

Certification of Death (Scotland) Act 2011

Statutory Guidance

Scottish Government 2015

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Part 1 - Introduction

1.1 Purpose and Legislative Basis

1.1.1 This Scottish Government Guidance sets out some of the key operational principles for the purposes of the Certification of Death (Scotland) Act 2011 ('the 2011 Act'). This Guidance will be the basis for the detailed standard operating procedures set out by implementing organisations and, in particular, Healthcare Improvement Scotland.

1.1.2 In particular, this guidance focuses on what the senior medical reviewer and medical reviewers must have regard to in delivering the independent scrutiny of MCCDs, or in otherwise delivering their statutory functions. As such, it also necessarily incorporates some of the key functions that are required to be undertaken by others in support of this work, including National Records of Scotland, Local Authority registrars, Cremation and Burial Authorities, Funeral Directors and NHS for Education Scotland.

1.2 The Functions of Death Certification

1.2.1 Death certification serves a number of functions. A Medical Certificate of Cause of Death (Form 11 or "MCCD"), provided to the best of the medical practitioner's knowledge and belief, is a statutory requirement set out within the Registration of Births, Deaths and Marriages (Scotland) Act 1965 ("the 1965 Act") of any registered medical practitioner who was in attendance to the deceased during their last illness. It provides a permanent legal record of the fact of death and enables the family to register the death and arrange disposal of the body.

1.2.2 When a death is registered, the person reporting the death ("the informant") is given the Certificate of Registration of Death (Form 14 or "death certificate"), which includes information given by the certifying doctor. This allows the funeral to go ahead and the informant to settle the deceased's estate. It also provides the informant with their own permanent record of how, when and why their relative died. This can contribute to information about family medical history, which may be important for their own health and that of future generations.

1.2.3 Information from death certificates is used to measure the relative contributions of different diseases to mortality in Scotland. Statistical information on the underlying causes of death is important for monitoring the health of the population; designing and evaluating public health interventions; recognising priorities for medical research and health services; planning health services and assessing the effectiveness of those services. Death certificate data is extensively used in research into the health effects of exposure to a wide range of risk factors through the environment, work, medical and surgical care, psychosocial, and other sources.

1.2.4 Timely, clear and accurate completion of MCCDs is therefore helpful to individuals, to families and to Scotland as a whole.

1.3 Background to the Certification of Death (Scotland) Act 2011

1.3.1 The [Certification of Death \(Scotland\) Act 2011](#) (“the 2011 Act”) was introduced to update the certification of death process in Scotland. The aims of the legislation are to:

- **Introduce a single system of independent, effective scrutiny applicable to deaths that do not require a Procurator Fiscal investigation;**

In brief, this involved replacing the system in which all cremations incurred scrutiny, costing the bereaved family circa £170 in fees, but where there was no equivalent cause of death scrutiny of burials. The replacement system randomly scrutinises a percentage of all deaths (other than those already scrutinised by the Crown Office Procurators Fiscal and stillbirths) regardless of whether burial or cremation is involved. The bereaved do not pay any scrutiny fee under the new system.

- **Improve the quality and accuracy of Medical Certificates of Cause of Death (MCCDs);**

This is undertaken by a small team of statutory medical reviewers, under the management of a statutory senior medical reviewer and supported by medical reviewer assistants. The primary functions of medical reviewers are to conduct expeditious but thorough reviews of Medical Certificates of Cause of Death (MCCDs). They also have a role in providing education, guidance and support to doctors who certify the cause of death and they liaise with other persons and bodies with a view to improving the accuracy of these certificates. The senior medical reviewer, with input from others, will develop national standards for the operation of the system, supported by quality assurance activities such as audits, case discussions and peer review, to ensure consistency in the processes and minimise unnecessary delays due to the scrutiny.

- **Provide improved public health information and strengthened clinical governance in relation to deaths**

Over time, improvements in the accuracy of MCCD information will improve our public health information. Additional analysis and statistical measures will also assist in identifying and monitoring trends and, together with other available information from organisations such as National Records of Scotland (NRS) and NHS National Services Scotland Information Services Division (ISD), highlight issues to be addressed at individual, regional and national level.

Part 2 – Guidance on the Review Process and Types of Reviews

2.1 Overview

2.1.1 Section 2 of the 2011 Act sets out that the Registrar General for Scotland must ensure that a random selection of Medical Certificates of Cause of Death (MCCDs) are referred for review; and section 8 provides that a medical reviewer must review any MCCD so referred.

2.1.2 Under the terms of the 2011 Act, the new review process commences when the informant visits the registrar to register a death. The registrar will enter the relevant information into the National Records of Scotland registration system (the Forward Electronic Register system or “FER”). FER will automatically and randomly highlight if the case is one that is to be referred for review. If the MCCD was completed electronically the relevant information will have been automatically entered into FER at the time of completion. FER will automatically and randomly highlight if the case is one that has already been referred for review.

2.1.3 When a case is selected for review the registrar will advise the informant of this and that they will be contacted and / or sent the Certificate of Registration of Death (Form 14 or “death certificate”) once the review has been completed. The review will be undertaken by one of the nationally appointed medical reviewers and it is expected that informants will normally be contacted by the registrar, with the outcome of the review within one to three working days. If the MCCD was completed electronically it may be that the review process will have been completed by the time the informant arrives to register the death.

2.1.4 The vast majority of reviews will be ‘Level 1’ reviews, which involve checking the MCCD and a discussion with the certifying doctor. These reviews are expected to be completed within one working day. A much smaller number of MCCDs will be subject to ‘Level 2’ reviews, which will involve an additional, more detailed review of the clinical information surrounding the death and the MCCD. Although Level 2 reviews are more detailed the expectation is still that these reviews will be completed within three working days.

2.1.5 The 2011 Act does not set out how many MCCDs should be referred to medical reviewers nor what exactly a review might encompass. This was to ensure that the legislation is sufficiently flexible to allow the system of scrutiny to be reviewed and amended over time, if needed. This Guidance therefore sets down more detail on how the random sampling of MCCDs will be undertaken and how Medical Reviewers will undertake the reviews under the 2011 Act.

