

2024 No. (W.)

**MEDICAL PROFESSION,
WALES**

CORONERS, WALES

**The Medical Examiners (Wales)
Regulations 2024**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in respect of medical examiners appointed by a Welsh NHS body to discharge the functions conferred on medical examiners by or under Chapter 2 of Part 1 of the Coroners and Justice Act 2009 (“the Act”). Those functions include functions relating to the medical certification of the cause of deaths which are required to be registered under Part 2 of the Births and Deaths Registration Act 1953.

Regulation 3 sets out provisions about mandatory terms to be included in the terms of appointment of medical examiners and about termination of appointment.

Regulation 4 makes provision permitting appointing bodies to pay remuneration, expenses, fees, compensation for termination of appointment, pensions, allowances or gratuities to medical examiners.

Regulation 5 makes provision in relation to the training to be undertaken by medical examiners.

Regulation 6 requires medical examiners to follow certain steps where, in relation to a death which is required to be registered, the examiner is insufficiently independent within the meaning of that regulation, because of a connection the examiner had with the deceased person, the relevant attending practitioner or any other relevant medical practitioner at the time of the death. These steps include declining to exercise functions in relation to a death and notifying their appointing body.

Regulation 7 confers functions on medical examiners additional to their functions under regulations made under section 20 of the Act.

[The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ and on the website at <https://www.gov.wales>. / The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.]

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Made ***

Laid before Senedd Cymru ***

Coming into force ***

The Welsh Ministers, in exercise of the powers conferred upon them by sections 19(4)(a) to (e) and 176(3) of the Coroners and Justice Act 2009⁽¹⁾, make the following Regulations.

Title, coming into force and application

1.—(1) The title of these Regulations is the Medical Examiners (Wales) Regulations 2024.

(2) These Regulations come into force on [XX].

(3) These Regulations apply only in relation to—

- (a) a Welsh NHS body that appoints medical examiners, and
- (b) medical examiners appointed by a Welsh NHS body.

Interpretation

2. In these Regulations—

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

(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 body” (“*corff penodi*”) means the Welsh NHS body which appointed the medical examiner under section 18B(1) of the Act⁽¹⁾;

“attending practitioner” (“*ymarferydd a fu’n gweini*”) has the meaning given in section 20(1) Regulations;

“medical examiner” (“*archwilydd meddygol*”) has the meaning given in section 48(1) of the Act;

“National Medical Examiner” (“*Archwilydd Meddygol Cenedlaethol*”) means a person appointed under section 21(1) of the Act;

“other relevant medical practitioner” (“*ymarferydd meddygol perthnasol arall*”) means a registered medical practitioner who, in relation to a death, is not a relevant attending practitioner, but has—

- (a) made a notification or referral to a senior coroner under any enactment,
- (b) sought advice from a medical examiner in accordance with regulation 7(1)(a) of these Regulations, or
- (c) sought to fulfil any function under section 20(1) Regulations;

“registered medical practitioner” (“*ymarferydd meddygol cofrestredig*”) has the meaning given in Schedule 1 to the Interpretation Act 1978⁽²⁾;

“relevant attending practitioner” (“*ymarferydd perthnasol a fu’n gweini*”) has the meaning given in section 20(1) Regulations;

“relevant function” (“*swyddogaeth berthnasol*”) means a function conferred on medical examiners by regulation 7 of these Regulations or section 20(1) Regulations;

“section 20(1) Regulations” (“*Rheoliadau adran 20(1)*”) means [the Medical Certificate of Cause of Death Regulations 2024⁽³⁾];

“senior coroner” (“*uwch-grwner*”) has the meaning given in section 48(1) of the Act;

“Welsh NHS body” (“*corff GIG Cymru*”) has the meaning given in section 18B(3) of the Act.

(1) Section 18B was inserted by section 169(1) of the Health and Care Act 2022 (c. 31).

(2) 1978 c. 30. The definition of “registered medical practitioner” in Schedule 1 to the Interpretation Act 1978 was substituted by paragraph 10 of Schedule 1 to the Medical Act 1983 (Amendment) Order 2002 (S.I. 2002/3135) with effect from 16 November 2009.

(3) [S.I. 2024/XX.]

Terms of appointment for medical examiners and termination of appointment

3.—(1) The terms of appointment of medical examiners must give effect to the matters specified in paragraphs (2) to (6).

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

(3) The appointing body may terminate the appointment where it is of the opinion, after taking into account any standards of performance expected of a medical examiner as published by the National Medical Examiner from time to time, that the medical examiner is not suitable to be a medical examiner.

(4) On the request of the appointing body, the medical examiner must, where reasonably practicable, exercise any relevant function in relation to any death that is required to be registered under Part 2 of the Births and Deaths Registration Act 1953⁽¹⁾.

(5) The medical examiner must, without unreasonable delay, notify the appointing body of any changes to their status as a registered medical practitioner, including any disciplinary action proposed or taken against them by their regulatory body.

(6) The appointing body may terminate the appointment where it is of the opinion that the medical examiner's engagement in clinical practice is insufficient to support the continued exercise of relevant functions.

(7) The terms of appointment of medical examiners may include such other terms as may be agreed between the appointing body and medical examiner.

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

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

Training to be undertaken by medical examiners

5. Medical examiners must undertake from time to time such training as is appropriate to ensure that they have the experience and skills necessary to carry out their functions.

(1) 1953 c. 20.

