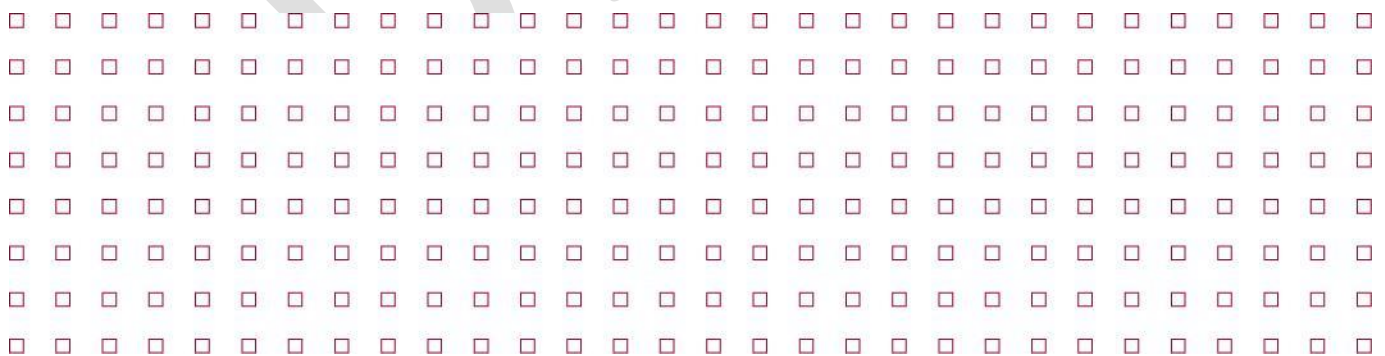


The Cremation (England and Wales) Regulations 2008

Guidance to funeral directors

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6 April 2018



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Contents

The Cremation (England and Wales) Regulations 2008	2
The statutory forms	3
Form Cremation 1 - Application for cremation of remains of deceased person (replaced form Cremation 1 issued 2009)	4
Form Cremation 3 - Application for cremation of stillborn baby	7
Form Cremation 4 - Medical certificate (replaced form B)	8
Form Cremation 5 - Confirmatory medical certificate (replaced form C)	9
Form Cremation 6 - Certificate of coroner (replaced form E)	10
Form Cremation 9 - Certificate of stillborn baby	11
Form Cremation 11 - Certificate after post-mortem examination (replaced form D)	12
Form Cremation 13 - Authorisation of cremation of remains of stillborn child by medical referee	13
Further Information	14
Annex A – Suggested form of words to use to explain the right of inspection to applicants	15
Annex B – European Economic Area	17
Annex C – Battery powered and other implants that could cause problems during the cremation of human remains	19

The Cremation (England and Wales) Regulations 2008

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. The forms can be downloaded from our website at www.justice.gov.uk/guidance/burials-and-coroners/cremation.
2. The forms made under the 1930 Regulations may no longer be used. The application forms made under the original 2008 Regulations may no longer be used. Applications for cremation must be made using the forms introduced through the Cremation (England and Wales) (Amendment) Regulations 2017.
3. The Welsh Language (Wales) Measure 2011 gives the Welsh language official status in Wales and 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. The Cremation (England and Wales) (Amendment) Regulations 2017 makes provision for cremation forms to be issued in the Welsh language.
4. You should be familiar with the text of the regulations. Of particular importance is the right of the applicant to the cremation to inspect the medical certificates (forms Cremation 4 and Cremation 5) before the medical referee authorises the cremation. Since the 2008 regulations came into force the numbers of applicants exercising this right has been relatively low, but we will continue to keep this under review.
5. The Ministry of Justice has issued guidance to cremation applicants at [insert link]. You should ensure applicants are aware of this guidance and how they can access it.
6. There is a suggested form of words at Annex A which you may use when you discuss the right to inspect the medical certificates with the applicant. Please note that there is no right to inspect the medical certificates where a death has been referred to a coroner.
7. It is important that applicants are aware of the options for what can happen with the ashes following the cremation and in particular what if any risk there is that the cremation may not result in the recovery of ashes.