2.2 Random Sampling

2.2.1 Under section 2 of the 2011 Act, Scottish Ministers may give directions to the Registrar General in relation to the referral of certificates for review. No such directions have been required or issued to date. Instead this Guidance sets out the Registrar General's and Scottish Minister's shared expectations as to how certificates will be selected and referred for review.

2.2.2 National Records of Scotland will implement procedures to ensure that a random sample of MCCDs are selected and referred by registrars for review by medical reviewers. These cases will be selected at the point of registration of death by the informant, in the registrar's office, during / following the input of the applicable MCCD details into FER, or when the eMCCD is transmitted to FER.

2.2.3 The purpose of randomisation is to ensure that no-one in the process is able to predict or advise which MCCDs will be selected for review, and therefore it will not be possible for anyone to deal differently with a review case MCCD than they would with any other MCCD. This introduces an element of public reassurance regarding the system's ability to deter any possible malpractice, although the primary function of the Scottish system remains quality improvement and enhancement, which randomisation also serves.

2.2.4 The 2011 Act sets out specific instances where an MCCD case may not be referred for review. Whilst this may seem to run counter to the purpose of randomisation, these instances relate mainly to where previous scrutiny has already taken place or alternative scrutiny is already taking place. These specific instances, which must be adhered to, can be found under section 2 of the 2011 Act.¹

2.2.5 Still-birth certificates will not be referred for review under the new system and there is no change to the role of the Crown Office and Procurator Fiscal Service (COPFS) or associated processes.

¹ <http://www.legislation.gov.uk/asp/2011/11/section/2>.

2.3 Reviews - General

2.3.1 As set out in the 2011 Act, reviews will be undertaken by medical reviewers, under the supervision of a senior medical reviewer, supported by medical reviewers' assistants. The senior medical reviewer and medical reviewers must be employed by Healthcare Improvement Scotland.

2.3.2 Under section 21 the 2011 Act, the medical profession has a duty to co-operate with medical reviewers and senior medical reviewer, in order that they can fulfil their functions in these roles.²

2.3.3 The 2011 Act does not make any reference to 'Level 1' and 'Level 2' reviews, however this tiered approach to reviews is directly aligned with the expectations of Ministers and Parliament and is the model trialled successfully during the 2012-13 test site period. On this basis of this statutory guidance, the senior medical reviewer and medical reviewers will therefore be undertaking the following types of review:

2.4 Level 1 Reviews

2.4.1 The main purpose of Level 1 reviews is for the deterrence of poor practice and malpractice, for public reassurance and for quality improvement and quality assurance. Level 1 reviews will include the review of the underlying cause of death and other conditions recorded on the MCCD, including the timeline, and will query anything unusual or unexpected.

2.4.2 This will involve checking the MCCD and speaking to the certifying doctor (or another doctor or clinical member of the team with knowledge of the case and/or access to the clinical records of the deceased), usually by telephone, to obtain background clinical information. Level 1 reviews will allow for any discrepancies to be picked up and, at the discretion of the medical reviewer, can act as a trigger for a comprehensive Level 2 review.

2.4.3 It is expected that all Level 1 reviews will be completed within one working day of being selected for review

² <http://www.legislation.gov.uk/asp/2011/11/section/21>

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2.4.4 Where an MCCD is selected for a Level 1 review the following basic procedure will be followed:

LEVEL 1 REVIEWS (Process 1)	
	Death occurs, the MCCD is completed by certifying doctor and registration of death (or as otherwise commenced e.g. by an eMCCD) triggers a Level 1 review
Step 1	<p>Registrar advises the informant that the MCCD has been selected for review and provides the relevant information about what this means. Where the eMCCD has already been randomised and the review is either underway or has been completed, the registrar will provide the information about the review and its outcome if available.</p> <p>In rare instances, this may result in a request for the advance registration procedure (see process 4).</p>
Step 2	The MCCD is scanned and sent electronically to the medical reviewer for review, along with any other relevant information. The MCCD number should be written on the reverse side of the form if not present.
Step 3	The death certification review service (DCRS) records receipt of the MCCD within its electronic case management system ("eCMS"). It is then allocated to a Medical Reviewer for review.
Step 4	<p>The medical reviewer receives the MCCD and undertakes the review which includes a conversation with the certifying doctor.</p> <p>If the relevant medical practitioner is unavailable or incapacitated, the medical reviewer will speak to another clinical member of the team with knowledge of the case and /or access to the clinical records of the deceased (in the case of junior doctors this should involve a senior doctor such as a Medical/Clinical/Educational lead).</p> <p>Step 4 may result in the case being escalated to a Level 2 review.</p>
Step 5	<p>If the MCCD is in order the medical reviewer will communicate this back to the registrar, and the registrar will inform the outcome of the review to the Informant as well as any additional information that may be required from or by the informant (for example, contact details for the medical reviewer if further discussion is needed).</p> <p>The registration of death proceeds as normal and the Certificate of Registration of Death (Form 14) is issued to the informant.</p>

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Step 6	<p>If the MCCD is not in order section 10 the 2011 Act applies: http://www.legislation.gov.uk/asp/2011/11/section/10</p> <p>In brief, the medical reviewer and the certifying doctor will explore options including amending (by means of a signed and dated note/email attached to the original MCCD, or an annotated and initialled MCCD) or replacing the original MCCD. This will either lead to the amended or replaced MCCD being considered now to be 'in order' and registration able to conclude (see Step 5), or to escalation of the case to the senior medical reviewer in the event of an on-going difference of views.</p> <p>MCCDs, as legal documents, cannot be altered by anyone other than the certifying doctor.</p>
Step 7	<p>If the case is escalated to the Senior Medical Reviewer as not in order then section 11 of the 2011 Act applies³</p> <p>In brief, the senior medical reviewer may re-review the case again with the certifying doctor and if there is still no agreement, may decide the review is completed (see Step 5).</p> <p>As per section 11 of the 2011 Act, the senior medical reviewer may also 'take such steps as the senior medical reviewer considers appropriate to inform such persons as the senior medical reviewer considers appropriate of the relevant information'. This would include informing the clinical/medical director of the relevant Health Board and the clinical governance processes within the Health Board of any concerns. Discussions about the completion of MCCDs could be included in a doctor's annual appraisal which contributes to their revalidation with the General Medical Council.</p>

