



Ministry
of Justice

The Cremation (England and Wales) Regulations 2008

Revised guidance for cremation authorities and crematorium managers in a period of emergency

March 2020

The Cremation (England and Wales) Regulations 2008 are modified when specific provisions in the Coronavirus Act 2020 are implemented.

This revised Guidance applies only when the modified Regulations are in force.

No other version of this Guidance should be used during that period.

This revised Guidance will no longer apply once the modified Regulations cease to be in force. If you are unsure whether this revised Guidance applies to your case, you should consult your <https://www.gov.uk/government/collections/cremation-forms-and-guidance> or contact coroners@justice.gov.uk.

The revised guidance is highlighted in the pink text boxes.

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The key change during this period is that there is no requirement for a second confirmatory medical certificate (Form Cremation 5) and guidance related to Form Cremation 5 has been removed.

1. The Cremation (England and Wales) Regulations 2008 came into effect on 1 January 2009. They modernised and consolidated all previous regulations, replacing the Cremation Regulations 1930 (as amended). The Cremation (England and Wales) Regulations 2008 were amended in 2016 and again in 2017. A copy of the regulations as amended is attached to this guidance.
2. The Coronavirus Act 2020 modifies the Regulations on a temporary basis.
3. The forms can be downloaded from our website at www.gov.uk/government/collections/cremation-forms-and-guidance.
4. All references to Regulations in this revised guidance are to the 2008 Regulations.
5. The previous forms may not be used. Only those application forms introduced through the Cremation (England and Wales) (Amendment) Regulations 2017 may be used for applying for a cremation on or after 6 April 2018.
6. The Cremation (England and Wales) (Amendment) Regulations 2017 makes provision for the Secretary of State to issue Welsh versions of the forms and/or bilingual versions that are issued in both English and Welsh which will have the same status as the forms made and approved by Parliament.

7. The Welsh Language (Wales) Measure 2011 gives the Welsh language official status in Wales, makes provision for the creation of standards of conduct in relation to the use of Welsh and places duties on certain bodies to comply with those standards. Crematoria located in Wales should accept cremation forms completed in Welsh.
8. 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.

Crematorium managers should be familiar with the text of the Regulations. In particular, they should be aware of the right for applicants to inspect medical certificate form Cremation 4 prior to the authorisation of the cremation by the medical referee. This was introduced when these Regulations originally came into force and remains unaffected by the changes made to the Regulations in their amended form.

9. 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

10. Foetal remains under 24 weeks gestation are not subject to the provisions of 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.sands.org.uk). Also see Sands Pregnancy Loss and Death of Baby – Guidelines for Professionals Chapters 16, 17 and 20 (copies are available at <http://portal.uk-sands.org/public/shop/default.aspx#HealthProfessionals>).

The forms

11. 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.

In a period of emergency, it is recommended that forms should be transmitted and received electronically. Where a form requires a signature and it is received electronically the signature must conform to the requirements in section 7(2) of the Electronic Communications Act 2000.

12. You should accept an electronic transmission of a signed paper form that has been received as a fax or as an email attachment of a scan or photograph. If you have any concerns about the authenticity of the received electronic form these should be raised with the person who sent the document. There is no requirement for the signed paper form to be received by the crematorium where the electronic transmission of that form has been accepted.

13. Where a form has been created electronically, either on a personal device such as a laptop, tablet or smartphone, or through a web portal you should satisfy yourself that the electronic signature of that document conforms to the regulations.

14. Where a hand-written signature has not been applied to the space in the form reserved for the signature the name of the signer should be typed in where the form allows.

Examples of what may constitute an electronic signature include:

- Transmission from an email account belonging to the signer
- A scanned copy of the signer's signature applied to the signature section of the form
- The signature of the signer applied directly to the form through a touchscreen
- Use of an electronic signature verification service.

15. There are 13 forms which are explained below.

Form Cremation 1 – Application for cremation of remains of deceased person (replaced form Cremation 1 issued 2009)

16. Crematorium 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.
17. 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 B](#).

Part 5 of the form deals with applicant's right to inspect the medical certificate (form Cremation 4) 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 form Cremation 4 to inspect.

To avoid any delay to the funeral by the applicant inspecting the form, you should encourage funeral directors and medical practitioners to ensure that forms Cremation 1 and Cremation 4 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 form in private although we appreciate that it may not always be easy to find a suitable place.

18. 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 certificate 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.
19. The inspection should take place at least hours 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. Such cases will be extremely rare.
20. Since these regulations came into force there has not been a great demand for inspection. 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 right to inspect the medical certificate. As we continue to keep under 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.

During the period of any coronavirus pandemic where there is increased demand on cremation services the need to progress cremations in a timely manner will be paramount. We will keep under review the impact of providing for the inspection of medical certificates.

