

CERTIFICATION OF DEATH (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Review of medical certificates of cause of death

Section 8: Review of medical certificates of cause of death

26. **Section 8** provides that the medical reviewer must review the certificates of cause of death referred under section 24A of the 1965 Act or those referred to the medical reviewer under section 4 (provided they are not rejected as vexatious under section 4 subsection (3)).
27. Subsection (2) describes the conduct of a review. Medical reviewers may review the medical records of the deceased, discuss matters with the certifying doctor and make other enquiries as they consider appropriate. This might include speaking to other persons who the medical reviewer considers may have relevant information about the health of the deceased, such as a member of the deceased's family, a carer or a nurse and, possibly, (arranging to) view the body before coming to a view as to whether the medical certificate of cause of death is in order.
28. Subsections (3) and (4) provide that medical reviewers must come to a view on whether the given cause of death is a reasonable conclusion and that other information in the certificate is correct.
29. Subsection (5) allows the Scottish Ministers to make further provision regarding the conduct of reviews in regulations.

Section 9: Action following satisfactory review

30. If the medical reviewer is satisfied with the medical certificate of cause of death, then he or she must approve it and notify the relevant registrar (in practice, this will mean sending the certificate back to the relevant registrar for registration to occur).
31. The relevant registrar is defined in section 31 and will usually be the district registrar who has made the referral or, where that person is unknown to the medical reviewer (as might be the case in an interested person application), the Registrar General.
32. In cases where the registration of the death has been stayed, the registrar will then be free to complete it and notify the informant, that is the relative or other person who came to register the death.

Section 10: Action following unsatisfactory review: medical reviewer

33. **Section 10** sets out the next steps if the medical reviewer is not satisfied that a medical certificate of cause of death is in order. The medical reviewer must inform the doctor who certified the cause of death, giving reasons for his or her view, and invite the

doctor to replace the certificate with one which takes account of the reasons why the medical reviewer considers that the original certificate is not in order, thus allowing the medical reviewer to then approve the certificate and notify the registrar. However, if the certifying doctor issues a replacement certificate which the medical reviewer considers is not in order then he or she must refer the review to the senior medical reviewer.

34. The certifying doctor may decline to issue a replacement certificate. In such cases the medical reviewer may be persuaded in discussion with the doctor that the cause of death does, after all, represent a reasonable conclusion as to the cause of death or that the other information on the form is in fact correct. In such instances the medical reviewer can then decide to approve the certificate. If not persuaded, the medical reviewer must refer it to the senior medical reviewer.

Section 11: Action following unsatisfactory review: senior medical reviewer

35. This section applies where a medical reviewer has been unable to agree with the certifying doctor that a medical certificate of cause of death is in order and has referred the matter to the senior medical reviewer.
36. The senior medical reviewer must also come to a view on whether the given cause of death is a reasonable conclusion and that other information in the certificate is correct. To do so, he or she may conduct a further review of the certificate in the same manner as a medical reviewer.
37. If the senior medical reviewer is of the view that the certificate is in order, the certificate will be approved and sent to the relevant registrar for registration to proceed.
38. However, if the senior medical reviewer does not think that the certificate is in order, he or she must inform the doctor who certified the cause of death, giving reasons for his or her view, and invite the doctor to replace the certificate. There is no obligation on certifying doctors to change their opinion but they may agree to issue a replacement certificate which takes account of the reasons why the senior medical reviewer considers that the certificate is not in order, thus allowing the senior medical reviewer to then approve the certificate and notify the registrar. If the certifying doctor issues a replacement certificate but the senior medical reviewer does not agree with the revised cause of death information, or the certifying doctor does not issue a replacement certificate and the senior medical reviewer is not persuaded of the doctor's original view as to the cause of death, the senior medical reviewer must refer the certificate to the procurator fiscal for investigation.
39. In cases where the senior medical reviewer agrees with the cause of death, but believes that other information contained in the certificate, or its replacement, is incorrect (such as whether a pacemaker is fitted), or where the doctor will not issue a replacement certificate, the senior medical reviewer can take steps to alert whomever he or she considers appropriate as to what he or she believes to be the relevant information. This might typically be the family of the deceased or the person in charge of the burial or cremation of the deceased.
40. The senior medical reviewer can also take such steps when referring a certificate to the procurator fiscal.

Section 12: Action where relevant medical practitioner is unavailable or incapacitated

41. This section deals with the situation where the relevant doctor is unavailable or unable to issue a replacement certificate, for example, when that doctor is unwell. If a medical reviewer is not satisfied as to the cause of death given in the certificate but the relevant doctor is not available or is incapacitated and so could not issue a replacement certificate, the death must be referred to the procurator fiscal for investigation. If there is some other defect in the certificate not related to the cause of death, the medical

*These notes relate to the Certification of Death (Scotland) Act
2011 (asp 11) which received Royal Assent on 20 April 2011*

reviewer can take steps to alert whomever he or she considers appropriate as to what he or she believes to be the relevant information. If the doctor becomes unavailable after a certificate has been referred to the senior medical reviewer, who is not satisfied that the certificate is in order, the senior medical reviewer can take the same actions as the medical reviewer.

Section 13: Duty to inform following review

42. Specified persons are to be informed of the outcome of a review including any changes made to the medical certificate of cause of death. An interested person who made an application under section 4 will be informed as will the person who gave information in order to register the death. Such notification will take place after a review has been conducted and the registrar has been notified or when the case has been referred to the procurator fiscal.