³ <http://www.legislation.gov.uk/asp/2011/11/section/11>

2.5 Level 2 Reviews

2.5.1 The main purpose of a Level 2 review is to provide information for the quality improvement elements of the new death certification system; a secondary purpose is to provide a route, if required, for the more comprehensive examination of a Level 1 review; and a further purpose is to provide a certain level of deterrence and public reassurance. A Level 2 Review is a thorough review of all relevant medical information and relevant patient clinical records which allows the medical reviewer to come to a view as to whether the MCCD is 'in order' or 'not in order'.

2.5.2 The Level 2 Review includes a review of the MCCD and speaking to the certifying doctor (or another doctor or clinical member of the team, with knowledge of the case and/or access to the clinical records of the deceased), usually by telephone, to obtain background clinical information. This will be supplemented, however, with any other relevant health records or conversations with other parties as the medical reviewer sees fit. Specifically, this will include all relevant health records, including the results of any clinical investigations. The case may be discussed with other relevant clinical and health care staff, as required. The medical reviewer may also discuss the case with the family of the deceased or an informal carer, if required, through the most suitable means such as, telephone, face-to-face, or electronic methods of communication. Other relevant evidence may also be considered, such as viewing the body (this is likely to be necessary only on very rare occasions).

2.5.3 It should be noted that, under section 14 of the 2011 Act, the medical reviewer can 'require any person who is able, in the opinion of the medical reviewer, to produce relevant documents (including health records), to do so'. This legal requirement will provide reassurance to the certifying doctors about patient confidentiality issues.⁴

⁴ <http://www.legislation.gov.uk/asp/2011/11/section/14>.

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2.5.4 Where an MCCD is selected for a Level 2 Review the following procedure (which only differs from Level 1 reviews at Step 4) will be followed:

LEVEL 2 REVIEW (Process 2)	
	Death occurs, the MCCD is completed by certifying doctor and registration of death (or as otherwise commenced e.g. by an eMCCD) triggers a Level 2 review
Step 1	<p>Registrar advises the informant that the MCCD has been selected for review and provides the relevant information about what this means. Where the eMCCD has already been randomised and the review is either underway or has been completed, the registrar will provide the information about the review and its outcome if available.</p> <p>In rare instances, this may result in a request for the advance registration procedure (see process 4).</p>
Step 2	The MCCD is scanned and sent electronically to the medical reviewer for review, along with any other relevant information. The MCCD number should be written on the reverse side of the form if not present.
Step 3	DCRS records receipt of MCCD for review and passes all details to medical reviewer.
Step 4	<p>The medical reviewer receives the MCCD and undertakes a review of the information and details on the MCCD, accesses and reviews any relevant patient medical records either electronically or in hard copy; discusses the case with any other relevant party as well as the required discussion with the certifying doctor.</p> <p>If the relevant medical practitioner is unavailable or incapacitated, the medical reviewer will speak to another clinical member of the team with knowledge of the case and /or access to the clinical records of the deceased, (in the case of junior doctors this should involve a senior doctor such as a Medical/Clinical/Educational lead).</p>
Step 5	<p>If the MCCD is in order the medical reviewer will communicate this back to the registrar, and the registrar will inform the outcome of the review to the informant as well as any additional information that may be required from or by the informant (for example, contact details for the medical reviewer if further discussion is needed).</p> <p>The registration of death proceeds as normal and the Certificate of Registration of Death (Form 14) is issued to the informant.</p>

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<p>Step 6</p>	<p>If the MCCD is not in order section 10 the 2011 Act applies⁵</p> <p>In brief, the medical reviewer and the certifying doctor will explore options including amending (by means of a signed and dated note/email attached to the original MCCD, or an annotated and initialled MCCD) or replacing the original MCCD. This will either lead to the amended or replaced MCCD being considered now to be 'in order' (see Step 5) and registration able to conclude, or to escalation of the case to the senior medical reviewer in the event of an on-going difference of views.</p> <p>MCCDs, as legal documents, cannot be altered by anyone other than the certifying doctor.</p>
<p>Step 7</p>	<p>If the case is escalated to the senior medical reviewer as not in order then section 11 of the 2011 Act applies.⁶</p> <p>In brief, the senior medical reviewer may re-review the case again with the certifying doctor and if there is still no agreement, may decide the review is completed (see Step 5).</p> <p>As per section 11 of the 2011 Act, the senior medical reviewer may also "take such steps as the senior medical reviewer considers appropriate to inform such persons as the senior medical reviewer considers appropriate of the relevant information". This would include informing the clinical/medical director of the relevant Health Board and the clinical governance processes within the Health Board. Discussions about the completion of MCCDs could be included in a doctor's annual appraisal which contributes to their revalidation with the General Medical Council.</p>

2.5.5 It is expected that all Level 2 reviews will be completed within three working days of being selected for review. In rare circumstances, the medical reviewer or senior medical reviewer may report a death to the Procurator Fiscal (PF) if criminality is suspected as specified in the Act.⁷

⁵ <http://www.legislation.gov.uk/asp/2011/11/section/10>

⁶ <http://www.legislation.gov.uk/asp/2011/11/section/11>

⁷ <http://www.legislation.gov.uk/asp/2011/11/section/16>

2.6 Interested Person Reviews

2.6.1 The main purpose of an interested person review is to provide a further measure of public and professional reassurance, over and above the randomised review selection process. Such reviews cannot be conducted where the death pre-dates the implementation of the 2011 Act; must be requested within three years of the date of death; can only be conducted if a review has not already taken place; and cannot be conducted where the case has already been reviewed by the Procurator Fiscal.⁸

2.6.2 Requests for an interested person review are expected to be a rare occurrence and should be raised by the interested person directly with DCRS, rather than via the Registrars. As such, the duty to inform the Registrar General of any such review lies with the medical reviewers.

