

## STATUTORY INSTRUMENTS

1935 No. 247 (S. 9)

### CREMATION

#### 2. Scotland

**THE CREMATION (SCOTLAND) REGULATIONS, 1935, DATED JANUARY 30, 1935, MADE BY THE SECRETARY OF STATE UNDER SECTION 7 OF THE CREMATION ACT, 1902 (2 EDW. 7. c. 8) (a).**

*16 & 17 Geo. 5. c. 18.*

I, the undersigned, one of His Majesty's Principal Secretaries of State, do hereby, in pursuance of Section 7 of the Cremation Act, 1902, as read with the Secretaries of State Act, 1926, make the following Regulations:

Definitions.

"Cremation Authority" means any burial authority or company or person by whom a crematorium has been established.

"Medical Referee" means a medical referee or deputy medical referee appointed in pursuance of Regulation 10.

"Department" means the Department of Health for Scotland.

Maintenance and Inspection of Crematoria.

1. Every crematorium shall be

- (a) maintained in good working order;
- (b) provided with a sufficient number of attendants; and
- (c) kept constantly in a clean and orderly condition:

Provided that a crematorium may be closed by order of the Cremation Authority if not less than one month's notice be given by advertisement in two papers circulating in the locality and by written notice fixed at the entrance to the crematorium.

The Cremation Authority shall give notice in writing to the Secretary of State and to the Department of the opening or closing of any crematorium.

2. Every crematorium shall be open to inspection at any reasonable time by the person appointed for that purpose by the Secretary of State or by the Department.

Conditions under which Cremations may take place.

3. No cremation of human remains shall take place except in a crematorium of the opening of which notice has been given to the Secretary of State and to the Department.

4. Except as otherwise provided in these Regulations, it shall not be lawful to cremate the remains of any person who is known to have left a written direction to the contrary.

5. Except as otherwise provided in these Regulations, it shall not be lawful to cremate human remains which have not been identified.

(a) These Regulations having lain for 40 days before both Houses of Parliament, from January 31, 1935, duly came into force.

6. Except as otherwise provided in these Regulations, no cremation shall be allowed to take place until the death of the deceased has been duly registered and there has been produced

*17 & 18 Vict. c. 80.*

(a) a certificate of registration under the hand of the Registrar of Births, Deaths and Marriages in the form of Schedule I appended to the Registration of Births, Deaths and Marriages (Scotland) Act, 1854; or

(b) an equivalent certificate of registration in Northern Ireland; or

(c) if death occurred in England.

(i) an acknowledgment by a Coroner that notice of the intention to remove the body out of England has been received by him together with an intimation that he does not intend to hold an inquest; or

(ii) a certificate given by a Coroner in Form E (2) in the Schedule hereto.

7. Except as otherwise provided in these Regulations, no cremation shall be allowed to take place unless application therefor be made, and the particulars stated in the application be confirmed by statutory declaration, in accordance with Form A in the Schedule hereto.

The application must be signed and the statutory declaration made by an executor or by the nearest surviving relative of the deceased, or, if made by any other person, must show a satisfactory reason why the application is not made by an executor or by the nearest surviving relative.

8. Except as otherwise provided in these Regulations, no cremation shall be allowed to take place unless

(a) a certificate in Form B in the Schedule hereto be given by a registered medical practitioner who has attended the deceased during his last illness and can certify definitely the cause of death (or, if no medical practitioner has attended the deceased during his last illness, by a registered medical practitioner who is the ordinary medical attendant of the deceased provided that he can certify definitely the cause of death), and a confirmatory medical certificate in Form C in the Schedule hereto be given by a medical practitioner of not less than five years' standing who is not a relative of the deceased or a relative or partner of the practitioner who has given the certificate in Form B or by the Medical Referee acting under Regulation 11 hereof; or

(b) a post-mortem examination has been made by a medical practitioner expert in pathology appointed by the Cremation Authority (or in case of emergency appointed by the Medical Referee) and a certificate given by him in Form D in the Schedule hereto; or a certificate in Form D has been given by the Medical Referee acting under Regulation 11 hereof; or

(c) permission in writing in Form E (1) in the Schedule hereto has been given by the Procurator Fiscal of the district in which death occurred; or

