Cremation 2 and form Cremation 8 and the appropriate registration documentation.

Form Cremation 13 - Authorisation of cremation of remains of stillborn baby by medical referee

27. The medical referee will only authorise cremation of a stillborn baby after having considered form Cremation 3 and either form Cremation 9 (or the overseas equivalent) or a declaration given by a person who can give information concerning the birth and the appropriate registration document.

Form Cremation 11 - Certificate after post-mortem examination

28. You will need to decide whether you or the family will pay for any post-mortem examination ordered by the medical referee. You will also need to ensure that all the relevant requirements of the Human Tissue Act 2004 are met. These requirements include any necessary consent from the applicant or other family member for the post-mortem examination to take place; that the pathologist is duly licensed by the Human Tissue Authority 2004; and that the place where the post-mortem examination is to take place is licensed for such procedures by the Human Tissue Act 2004.

Further Information

29. This guidance is not intended to be exhaustive and there will be unique instances that arise where you may require assistance. If you do require any guidance or information that is not covered in this document please contact the Coroners, Burial, Cremation and Inquiries Policy team at the Ministry of Justice on 020 3334 3555 or coronersandburialscorrespondence@justice.gsi.gov.uk