Procedure for ensuring the sufficient independence of medical examiners

6.—(1) Where a medical examiner receives a request from an appointing body to exercise any relevant function in relation to a death, and is insufficiently independent in relation to that death, the medical examiner must comply with the steps set out in paragraphs (2) and (3).

(2) The medical examiner must not exercise any relevant function in relation to the death or, where relevant, must cease exercising any relevant function immediately upon becoming aware of the insufficient independence.

(3) The medical examiner must without unreasonable delay—

- (a) make a record of which of the circumstances set out in paragraph (6) apply in relation to the death, and
- (b) notify their appointing body.

(4) Where a medical examiner notifies their appointing body under paragraph (3)(b), the medical examiner must ensure that the appointing body is provided with—

- (a) a copy of the record made in accordance with paragraph (3)(a),
- (b) any information relating to the death which the medical examiner has received, and
- (c) any records made by the medical examiner in connection with any relevant function exercised in relation to the death.

(5) For the purposes of paragraphs (1) to (3)—

- (a) 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 (6) applies, and
- (b) any reference to the medical examiner being aware of the insufficient independence includes any time when the medical examiner ought to have been so aware.

(6) The circumstances are that the medical examiner—

- (a) is the spouse, former spouse, civil partner or former civil partner of—
 - (i) the deceased person (“D”),
 - (ii) the relevant attending practitioner (“AP”), or
 - (iii) any other relevant medical practitioner (“OP”),
- (b) is, or was, living together with D, AP or OP as if they were spouses or civil partners,

- (c) is, or was at any time, closely related to D, AP or OP,
- (d) believes they attended D during the course of D's lifetime,
- (e) is, or was, a partner, employer, employee or associate of D, AP or OP,
- (f) has a financial interest in D's estate, or
- (g) has, or had, any other association, relationship or direct or indirect financial connection with D, AP or OP such as to give rise to a reasonable doubt as to the medical examiner's objectivity to carry out the relevant functions.

(7) In paragraph (6), "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, daughter-in-law, stepchild, step-parent, stepbrother or stepsister.

(8) In paragraph (7), references to step relationship and in-law are to be read in accordance with section 246 of the Civil Partnership Act 2004⁽¹⁾ (interpretation of statutory references to stepchildren etc.).

Additional functions of medical examiners

7.—(1) In addition to the functions set out in section 20(1) Regulations, medical examiners have the following functions—

- (a) providing advice to registered medical practitioners in relation to the functions of attending practitioners under section 20(1) Regulations,
- (b) providing advice to senior coroners for the purpose of assisting a senior coroner in deciding whether there is a duty to conduct an investigation into a particular death under section 1 of the Act (duty to investigate certain deaths),
- (c) participating in the establishment, review and updating of any local protocols of the appointing body,
- (d) maintaining records in relation to deaths in respect of which the medical examiner has exercised functions under section 20(1) Regulations,
- (e) obtaining and considering such information as is reasonably available to them in respect of trends and unusual patterns of certified causes of death, public health surveillance, patient

(1) 2004 c. 33.

- safety and clinical governance for the purpose of informing their professional judgement as to the cause of death in a particular case,
- (f) providing information and preparing reports to meet any reasonable request made by or on behalf of—
- (i) the appointing body, for the purpose of monitoring the performance of 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, for the purposes of that Safeguarding Board's functions under regulation 4 of the Safeguarding Boards (Functions and Procedures) (Wales) Regulations 2015⁽²⁾ (practice reviews) where a senior coroner has decided that the deceased's death is not a death for which a duty to investigate arises under section 1 of the Act (duty to investigate certain deaths),
 - (iv) the Statistics Board, or
 - (v) the National Medical Examiner,
- (g) identifying training needs of registered medical practitioners in relation to death certification, and promoting and facilitating such training, and
- (h) keeping their own performance and service under review including through participating in peer audits and service reviews.

(2) In the course of exercising a relevant function, medical examiners must report any serious concerns identified in respect of clinical governance, patient safety or public health surveillance in accordance with local reporting arrangements.

(3) For the purposes of this regulation—

“information” (*“gwybodaeth”*) includes information identifying a particular individual;

“local protocol” (*“protocol lleol”*) means a memorandum of understanding made between appointing bodies and other persons and bodies whose functions include or are connected with the certification of deaths, setting out the administrative arrangements which are to apply to facilitate the efficient and timely certification of deaths;

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

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

“Safeguarding Board” (“*Bwrdd Diogelu*”) means a Safeguarding Board established by the Safeguarding Board lead partner⁽¹⁾ in relation to the Safeguarding Board area⁽²⁾ in accordance with section 134(4) and (5) of the Social Services and Well-being (Wales) Act 2014;

“the Statistics Board” (“*y Bwrdd Ystadegau*”) means the Board established by section 1 of the Statistics and Registration Service Act 2007⁽³⁾ (establishment).

Name

Minister for Health and Social Services, one of the Welsh Ministers

Date

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- (1) Safeguarding Board lead partners are specified by the Welsh Ministers in regulation 4 of, and Schedule 2 to, 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 Social Services and Well-being (Wales) Act 2014 (anaw 4).
- (2) Safeguarding Board areas are set out in regulation 3 of, and Schedule 1 to, the Safeguarding Boards (General) (Wales) Regulations 2015 in accordance with section 134(1) of the Social Services and Well-being (Wales) Act 2014.
- (3) 2007 c. 18.