2.6.3 Interested Person review request is a request for the review of the contents of the MCCD and not of the care provided to the deceased prior to their death. Any concerns about the care received should be raised with the team delivering the care prior to death or through the NHS complaints system in the first instance.

2.6.4 It is highly likely, but cannot be automatically assumed, that an interested person review will be a retrospective review where the death has already been registered and the funeral has already taken place. Reasons for requesting such a review may vary, but given they have been specifically requested they should be conducted as Level 2 reviews. If the medical reviewer considers that an application for an interested person review is vexatious, they have the power to reject such a request.

2.6.5 Section 4 of the 2011 Act includes a definition of who is an 'interested person'. Scottish Ministers have made no further provisions in respect of naming any other parties therefore this list should be regarded as definitive until further notice.

2.6.6 Requests for an interested person review should be made by way of the form (see Annex A). It is expected that interested person reviews will be completed within a maximum of 15 working days.

⁸ <http://www.legislation.gov.uk/asp/2011/11/section/4>

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2.6.7 Once an interested person review request form is received the following process will be followed:

INTERESTED PERSON REVIEW (Process 3)	
	Interested Person Review Request Form received.
Step 1	The DCRS records receipt of an interested person review request on the eCMS. The case is allocated to a medical reviewer.
Step 2	<p>The medical reviewer checks the form to ensure that the request meets all eligibility criteria.</p> <p>More specifically this means the definition of interested person; that the death did not occur more than three years previously; that it does not pre-date the implementation of the 2011 Act (13 May 2015) and that a review has not already been conducted.</p> <p>The medical reviewer must also check as to whether the death has already been registered, to determine appropriate timescales for review and response.</p>
Step 3	<p>If the request is not eligible, or is considered vexatious, the request is refused and the DCRS records the outcome of the request and provides a response to the applicant.</p> <p>This may include advice to pursue the enquiry about e.g. clinical care through the clinical team involved or the NHS complaints procedure.</p>
Step 4	If the request is accepted the medical reviewer will notify the Registrar General and undertake a Level 2 review of the MCCD – refer to Process 2.

2.7 Emergency Suspension of Reviews

2.7.1 The above review processes set out the normal series of events where Scottish Ministers have not suspended the system in the event of e.g. a serious epidemic. Where such a suspension has been made, all randomised selection of cases will stop and reviews already underway will halt and the registration will be completed.⁹

2.7.2 Any interested person review requests should be logged and should receive a standard reply explaining that provisions have been suspended and will be considered only once such suspension has been lifted.

2.8 Not Staying Registration ('Advance Registration')

Background

2.8.1 As set out elsewhere within this guidance it is expected that reviews of MCCDs will normally take between one to three working days. It is therefore anticipated that the new system of independent scrutiny should not cause significant delays to the bereaved or to funeral arrangements. Medical reviewers should be mindful at all times of the need to minimise disruption and unnecessary distress to bereaved families, and to complete reviews as quickly as possible.

2.8.2 Whilst the extra time involved in reviewing a certificate prior to completion of registration will not affect the vast majority of funeral arrangements, it is accepted that arrangements should be in place for any rare situations where there is a need and a clear rationale for a funeral to proceed within a specific timescale, and where that timescale may not be met if the standard review procedure is followed.

2.8.3 In cases randomly selected for review (but not in 'interested person' reviews), sections 6 and 7 of the 2011 Act provide powers to enable an 'expedited' review procedure, or for the review not to stay registration.¹⁰ Neither section sets out the criteria for determining which cases should be eligible for the expedited procedure, except to say that it will be for the medical reviewer to 'determine whether it is appropriate'.¹¹

⁹ <http://www.legislation.gov.uk/asp/2011/11/section/2>

¹⁰ <http://www.legislation.gov.uk/asp/2011/11/section/6>

¹¹ <http://www.legislation.gov.uk/asp/2011/11/section/7>

Key Principles

2.8.5 It is expected that in the vast majority of cases the standard review procedure will be appropriate and a one to three day extension to the registration procedure will not add any significant delay to the funeral arrangements. The request to not stay registration of death should be available in specific circumstances where there is a clear rationale for a funeral to proceed within a quicker timescale.

2.8.6 In practice, at the point of registration, whether in hours or out of hours, and once an MCCD has been selected for review, it will be a matter for the informant to request that the registration not be stayed, if they have any concerns that the review will have an adverse impact due to a delay in the funeral. The registrar will have responsibility to make the informant aware that the procedure not to stay registration exists, but will not be expected to promote the procedure.

2.8.7 If the informant wishes to request that registration is not stayed, they will make the request to the registrar and must complete an advance registration application form. Section 6 of the 2011 Act requires inclusion in the application to the medical reviewer a statement by the informant which they believe justifies registering the death as soon as possible, and before the review is complete (not staying registration). This statement should be made by way of the advance registration application form (see Annex B).

2.8.8 Once a request has been made it is for the medical reviewer to make a decision as to whether or not to allow registration to continue before the review is completed, based on the information available in the form, from the MCCD and from any other sources he/she considers appropriate.

2.8.9 The registrar must pass on any request they receive to the medical reviewer, and, as set down in legislation, it is for the medical reviewer alone to determine whether the circumstances justify registering the death before the review is complete and whether there are any obvious indications that the MCCD is not 'in order'.

2.8.10 Section 7 of the 2011 Act allows the medical reviewer to require further information and allows them to make any enquiries they consider appropriate. It is expected that the decision as to whether or not to stay registration should be made within 2 hours of the request. In effect, this might share some of the characteristics of a Level 1 review, but would be undertaken before any other reviews planned for that day.

