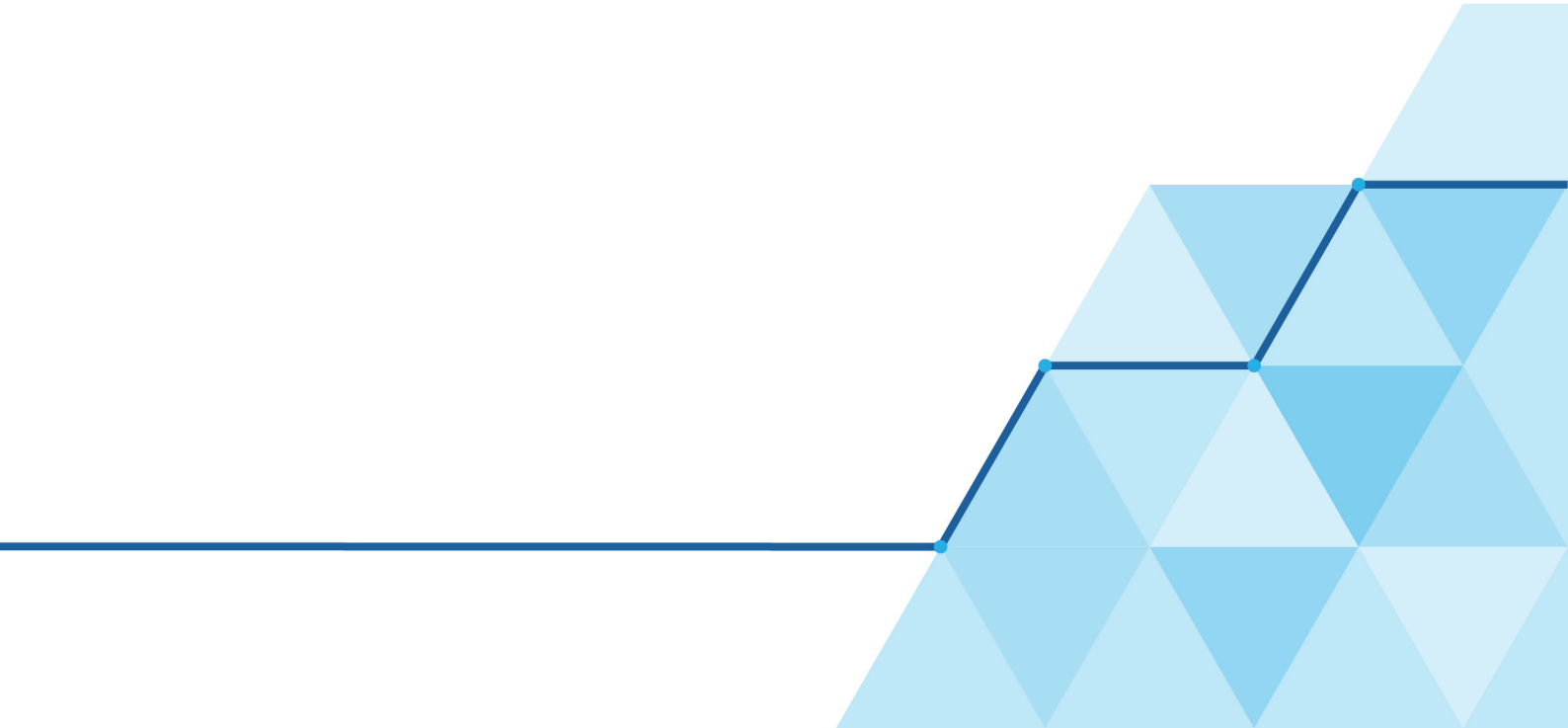
Ministry of Justice

The Cremation (England and Wales) Regulations 2008

Guidance to crematorium medical referees

March 2022



Contents

Summary

- All questions on forms Cremation 1, and 4 should be answered. The requirement for a confirmatory medical certificate (form Cremation 5) has been permanently removed.
- You must be satisfied that the applicant is entitled to sign and complete form Cremation 1.
- It is your responsibility to check form Cremation 4 thoroughly and to query any inconsistencies.
- You should reject illegible forms.
- We expect the medical practitioner signing the form Cremation 4 to have treated the deceased during their last illness and to have seen the deceased within the 28 days prior to death - including visual/video consultation, or viewed the body in person after death (including for verification), and to be able to state the cause of death to the best of their knowledge and belief.
- Modes of death, e.g. “multi-organ failure” or “heart attack”, are unacceptable as a cause of death; you should reject forms which do not have a proper cause of death.
- “Old age” as a stand-alone cause of death for over 80s is acceptable for registration purposes, but you should explore the recent history with the form Cremation 4 medical practitioner and exercise caution.
- Covid-19 is an acceptable direct or underlying cause of death. The fact that Covid-19 is a notifiable disease under the Health Protection (Notification) Regulations 2010 is not of itself a reason to report the death to the coroner.
- You should not be pressurised into accepting last minute applications; you should, however, be prepared to make yourself available at some stage during each working day.
- If a coroner has completed form Cremation 6, you still need to check form Cremation 1 to ensure that the proper person has applied for the cremation.
- If a coroner’s office has been made aware of the case but has decided not to issue form Cremation 6, you must make your own decision on whether to authorise the cremation, liaising with the coroner’s office as necessary.
- You may order a post-mortem examination. You will, however, need consent for the post-mortem examination 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 it should be made clear who will be paying for the post-mortem examination before you issue instructions.

- You must give written reasons to the applicant if you reject an application.
- You must be satisfied that either a coroner has issued form Cremation 6, that the death has been registered, or that it is not required to be registered.
- Up-to-date information about the qualifications of European medical practitioners is on the General Medical Council's website.

Introduction

