

CERTIFICATION OF DEATH (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Deaths outwith Scotland

Section 17: Verification of foreign death certificates

48. This section gives medical reviewers the power to check foreign death certificates. Section 25 makes it an offence for persons having charge of a cemetery or crematorium to dispose of a body without the required documentation; in cases where the death occurred outside the UK, the document required for disposal will be a certificate issued by a medical reviewer. Medical reviewers, or their assistants, will check whether the relevant documents are authentic and equivalent to the documentation which would be required to dispose of the body of a person who died in Scotland and, if so, will issue the aforementioned certificate. In carrying out this function, medical reviewers have the power to make such enquiries as they consider appropriate.

Section 18: Medical reviewers to authorise cremation

49. Medical reviewers have the additional function of ensuring that it is safe to cremate the body of anyone who dies overseas and who is to be cremated in Scotland. Medical referees at crematoria currently perform this function but this role will be abolished when the new system is introduced. This means, for example, that the medical reviewer will check medical records to see if the person has any implants or a pacemaker that would need to be removed prior to cremation. In carrying out this function, section 14 also gives medical reviewers powers to require documents or require a person (such as a family member or funeral director) to produce relevant documents (including access to health records). The offence provision in section 15 in relation to the provision of such documents applies.
50. Anyone wishing to arrange the cremation of a body in such a case must apply to the medical reviewer. The form and content of the application and authorisation and any further procedure to be followed by medical reviewers may be specified in regulations by the Scottish Ministers.

Section 19: Post-mortem examination of person who died outwith United Kingdom

51. The persons mentioned in subsection (3) may apply to the medical reviewer for assistance, including financial assistance, to arrange a post-mortem examination in situations where the body of someone who died outwith the UK has been returned to Scotland for disposal. The persons who can make an application under subsection (3) are the same persons who are entitled to authorise a post-mortem under sections 30, 32 or 33 of the Human Tissue (Scotland) Act 2006. An application may only be made under this section for the purpose of providing information about the cause of death

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

where none is available. It will allow the small number of families in this position an opportunity to have the cause of death established.