2.8.11 If the medical reviewer agrees to allow the registration to proceed before the review is complete, this will mean that that the registrar will complete the registration and issue the Certificate of Registration of Death (Form 14). The body can be then released and the funeral can proceed whilst the formal Level 1 or Level 2 review, as originally randomly selected, continues to take place in the background. In practice

this means that further examination of the deceased, if considered necessary at a later stage, such as an autopsy, may not be possible.

Criteria

2.8.12 The Request to Not Stay Registration form (advance registration application form) should be used by informants requesting that registration not be stayed. The form sets out three categories of circumstances where not staying registration might be appropriate:

- i. Not staying registration for **religious or cultural reasons** - for example, some religious traditions require burial within 24 hours and some communities have a tradition of burial within three days.
- ii. Not staying registration for **compassionate reasons** – for example, in the death of a child under 16 years or a neo-natal death where a delay may cause significant additional distress.
- iii. Not staying registration for **administrative or practical reasons** – for example, where the family does not reside in Scotland and the deceased will be in transit to another part of the UK or international destinations for a funeral.

2.8.13 Informants are required to complete the form to detail the reason for the request in relation to one or more of these three categories, and to provide a short explanatory note. This form will provide the basis for the Medical Reviewer considering whether or not to stay registration.

2.8.14 It is expected that not staying registration should happen very rarely and that in the vast majority of cases the standard scrutiny timescales will not cause delays to bereaved families. In circumstances where an eMCCD is transmitted to FER directly, the randomisation and the review may be complete even before the informant makes an appointment to register the death.

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2.8.15 The above principles can be summarised in the following process:

NOT STAYING REGISTRATION (ADVANCE REGISTRATION) (Process 4)	
	Death occurs
Step 1	MCCD is completed by certifying Doctor
Step 2	Informant takes MCCD to register death with Registrar
Step 3	MCCD is randomly selected for a Level 1 or Level 2 Review
Step 4	Registrar advises the informant that the MCCD has been selected for review and provides the relevant information about what this means. Where the eMCCD has already been randomised and the review completed, the registrar will provide the information about the review and its outcome.
Step 5	<p>The Informant requests the registration is not stayed on the basis that there is a clear rationale for proceeding with the funeral of the deceased more quickly than the review process will allow.</p> <p>Registrar provides a copy of Request to Not Stay Registration Form (advance registration application form) to be completed by the informant. (In normal circumstances the form will be completed while in the registrars' office.)</p>
Step 6	<p>Registrar will contact the DCRS immediately to alert them to the request, and will provide electronic copies of the form and MCCD.</p> <p>Registrars <u>must</u> pass on any requests for registration not to be stayed.</p>
Step 7	DCRS records receipt of the MCCD and the request to not stay registration (advance registration application).
Step 8	<p>Medical reviewer will consider the MCCD and the Request Form and will make a decision as to whether or not registration should be stayed. The decision will be based on</p> <ul style="list-style-type: none"> • the request fulfilling the eligibility criteria (as below) • whether the MCCD contains any obvious indications that it is not in order • the outcome of any other queries the medical reviewer considers necessary
Step 9a	If not staying registration is granted the medical reviewer will communicate that back to the Registrar as soon as that decision is made.

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	<p>The outcome of that review should be communicated back to the Registrar within 2 hours of the request being received by the DCRS.</p> <p>The registration of the death will then be completed by the registrar and the Form 14 will be issued to the Informant.</p> <ul style="list-style-type: none">• If the case had originally been selected for a Level 1 review, then any remaining elements of the review that still require to be completed will subsequently be undertaken, including any changes required to the MCCD notified to the registrar, and who then notifies the informant.• If the case had originally been selected for a Level 2 review, then any remaining elements of the review that still require to be completed will subsequently be undertaken, including any changes required to the MCCD notified to the registrar, and who then notifies the informant.
Step 9b	<p>If not staying registration is not granted, the medical reviewer will communicate this back to the Registrar, with the reasons, and the original Review will proceed as normal (see process 1 or process 2 as appropriate)</p>

2.8.16 There is no appeal of the medical reviewers' decision following consideration of a request to not stay registration.

2.8.17 All requests to not stay registration – whether granted or not granted – will be peer reviewed regularly to ensure consistency and quality.

Part 3 – Guidance Other

3.1 Fees to the Public

3.1.1 The 2011 Act provides Scottish Ministers with the power to make regulations such that a fee is charged for any functions associated with the new system. No such regulations have been made and no such fee can be charged to the public.

Any applicable fees for the registration of death are unrelated to, and unchanged by, the new review system.

3.2 Qualifications, Training and Experience of the Senior Medical Reviewer and Medical Reviewers

3.2.1 The minimum requirement, as set out in section 20 the 2011 Act, is that a person appointed as either senior medical reviewer or medical reviewer must be a medical practitioner and must have been so continuously throughout at least five years prior to appointment. For the avoidance of doubt, ‘medical practitioner’ should be taken to mean GMC registered with a license to practise in the UK.

3.2.2 In addition to this, the senior medical reviewer and medical reviewers should, prior to their appointment, already possess qualifications, training and experience at what Healthcare Improvement Scotland determine to be an appropriately senior level across the four key areas of: leadership, clinical practice, management and communications.

3.2.3 The initial appointment process, as well as subsequent continuous professional development linked to appraisal and revalidation arrangements, should seek to ensure that medical reviewers, in particular, have the skills to deal empathetically with the bereaved and to facilitate and foster good relations with the other professionals who support them in their work or are impacted by their work.

3.2.4 Once appointed, it is critical that the work and decisions of medical reviewers are consistent across the country. This should be ensured through use of this guidance and any other applicable guidance; initial and on-going training including regular audits, peer review and case assessment (including telephone interactions); as well as through the leadership of the senior medical reviewer.

3.3 Cross-Border Transfers

Background

3.3.1 Whilst uncommon, it is not unusual in the UK that a death is registered in one country but the cremation or burial takes place in another country. It is difficult to determine precise numbers of cases, although it is likely to be in the low hundreds every year, where an individual will die in Scotland and be moved, after death, to another part of the UK, or vice versa, for the funeral.