*16 & 17 Geo. 5. c. 59.*

(d) a post-mortem examination has been made and the cause of death has been certified by a Coroner under Section 21 (2) of the Coroners (Amendment) Act, 1926, and a certificate has been given by the coroner in Form E (2) in the Schedule hereto; or

(e) an inquest has been held and a certificate has been given by the Coroner in Form E (2) in the Schedule hereto; provided that in any case in which the death occurs in connection with an industrial, railway, flying, or road accident and the Coroner adjourns the inquest with a view to the investigation of the causes of the accident, he may give a certificate in Form E (2) with the necessary modifications if he is satisfied that death was due to an accident, without waiting for the termination of the inquest.

9. Except as otherwise provided in these Regulations, no cremation shall take place except on the written authority of the Medical Referee given in Form F in the Schedule hereto.

10. Every Cremation Authority shall appoint a Medical Referee, who must be a registered medical practitioner of not less than five years' standing and must possess such experience and qualifications as will fit him for the discharge of the duties required of him by these Regulations. If otherwise qualified he may be a person holding the office of Medical Officer of Health.

Every Cremation Authority shall also appoint a Deputy Medical Referee or Referees possessing the like qualifications to act in the absence of the Medical Referee and in any case in which the Medical Referee has been the medical attendant of the deceased.

The Cremation Authority on making any such appointment shall notify the name, address, and qualifications of the Medical Referee and of the Deputy Medical Referee or Referees to the Secretary of State and to the Department.

11. It shall be lawful for the Medical Referee if he has personally investigated the cause of death to give a certificate in Form C, and if he has made a post-mortem examination to give a certificate in Form D.

12. Except as otherwise provided in these Regulations the Medical Referee shall not authorise any cremation to take place

(a) if it appears that the deceased left a written direction to the contrary;

(b) if the remains have not been identified;

(c) unless he is satisfied that the application is made by an executor or by the nearest surviving relative of the deceased, or, if made by any other person, that the fact that an executor or the nearest relative has not made the application is sufficiently explained, and that the person making the application is a proper person to do so;

(d) until he has examined the application referred to in Regulation 7 and the certificates referred to in Regulations 6 and 8 (including the acknowledgment and intimation by a Coroner referred to in Regulation 6 (c) (i), (if any) and ascertained that they are such as are required by these Regulations and that the inquiry made by any persons granting certificates has been adequate, and is satisfied that the fact and cause of death have been definitely ascertained, and that there exists no reason for any further inquiry or examination.

The Medical Referee may make any inquiry with regard to the application and certificates that he thinks necessary, may refuse to grant authority until he has himself examined the body and may in any case decline to authorise the cremation without stating any reason.

In the event of any suspicious circumstances whatsoever coming to his knowledge, whether revealed in the application or certificates, or otherwise, and in particular if the cause of death assigned in the medical certificates be such as, regard being had to all the circumstances, might be due to poison, to violence, to any illegal operation or to privation or neglect, or if there is any reason to suspect that death occurred

while the deceased was under an anaesthetic, the Medical Referee shall forthwith report the matter to the Procurator Fiscal of the district in which death occurred, and shall decline to authorise the cremation except with written permission of such Procurator Fiscal in Form E (1) in the Schedule hereto.

13. In the case of the remains of a person who has died in any place out of Scotland the Medical Referee may accept a Declaration containing the particulars required in Form A, if it be made before any person having authority in that place to administer an oath or to take a declaration, and he may accept certificates containing the information required in Forms B, C and D, if signed by medical practitioners who are shown to his satisfaction to possess qualifications substantially equivalent to those prescribed for each certificate by these Regulations.

In any such case the Secretary of State, if satisfied that the case is one in which cremation may properly take place, may by order grant authority to the Medical Referee to authorise the cremation notwithstanding that all or any of the provisions of Regulations 6, 7, 8 and 12 may not have been complied with.

14. Regulations 5 to 10 and 12 shall not apply to the cremation of the remains of a deceased person who has already been buried for not less than one year. Such remains may be cremated subject to such conditions as the Sheriff may impose in the Exhumation Order granted by him or otherwise; and any such cremation in which those conditions are not observed shall be deemed a contravention of these Regulations.

