

**2018 No. (W. )**

**NOTIFICATION,  
CERTIFICATION AND  
REGISTRATION OF DEATHS,  
WALES**

**The Death Certification (Medical  
Examiners) (Wales) Regulations  
2018**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision in respect of medical examiners who will be appointed by Local Health Boards to discharge the functions conferred on them by or under Chapter 2 of Part 1 of the Coroners and Justice Act 2009 (“the Act”).

Regulation 3 requires various terms to be included in the terms of appointment of medical examiners.

Regulation 4 makes provision for the remuneration of medical examiners.

Regulation 5 sets the procedures to be followed where a medical examiner is insufficiently independent, within the meaning of that regulation.

Regulation 6 confers functions on medical examiners additional to the functions imposed by regulations made under section 20 of the Act.

Regulation 7 also confers additional functions on medical examiners relating to health and safety information (within the meaning of that regulation) to meet requirements under the Cremation (England and Wales) Regulations 2008 in relation to a death.

A regulatory impact assessment has been prepared in relation to these Regulations. Copies may be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ and on the website at <https://www.gov.wales>.

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**The Death Certification (Medical  
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*Made* \*\*\*

*Laid before the National Assembly for Wales*  
\*\*\*

*Coming into force* \*\*\*

The Welsh Ministers, in exercise of the powers conferred by sections 19(4) and 176(3) of the Coroners and Justice Act 2009(1), make the following regulations:

**Title, commencement and application**

**1.**— The title of these regulations is the Death Certification (Medical Examiners) (Wales) Regulations 2018 and they come into force on XX.

(1) These Regulations apply in relation to Wales.

**Interpretation**

**2.** In these Regulations—

“the Act” “*y Ddeddf*” means the Coroners and Justice Act 2009;

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(1) 2009 c.25. The power in section 19(4) of the Act is exercisable by “the appropriate Minister” who is defined under section 19(6) of the Act as, in relation to Wales, the Welsh Ministers.

“appointing authority” “*awdurdod penodi*” means the Local Health Board who appointed the medical examiner;

“relevant function” “*swyddogaeth berthnasol*” means a function of medical examiners under regulations 6 or 7 or under the section 20 Regulations; and

“the section 20 Regulations” “*Rheoliadau adran 20*” means any regulations made by the Secretary of State under section 20(1) of the Act (medical certificate of cause of death).

### **Terms of appointment for medical examiners**

**3.**—(1) The terms of appointment for a medical examiner must include the terms in paragraphs (2) to (5).

(2) That the appointment is terminated immediately in the event that the medical examiner ceases to be a registered medical practitioner.

(3) That the medical examiner must have undertaken any relevant training specified by the National Medical Examiner before being appointed as a medical examiner.

(4) That the appointing authority may terminate the appointment where it considers that, after taking into account any standards and levels of performance expected of medical examiners as published by the National Medical Examiner, the medical examiner is not a fit and proper person to be a medical examiner.

(5) That the medical examiner must, at the request of the appointing authority, exercise any relevant function in relation to a death—

(a) which occurred outside the area of the appointing authority; or

(b) where no information as to the place of death is available, in respect of which the body of the deceased person was found outside the area of the appointing authority.

(6) Any other terms as may be agreed by the appointing authority and the medical examiner.

### **Payment of remuneration, expenses, fees etc. to medical examiners**

**4.** An appointing authority may pay to each medical examiner it appoints such remuneration, expenses, fees, compensation for termination of appointment, pensions, allowances or gratuities as it determines.

**Procedure for ensuring sufficient independence of medical examiners**

5.—(1) Where a medical examiner is insufficiently independent in relation to a death in respect of which the examiner has a duty or power to exercise any relevant function, the medical examiner must—

- (a) refrain from exercising any relevant function in relation to the death;
- (b) make a record of the circumstances set out in paragraph (4) which apply in relation to the death; and
- (c) refer the death to another medical examiner.

