

2024 No. 493

MEDICAL PROFESSION, ENGLAND AND WALES

CORONERS, ENGLAND AND WALES

The Medical Examiners (England) Regulations 2024

Made - - - - at 6:27 p.m. on 11th April 2024

Laid before Parliament 15th April 2024

Coming into force - - 9th September 2024

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 19(4)(a) to (e) and 176(3) of the Coroners and Justice Act 2009(a).

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Medical Examiners (England) Regulations 2024 and come into force on 9th September 2024.

(2) These Regulations—

- (a) extend to England and Wales; and
- (b) apply in relation to medical examiners(b) appointed by an English NHS body only.

Interpretation

2. In these Regulations—

“the Act” means the Coroners and Justice Act 2009;

“appointing body”, in relation to a medical examiner, means the English NHS body which appointed the medical examiner under section 18A of the Act;

“attending practitioner” has the meaning given in regulation 2 of the Medical Certificate of Cause of Death Regulations 2024(c);

“English NHS body” has the meaning set out in section 18A(4) of the Act (Medical Examiners: England)(d);

-
- (a) 2009 c. 25. See section 19(6) for the meaning of “appropriate minister”. The heading to section 19 was amended by section 169(2)(a) of the Health and Care Act 2022 (c. 31). There are other amendments to section 19 which are not relevant to these Regulations.
 - (b) For the meaning of “medical examiner”, see section 48(1) of the Coroners Act 2009 as amended by section 169(4) of the Health and Care Act 2022.
 - (c) S.I. 2024/492.
 - (d) Section 18A was inserted by section 169(1) of the Health and Care Act 2022.

“National Medical Examiner” means the person appointed under section 21(1) of the Act;

“other relevant medical practitioner” means a registered medical practitioner^(a) 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; or
- (c) sought to fulfil any function under the Medical Certificate of Cause of Death Regulations 2024;

“relevant attending practitioner” has the meaning given in regulation 2 of the Medical Certificate of Cause of Death Regulations 2024;

“relevant function” means a function^(b) of a medical examiner under regulation 7 or the Medical Certificate of Cause of Death Regulations 2024.

Terms of appointment of medical examiners and termination of appointment

3.—(1) The terms of appointment of a medical examiner must include terms (however expressed) which provide that—

- (a) The appointment is terminated immediately in the event that the medical examiner ceases to be a registered medical practitioner;
- (b) 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;
- (c) 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 1953 Act^(c);
- (d) 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; and
- (e) 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.

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

(a) The definition of “registered medical practitioner” in Schedule 1 to the Interpretation Act 1978 (c. 30) was substituted by S.I. 2002/3135, Schedule 1, paragraph 10 to mean “a fully registered person within the meaning of the Medical Act 1983 who holds a licence to practise under that Act”.

(b) For the meaning of “function”, see section 48(1) of the Coroners and Justice Act 2009.

(c) Under section 48(1) of the Coroners and Justice Act 2009, “the 1953 Act” means the Births and Deaths Registration Act 1953 (c. 20).

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 relevant functions.

Procedure for the independence of medical examiners

6.—(1) Where a medical examiner receives a request from an English NHS body to exercise any relevant function in relation to a death, and is insufficiently independent in relation to that death, the examiner—

- (a) must not exercise any relevant function in relation to the death or, where relevant, cease exercising any relevant function immediately upon becoming aware of their insufficient independence; and
- (b) must, without unreasonable delay—
 - (i) make a record of which of the circumstances set out in paragraph (4) apply in relation to the death; and
 - (ii) notify in writing that English NHS Body and, if different, their appointing body.

(2) Where a medical examiner makes a notification under sub-paragraph (1)(b)(ii), the examiner must ensure that the English NHS body and, where applicable, the appointing body are provided with—

- (a) a copy of the record made under sub-paragraph (1)(b)(i);
- (b) any information relating to the death which the examiner has received; and
- (c) any records made by the examiner in connection with any relevant function exercised in relation to the death.

(3) For the purposes of paragraph (1)—

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

(4) 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, 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 connection with D, AP or OP such as to give rise to a reasonable doubt as to the examiner’s ability to carry out objectively in relation to the death any of the relevant functions.

(5) In paragraph (4), “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.

(6) In paragraph (5), references to step relationships and in-laws are to be read in accordance with section 246 (interpretation of statutory references to stepchildren etc) of the Civil Partnership Act 2004(a).