15. Where application is made by or with the consent of the Local Authority under the Public Health (Scotland) Acts, in the case of any person dying of plague, yellow fever, cholera, anthrax, or smallpox, the Medical Referee, if satisfied as to the cause of death, may dispense with any of the requirements of Regulations 4, 5, 6, 7, 8 and 12. These Regulations may also be temporarily suspended or modified in any district during an epidemic or for other sufficient reason by an order of the Secretary of State. Nothing herein contained shall affect the obligation to register the death under the Registration of Births, Deaths and Marriages (Scotland) Act, 1854.

16. Notwithstanding anything in the foregoing Regulations, the Medical Referee may authorise the cremation of the remains of a stillborn child if it be certified to be stillborn either by the registered medical practitioner who attended at the confinement of the mother or by a registered medical practitioner after a post-mortem examination of the body, and if the Medical Referee after such inquiries as he may think necessary is satisfied that it was stillborn, and that there is no reason for further examination.

Provided that where there are any suspicious circumstances in connection with the birth of a stillborn child, the Medical Referee shall forthwith report the matter to the Procurator Fiscal of the district in which the birth is alleged to have occurred and shall not authorise the cremation of the remains except with the written permission of such Procurator Fiscal.

Disposal of Ashes.

17. After the cremation of the remains of a deceased person the ashes shall be given into the charge of the person who applied for the cremation if he so desires. If not, they shall be retained by the Cremation Authority and disposed of in accordance with any arrangement made with the said person and in the absence of any such arrangement they shall be decently interred in a burial ground or in land adjoining the crematorium reserved for the burial of ashes. In the case of ashes left temporarily in charge of the Cremation Authority and not removed within a reasonable time, a fortnight's notice shall be given before the ashes are interred to the person who applied for the cremation or, if this is impracticable, to the nearest surviving relative of the deceased resident in Scotland or to an executor of the deceased.

Registration of Cremations, &c.

18. Every Cremation Authority shall appoint a Registrar who shall keep a register of all cremations carried out by the Cremation Authority in Form G. in the Schedule hereto. He shall make the entries relating to each cremation immediately after the cremation has taken place, except the entry in the last column, which

he shall make as soon as the ashes of the deceased have been handed to the relatives or otherwise disposed of.

19. All applications, certificates, statutory declarations and other documents relating to any cremation shall be marked with a number corresponding to the number in the register, shall be filed in order, and shall be carefully preserved by the Cremation Authority, provided that the Cremation Authority may, if they think fit, destroy any such applications, statutory declarations or other documents (but not the register of cremations or any part of such register) after the expiration of fifteen years from the date of the cremation to which they relate.

All such registers and documents shall be open to inspection at any reasonable hour by any person appointed for that purpose by the Secretary of State, the Department or the Chief Constable of any Police Force.

20. When any crematorium is closed as provided in Regulation 1, the Cremation Authority shall send all registers and documents relating to the cremations which have taken place therein to the Secretary of State, or otherwise dispose of them as he may direct.

21. The Secretary of State may make any inquiry he thinks fit as to the carrying out of these Regulations in connection with any crematorium.

22. The Regulations made by the Secretary of State on the 27th August, 1927(a), under Section 7 of the Cremation Act, 1902, are hereby revoked.

*52 & 53 Vict. c. 63.*

23. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

24. These Regulations may be cited as the Cremation (Scotland) Regulations, 1935.

Godfrey P. Collins, One of His Majesty's Principal Secretaries of State.

(L.S.)

Scottish Office, Whitehall.

30th January, 1935.

#### SCHEDULE.

#### FORM A.

Application for Cremation, with Statutory Declaration,

I, (name of applicant)

(Address)

(Occupation)

apply to the (here insert name and address of the Cremation Authority)

to undertake the cremation of the remains of

(Name of Deceased)

(Address)

(Occupation)

(Age) (Sex)

(Whether married, widow, widower, or unmarried)

The true answers to the questions set out below are as follows:

1. Are you an executor or the nearest surviving relative of the deceased?

2. If not, state

(a) Your relationship to the deceased. (a)

(b) The reason why the application is made by you and not by an executor or any nearer relative. (b)

3. Did the deceased leave any written directions as to the mode of disposal of his remains? If so, what?

(a) S.R. & O. 1928 (No. 41) p. 417.

