
SCOTTISH STATUTORY INSTRUMENTS

2003 No. 301

CREMATION

The Cremation (Scotland) Amendment Regulations 2003

<i>Made</i>	- - - -	<i>5th June 2003</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>6th June 2003</i>
<i>Coming into force</i>	- -	<i>27th June 2003</i>

The Scottish Ministers, in exercise of the powers conferred by section 7 of the Cremation Act 1902⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Cremation (Scotland) Amendment Regulations 2003 and come into force on 27th June 2003.

(2) These Regulations extend to Scotland only.

(3) In these Regulations “the principal Regulations” means the Cremation (Scotland) Regulations 1935⁽²⁾.

Amendment of principal Regulations

2.—(1) In the section entitled “Definitions” in the principal Regulations there is inserted, at the end—

““body parts” means any organs and tissue removed from a deceased person during the course of a post mortem examination;

“the 1965 Act” means the Registration of Births, Deaths and Marriages (Scotland) Act 1965⁽³⁾.”

(2) In regulation 7(2) of the principal Regulations, after “Form A” there is inserted “or Form AA as the case may be”.

(3) After regulation 15 of the principal Regulations there is inserted—

(1) 1902 c. 7; section 7 was amended by Schedule 11, Part V to the Finance Act 1949 (c. 47) and by section 2 of the Cremation Act 1952 (c. 31). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(2) S.R. & O. 1935/247, as amended by S.I.1952/1639, 1967/398 and 1985/820.

(3) 1965 c. 49.

“15A.—(1) Regulations 6, 8 to 9, 11 and 12 above shall not apply to the cremation of body parts.

(2) Cremation of body parts shall only take place in accordance with the following provisions of this regulation.

(3) Subject to paragraph (4) below the Medical Referee shall permit the cremation of body parts only where satisfied—

(a) by the production of a certificate in Form DD in the Schedule hereto or, if such a certificate cannot be produced, by such other evidence as is produced, that the body parts were removed in the course of a post mortem examination carried out on the body of the deceased;

(b) by the production of—

(i) a certificate in pursuance of section 27 of the 1965 Act; or

(ii) a duly authenticated extract of the entry of the death in the relevant register issued pursuant to sections 37, 38 or 41 of the 1965 Act,

that the death of the deceased from whom the body parts have been removed has been duly registered; and

(c) that application has been made in Form AA in the Schedule hereto and in accordance with the requirements of regulation 7 above.

(4) Where the death or post mortem examination took place outside Scotland, certificates or copies having the like or similar effect to those referred to in paragraph (3)(a) and (b) above shall be sufficient to meet the requirements of those sub paragraphs.

(5) The Medical Referee may make such inquiry with regard to the application and certificates required by paragraphs 3 and 4 above as that Referee considers appropriate.

(6) No cremation of body parts shall take place except on the written authority of the Medical Referee given in Form FF in the Schedule hereto.

(7) Where the Medical Referee is not satisfied as to the matters set out in paragraph (3)(a) or (b) above, the Scottish Ministers may, if satisfied that the case is one in which cremation may properly take place, authorise the Medical Referee to allow the cremation to proceed.”.

(4) In regulation 18 of the principal Regulations—

(a) after “Form G” insert “or Form GG as the case may be”; and

(b) after “except” insert “, in the case of Form “G”,”.

(5) In the Schedule to the principal Regulations, there is inserted after Form A—
“FORM AA Application for cremation of body parts

I (*Name of applicant*)

(*Address*)

(*Occupation*)

apply to the

to undertake the cremation of the (specify organs or tissue to be cremated)

of

(*Name of deceased*)

(*Address*)

(*Occupation*)

(*Age*)

(*Sex*)

(*Whether married, widow, widower, or unmarried*)

those body parts having been removed in the course of a post-mortem examination.

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

1. Are you an executor or the nearest surviving relative of the deceased?
2. If not, state
 - (a) Your relationship to the deceased.
 - (b) The reason why the application is made by you and not by an executor or any nearer relative.

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- 3. Have the near relatives* of the deceased been informed of the proposed cremation?
- 4. Has any near relative of the deceased expressed any objection to the proposed cremation? If so, on what ground?
- 5. What was the date and place of the death of the deceased?
- 6. Give the name and address of the cemetery, churchyard or crematorium where the body of the deceased was buried or cremated.
- 7. On what date did the burial or cremation take place?
- 8. Do you know of any reason whatever for supposing that further examination of the body parts of the deceased may be desired?