3.3.2 Different legal systems operate across the UK and Scotland has a completely separate death certification and scrutiny process, registration, reporting to Crown Office Procurator Fiscal Service and disposal than currently operates in England and Wales, or in Northern Ireland. There is however a general principle across the administrations that each country will respect the policy and processes adopted by other countries.

Cross-Border Transfer into Scotland

3.3.4 Where a death is registered in another part of the UK and the deceased is then moved to Scotland for the funeral (including the associated burial or cremation), that death would already have gone through the requisite review processes that exist in that country, and further review in Scotland will not be required.

Cross-Border Transfer Out Of Scotland

3.3.5 Where a death is registered in Scotland and the deceased is to be moved to another UK country for the funeral, the MCCD will have been subject to review (Level 1 or Level 2), or will not have been selected for review. In either case – whether the MCCD has been subject to review or not – the death will have been subject to the Scottish scrutiny process.

3.3.6 Once registration can proceed - either after a completed review or where the MCCD has not been selected for review – the registrar will complete the registration and issue the Certificate of Registration of Death (Form 14).

3.3.7 Once Form 14 is issued by the registrar the informant / relatives can make arrangements with the relevant funeral director for the transfer of the deceased to other parts of the UK.

3.4 Guidance on Repatriation of Deaths Abroad and Requests for Post Mortem

Repatriation of Deaths Abroad

3.4.1 Section 17 of the 2011 Act gives medical reviewers the power to check documentation related to deaths abroad where remains are being returned to Scotland for burial or cremation.¹²

3.4.2 Section 25 of the 2011 Act makes it an offence for persons having charge of a cemetery or crematorium to dispose of a body without the required documentation; in cases where the death occurred outside the UK, the document required for disposal will be a certificate issued by a medical reviewer.

3.4.3 Anyone wishing to arrange the burial or cremation of a body in such a case must apply to the medical reviewer. A medical reviewer must, on the request of a relevant person such as the next of kin or funeral director, determine whether the documentation relating to an individual's death is in order.

3.4.4 Medical reviewers will check whether the relevant documents are authentic and equivalent to the documentation which would be required to dispose of the body of a person who died in Scotland and, if so, will issue the aforementioned certificate.

3.4.5 Unless requested to do otherwise by the medical reviewer certified copies of the original documents can be provided instead of the original documents. Any copies should be certified by a third party in a professional capacity.

3.4.6 Certified copies must be signed and dated by a person described above and should be a true copy of the original. To certify, the applicant should take the photocopied and original copy of the certificate or document to the person certifying who should write "Certified to be a true copy of the original seen by me", sign and date it, print their name under the signature and add their occupation, address and telephone number.

3.4.7 The medical reviewer will carry out a level 2 review of the documentation related to the death of the individual who has died abroad. Where the deceased does not have a care record held within Scotland it will not be possible to carry out a level 2 review. In these circumstances the medical reviewer should contact the deceased's General Practitioner (in another country of the UK) and/or the Foreign and Commonwealth Office or equivalent.

12 www.legislation.gov.uk/asp/2011/11/section/17

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3.4.8 Medical reviewers have the additional function of ensuring that it is safe to cremate the body of anyone who dies overseas and who is to be cremated in Scotland.¹³

3.4.9 The medical reviewer will check medical records for any hazardous implants or a pacemaker that would need to be removed prior to cremation. In carrying out this function, section 14 also gives medical reviewers powers to require documents or require a person (such as a family member or funeral director) to produce relevant documents (including access to health records).¹⁴ The offence provision in section 15 in relation to the provision of such documents applies.¹⁵

3.4.10 Where it is determined that it is not safe for the deceased to be cremated, a certificate of disposal specifying burial will be issued. In all cases of repatriation, medical reviewers will check whether the body of the deceased poses a risk to public health and advise any relevant person as necessary.

3.4.10 Anyone wishing to arrange the burial or cremation of a body in such a case must apply to the medical reviewer using the specified application form and declaration. All fields on the form must be completed for the application to progress. Applications can be submitted by email or post (see Annex C).

¹³ www.legislation.gov.uk/asp/2011/11/section/18

¹⁴ <http://www.legislation.gov.uk/asp/2011/11/section/14>.

¹⁵ <http://www.legislation.gov.uk/asp/2011/11/section/15>

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Process

REPATRIATION OF DEATHS ABROAD (Process 5)	
	Death occurs outside the UK
Step 1	Applicant contacts the Medical Reviewers Office about repatriation where the deceased died out with Scotland and is to be disposed of in Scotland.
Step 2	Medical Reviewers Office logs the enquiry and provides the Request For Repatriation Form and associated guidance outlining any documents required.
Step 3	Form is completed and returned to the Medical Reviewers Office along with all required documents. Medical Reviewers Office checks that all documents have been received and logs the case. The application is passed to Medical Reviewer for consideration
Step 4	Medical Reviewer checks to ensure documentation is in order and is appropriate, specifically: <ul style="list-style-type: none">• The person has died out with the United Kingdom.• The body is to be disposed of in Scotland.• Documentation is authentic and equivalent to the documentation required under section 27A of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 to dispose of the body of a person who died in Scotland.¹⁶
Step 5	Medical reviewer carries out a level 2 review of the relevant documentation related to the death of the individual who has died abroad. Where there is no care record held for the deceased in Scotland and a level 2 review cannot be carried out, the medical reviewer will contact the deceased's registered General Practitioner or equivalent (where available). The medical reviewer should identify any hazards which may affect disposal of the deceased e.g. contamination, radioactivity, some infections, etc.
Step 6	Medical reviewer determines documentation is in order and issues disposal certificate. OR Medical reviewer determines documentation not in order. Senior medical reviewer evaluates case. Medical reviewer then acquires any missing documents and makes all reasonable enquiries, including contacting the Foreign and Commonwealth Office if necessary.