The statutory forms

8. It is important that the statutory wording is fully adhered to. Medical referees are instructed to reject forms which do not follow the statutory wording or where there have been significant alterations to the format of the forms.
9. The forms make it clear that it is a criminal offence under the Cremation Act 1902 wilfully to make a false statement in order to procure a cremation. Any concerns about false statements should be reported to the police to investigate as these are criminal matters. The medical referee and the Ministry of Justice cannot investigate criminal matters.
10. There are 13 forms which are explained on the following pages.

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

11. This form is to be completed by the applicant for cremation. This should usually be a near relative or an executor. Reasons should be given on the form explaining why any person making the application is not the near relative or an executor. All the questions on this form must be answered and all parts of the form must be completed before it is passed to the crematorium. You should assist applicants in providing any information that is required
12. Question 10 asks about hazardous implants. The medical referee will need to check and compare the information provided in the application with the information provided in the medical certificates. After discussion with the applicant, you may also be able to provide information or confirm that the implant has been removed. You should be aware, however, that some implants can cause damage to machinery or human life. It is therefore essential to ensure that any information about implants and their removal is included on form Cremation 1. A list of implants that may cause problems during cremation is provided at Annex C.
13. Part 5 of the form deals with the applicant's right to inspect the medical certificates (forms Cremation 4 and Cremation 5) before the medical referee authorises cremation. We expect you to advise the applicant in neutral terms of their right to inspect the medical certificates, and neither to encourage nor deter applicants from exercising that right (a suggested form of words is set out at Annex A). You will not need to record an answer at Part 5 if the applicant does not wish to inspect the certificates and should leave Part 5 blank in these circumstances. This will also allow the applicant to change their mind should they decide they do wish to inspect the certificates before the funeral takes place. The crematorium should be notified immediately after the applicant decides they wish to inspect the certificates where they left Part 5 of the application form blank.
14. You should, however, be aware that in certain circumstances, the death may need to be referred to a coroner. The coroner may then order a post-mortem examination or open an inquest. In these circumstances there is no right of inspection as the coroner will complete form Cremation 6 and there are no medical certificates to inspect. You may wish to write "not applicable – death referred to coroner" in Part 5 for such cases.

15. You should ensure that forms Cremation 1, 4 and 5 are sent to the crematorium as soon as possible before the date of the funeral. This is to ensure that the funeral is not delayed in the event that the applicant wants to inspect the forms. However, in certain circumstances it may be that the applicant does not want to inspect the forms if he or she would like the funeral to take place as soon after death as possible.
16. There is no easy solution to reconciling the applicant's right of inspection with a timely funeral. Your main role is to ensure that the forms are completed as quickly as possible, to facilitate inspection, and - importantly - to keep in contact with all the parties concerned in the process.
17. Applicants should be made aware that where they have indicated they wish to inspect the medical certificates the crematorium will notify them when the certificates have been received and will arrange for inspection within 48 hours of that notification. You should advise them that they may delegate inspection to a nominee or that they may be accompanied. Space at crematorium offices is sometimes short and we appreciate that it may not always be easy to identify a suitable place for the applicant to inspect the medical certificates. It may be acceptable for the applicant to inspect the forms at your office, but that should only be with the agreement of the cremation authority.
18. We have advised cremation authorities that we do not expect the applicant to be charged a separate fee for inspecting the medical certificates. However, if the applicant wants a medical explanation for the cause of death you should advise them that the medical referee may charge a fee for doing this (although that is entirely a matter for the medical referee). On the other hand, if the applicant wishes to draw the medical referee's attention to a possible inconsistency or inaccuracy within the medical certificates, we do not think that there should be a charge for doing so.
19. If the applicant's inspection of the medical certificates raises a possibility that the cause of death was not natural, the medical referee may consider that the case should be referred to a coroner for further consideration. Any assistance that you can provide in ensuring that the referral takes place as smoothly and speedily as possible will be welcomed.
20. The medical certificates must be inspected at least 24 hours before the funeral is due to take place, to enable any further investigation or clarification to be carried out by the medical referee or others. The family may want the funeral to go ahead but cremation to be deferred, in case the coroner wants the body to be examined. In such cases it will be necessary for the body to be returned to your premises pending any final decision by the coroner. Cases like these will be extremely rare.