4. Have the near relatives\* of the deceased been informed of the proposed cremation?

\*The term "near relative" as here used includes widow or widower, parents, children above the age of 16, and any other relative usually residing with the deceased.

5. Has any near relative of the deceased expressed any objection to the proposed cremation? If so, on what ground?

6. What was the date and hour of the death of the deceased?

7. What was the place where deceased died? (Give address and say whether own residence, lodgings, hotel, hospital, nursing home, &c.)

8. Do you know, or have you any reason to suspect, that the death of the deceased was due, directly or indirectly, to

- (a) violence;
- (b) poison;
- (c) privation or neglect?

9. Do you know, or have you any reason to suspect, that the death of



the deceased occurred while he was under an anaesthetic?

10. Do you know any reason whatever for supposing that an examination of the remains of the deceased may be desirable?

11. Give name and address of the ordinary medical attendant of the deceased.

12. Give names and addresses of the medical practitioners who attended deceased during last illness.

\*This declaration must be made before a Justice of the Peace or Magistrate or Notary Public.

I do hereby solemnly and sincerely declare that all the particulars stated above are true, and that to the best of my knowledge and belief no material particular has been omitted; and I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act, 1835.

(Signature)

(\*This declaration must be made before a Justice of the Peace or Magistrate or Notary Public.)Declared at the day of before me,

(Signature)

#### FORM B.

#### Certificate of Medical Attendant.

I am informed that application is about to be made for the cremation of the remains of

(Name of Deceased)

(Address)

(Occupation)

Having attended the deceased before death, and seen and identified the body after death, I give the following answers to the questions set out below:

1. On what date, and at what hour did he or she die?

2. What was the place where the deceased died? (Give address and say whether own residence, lodgings, hotel, hospital, nursing home, &c.)

3. Are you a relative of the deceased? If so, state relationship.

4. Have you, so far as you are aware, any pecuniary interest in the death of the deceased?

5. Were you the ordinary medical

attendant of the deceased? If so,  
for how long?

6. Did you attend the deceased during his or her last illness? If so, for how long?

7. When did you last see the deceased alive? (Say how many days or hours before death).

8. How soon after death did you see the body, and what examination of it did you make?

9. What was the cause or death?                   Primary  
Secondary

(Specify the disease, injury, &c., and if possible distinguish the primary from the secondary cause in the Death Certificate.)

What was its duration in years, months or days?

Were there any symptoms of gastroenteritis?

10. Was there any other cause which contributed to or accelerated death? If so, state it, and if more than one other cause, state them all.

11. What was the mode of death? (Say whether syncope, coma, exhaustion, convulsions, &c.)

What was its duration in days, hours, or minutes?

12. State how far the answers to the last two questions are the result of your own observations, or are based on statements made by others. If on statements made by others, say by whom.

13. Did the deceased undergo any operation during the final illness or within a year before death? If so, what was its nature, and who performed it?

14. By whom was the deceased nursed during his or her last illness? (Give names, and say whether professional nurse, relative, &c. If the illness was a long one, this question should be answered with reference to the period of four weeks before the death.)

15. Who were the persons (if any) present at the moment of death?

16. In view of the knowledge of the deceased's habits and constitution do you feel any doubt whatsoever as to the character of

the disease or the cause of death?

17. Do you know, or have you any reason to suspect, that the death of the deceased was due, directly or indirectly, to

- (a) violence;
- (b) poison;
- (c) privation or neglect?

18. Do you know, or have you any reason to suspect, that the death of the deceased occurred while he was under an anaesthetic?

19. Have you any reason whatever to suppose a further examination of the body to be desirable?

20. Have you given the certificate required for registration of death? If not, who has?

I hereby certify on soul and conscience that the answers given above are true and accurate to the best of my knowledge and belief, that unless as disclosed specifically I know of no reasonable cause to suspect the deceased died either a violent or an unnatural death or a sudden death of which the cause is unknown or died in such place or circumstances as to make further inquiry desirable before cremation.

(Signature)

(Address)

(Registered qualifications)

(Date)

NOTE. This certificate must be handed or sent in a closed envelope by the Medical practitioner who signs it to the Medical practitioner who is to give the confirmatory certificate below.