¹⁶ <http://www.legislation.gov.uk/asp/2011/11/section/25>

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Step 7	If the medical reviewer has evidence of any criminality in Scotland then the application must be reported to the Procurator Fiscal. This decision must be authorised by the senior medical reviewer.
Step 8	Where the applicant has requested cremation of the deceased the medical reviewer will make a decision as to whether or not it is safe to cremate. The decision will be based on <ul style="list-style-type: none">• Whether the body of the deceased poses a risk to public health.• Is there a cardiac pacemaker or any other potentially explosive device present?• Is there radioactive material or other hazardous implant present in the deceased?
Step 9a	Medical reviewer determines that it is safe to cremate and issues a certificate under section 18. OR Medical reviewer determines that it is not safe to cremate. If cremation is not authorised the medical reviewer will communicate this, and any reasons for the decision back to the applicant as soon as that decision is made.

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Requests for Post Mortem

3.4.11 The 2011 Act includes provisions which enable medical reviewers to assist in arranging for a post mortem to be carried out on an individual who has died outside of the UK and where a cause of death cannot be ascertained despite reasonable attempts to do so.¹⁷

3.4.12 Requests for post mortem examinations on individuals who meet the criteria set down in section 19(1) of the 2011 Act should be made on the specified form – the Request for Post Mortem Form (see Annex D). The specified form requires the relevant person to set out (a) the request for assistance in the making of arrangements for a post mortem examination and (b) whether or not there is a request for the costs of such an examination to be met by the DCRS.

Process

3.4.13 The Act allows for relevant persons to make an application to a medical reviewer for assistance in the making of arrangements for a post mortem examination, although the death will not normally be registered in Scotland unless specifically requested via the UK Foreign and Commonwealth Office. Such applications must be made to the medical reviewer on the Request for Post Mortem Form. These principles can be summarised in the following process:

REQUEST FOR POST MORTEM ON DEATH OUTSIDE UK (Process 5)	
	Death occurs outside the UK
Step 1	Relevant person contacts DCRS about assistance in seeking a post mortem examination.
Step 2	DCRS logs the enquiry and provides the Request For Post Mortem Form and associated guidance.
Step 3	Form is completed and returned to DCRS. Return of completed form is logged and form is passed to Medical Reviewer for consideration
Step 4	Medical reviewer checks to ensure request is appropriate and eligible, specifically: <ul style="list-style-type: none">• The person has died out with the United Kingdom;• The body is to be disposed of in Scotland; and• No cause of death can be ascertained despite reasonable enquiries.
Step 5	If the request is eligible medical reviewer decides whether or not to (a) provide assistance in arrangements for a post mortem; and (b) to provide financial assistance to meet the costs of the post mortem if such assistance is requested.
Step 6	The decision of the medical reviewer is logged by the DCRS and

¹⁷ <http://www.legislation.gov.uk/asp/2011/11/section/19>

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	communicated back to the Relevant Person.
Step 7	DCRS makes arrangements for a post mortem to be undertaken, liaising with the relevant person (including consent to receive a copy of the post mortem report) and the funeral director as necessary.
Step 8	DCRS receive a copy of the post mortem and process repatriation as appropriate. See Process 4

3.5 Monitoring and Quality Assurance

3.5.1 The new independent scrutiny system of MCCDs in Scotland is intended to improve the quality of MCCDs. It is important that the scrutiny system itself is quality assured on an on-going basis and that any training or development needs, or any necessary system developments, are identified. This is a role for the senior medical reviewer.

3.5.2 This guidance sets out general principles for monitoring and quality assurance. This will be supplemented by national standards, operational guidance and standard operating procedures developed by the senior medical reviewer.

Monitoring

3.5.3 All formal transactions between the public and the DCRS should be logged. This includes:

- all standard reviews and outcomes
- all requests for review by interested person and outcomes
- all requests to not stay registration (advance registration) and outcomes
- all repatriations of deaths abroad and outcomes
- all requests for assistance in carrying out a post mortem examination and outcomes
- all enquiries, comments, compliments, complaints and outcomes

3.5.4 The details of all cases that are selected for review must be recorded for monitoring purposes by the DCRS. Data should be collected and stored in such a way that supports regular audit of practice. Data collection on standard review cases should capture data on areas such as:

- Type of review (Level 1 or Level 2)
- Registrar's office where death is registered
- Key metrics of timescales of the review from selection to registration of death
- Number of MCCDs which were altered and the types of alterations e.g. personal data incorrect/missing; incorrect/questionable underlying cause of death; illogical sequence of other conditions; incomplete/illegible MCCDS; location and times of death; the types of certifying doctors, others.
- The number of replacement MCCDs requested

3.5.5 In the case of reviews requested by an interested person the monitoring information should record the classification under which the applicant made the request and the reason for the request.

In the case of Advance registration – how many requests were made, reasons given, time taken to complete, number refused and reasons for them with all decisions peer reviewed. In addition, it is important to monitor the number of changes required to be made to the MCCD, the types (minor, major, several minors), how many replacement MCCDs required, and how many should have been and were reported to the PF by the certifying doctors and how many of those required investigation by the PF.

For deaths abroad – the time taken to process, number of times translations required by an external agency and why, number of times post mortems were requested, refused/agreed, and reasons, time taken to receive post-mortem reports and their quality, etc.

For other activities, number of contacts by certifying doctors for advice, contacts by others and the reasons, time taken and outcomes of the contact, etc.

Quality Assurance

3.5.6 The Quality Assurance of the independent scrutiny system is a matter for the senior medical reviewer and Healthcare Improvement Scotland. At a minimum, the Scottish Government expects that the senior medical reviewer will undertake reviews of all key monitoring information at least quarterly to ensure the review system is operating effectively and efficiently, and to identify any development needs.

3.5.7 Other particular aspects of the system may benefit from more regular review, such as complaints, random assessment of cases and telephone interactions.

3.5.8 All requests to not stay registration and the medical reviewer decision in each case should be peer reviewed at regular and pre-determined intervals to ensure consistency in approach.