21. We do not expect there will be great demand for inspection, given that the cases where there is a clear concern will have already been referred to the coroner for investigation.
22. Part 6 of the form deals with applicants' wishes for what should happen to the ashes after the cremation. We have advised cremation authorities that funeral directors should have a detailed understanding of the services provided by the crematorium and you should help applicants to provide deliverable instructions for what should happen to the ashes. You should ensure that the applicant has contact details for the crematoria and that you have copies of any information produced to present to and discuss with families.
23. Crematoria are not obliged to accept an application that contains instructions they are unable to fulfil. If in doubt you or the applicant should discuss with the crematorium the instructions before submitting the application. If a crematorium is unable to accept an application because it is unable to fulfil the instructions for what should happen to the ashes amended instructions can be separately provided in writing without the need for submitting a new application.
24. You should discuss with applicants the risk that no ashes will be recovered following the cremation. These situations are rare and where they do occur relate to the cremation of very small or stillborn babies and the cremation of some body parts. If in doubt you should discuss with the crematoria actions they take to ensure maximum ashes recovery. All applicants are asked to confirm they understand this risk including those who are applying for the cremation of children and adults.
25. We recognise that when arranging for a cremation the applicant may not yet wish to decide what should happen to the ashes. An application for a cremation need not be delayed while the applicant decides what should happen to the ashes and in these circumstances the applicant should choose option 3 *Ashes to be held awaiting your decision*. The applicant should provide a period or date by which the crematorium will be contacted to provide further instructions.
26. It is important to advise the applicant that if they wish the ashes to be interred into a grave/rose tree plot, that they will need authorisation from the current deed holder. If the deed holder is deceased, the cremation authority will advise about transferring the rights to a new deed holder.

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

27. This form may be completed by one of the parents of the stillborn baby but may also be completed by the bereavement officer at the hospital if requested by the parents. There is no right to inspect the associated certificate of stillbirth (form Cremation 9), as there is no cause of death. You should ensure that form Cremation 3 is either accompanied by form Cremation 9 or by a declaration given by a person who can give information concerning the stillborn baby (see regulation 20(2)). Where the stillbirth of a baby took place outside England and Wales, a broadly equivalent form to form Cremation 9 can be given, if it contains all the relevant information required by form Cremation 9.
28. Paragraphs 22-26 above apply equally to Part 6 of Form Cremation 3

Form Cremation 4 - Medical certificate (replaced form B)

29. This form will need to be completed by a registered medical practitioner with a licence to practise (this includes temporary or provisional registration) who can certify the cause of death. It contains the most detailed information about the circumstances surrounding the death. All questions should be answered. The medical practitioner completing the form will need to give information as to whether any hazardous implant has been removed and whether the death has been discussed with a coroner.
30. Although not explicitly provided for in the Regulations, it has become good practice for funeral directors to assist in the location of a medical practitioner to sign form Cremation 5. Medical practitioners who sign form Cremation 5 must be truly independent from those signing form Cremation 4, and cannot be a colleague, relative or a member of the same team.

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

31. 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 General Medical Council may count towards the 5-year period. It 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. Medical referees should inform you that they have rejected such forms, so that you can refund any fee the medical practitioner may have been paid.

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

32. Please note that there is a space for the cause of death to be recorded. This should not be left blank (even if the cause is unascertained) and the form should be signed and dated by the coroner. Any incomplete forms should be returned to the coroner's office for completion.

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Form Cremation 9 - Certificate of stillborn baby

33. 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 with form Cremation 13. Form Cremation 9 can be completed by a registered midwife as well as by a registered medical practitioner.

