



SAIF Briefing Note: Cremation Regulation Changes

January 2018

The Cremation (England and Wales) (Amendment) Regulations 2017 from the Ministry of Justice: [The Cremation \(England and Wales\) \(Amendment\) Regulations 2017 were laid in Parliament](#) on 19th December and will come into force on 6th April 2018.

The current guidance can be found at <https://www.gov.uk/government/publications/cremation-guidance-for-applicants>

The new regulations will:

- Provide new cremation application forms which will include a section for the applicant's instructions on what should happen with the ashes, including where the applicant wishes to give instructions after the cremation. The applicant will be able to change or give further instructions in writing after the application is submitted;
- Allow cremations that are applied for prior to 6 April 2017 to proceed on or after that date. There will be no need to reapply using the new forms where the cremation takes place on or after 6 April, but every cremation applied for from 6 April must use the new forms;
- Give crematoria discretion to return ashes to someone other than the applicant in exceptional circumstances. This addresses the rare but distressing situation where the applicant blocks the releasing of the ashes in circumstances where they have been imprisoned for causing the death of the deceased or have been convicted of violence against a spouse where the cremation was of their child. We will be seeking your views on the guidance that will be provided to crematoria managers in exercising this power;

- Make clear how cremation forms can be signed and transmitted electronically. This will provide clarity on the types of 'signatures' that are acceptable when cremation forms are sent via the internet/email and will reassure crematoria that it is unnecessary to follow up electronically sent forms with wet-signed paper forms;
- Allow the MoJ to issue cremation forms in Welsh or bilingual English/Welsh versions. The schedule to the Regulations that contain the statutory cremation forms will be in English only however this new regulation will enable us to issue the statutory forms in the Welsh language;
- And correct an existing error that relates to the definition of incineration as used in regulation 29. The correction ensures that the cremation regulations refer to the correct part of Schedule 1 of the Environmental Permitting (England and Wales) Regulations 2016. The MoJ published separate guidance in 2012 directed at Cremation Applicants; Funeral Directors; Medical Practitioners; Crematoria Managers and Crematoria Medical Referees.

Electronic transmission of forms

A major change will address the electronic transmission of cremation forms. Any form in Schedule 1 can be signed electronically and 'electronic signature' will have the meaning given in section 7(2) if the Electronic Communications Act 2000.

Section 7 of the Electronic Communications Act 2000 reads as follows

7 (1) In any legal proceedings—

- (a) an electronic signature incorporated into or logically associated with a particular electronic communication or particular electronic data, and
- (b) the certification by any person of such a signature,



shall each be admissible in evidence in relation to any question as to the authenticity of the communication or data or as to the integrity of the communication or data.

7 (2) For the purposes of this section an electronic signature is so much of anything in electronic form as—

- (a) is incorporated into or otherwise logically associated with any electronic communication or electronic data; and
- (b) purports to be used by the individual creating it to sign.

7 (3) For the purposes of this section an electronic signature incorporated into or associated with a particular electronic communication or particular electronic data is certified by any person if that person (whether before or after the making of the communication) has made a statement confirming that—

- (a) the signature,
- (b) a means of producing, communicating or verifying the signature, or
- (c) a procedure applied to the signature, is (either alone or in combination with other factors) a valid means of signing.