1. You should familiarise yourself with the legislation under which you perform your duties. The Cremation (England and Wales) Regulations 2008 came into effect on 1 January 2009 and were amended in 2016, 2017 and again in 2022.

2. All references to regulations in this guidance are to the 2008 Regulations as amended.

Functions

3. Your functions as medical referee are set out in regulations 23 to 28 of the Cremation Regulations, and can be summarised as follows:
   - Not to allow a cremation unless you are satisfied that the death has been properly registered, or is not required to be registered, or that a coroner has issued a certificate as set out in form Cremation 6;
   - To be satisfied that the application and certificates are as required by the Regulations;
   - To be satisfied that adequate inquiries have been made by the medical practitioner completing the certificate;
   - To be satisfied either that the application has been made by an executor or a near relative of the deceased, or that there is sufficient explanation why the application has not been made by an executor or near relative;
   - Not to allow the cremation unless you are satisfied that the fact and cause of death have been ascertained to the best of a practitioner's knowledge and belief, or if not so ascertained that the coroner has investigated the death and has released the body;
   - To request a pathologist to carry out a post-mortem examination if the cause of death has not been definitely ascertained or, in particular, the cause of death given on form Cremation 4 suggests that it might be due to poison, violence, an illegal operation, privation or neglect (although in practice, these cases would normally be notified to the coroner), subject to the consent of the appropriate person (as set out in Part 1 of the Human Tissue Act 2004) being obtained;
   - Not to allow the cremation if such a post-mortem examination fails to reveal the cause of death, unless an investigation has been opened and a coroner has issued form Cremation 6;

- Not to allow the cremation if there are other suspicious circumstances connected to the death of the deceased, whether revealed in the medical certificate or otherwise, unless an investigation has been opened and a coroner has completed form Cremation 6;
- If the death has been referred to the coroner, not to allow the cremation until an investigation has been opened, if a coroner has given notice of his or her intention to open an investigation;
- To make such reports to the Secretary of State for Justice as may from time to time be required;
- To consider any representations from the applicant for cremation following his or her inspection of the medical certificate, and to refer the case to a coroner as necessary.

