

XXXX No. 000

**NOTIFICATION, CERTIFICATION AND
REGISTRATION OF DEATHS**

**The Death Certification (Medical Examiners) (England)
Regulations XXXX**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Secretary of State for Health makes these Regulations in exercise of the powers conferred by sections 19(4) and 176(3) of the Coroners and Justice Act 2009(a).

Citation, commencement and application

- 1.—(1) These Regulations may be cited as the Death Certification (Medical Examiners) (England) Regulations 2016 and come into force on [***].
- (2) These Regulations apply in relation to England only.

Interpretation

2. In these Regulations—
- “the Act” means the Coroners and Justice Act 2009;
- (a) “appointing authority” means the local authority(b) who appointed the medical examiner;
- (b) “relevant function” means a function of medical examiners under regulations 6 or 7 or under the section 20 Regulations; and
- (c) “the section 20 Regulations” means any regulations made under section 20(1) of the Act (medical certificate of cause of death).

Terms of appointment for medical examiners

- 3.—(1) The terms of appointment for a medical examiner must include the terms in paragraphs (2) to (4).
- (2) The term that the appointment is terminated immediately in the event that the medical examiner ceases to be a registered medical practitioner.
- (3) The term that the appointing authority may terminate the appointment where it is of the opinion, after taking into account any standards and levels of performance expected of medical

(a) 2009 c.25. The power in section 19(4) of the Act is exercisable by “the appropriate Minister” who is defined under section 19(6) of the Act as, in relation to England, the Secretary of State.

(b) Under section 48 of the Act, “local authority” means, in relation to England, “a county council, the council of any district comprised in an area for which there is no county council, a London borough council, the Common Council or the Council of the Isles of Scilly”.

examiners as published by the National Medical Examiner, that the medical examiner is not a fit and proper person to be a medical examiner.

(4) The term that the medical examiner must, on the request of the appointing authority, exercise any relevant function in relation to a death—

- (a) which occurred outside the area of the appointing authority; or
 - (b) where no information as to the place of death is available, in respect of which the body of the deceased person was found outside the area of the appointing authority.
- (5) Any other terms as may be agreed by the appointing authority and the medical examiner.

Payment of remuneration, expenses, fees etc to medical examiners

4. A local authority may pay to each medical examiner it appoints such remuneration, expenses, fees, compensation for termination of appointment, pensions, allowances or gratuities as it determines.

Procedure for ensuring sufficient independence of medical examiners

5.—(1) Where a medical examiner is insufficiently independent in relation to a death in respect of which the examiner has a duty or power to exercise any relevant function, the medical examiner must—

- (a) refrain from exercising any relevant function in relation to the death;
- (b) make a record of the circumstance set out in paragraph (4) which apply in relation to the death; and
- (c) refer the death to another medical examiner.

(2) Where a medical examiner (“X”) refers a death to another medical examiner (“Y”) under paragraph (1)(c), X must provide Y with—

- (a) a copy of the record made in accordance with paragraph (1)(b);
- (b) any information relating to the death which X has received; and
- (c) any records made by X in connection with any relevant function exercised in relation to the death.

(3) For the purpose of paragraph (1), a medical examiner is insufficiently independent in relation to a death where, at the time of the death, one or more of the circumstances in paragraph (4) apply.

(4) The circumstances are that the medical examiner —

- (a) is or was the spouse, ex-spouse, civil partner or ex-civil partner of the deceased person (“D”) or the relevant attending practitioner (“AP”);
- (b) is or was living together with D or AP as if they were a spouse or civil partner or had been so living together with D or AP at any time during the period of 5 years ending with the death;
- (c) is or was closely related to D or AP;
- (d) had attended D during the course of D’s last illness;
- (e) is or was a partner, employer, employee or associate of AP;
- (f) had a financial interest in D’s estate; or
- (g) had any other association, relationship or direct or indirect financial connection with D or AP such as to give reasonable doubt as to the examiner’s objectivity to carry out the functions.

(5) In paragraph (4)—

“closely related” means a parent, sister, half-sister, brother, half-brother, son, daughter, uncle, aunt, grandparent, grandchild, first cousin, nephew, niece, parent-in-law, grandchild-in-law, sister-in-law, brother-in-law, son-in-law or daughter-in-law or in a step relationship; and

“relevant attending practitioner” means an attending practitioner who, in relation to the death, has—

- (a) prepared an attending practitioner’s certificate in accordance with the section 20 Regulations; or
- (b) sought the medical examiner’s advice in relation to the exercise of the practitioner’s functions under the section 20 Regulations.

(6) In paragraph (5), references to step relationship and in-law are to be read in accordance with section 246 (interpretation of statutory references to stepchildren etc) of the Civil Partnership Act 2004(a).