(2) Where a medical examiner (“X”) refers a death to another medical examiner (“Y”), X must provide Y with—

- (a) a copy of the record made in accordance with paragraph (1)(b);
- (b) any information relating to the death which X has received; and
- (c) any records made by X in connection with any relevant function exercised in relation to the death.

(3) For the purpose of paragraph (1), a medical examiner is insufficiently independent in relation to a death where, at the time of the death, one or more of the circumstances in paragraph (4) apply.

(4) The circumstances are that the medical examiner—

- (a) is or was the spouse, ex-spouse, civil partner or ex-civil partner of the deceased person (“D”) or the relevant attending practitioner (“AP”);
- (b) is or was living together with D or AP as if they were a spouse or civil partner or had been so living together with D or AP at any time during the period of 5 years ending with the death;
- (c) is or was closely related to D or AP;
- (d) had attended D during the course of D’s last illness;
- (e) is or was a partner, employer, employee or associate of AP;
- (f) had a financial interest in D’s estate; or
- (g) had any other association, relationship or direct or indirect financial connection with D or AP such as to give reasonable doubt as to the examiner’s objectivity to carry out the functions.

(5) In paragraph (4)—

“closely related” means a parent, sister, half-sister, brother, half-brother, son, daughter, uncle, aunt,

grandparent, grandchild, first cousin, nephew, niece, parent-in-law, grandchild-in-law, sister-in-law, brother-in-law, son-in-law or daughter-in-law or in a step relationship; and

“relevant attending practitioner” means an attending practitioner who, in relation to the death, has—

- (a) prepared an attending practitioner’s certificate in accordance with the section 20 Regulations; or
- (b) sought the medical examiner’s advice in relation to the exercise of the practitioner’s functions under the section 20 Regulations.

(6) In paragraph (5), references to step relationship and in-law are to be read in accordance with section 246 (interpretation of statutory references to stepchildren etc.) of the Civil Partnership Act 2004<sup>(1)</sup>.

#### **Additional functions of medical examiners**

**6.—**(1) Each medical examiner has the following functions—

- (a) providing advice to a registered medical practitioner in relation to the functions of attending practitioners<sup>(2)</sup> under the section 20 Regulations;
- (b) providing advice to a senior coroner for the purpose of assisting that coroner in deciding whether there is a duty to conduct an investigation into a death under section 1 of the Act (duty to investigate certain deaths);
- (c) participating in the establishment, review and update of local protocols;
- (d) maintaining records in relation to deaths in respect of which the medical examiner has exercised functions under the section 20 Regulations;
- (e) providing advice to a Local Health Board in relation to the mortality reviews they undertake;
- (f) in the course of exercising a relevant function, reporting any serious concerns identified in respect of clinical governance, patient safety or public health surveillance, in accordance with any relevant local reporting arrangements;

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(1) 2004 c. 33.

(2) See section 20(1)(a) of the Act: an “attending practitioner” is a registered medical practitioner who attended the deceased before his or her death.

- (g) obtaining information about the outcome of any reporting referred to in sub-paragraph (f);
- (h) providing information and preparing reports relating to the exercise of a relevant function by the medical examiner to meet any request made by or on behalf of—
  - (i) the appointing authority for the purpose of the authority’s monitoring functions under section 19(2)(b) of the Act (medical examiners);
  - (ii) Public Health Wales National Health Service Trust for the purposes of the Trust’s functions under article 3 of the Public Health Wales National Health Service Trust (Establishment) Order 2009(1) .
  - (iii) a Safeguarding Board(2) for the purposes of the Board’s functions under regulation 4 of the Safeguarding Boards (Functions and Procedures) (Wales) Regulations 2015(3) (practice reviews);
  - (iv) the Statistics Board; or
  - (v) the National Medical Examiner;
- (i) identifying any training needs of registered medical practitioners practising in the area of the appointing authority in relation to the functions of attending practitioners under the section 20 Regulations; and
- (j) keeping the medical examiner’s own performance and service under review, including through participating in peer audits and service reviews.