4. You should avoid any unnecessary delay to cremations but it is essential that you ensure that no cremation takes place unless all the relevant forms have been properly completed in accordance with the Regulations. You have the statutory power to reject inadequately completed forms, and you may refuse to authorise cremation until the forms have been completed satisfactorily. However, you must give your reasons if you refuse to authorise a cremation.

5. There may be times where the answer to question 3 of Part 4 of form Cremation 1 indicates an objection by another near relative, or executor, to the proposed cremation. In these circumstances we would suggest that you and the cremation authority invite the applicant to resolve any external issues before applying for cremation.

Cremation Forms – General

6. All the cremation forms can be downloaded from our website at www.gov.uk/government/collections/cremation-forms-and-guidance. Non-statutory versions of these forms should not be used. Crematoria or funeral directors must not change the wording of the forms, and you should not authorise any cremation which does not use the statutory forms.

7. The Secretary of State can issue Welsh versions of the forms and/or versions that are issued in both English and Welsh. Such forms will have the same status as the forms that appear in the Cremation Regulations.

Those who can sign form Cremation 4

8. Regulation 17 of the Cremation Regulations requires the medical certificate (form Cremation 4) to be completed by a registered medical practitioner who holds a licence to practise with the General Medical Council. This includes those who hold provisional or temporary registration and a licence to practise with the General Medical Council.

9. We expect the medical practitioner signing form Cremation 4 to have treated the deceased during their last illness and to have seen the deceased within the 28 days prior to death – including video/visual consultations, or viewed the body in person after death (including for verification) and can state the cause of death to the best of their knowledge and belief.

10. The medical practitioner who completes form cremation 4 should not be a relative, colleague or partner in the same practice or clinical team as you. For hospital consultants, colleagues in the same specialty as you would not usually be regarded as being in the ‘same practice or clinical team’. You should not have had responsibility for the care of the deceased during their last illness.

11. Where there is a concern that you may not be sufficiently independent of the doctor completing cremation form 4 you should consider whether the application for cremation should be scrutinised and authorised by an alternative medical referee.

Dentists

12. Dentists are not qualified to complete the medical certificate or the confirmatory medical certificate.

Completion of forms Cremation 1 and Cremation 4

General

13. It is essential that:
    - All forms are completed in full
    - All questions are answered
    - No questions are deleted
    - The forms are written in legible handwriting
    - Any discrepancies between the forms as to the date and time of death are resolved.

14. Discrepancies as to date and time of death give particular cause for concern and you should always challenge them. It may, for example, be explained that the medical practitioner saw the deceased, and only verified death, many hours after the family believe death occurred. This explanation should not be accepted without confirmation from all parties.

15. Abbreviations for causes of death are unacceptable where they are unclear, unusual or ambiguous; in such cases you should make further enquiries of the medical practitioner concerned. There must be an electronic or hand-written signature, not an abbreviation or a stamp. It is for the medical practitioner concerned to complete the certificate and not for another person to do so on his or her behalf.

16. It is for you to decide whether the information provided on the certificate allows you to authorise the cremation, with or without further enquiry. If there has been insufficient enquiry or there is an unclear cause of death, you are likely to need to make further enquiries of the medical practitioner and in some cases the applicant.

Form Cremation 1: Application for cremation: the right of inspection (replaced form Cremation 1 issued 2009)

17. There is no need for a counter-signature as was the case with previous versions of this form.

18. The application should be made by an executor or a near relative of the deceased. Where it is not, enquiries should be made to ascertain either that
    - efforts to identify any executor or near relative have failed;
    - that the executor or near relative do not object to a cremation; or
    - that the executor or near relative does not wish to make the application themselves.

19. In some cases, the next of kin will be described as being too upset to make the application personally and will have delegated this responsibility to another member of the family. This is understandable, but you may still need to make further enquiries to establish the true position.