I declare that to the best of my knowledge and belief that the information given in this application is correct and no material particular has been omitted.

Date (Signature)

The applicant is known to me and I have no reason to doubt the truth of any of the information furnished by the applicant.

Date (Signature)
(capacity in which signatory has signed)

.....

(Address)

.....

NOTE:

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

(6) In the Schedule to the principal Regulations, there is inserted after Form D—
“FORM DDCertificate on release of body parts

I hereby confirm on behalf of (*specify name and address of hospital, trust or other authority lawfully holding the body parts*)

that the following body parts were removed in the course of the post-mortem examination
[*authorised by the Procurator Fiscal at {insert location}**] carried out on

(*Name of deceased*)

(*Address*)

(*Age*)

(*Sex*)

who died on (*Date*)

at (*Place*):

*Heart

*Brain

*Chest

*Abdominal

*Other body parts (*specify*)

I hereby certify that there exists no reason for any further inquiry or examination concerning the above mentioned body parts, and that [* having received consent in writing from the said Procurator Fiscal to the release of the body parts] they are now released for cremation in a suitably safe and prepared condition.

(Date)

(Signature)

(Full name printed)

(Address)

(Registered qualifications)

(Office)

* Delete if not applicable.

** Check whether the post mortem examination was authorised by the Procurator Fiscal.

(7) In the Schedule to the principal Regulations, there is inserted after Form F–
“FORM FF *Authority to cremate body parts*”

Whereas application has been made for the cremation of the body parts of

(Name*)

(Address)

(Occupation)

And whereas I have satisfied myself that all the relevant requirements of the Cremation Act 1902, and of the Regulations made in pursuance of that Act, have been complied with, and that there exists no reason why the body parts should not be cremated:

I hereby authorise the Superintendent of the Crematorium at _____ to cremate the said body parts.

(Signature)

Medical Referee to the

(Date)

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

* In the case of a stillborn child, where no name is available, insert a description sufficient to the identity of the body.

(8) In the Schedule to the principal Regulations, there is inserted after Form G–
“FORM GG *Register of Cremations of Body Parts*”

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carried out by

at the Crematorium at

<i>No.</i>	<i>Date of cremation</i>	<i>Name, Residence, and Occupation of deceased</i>	<i>Age and sex</i>	<i>Date of death</i>	<i>Date and place of burial/cremation of body</i>	<i>Body part(s) being cremated</i>	<i>Name and address of person who applied for cremation</i>	<i>Names and addresses of persons signing certificates</i>

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

St Andrew's House, Edinburgh
5th June 2003

MALCOLM CHISHOLM
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which extend to Scotland only, amend the Cremation (Scotland) Regulations 1935 (“the principal Regulations”), making provision concerning the cremation of parts of the body of a deceased person, those parts having been removed in the course of a post-mortem examination.

Regulation 2 amends regulation 7 of the principal Regulations, which prohibits cremations unless an application in a specified form has been completed in accordance with that regulation. The amendment inserts a reference to the new application Form AA which must be completed for the cremation of body parts.

Paragraph (3) of regulation 2 inserts a new regulation 15A into the principal Regulations. This provision has the effect of prohibiting the cremation of body parts unless the Medical Referee is satisfied of several matters: that the parts were removed in the course of a post-mortem examination carried out on the deceased, that the death has been duly registered, and that a proper application for the cremation has been submitted. In cases where the Medical Referee cannot be satisfied of such matters, the Scottish Ministers may still authorise the Medical Referee to allow the cremation of body parts.

Paragraph (4) of regulation 2 amends regulation 18 of the principal Regulations, obliging the registrar to maintain a register for the cremation of body parts.

Paragraphs (5) to (8) of regulation 2 insert new forms into the Schedule to the principal Regulations. New Form AA is the application form for the cremation of body parts which must be completed by the proper person. New Form DD is the certification to be given by the appropriate person on behalf of the hospital trust or other authority which has the body parts confirming that the specified body parts were removed during a post-mortem examination and certifying that there is no reason for any further inquiry or examination and that the body parts are released for cremation in a suitable condition. New Form FF is the written authority to cremate the body parts to be completed by the Medical Referee, and new Form GG sets out the form in which the registrar of the cremation authority must record the details of the cremation in the register.