#### FORM C.

Confirmatory Medical Certificate.

I, being a practitioner of five years' standing and neither a relative of the deceased nor a relative or partner of the medical practitioner who has given the foregoing medical certificate, have examined it, have questioned the said medical practitioner, have personally seen and carefully examined the body and have made personal inquiry as stated in my answers to the questions below.

1. Have you made a post-mortem examination, including an examination of the internal organs?

2. Have you seen and questioned any medical practitioner who attended the deceased other than the practitioner referred to above?

3. Have you seen and questioned any person who nursed the deceased during his last illness, or who was present at the death?

4. Have you seen and questioned

any of the relatives of the

deceased?

5. Have you seen and questioned any other person?

(In the answers to questions 2, 3, 4 and 5, give names and addresses of persons seen and say whether you saw them alone.)

I am satisfied that the cause of death was \_\_\_\_\_ and I certify on soul and conscience that unless as disclosed specifically I know of no reasonable cause to suspect that the deceased died either a violent or unnatural death or a sudden death of which the cause is unknown or died in such place or circumstances as to make further inquiry desirable before cremation.

(Signature)

(Address)

(Date)

(Registered qualifications)

(Office)

NOTE. The Certificates in Forms B and C must be handed or sent in a closed envelope to the Medical Referee by one or other of the Medical practitioners by whom the certificates are given.

#### FORM D.

Certificate after Post-Mortem Examination.

I hereby certify that, acting\*(\*Where the Medical Referee himself gives this certificate strike out the words in italics and insert "as.") on the instructions of \_\_\_\_\_ Medical Referee to the \_\_\_\_\_ I made a post-mortem examination of the remains of \_\_\_\_\_

(Name)

(Address)

(Occupation)

The result of the examination is as follows:

I am satisfied that the cause of death was \_\_\_\_\_ and that there is no reason for making any toxicological analysis (The words in italics should be omitted where a toxicological analysis has been made and its result is stated in this certificate or in a certificate attached to it.) or for the holding of an inquiry.

(Signature)

(Address)

(Date)

(Registered qualifications)

FORM E. (1).

Procurator Fiscal's Certificate.

(Place and Date.)

I Procurator Fiscal for hereby certify that I have made such investigation into the death of

(Name)

(Address)

(Occupation)

as has satisfied me that the death took place at on at a.m./p.m., that the cause of death was and that there are no circumstances which would render necessary any further examination of the remains. I therefore permit the cremation of the body of the said to take place in the Crematorium.

(Signature)

FORM E. (2).

Coroner's Certificate.

I certify that I>(\* Strike out whichever is inapplicable.) held an inquest (( The words in italics are to be struck out in all cases except those in which death occurs in connection with an industrial, railway, flying or road accident.)which has been adjourned until to ascertain the cause of the accident).directed a post-mortem examination to be made on the body of and that>(\* Strike out whichever is inapplicable.) the verdict of the Jury/my conclusion/the cause of death as disclosed by the report of the post-mortem examination was as follows:

Medical evidence was given by

I am satisfied from the evidence that the cause of death was and that no circumstance exists which could render necessary any further examination of the remains or any analysis of any part of the body.

(Date)

Coroner.

FORM F.

Authority to Cremate.

Whereas application has been made for the cremation of the remains of

(Name)(\* In the case of a stillborn child in place of the name, address, and occupation, insert a description sufficient to identify the body, and in place of the words "that the cause of death has been definitely ascertained" insert the words "that the child was stillborn.")

(Address)

(Occupation)

And whereas I have satisfied myself that all the requirements of the Cremation Act, 1902, and of the Regulations made in pursuance of that Act, have been complied with, that the cause of death has been definitely ascertained, and that there exists no reason for any further inquiry or examination:



I hereby authorise the Superintendent of the Crematorium at      to cremate the said remains

(Signature)

Medical Referee to the

(Date)

NOTE. This authority should be signed in duplicate one copy to be retained with the certificates and the other sent by the Medical Referee to the Superintendent of the Crematorium.

FORM G.

Register of Cremations.

carried out by

at the Crematorium at

**[IMAGE NOT INCLUDED]**

NOTE. Additional particulars may be added in the form of Register by the Cremation Authority.