(2) In paragraph (1)—

“local protocol” means a memorandum of understanding between medical examiners and persons whose functions are connected with the functions of medical examiners or attending practitioners under the section 20 Regulations, setting out the administrative arrangements which are to apply to facilitate the efficient and timely certification of deaths in the area of the appointing authority; and

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(1) S.I. 2009/2058 (W. 177).

(2) Safeguarding Boards are established by the Safeguarding Board lead partners in relation to the Safeguarding Board area in accordance with section 134(4) of the Social Services and Well-being Wales Act 2014 (“the Act”). Safeguarding Board lead partners are specified by the Welsh Ministers in the Safeguarding Boards (General) (Wales) Regulations 2015 (S.I. 2015/1357 (W. 131)) from among the list of Safeguarding Board partners set out in section 134(2) of the Act.

(3) S.I. 2015/1466 (W.160).

“Statistics Board” means the Board established by section 1 of the Statistics and Registration Services Act 2007<sup>(1)</sup> (establishment) and includes its Office for National Statistics and UK Statistics Authority brands.

**Additional functions of medical examiners relating to the Cremation (England and Wales) Regulations 2008**

7.—(1) A medical examiner has the following functions in relation to a death—

- (a) undertaking an examination of the body of a deceased person, or instructing another individual to do so on the examiner’s behalf, for the purpose of gathering health and safety information;
- (b) receiving, taking into account and disseminating health and safety information;
- (c) completing forms or other documentation relating to health and safety information for the purpose of the examiner or any other person meeting the requirements of the Cremation (England and Wales) Regulations 2008 in relation to the death; and
- (d) for the purpose of the medical examiner or any other person meeting the requirements of the Cremation (England and Wales) Regulations 2008 in relation to the death.

(2) A medical examiner may only appoint another individual to undertake an external examination of the body of the deceased person on the examiner’s behalf for the purpose of paragraph (1) where—

- (a) in the opinion of the examiner, the individual has suitable expertise; and
- (b) the circumstances in paragraph (3) do not apply.

(3) The circumstances are that the individual—

- (a) was the spouse, ex-spouse, civil partner or ex-civil partner of the deceased person (“D”);
- (b) was living together with D as if they were a spouse or civil partner at any time during the period of 5 years ending with the death;
- (c) was closely related to D;
- (d) had attended D during the course of D’s last illness;

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(1) 2007 c.18.

- (e) had been a partner, employer, employee or associate of D;
- (f) had a financial interest in D's estate; or
- (g) has or had any other association, relationship or direct or indirect financial connection with D such as to give the relevant medical examiner reasonable doubt as to the practitioner's objectivity to carry out an external examination of D.

(4) In this regulation—

“closely related” means a parent, sister, half-sister, brother, half-brother, son, daughter, uncle, aunt, grandparent, grandchild, first cousin, nephew, niece, parent-in-law, grandchild-in-law, sister-in-law, brother-in-law, son-in-law or daughter-in-law or in a step relationship;

“hazard group” means one of the four groups specified in paragraph 2(2) of Schedule 3 to the Control of Substances Hazardous to Health Regulations 2002(1);

“health and safety information” means the following information—

- (a) whether there is any potentially hazardous implant or medical device in the body of the deceased person;
- (b) the type of any such implant or device;
- (c) where there is a radioactive implant in the body of the deceased person, the date that the implant was inserted;
- (d) whether the deceased person was suffering from a communicable infection immediately before death; and
- (e) the transmission route and hazard group of any such infection.

(5) In paragraph (4), references to step relationship and in-law are to be read in accordance with section 246 (interpretation of statutory references to stepchildren etc.) of the Civil Partnership Act 2004(2).

*Vaughan Gething*

Cabinet Secretary for Health, Well-being and Sport,  
one of the Welsh Ministers

Date

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(1) S.I. 2008/2841.  
(2) 2004 c.33.