

CORONAVIRUS ACT 2020 – MANAGING THE DECEASED. Legal position.

This was made law and the Commencement Order 1 was made on Thursday 26th March 2020.

The following provisions of the 2020 Act came into force immediately:

- (a) Section 18 and Schedule 13 (registration of deaths and still-births etc.);
- (b) Section 19 (confirmatory medical certificate not required for cremations: England and Wales);
- (c) Section 21 (modifications of requirements regarding medical certificates for cremations: Northern Ireland).

The Act can be viewed at: <http://www.legislation.gov.uk/ukpga/2020/7/contents/enacted/data.htm>

MEDICAL CERTIFICATE OF CAUSE OF DEATH (MCCD)

1. Any medical practitioner with GMC registration can complete a Medical Certificate of Cause of Death (without referral to the coroner) even if they did not attend the deceased during their last illness, if the following conditions are fulfilled:

- i. The medical practitioner who attended is unable to sign the MCCD or it is impractical for them to do so (for instance if they are sick, in isolation or there will be undue delay), and
- ii. The medical practitioner who proposes to sign the MCCD is able to state to the best of their knowledge and belief the cause of death, and
- iii. A medical practitioner has attended the deceased within 28 days before death, or seen the deceased after death (including for verification).

2. The period during which an attending medical practitioner completing an MCCD must have seen the deceased prior to death (the 'last seen alive' requirement at avoid referral to the coroner) is extended from 14 days to 28 days prior to death. This can include video viewing but not telephone consultations.

3. The meaning of attended in life has been expanded to include audio visual/ video/ skype consultation as well as in person but does not include telephone consultation. However viewing after death means in person and does not include audio visual/video/skype viewing.

3. If a test / swab was taken before death but the result is awaited, box 'B' of the back of the certificate for results of investigations initiated ante-mortem can be ticked.

4. The MCCD should be scanned or photographed and sent by email securely – *e.g. nhs.net* to the registrar as an attachment, as many registrars are now working remotely. A wet signature will still be required on the original and at some time the original will need to be delivered to the registrar.

5. The list of qualified informants is temporarily extended to include a funeral director (where they are acting on behalf of the family).

CORONER

- a. Covid-19 is not a reason on its own to refer a death to a coroner.
- b. The fact 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.
- c. A death that occurs in a quarantine environment is not 'in state detention' and therefore does not need to be referred to a coroner.
- d. Other reasons for referral to the coroner not amended by the above, stand as in the Notification of Death Regulations 2019.

CREMATION FORMS

In England and Wales, a confirmatory medical certificate (Cremation Form 5) is no longer required for cremations. A Medical Certificate (Cremation Form 4) and an Authorisation of cremation of deceased person by the crematorium medical referee (Cremation Form 10) are still required for cremation.

Therefore :

1. The requirement to complete the confirmatory medical certificate (form Cremation 5) is suspended. Cremations should be authorised on the basis of form Cremation 4 only.
2. Form Cremation 4 remains unchanged and a PDF version continues to be available on the website.
<https://www.gov.uk/government/publications/cremation-medical-certificate>
3. The form should be submitted electronically and an electronic signature includes being sent from the secure email account of the person completing the form Cremation 4.
4. The requirement for form Cremation 4 to be completed by the attending medical practitioner is suspended. Any medical practitioner can now complete form Cremation 4, even if they did not attend the deceased during their last illness or after death, if the following conditions are fulfilled:
 - i. The medical practitioner who did attend the deceased is unable to sign the form Cremation 4 or it is impractical for them to do so, and
 - ii. A medical practitioner has seen the deceased (*awaiting confirmation about audio-visual/video consultation*) within 28 days before death, or has viewed the body in person after death.
5. Examination of the body is not required for completion of form Cremation 4 if the deceased was seen in person by a medical practitioner in the 28 days before death.
6. When a medical practitioner who did not attend the deceased completes form Cremation 4, the following applies:

- i. Question 5. 'Usual medical practitioner'. Where the certifying doctor did not themselves attend the patient either during their illness or after death, the certifying doctor should provide the GMC number and name of the medical practitioner who did attend at Question 9. This should also include the date when the deceased was seen and a report of the record made by the attending doctor.
 - ii. Question 6. 'Not applicable' is acceptable.
 - iii. Question 7. 'Not applicable' is acceptable.
 - iv. Question 8. 'Not applicable' is acceptable. As at (iii) above, if the form Cremation 4 is being completed on the basis of another medical practitioner having seen the deceased after death, the date, time and nature of their examination should be recorded at Question 9.
7. A Cremation Form 4 completed by a doctor when the deceased was not seen within 28 days before death or after death, may be accepted by the crematorium medical referee where the death has been registered with an MCCD supported by a Form A - the supporting paperwork from the coroner. The doctor does not have to view the deceased.
8. The crematorium medical referee remains and will complete Cremation Form 10.

CLOSURE OF CREMATORIA IN ENGLAND

On March 26 2020 the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 came into force and relate to the exercise of powers conferred by various sections of the Public Health (Control of Disease) Act 1984. Section 5 of the Regulations deals with restrictions and closures during the emergency period. Paragraph 8 states:

- A person who is responsible for a crematorium or burial ground must ensure that, during the emergency period, the crematorium is closed to members of the public, except for funerals or burials.
- Funeral services can only be attended by immediate family as per previous Government advice.

Clarification is currently being sought on if this same requirement to close applies to burial grounds.

A copy of the Regulations can be viewed at:

<http://www.legislation.gov.uk/uksi/2020/350/made>