

CERTIFICATION OF DEATH (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Referral of medical certificates of cause of death for review

Section 2: Referral of certain certificates of cause of death for review

10. Under the new system for scrutiny of medical certificates of cause of death, certificates will be sent for review from a variety of sources. One of these is the National Records of Scotland (NRS) (formerly General Register Office for Scotland (GROS)), which is responsible for the registration of deaths. NRS is expected to use computerised systems to identify a random selection of certificates for review.
11. [Section 2](#) amends the [Registration of Births, Deaths and Marriages \(Scotland\) Act 1965 \(c.49\)](#) (“the 1965 Act”) by inserting a new section 24A. Section 24A(1) requires the Registrar General to ensure that randomly selected certificates of cause of death are referred to medical reviewers for review prior to the completion of the registration process (and therefore before the registrar’s certificate of registration has been issued). Subsection (2) imposes a duty on the Registrar General to ensure that medical certificates of cause of death requested by medical reviewers under section 3 are referred for review. Subsection (3) allows a district registrar to refer a certificate for review, where he/she decides this is appropriate.
12. Some certificates, listed in subsection (4), are not eligible to be referred to the medical reviewer for investigation. The first category consists of cases where the body presents a risk to public health and a direction has been issued by a Health Board under section 90(2) of the [Public Health \(Scotland\) Act 2008 \(asp 5\)](#) to the effect that an infectious or contaminated body may not be removed or may only be removed from a hospital by a specified person for immediate disposal. Also ineligible for review is any certificate which has already been referred for review, any replacement certificate (described in sections 10 and 11), any certificate signed before section 2 comes into force and any certificate relating to a death which has already been (or is being) investigated by the procurator fiscal (this includes cases of notifiable deaths which have been formally reported to the procurator fiscal).
13. Subsection (5) gives the Scottish Ministers power to direct the Registrar General as to the minimum number of certificates to be referred in the random sample and the method of determining the random sample. The sample size and method could be amended from time to time for statistical reasons.
14. The Scottish Ministers have the power to suspend by order the referral of certificates to the medical reviewer during an epidemic or if it becomes necessary to do so for public health reasons in order to prevent the spread of infectious disease or contamination. Suspension of the referrals could be judged necessary in such situations to expedite the disposal of bodies and free up medical personnel. The power to suspend the referral of

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

certificates by order is subject to emergency affirmative procedure (subsections (9), (12) and (13)); this will allow an order to be made with immediate effect, but Parliamentary approval is required if it is to have effect for more than 28 days (not including periods when the Parliament is dissolved or in recess for more than 4 days). Where this power is used to revoke an existing order, negative procedure applies to the making of the revoking order (subsections (10) and (11)).