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

34. Cremation authorities will need to decide who should pay for any post-mortem examination ordered by the medical referee. They will also need to ensure all the relevant provisions of the Human Tissue Act 2004 are met. These include any necessary 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, that the post-mortem examination is made by a pathologist under the authority of a license issued for that purpose by the Human Tissue Authority, and that the place where the post-mortem examination is to take place is also duly licensed. You may be asked to assist in obtaining the necessary consent.
35. Where a consented post-mortem examination has taken place by a medical practitioner with at least five years full registration who is independent from the certifying medical practitioner, the medical referee will not normally require that form Cremation 5 is also completed.

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

36. 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.

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Further Information

37. Please note that no guidance has been provided for funeral directors on forms Cremation 7 (Certificate following anatomical examination); 8 (Certificate releasing body parts for cremation); 10 (Authorisation of cremation of deceased person by medical referee); and 12 (Authorisation of cremation of body parts by medical referee) as it was not thought to be necessary.

38. This guidance is not exhaustive. If you have any further queries or need further information about the regulations 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

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Annex A – Suggested form of words to use to explain the right of inspection to applicants

It is essential that you explain the right to the applicant in neutral terms. We suggest the following words are used. Please note that you do not need to offer the right to inspect the medical certificates where the death has been referred to the coroner, as forms Cremation 4 and 5 are not required in these cases and the right to inspect does not apply.

“You have the right to inspect the medical certificates completed by the medical practitioners before the cremation is authorised. [Cremation is authorised by a medical referee, that is, a medical practitioner whose role it is to check the medical certificates.]

If you are satisfied that you are aware of the cause of death and that you have no issues or concerns about the death, then you may decide that there is little reason for you to inspect the medical certificates.

However, if you do have any doubts, concerns or questions about the cause of death, or perhaps you were surprised that the death happened when it did, you may wish to exercise your right to inspect the medical certificates.

You can inspect the medical certificates yourself. However, if you do not want to do so, you can nominate someone else to inspect them on your behalf. You might want to do this, for example, if you think someone else would be in a better position to go through the medical certificates (perhaps because you might find the process very difficult or another person may have been present at the death and you were not).

You do not have to make up your mind now.

If you already have serious concerns about the death and believe the case should be investigated by a coroner, you need to contact the coroner’s office [at this point you should provide contact details and other assistance as required].

The medical certificates will be available for you to inspect at the crematorium office for no longer than 48 hours after you are informed that they have arrived there.

If you wish, the medical referee can give you advice about the cause of death, but he or she may charge a fee for this service. More information is set out in this leaflet [You should then hand over the leaflet].

If you want the funeral to be held within the next two or three days, it may well be difficult for that to happen and for you also to be able to inspect the medical certificates. However, that is your decision.”

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Annex B – European Economic Area

European Union Members: Universities where Primary European Qualifications can be obtained within each state

Austria – Graz, Innsbruck, Salzburg, Salzburg (Paracelsus), Vienna (Wien)

Belgium – Antwerp, Brussels, Diepenbeek (Limburg), Gent, Louvain (Leuven), Liege, Mons, Namur

Bulgaria – Pleven, Plovdiv, Sofia, Trakia (Thrace), Varna

Cyprus – Medical Council of Cyprus (equivalent to General Medical Council)

Czech Republic – Brno (Masaryk Univ.), Hradec Kralove, Pilsen, Prague (Charles University), Olomouc

Denmark – Aarhus, Copenhagen, Syddansk (Odense),

Estonia – Tartu

Finland – Helsinki, Kuopio, Oulu, Tampere, Turku

France – Aix-Marseille, Amiens (Jules Verne), Angers, Besançon (Franche-Comté), Bordeaux (Victor Segalen), Brest (Bretagne), Caen, Clermont-Ferrand (Auvergne), Dijon, Grenoble, Univ Scientifique et Medicale Grenoble, Lille, Henri Warembourg de Lille, Limoges, Lyon-Sud, Lyon (Univ Claude-Bernard), Lyon (Alexis-Carrel), Montpellier-Nimes, Nancy, Nantes, Nice, Paris (Denis Diderot), Paris (Pierre et Marie Curie), Paris (René Descartes), Paris-Sud, Paris Val de Marne (Creteil), Poitiers, Reims, Rennes, Rouen, St Etienne, Strasbourg, Toulouse, Tours,