20. Part 5 on form Cremation 1 relates to the right of inspection of form Cremation 4. This was introduced in 2009 as an important Shipman-related reform as a result of feedback from the families of Harold Shipman's victims who believed that they would have recognised the cause of death as being wrong if they had seen the cremation forms that he had completed. You will not necessarily be involved in the process, but you may sometimes be asked to explain to applicants the answers on the form. You may also need to take account of any concerns the applicant may have about the accuracy of the information on the forms, in case you have to refer the case to a coroner or for other investigation. As such, the main purpose of the applicant’s right of inspection is to identify areas of concern which might require further investigation. The applicant’s right to inspect the form should not depend upon whether he or she is willing to pay a fee to the referee for a medical explanation of the cause of death.

21. You should also be aware that funeral directors may write “not applicable” in Part 5 of form Cremation 1 where the death has been referred to a coroner, as the right to inspect does not apply here. Alternatively, where this section has been left blank you should assume that the funeral director has discussed the right to inspect with the applicant, and that they do not wish to inspect the certificates.

22. Part 6 of form Cremation 1 relates to the wishes of applicants for what should happen to the ashes following the cremation. It also alerts applicants to the possibility that in

some rare cases, such as in the cremation of stillborn or small babies or body parts, no ashes may be recovered. This was introduced in 2018 as a result of the Government's consultation on cremation following inquiries into infant cremation cases where ashes were not recovered and also where recovered ashes were not returned to parents who had been advised there were no ashes. You will wish to be satisfied that the applicants' wishes are deliverable.

Form Cremation 2: Application for disposal of body parts (replaced form Cremation 2 issued 2009)

23. Broadly similar considerations apply to form Cremation 2 as to form Cremation 1 (see paragraphs 13 to 15 above). There is no right of inspection of any of the forms relating to body parts.

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

24. The previous regulations had no statutory application forms in respect of a stillborn baby and we are aware that cremations took place solely on the basis of a registration document. The cremation of a stillborn baby now requires an application form, as well as either a form completed by a medical practitioner or midwife (see paragraph 47 below) or a declaration given by a person who can give information about the birth. It is expected that either one of the parents will complete this form, or a hospital bereavement officer will do so on their behalf on request.

25. As there is no cause of death to investigate for stillborn babies, the applicant has no right to inspect the medical form (form Cremation 9). You do need to be satisfied, however and as with form Cremation 1, that the applicant is entitled to make the application and also that there is nothing contained within the information on the forms provided to suggest that the infant was live-born. If there is any evidence which suggests that the baby was live-born or showed independent signs of life, you should discuss this with a coroner.

26. Part 6 of form Cremation 3 relates to the wishes of applicants for what should happen to the ashes following the cremation. It alerts applicants to the possibility that in some rare cases no ashes may be recovered. This was introduced in 2018 as a result of the consultation on cremation following infant cremation inquiries where ashes were not recovered in the cremations of some stillborn and small babies and also where recovered ashes were not returned to parents who had been advised there were no ashes. You will wish to be satisfied that the applicants' wishes are deliverable.

Form Cremation 4: Medical certificate (replaced form B)

Question 5: "Usual medical practitioner"

27. With a few exceptions, the usual medical practitioner is taken to be the deceased's general practitioner. Where the deceased has been an in-patient in hospital for anything other than a short period of time, the hospital medical practitioner who attended him or her for a majority of this period, should be regarded as the usual medical practitioner (although these cases should also have been at least discussed with a coroner).

Question 6: "Please state for how long you attended the deceased during their last illness?"

28. The certifying medical practitioner should have attended the deceased during his or her last illness. In primary care settings, the deceased should have been treated by the certifying medical practitioner during the days before the death. Attendance (prior to death) includes a digital consultation via video, but not by audio-only consultation (e.g. by telephone).

Question 7: "Please state the number of days and hours before the deceased's death that you last saw them alive?"

29. The normal expectation is that the deceased will have been seen by the certifying medical practitioner meeting the attendance criteria for completing the medical certificate of death. You may accept a more extended period in a hospice or palliative care setting, if named nurses are available for consultation.