Additional functions of medical examiners

6.—(1) Each medical examiner has the following functions—

- (a) providing advice to a registered medical practitioner in relation to the functions of attending practitioners(b) under the section 20 Regulations;
- (b) providing advice to a senior coroner for the purpose of assisting that coroner in deciding whether there is a duty to conduct an investigation into a death under section 1 of the Act (duty to investigate certain deaths);
- (c) participating in the establishment, review and update of local protocols;
- (d) maintaining records in relation to deaths in respect of which the examiner has exercised functions under the section 20 Regulations;
- (e) in the course of exercising a relevant function, reporting any serious concerns identified in respect of clinical governance, patient safety or public health surveillance, in accordance with any relevant local reporting arrangements;
- (f) obtaining information about the outcome of any reporting referred to in paragraph (e);
- (g) providing information and preparing reports relating to the exercise of a relevant function by the medical examiner to meet any request made by or on behalf of—
 - (i) the appointing authority for the purpose of the authority’s monitoring functions under section 19(2)(b) of the Act (medical examiners);
 - (ii) the director of public health for the area of the appointing authority for the purposes of the director’s statutory functions;
 - (iii) a Local Safeguarding Children Board(c) for the purposes of the Board’s functions under regulation 6 of the Local Safeguarding Children Boards Regulations 2006(d)(functions relating to child deaths), where a senior coroner has decided that a child’s death is not one which the coroner has a duty to investigate under section 1 of the Act (duty to investigate certain deaths);
 - (iv) a Safeguarding Adults Board(e) for the purposes of the Board’s functions under section 44 of the Care Act 2014 (safeguarding adults reviews), where a senior coroner has decided that an adult’s death is not one which the coroner has a duty to investigate under section 1 of the Act (duty to investigate certain deaths);
 - (v) the Statistics Board; or
 - (vi) the National Medical Examiner;
- (h) identifying any training needs of registered medical practitioners practising in the area of the appointing authority in relation to the functions of attending practitioners under the section 20 Regulations; and

(a) 2004 c. 33.

(b) See section 20(1)(a) of the Act: an “attending practitioner” is a registered medical practitioner who attended the deceased before his or her death.

(c) Local Safeguarding Children Boards are established under section 13 of the Children Act 2004 (c.31).

(d) S.I. 2006/90.

(e) Safeguarding Adults Boards are established under section 43 of the Care Act 2014 (c.23).

- (i) keeping the examiner’s own performance and service under review, including through participating in peer audits and service reviews.

(2) In paragraph (1)—

“local protocol” means a memorandum of understanding between medical examiners and persons whose functions are connected with the functions of medical examiners or attending practitioners under the section 20 Regulations, setting out the administrative arrangements which are to apply to facilitate the efficient and timely certification of deaths in the area of the appointing authority; and

“Statistics Board” means the Board established by section 1 of the Statistics and Registration Services Act 2007^(a) (establishment) and includes its Office for National Statistics and UK Statistics Authority brands.

Additional functions of medical examiners relating to the Cremation (England and Wales) Regulations 2008^(b)

7.—(1) A medical examiner has the following functions in relation to a death—

- (a) undertaking an examination of the body of a deceased person, or instructing another individual to do so on the examiner’s behalf, for the purpose of gathering health and safety information;
- (b) receiving, taking into account and disseminating health and safety information; and
- (c) completing forms or other documentation relating to health and safety information
- (d) for the purpose of the examiner or any other person meeting the requirements of the Cremation (England and Wales) Regulations 2008 in relation to the death.

(2) A medical examiner may only appoint another individual to undertake an external examination of the body of the deceased person on the examiner’s behalf for the purpose of paragraph (1) where—

- (a) in the opinion of the examiner, the individual has suitable expertise; and
- (b) the circumstances in paragraph (3) do not apply.

(3) The circumstances are that the individual—

- (a) was the spouse, ex-spouse, civil partner or ex-civil partner of the deceased person (“D”);
- (b) was living together with D as if they were a spouse or civil partner at any time during the period of 5 years ending with the death;
- (c) was closely related to D;
- (d) had attended D during the course of D’s last illness;
- (e) had been a partner, employer, employee or associate of D;
- (f) had a financial interest in D’s estate; or
- (g) has or had any other association, relationship or direct or indirect financial connection with D such as to give the relevant medical examiner reasonable doubt as to the practitioner’s objectivity to carry out an external examination of D.

(4) In this regulation—

“closely related” means a parent, sister, half-sister, brother, half-brother, son, daughter, uncle, aunt, grandparent, grandchild, first cousin, nephew, niece, parent-in-law, grandchild-in-law, sister-in-law, brother-in-law, son-in-law or daughter-in-law or in a step relationship;

“hazard group” means one of the four groups specified in paragraph 2(2) of Schedule 3 to the Control of Substances Hazardous to Health Regulations 2002^(c);

“health and safety information” means the following information—

(a) 2007 c. 18.
(b) S.I. 2008/2841.
(c) S.I. 2002/2677, to which there are amendments not relevant to these Regulations.

- (a) whether there is any potentially hazardous implant or medical device in the body of the deceased person;
- (b) the type of any such implant or device;
- (c) where there is a radioactive implant in the body of the deceased person, the date that the implant was inserted;
- (d) whether the deceased person was suffering from a communicable infection immediately before death; and
- (e) the transmission route and hazard group of any such infection.

(5) In paragraph (4), references to step relationship and in-law are to be read in accordance with section 246 (interpretation of statutory references to stepchildren etc) of the Civil Partnership Act 2004(a).

Signed by authority of the Secretary of State for Health

	<i>Name</i>
	Parliamentary Under Secretary of State
Date	Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in respect of medical examiners who must be appointed by local authorities (in England) to discharge the functions conferred on them by or under Chapter 2 of Part 1 of the Coroners and Justice Act 2009 (“the Act”).

Regulation 3 requires various terms to be included in the terms of appointment of medical examiners. Regulation 4 makes provision for the remuneration of medical examiners. Regulation 5 sets the procedures to be followed where a medical examiner is insufficiently independent, within the meaning of that regulation.

Regulation 6 confers functions on medical examiners additional to the functions imposed by regulations made under section 20 of the Act. Regulation 7 also confers additional functions on medical examiners relating to health and safety information (within the meaning of that regulation) to meet requirements under the Cremation (England and Wales) Regulations 2008 in relation to a death.

A full impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from [x].

(a) 2004 c. 33.