Annual Report

3.5.9 Under section 23 of the 2011 Act the senior medical reviewer has a responsibility to produce to Scottish Ministers, and publish, an annual report for each financial year on the activities of the medical reviewers. This report should include at a minimum a high-level summary of key monitoring information, an analysis of any trends or issues identified and actions taken, and proposals with action plans for the improvement and developments in the service for the coming year.

3.6 Role of the Procurator Fiscal

3.6.1 The independent role of the Procurator Fiscal in Scotland to investigate deaths will not be altered by the establishment of the new scrutiny system. Deaths which would ordinarily require to be reported to the Procurator Fiscal will continue to be reported as per usual.

3.6.2 In any instance where a case is reviewed by the medical reviewer or senior medical reviewer and it is considered the death should have been reported to the Procurator Fiscal in the first place, it should be reported to the Procurator Fiscal by the certifying doctor, after discussion between the medical reviewer and certifying doctor.

3.6.3 In addition, medicals reviewers may provide advice to certifying doctors on whether a specific case should be reported to the Procurator Fiscal and may also report cases to the local Procurators Fiscal if there is a suspicion of criminality in Scotland.

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Annex A

Application under section 4 of the Certification of Death (Scotland) 2011 Act

Please note that **all** sections of this form must be completed. The medical certificate of cause of death **must** be included with this application.

Section A – Applicant details

Full Name:

Address:

Please provide at least one method of contact:

- Telephone Number:
- Email Address:

Reason why applicant classifies as an “interested person”¹⁸ (please tick). Applicant is:

- a person who, under the Registration of Births, Deaths and Marriages (Scotland) Act 1965, is required or stated to be qualified to give information concerning the deceased’s death
- a health care professional (or other carer) who was involved with the deceased’s care prior to the deceased’s death
- the funeral director responsible for the funeral arrangements of the deceased¹⁹
- the person having charge of the place of disposal of the body of the deceased²

Section B – Deceased person’s details

Has the funeral taken place? If No, when is the funeral planned for?
.....

¹⁸ The term “interested person” is defined in section 4(5) of the Certification of Death (Scotland) Act 2011

¹⁹ Assistance on how to determine whether a person falls within this category is provided in Scottish Government guidance.

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Name (as it appears on the Death Certificate):

Date of Death:

Registration District Number:

Registration Entry Number:

Section C – Relevant information

Please provide any additional relevant information regarding this application

Section D – Declaration

The applicant hereby certifies that to the best of their knowledge and belief the information contained in this application is complete, and correct, and, that the date of death occurred

- on or after 13 May 2015 **and**
- within the last 3 years.

Signature of applicant
(manual or electronic):

Date:

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Annex B

Advance registration application form

This request for an advance registration is made under Section 6 of The Certification of Death (Scotland) Act 2011. Please complete all relevant fields below.

1. Name of the deceased:
2. MCCD serial number:
3. Registration district:
4. Registration office contact details:
(main office telephone number)
5. This request for an advance registration in respect of the MCCD outlined above is being made for the following reason(s) (please tick one or more as appropriate):

Religious or cultural

Compassionate

Practical or administrative

6. Details of request:

The applicant (the informant) hereby certifies that to the best of their knowledge and belief the information contained in this advance registration application form is correct.

Name:

Signature:

Date:

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Annex C

Application under section 18(2) of the Certification of Death (Scotland) Act 2011

Section 1: the applicant

Full name of applicant:	
Date of Birth of applicant:	
Address of applicant	
Contact Details (Tel No/E-mail)	
Are you the person arranging the funeral?	Yes/No (please delete as applicable)
Do you have charge of the place where the funeral is taking place?	Yes/No (please delete as applicable)
Date:	

Section 2: Deceased details

Name of deceased:	
Date of death:	
Date of birth of deceased:	
Country in which death occurred:	
Place of death:	

Section 3: Disposal arrangements

Is the deceased to be cremated in Scotland?	Yes/No (please delete as applicable)
Where is the funeral to take place?	
Date of funeral (if known at time of making application)	
Do you wish to apply for post-mortem (if no cause of death)?	Yes/no (please delete as applicable)

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Section 4: Paperwork enclosed (please tick which applies):

Medical Certificate of Cause of Death (MCCD)/certificate of death in the country in which death occurred (or a copy if the original is not available)	
Certificate of Registration of Death issued in the country in which death occurred (or a copy if the original is not available)	
Passport/other ID of deceased	
Hospital/ health records	
Insurance company paperwork	
Police report	
Form A under the Cremation (Scotland) Regulations 1935	
Other relevant information e.g. certificate declaring that death is not suspicious	

Signature of funeral director (if applicable):	
Date:	

Declaration

This declaration should be completed and submitted with the 'Application under section 18(2) of the Certification of Death (Scotland) Act 2011'

The applicant hereby certifies that to the best of their knowledge and belief the information contained within this application is correct and complete. The documents supplied are legitimate and have been verified by the applicant.

Signature of the applicant
(manual or electronic attestation):

Name of the applicant:

Date:

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Annex D

Certificate of authorisation issued under section 18 of the Certification of Death (Scotland) Act 2011

Under section 18 of the Certification of Death (Scotland) Act 2011, the medical reviewer hereby certifies that it is safe to cremate the body:

Cremation of the late [insert name] at [latest crematorium]

Part A: the deceased

Name of deceased:	
Date of death:	
Date of birth of deceased:	
Country in which death occurred:	

Part B: Medical reviewer notes

--

Part C: Hazards

To the best of my knowledge and belief;

Does the body of the deceased pose a risk to public health: for example, did the deceased have a notifiable infectious disease or was their body contaminated immediately before death?	Yes/No
Is there a cardiac pacemaker or any other potentially explosive device currently present in the deceased?	Yes/No
Is there radioactive material or other hazardous implant currently present in the deceased?	Yes/No

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The hazard questions above (no.1-3) must be completed. The medical reviewer should specifically outline any known hazards or reasons that the body cannot be cremated.

I hereby certify that to the best of my knowledge and belief the information contained on this certificate is correct and complete.

(insert name)

Medical Reviewer

Healthcare Improvement Scotland