30. If their last attendance of the deceased was by a digital consultation, the certifying medical practitioner should indicate this by writing 'by video' to the right of the 'hours' box. Audio-only consultation (e.g. by telephone) should not be accepted for the purposes of Question 7.

Question 8: “Please state the date and time that you saw the body of the deceased and the examination you made of the body”

31. Where the certifying medical practitioner has seen the body of the deceased, they should complete Question 8 with the date and time, and a record of the examination made.

32. Where there has been a non-coronial (consented) hospital post-mortem examination carried out by the certifying medical practitioner or any other medical practitioner known to the certifying medical practitioner this should be indicated here with the findings and cause of death being given in response to Question 11.

Question 9: Description of symptoms and other conditions

33. This is a free-text section giving the medical practitioner an opportunity to explain how he or she arrived at the cause of death. The medical practitioner should always refer to his or her medical notes, as well as his or her own observations as to the condition of the deceased.

Question 11: Cause of death

34. You must ensure that all sections of this question have been answered. A mode of death on its own is never acceptable. The failure of an organ needs to explain the cause of that failure. You may find it helpful to refer to the RCP Cause of Death list.

Question 12 and 13: Operations

35. The answers to these questions are intended both to identify possible surgical mishaps (although such deaths should have been referred to a coroner to investigate), and to indicate diagnostic procedures which contributed to the cause of death. If surgical procedures of potential significance are not included, this may call into question the reliability of the certificate.

Questions 14, 15 and 16: Those nursing the deceased or present at the death

36. These questions are intended to help in gathering confirmatory information. Specific names (and contact details) should be given, as they will assist both the confirmatory medical practitioner and you. Indeed, an unnamed nurse or family member with no contact details is unlikely to be of any value.

Questions 17, 18 and 19: Background and circumstances

37. These questions are likely to be answered in the negative, but if not they will invariably prompt further investigation and, in many cases, reference to a coroner.

Questions 20 and 21: Referral to a coroner/coroner's office

38. If you are wholly satisfied as to the cause of death, you will not need to engage with the coroner. However, in cases where there are concerns or doubts you may wish to discuss the case further with a coroner or his or her staff. It is for you to be satisfied as to the cause of death before authorising cremation.

Question 22: Registration of death

39. In the majority of cases where the medical practitioner certifying the death for registration has also completed form Cremation 4, you are unlikely to need to make further enquiries about the registration. However, if the answer is "no", you may wish to enquire of the medical practitioner who has completed the medical certificate of the cause of death, where available, in order to ensure that any possible discrepancies or uncertainties are resolved. You should only authorise cremation where you are satisfied the cause of death has been ascertained.

Question 23: Removal of implants

40. Some implants may cause damage to machinery and human life if they explode and/or present other risks such as radiation during the cremation process. Fixion nail implants, inserted under pressure into bones, are of particular concern on health and safety

grounds. You must be satisfied that any implant remaining within the body of the deceased is safe – otherwise it must be removed. A list of potentially hazardous implants is contained at Annex A.

Part 3: Statement of truth

41. In cases of doubt (particularly where the form has been poorly completed), you should check the registered qualifications and the General Medical Council reference number on the General Medical Council's website. All signatories must be registered medical practitioners with a licence to practise (including those with temporary or provisional registration), although the date of registration is immaterial.

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

42. A coroner must be notified if any suspicious circumstances come to your attention or if you believe that you have a duty to make a notification under the Notification of Deaths Regulations 2019 - see www.gov.uk/government/publications/notification-of-deathsregulations-2019-guidance. Where a coroner has been consulted by the medical practitioner who completed form Cremation 4, or by you, and the coroner considers that their involvement is unnecessary, the medical practitioner concerned (or you, as appropriate) should record this next to Question 21 of form Cremation 4, or on a blank space on form Cremation 10.

43. Coroners and medical referees sometimes take a different view about what is an acceptable or appropriate cause of death. You are not bound to accept the view of the coroner and may refuse to authorise cremation if you do not consider that you can. In such cases, you should advise the coroner of your decision and consider whether a post-mortem examination is necessary.