Additional functions of medical examiners

7.—(1) In addition to the functions set out in the Medical Certificate of Cause of Death Regulations 2024, a medical examiner has the following functions—

- (a) providing advice to registered medical practitioners in relation to the functions of attending practitioners under the Medical Certificate of Cause of Death Regulations 2024;
- (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;
- (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 the Medical Certificate of Cause of Death Regulations 2024;
- (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 safety and clinical governance for the purpose of informing their professional judgement as to the cause of death in a particular case;
- (f) in the course of exercising a relevant function, reporting any serious concerns identified in respect of clinical governance, patient safety or public health surveillance in accordance with local reporting arrangements;
- (g) providing information and preparing reports to meet any reasonable request made by or on behalf of—
 - (i) the appointing body for the purpose of the body’s monitoring functions under any direction given under section 18A(3)(c) of the Act;
 - (ii) child death review partners for the purposes of their functions under section 16M of the Children Act 2004(b) where a senior coroner has decided that the child’s death is not one for which a duty to investigate arises under section 1 of the Act;
 - (iii) the Statistics Board; or
 - (iv) the National Medical Examiner;
- (h) identifying training needs of registered medical practitioners in relation to death certification, and promoting and facilitating such training;
- (i) keeping their own performance and service under review through, for example, participating in peer audits and service reviews.

(2) For the purposes of paragraph (1)—

“child death review partners” has the meaning given in section 16Q(2) of the Children Act 2004(c).

“information” includes information identifying a particular individual;

(a) 2004 c. 33.

(b) 2004 c. 31. Section 16M was inserted by section 24 of the Children and Social Work Act 2017 (c. 16).

(c) 2004 c. 31. Section 16Q was inserted by section 28 of the Children and Social Work Act 2017.

“local protocol” means a memorandum of understanding made between the medical examiner’s appointing body 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;

“the Statistics Board” means the body corporate established by section 1 of the Statistics and Registration Service Act 2007^(a).

Supply of information

8.—(1) A supply of information under these Regulations—

- (a) does not breach any obligation of confidence owed by the person supplying the information; and
- (b) does not operate to require or authorise the disclosure or use of information which would contravene data protection legislation.

(2) In this regulation, “data protection legislation” has the same meaning as in section 3(9) the Data Protection Act 2018^(b).

Signed by authority of the Secretary of State for Health and Social Care

Maria Caulfield
Parliamentary Under Secretary of State
Department of Health and Social Care

At 6.27 p.m. on 11th April 2024

(a) 2007 c. 18.
(b) 2018 c. 12.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in respect of medical examiners appointed by English NHS bodies to discharge the functions conferred on them by or under Chapter 2 of Part 1 of the Coroners and Justice Act 2009 (c. 25). Those functions relate 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 (c. 20).

Regulation 3 sets out mandatory terms to be included in the terms of appointment of medical examiners, and permits the inclusion of such other terms as are agreed between the appointing body and medical examiner.

Regulation 4 makes provision permitting appointing bodies to pay to each medical examiner it appoints such remuneration, expenses, fees, compensation for termination of appointment, pensions, allowances or gratuities as it determines.

Regulation 5 provides that a medical examiner must undertake such training as is appropriate to ensure that they have the experience and skills necessary to carry out their functions.

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 of confirming or issuing a medical certificate of cause of death, and notifying the appropriate bodies that they are insufficiently independent.

Regulation 7 confers functions on medical examiners which are in addition to their functions relating to the medical certificate of cause of death under the Medical Certificate of Cause of Death Regulations 2024 (S.I. 2024/492).

Regulation 8 provides that the supply of any information under these regulations does not breach any obligation of confidence. It also provides that these regulations do not operate to require or authorise the disclosure or use of information which would contravene data protection legislation.

Full impact assessments of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector were prepared in 2018 and 2022 and available at <https://www.gov.uk/government/consultations/death-certification-reforms> and <https://www.gov.uk/government/publications/health-and-care-act-2022-combined-impact-assessments>. An updated summary document has also been prepared and is available from <https://www.gov.uk/government/publications/changes-to-the-death-certification-process>. Hard copies can be obtained by writing to the Department of Health and Social Care, 39 Victoria Street, London, SW1H 0EU.

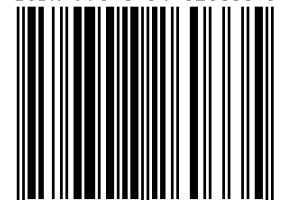
© Crown Copyright 2024

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of His Majesty's Stationery Office and King's Printer of Acts of Parliament.

£5.78

<http://www.legislation.gov.uk/id/uksi/2024/493>

ISBN 978-0-34-826033-5



9 780348 260335