21. Part 6 of the form deals with applicants' wishes for what should happen to the ashes after the cremation. You should be satisfied that you are able to comply with the instructions as written and you should have systems in place for enabling applicants to access the details of all the facilities and options you provide. We expect that funeral directors will also have a full understanding of the services you provide and the facilities you have access to and will advise applicants for cremations accordingly. You should provide clear and easily accessible information, on request, to funeral directors as to the services and facilities that you provide.
22. However, if you have concerns that the instructions cannot be fulfilled or you are unsure what it is that has been requested you should raise this with the applicant or their agent as soon as practicable. You should not accept an application for a

cremation if you believe you will not be able to fulfil the instructions for what is to happen to the ashes.

23. Instructions for what is to happen to the ashes can be amended in writing by the applicant without the need for completing a new application form.
24. It is important that you have systems in place for recording any change in the contact details of the applicant until such time as the ashes have been collected by the applicant or their agent, or the ashes have been disposed of as per the instructions of the applicant.
25. Should the applicant or their agent not collect the ashes or the applicant does not issue instructions within the given timescales you should make reasonable efforts to arrange with the applicant or their agent for the collection or disposal of the ashes.
26. If despite your reasonable efforts you are unable to make arrangements with the applicant for the return or disposal of the ashes you should inter the ashes in a burial ground or a part of the crematorium reserved for burying ashes or you should scatter the ashes in a part of the crematorium reserved for that purpose. However before taking this action you should give the applicant 14 days' notice of your intentions. We have provided suggested wording for such a notice at [Annex A](#) to this guidance.
27. If the applicant supplies you with reasonable instructions for the return or disposal of the ashes at any time before you take the actions notified you should instead comply with those instructions.
28. There may be times when you are contacted by a person who is neither the applicant nor their agent with a request that the ashes be returned or disposed of in ways that are contrary to the instructions of the applicant. You should only consider returning or disposing of the ashes other than as instructed by the applicant in exceptional circumstances such as where the applicant was responsible for the death of the person who was cremated or in the case of the cremation of a child where the applicant had abused the child or their parent(s). Where the applicant for cremation died before giving any instructions on what should happen to the ashes you may consider taking instructions from the applicant's executor or the administrator of their estate.
29. It is not expected that the option to exercise this discretion will arise very often since a case in which there are exceptional circumstances will be very rare. We would recommend crematoria take legal advice before acting in a way that is contrary to the instructions of the applicant.

Form Cremation 2 – Application for cremation of body parts (replaced form Cremation 2 issued 2009)

30. 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 usually have already been cremated or buried.
31. Paragraphs 17–27 above apply equally to Part 6 of Form Cremation 2.

Form Cremation 3 – Application for cremation of stillborn baby (replaced form Cremation 3 issued 2009)

32. 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.
33. Paragraphs 17–27 above apply equally to Part 6 of Form Cremation 3.

Form Cremation 4 – Medical certificate (replaced form B)

You should ensure that all questions have been answered, including with 'N/A' as appropriate, 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)

This section has been removed because the key change during this period is that there is no requirement for a second confirmatory medical certificate (Form Cremation 5).

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

34. 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)

35. 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)

36. 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 or disposed of in some other appropriate way.

Form Cremation 9 – Certificate of stillbirth

37. 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)

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 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.)

38. If the applicant or the applicant's nominee has asked to inspect the medical certificate 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)

39. 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

40. 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

41. 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 for the post-mortem to take place from the most appropriate person (see HTA Post Mortem code of practice for guidance on who can give consent) which may be the applicant or other family member and that the place where the post-mortem examination is to take place is licensed under the Human Tissue Act 2004 for such procedures.

Further Information

42. 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 at coroners@justice.gov.uk

Annex A

[Suggested wording for a notice of intention to inter or bury ashes where no instructions have been given for their collection or they have not been collected in accordance with the instructions given.]

Dear Sir / Madam,

I am writing with reference to the Ashes of the late _____
which have been held at the Crematorium since the date of the Funeral Service which took
place on _____

At that time you instructed the Crematorium to _____

Under Regulation 30 of The Cremation Regulations (England and Wales) 2008 as
amended by The Cremation (England and Wales) (Amendment) Regulations 2017
I hereby give notice that unless I receive your written instructions to the contrary within 14
days of this letter, the Ashes will be Scattered / Interred within the Crematorium Grounds.

I await your early reply and will be pleased to advise you on the options that are available
to you. A copy of this letter has been sent to the Funeral Director _____

Yours faithfully,

Annex B – Battery powered and other implants that could cause problems during the cremation of human remains

Pacemakers

Implantable Cardioverter Defibrillators (ICDs)

Cardiac resynchronization therapy devices (CRTDs) Implantable loop recorders

Ventricular assist devices (VADs): Left ventricular assist devices (LVADs), Right ventricular assist devices (RVADs), or Biventricular assist devices BiVADs)

Implantable drug pumps including intrathecal pumps

Neurostimulators (including for pain & Functional Electrical Stimulation) Bone growth stimulators

Hydrocephalus programmable shunts

Fixion nails

Any other battery powered or pressurised implant

Radioactive implants

Radiopharmaceutical treatment (via injection)



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