Form Cremation 7: Anatomical examination (replaced form H)

44. The relatives or executors of the deceased may apply for the cremation of a body which has been subject to anatomical examination in accordance with the Human Tissue Act 2004 or the previous anatomy legislation, using form Cremation 1 accompanied by form Cremation 7. Alternatively, the authorities of the School of Anatomy or other such licensed institution may make the application. In these cases, you should be satisfied that the appropriate person has signed the application and that there is a satisfactory reason why the executor or near relative has not made the application. Where there is any doubt, you should make enquiries to ascertain whether efforts to identify any executor or near relative have failed, or whether the executor or near relative do not oppose the application, but do not wish to make the application themselves.

45. Application may occasionally be made for the cremation of parts remaining from a body donated under the provisions of the Human Tissue Act 2004 (or the legislation which that 2004 Act superseded) and which has already been separately cremated. Provided the retained body parts were removed in the course of the examination of the donated body, we take the view that it is reasonable to cremate on the authority of the existing form Cremation 7.

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

46. Regulation 19 deals with the cremation of body parts removed following a post-mortem examination. Body parts may also be incinerated as desired and the medical referee will have no involvement in such cases. You will need to examine this form, together with the application form (form Cremation 2) and to be satisfied that registration of the deceased has taken place or a coroner has issued form Cremation 6 in relation to this death.

Form Cremation 9: Certificate of stillbirth

47. You should be satisfied that the information on this form matches that on the application form for stillbirth (form Cremation 3). Form Cremation 9 may be completed by either a registered medical practitioner or a registered midwife. In cases of doubt, you may wish to check registration with the appropriate governing body, either the General Medical Council or the Nursing and Midwifery Council.

Forms Cremation 10 (replaced form F), Cremation 12 (replaced form FF) and Cremation 13: Medical referee's authority to cremate

48. When completing these forms, you should check the details of the name, address and occupation of the deceased against those on the other forms and registration document, if any, and query any discrepancies before you authorise cremation. The occupation of the deceased, combined with the apparent cause of death, may indicate that the person had died from an industrial disease. If you are concerned that this has been overlooked, it may be helpful to discuss the matter with a coroner, as any failure accurately to record this information may have an impact on any outstanding industrial disease compensation claims.

49. You should have some local knowledge of the industrial processes which take place, or have taken place, in your area. The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 lists industrial diseases which have to be reported.

50. You must always complete Part 2 of form Cremation 10, 12 or 13.

Form Cremation 11: Certificate after post-mortem examination (replaced form D)

51. On very rare occasions, the information on the form (usually Cremation 4) may remain unsatisfactory and a coroner may be unwilling either to open an investigation or order a post-mortem examination. You may then refuse to authorise the cremation, giving your reasons. However, the family may still wish to have the body cremated. The only available option would then be for you to arrange for a post-mortem examination performed by a pathologist of your own or the cremation authority's choice, under Regulation 24(2). Any post-mortem examination must be carried out under the authority of a licence issued under the Human Tissue Act 2004.

52. In all cases of this kind, you must obtain the consent of the family as set out in the Human Tissue Act 2004. Although this Act provides for the deceased to have given consent for a post-mortem examination whilst still alive, this is unlikely to be common. It will otherwise be necessary for the pathologist to be satisfied that a nominated representative or an adult was in a "qualifying relationship" with the deceased person immediately before their death, which is defined by sub-section 54(9) of the 2004 Act as meaning a spouse, civil partner, parent, child, brother, sister, grandparent, grandchild, child of a brother or sister, stepfather, stepmother, half-brother, half-sister and friend of long standing. These qualifying relationships are ranked and consent should be sought from the highest ranking person in the hierarchy of qualifying relationships (see HTA Post Mortem code of practice for details on who may give consent). Any decision about any fee for the post-mortem examination will need to be agreed between the appropriate adult and other family members and the cremation authority. Subject to the number of tests required the fee may be quite substantial.