Germany – Aachen, Berlin (Freiuniversität), Berlin (Humboldt), Bochum, Bonn, Dresden, Düsseldorf, Erlangen-Nürnberg, Essen, Frankfurt-am-Main, Freiburg im Breisgau, Giessen, Göttingen, Greifswald, Halle/Wittenberg, Hamburg, Hannover, Heidelberg, Homburg, Jena, Kiel, Köln (Cologne), Leipzig, Lübeck, Magdeburg, Mainz, Mannheim, Marburg, München (Ludwig-Maximilians), München (Technische), Münster, Regensburg, Rostock, Ulm, Witten-Herdecke, Tübingen, Würzburg.

Greece – Alexandroupolis (Thrace), Athens (National), Crete, Ioannina, Patras, Larissa (Thessaly) Thessaloniki,

Hungary – Semmelweis/Budapest, Debrecen, Pécs, Szeged

Iceland – Reykjavik

Ireland – Cork, Dublin (RCS), University College Dublin, Galway,

Italy – Ancona, Bari, Bologna, Brescia, Cagliari, Catania, Catanzaro (Reggio-Calabria), Chieti (D'Annunzio), Ferrara, Firenze, Genova, Messina, Milano, Modena, Napoli, Napoli (Federico II), Padova, Palermo, Parma, Pavia, Perugia, Pisa, Roma, Rome (Campus Bio-Medico), Sassari, Siena, Torino, Trieste, Udine, Varese, Verona

Latvia – Riga (Stradins), Univ of Latvia (Riga)

Liechtenstein – Nil

Lithuania – Kaunas, Vilnius

Luxembourg – Nil

Malta – Univ of Malta (Msida)

Netherlands Amsterdam, Amsterdam (Vrije) Groningen, Leiden, Maastricht, Nijmegen, Rotterdam (Erasmus), Utrecht,

Norway – Bergen, Oslo, Tromsø, Trondheim

Poland –Bialystok, Bydgoszcz, Gdansk, Krakow (Jagiellonian), Lodz (Military), Lublin, Poznan, Szczecin,,Warsaw (Academy and Postgraduate), Wroclaw

Portugal – Beira, Coimbra, Lisbon, Porto (Abel Salazar) Porto

Romania – Arad, Brasov, Bucharest, Cluj-Napoca, Constanta, Craiova, Iasi, Muras, Oradea, Sibiu, Targu Timisoara,

Slovakia –Bratislava, Kosice,

Slovenia – Ljubljana

Spain – Albacete (Castillo la Mancha), Alcalá, Alicante, Badajoz (Extremadura), Barcelona, Barcelona (Autonoma), Barcelona (Pompeu Fabra), Cádiz, Córdoba, Granada, La Laguna Las Palmas de Gran Canaria, Lleida,- –Madrid (San Pablo), Madrid (Autonoma), Madrid (Complutense), Málaga Murcia, Pamplona (Navarra), Oviedo, Reus (Tarragona/Rovira Virgili) Salamanca, San Sebastian (Pais Vasco), Santa Cruz de Tenerife, Santander (Cantabria), Sevilla, Tenerife, Valencia, Valladolid, Zaragoza,

Sweden – Göteborg, Linköping, Lund, Stockholm (Karolinska), Umeä, Uppsala

Switzerland* –Basel, Bern, Genève, Lausanne, Zürich

United Kingdom – 5 years' registration required wherever qualified

*Swiss nationals benefit from EC freedom of movement legislation under the terms of bilateral agreement, signed on 1 June 2002

Annex C – 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)