Other matters

Causes of death – COVID-19

53. Covid-19 is an acceptable direct or underlying cause of death for the purposes of completing the Medical Certificate of Cause of Death. Covid-19 is not a reason on its own to refer a death to a coroner under the Coroners and Justice Act 2009.

54. That Covid-19 is a notifiable disease under the Health Protection (Notification) Regulations 2010 does not mean referral to a coroner is required by virtue of its notifiable status.

Causes of death – old age

55. The General Register Office advises that in certain circumstances, and if the deceased is over 80 years of age, “old age” may be an acceptable cause of death on medical certificates. “Old age” alone, however, is unlikely to be an acceptable cause for cremation purposes, as you must be satisfied that the cause of death has been definitely ascertained.

56. “Old age” is commonly given as a cause of death where the deceased has been suffering from a number of conditions leading to death, but where it has not been possible to decide which particular condition led to the death. This is ultimately a clinical decision by the certifying medical practitioner or medical practitioners. However, you should be satisfied that “old age” is an appropriate cause of death in all the circumstances. It cannot be used where the cause of death is properly “unascertained” and which should on that account be referred to a coroner.

Deaths abroad

57. Where someone dies abroad and the body is repatriated to England or Wales for cremation, special arrangements apply in relation to application forms and certificates under regulation 14.

58. Where someone dies in Scotland, Northern Ireland, the Isle of Man or the Channel Islands, you may accept the equivalent of the cremation application forms issued under the law applicable in those jurisdictions, provided they contain all the particulars

required by form Cremation 1. You may also accept the equivalents under the law in those jurisdictions of the medical certificate, confirmatory medical certificate, certificate of the coroner or the certificate following an anatomical examination, provided they contain all the particulars required by those certificates as they appear in Schedule 1 to the Regulations.

59. Where someone dies outside England and Wales, but not in Scotland, Northern Ireland, the Isle of Man or the Channel Islands, you may accept an application form containing the particulars requested in form Cremation 1. This would include an equivalent statement of truth.

60. In practice, most applications for cremation in relation to deaths outside England and Wales, Scotland, Northern Ireland, the Isle of Man and the Channel Islands will require a form Cremation 6 from a coroner, who will examine the relevant foreign documents including the death certificate. The coroner will need to be satisfied that the cause of death has been ascertained or it will be necessary to conduct an investigation. If you have any concerns about the cause of death where someone has died outside England and Wales you should discuss the case with the coroner.

Stillbirths outside England and Wales

61. In the case of a child stillborn outside England and Wales, you may accept a medical certificate of stillbirth given by a registered medical practitioner or registered midwife (or a person entitled to practise as a medical practitioner or midwife) in the place where the stillbirth occurred, under regulation 14(4), provided it contains all the particulars required by the certificate of stillbirth. You would do this after making such enquiries as you consider necessary, provided you are satisfied that the baby was stillborn and that there is no reason for further examination.

Unidentified remains

62. You should not consider applications for the cremation of unidentified remains unless a coroner’s form Cremation 6 has been produced. The circumstances which make it impossible to identify the remains will also require the death to be reported to a coroner and adequate enquiry will then have taken place.

Cremation of non-viable foetal remains

63. Foetal remains under 24 weeks gestation are not subject to the provisions of the Cremation Regulations 2008, although most crematoria will be prepared to cremate such remains at their discretion. You should not complete a form Cremation 10 to authorise their cremation. If you are asked by crematoria managers and staff for professional advice on an application to cremate pre-viable foetuses, it is entirely a matter for you whether you provide such advice.

Forms completed in Welsh

64. 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.

65. The Cremation (England and Wales) (Amendment) Regulations 2017 makes provision for cremation forms to be issued in the Welsh language.

Annex A – Battery powered and other implants that could cause problems during cremation

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)

Alternative format versions of this report are available on request from coroners@justice.gov.uk