

Health Report

COVID-19: Authorisation of Medical Referees to permit cremations during Alert Level Four

Date due to MO: 30 March 2020 **Action required by:** 30 March 2020

Security level: IN CONFIDENCE **Health Report number:** 20200560

To: Hon Dr David Clark, Minister of Health

Contact for telephone discussion

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Action for Private Secretaries

Return the signed report to the Ministry of Health.

Date dispatched to MO:

COVID-19: Authorisation of Medical Referees to permit cremations during Alert Level Four

Purpose of report

This report requests your approval to authorise medical referees to permit cremations to be carried out during COVID-19 Alert Level Four, without complying with regulation 7 of the Cremation Regulations 1973.

Key points

- Seeing and identifying the body of a deceased person presents difficulties for certifying practitioners to maintain the self-isolation requirements necessary during COVID-19 Alert Level Four.
- Before a body can be cremated, the Cremation Regulations 1973 (the Regulations) require the permission of a medical referee. Under regulation 7 of the Regulations, a medical referee cannot permit any cremation unless a Cremation Certificate is issued by a certifying practitioner which requires seeing and identifying the body.
- Ministry of Health officials ((Ministry officials) recommend that you authorise medical referees to permit cremations to be carried out without complying with regulation 7 while we are under COVID-19 Alert Level Four, for cremations where completion of a Cremation Certificate by a certifying practitioner would increase the risk of transmission of COVID-19. This is permitted under Section 12 (b) of the Regulations in the event of an epidemic.
- Ministry officials also recommend requiring medical referees to receive advice from a trusted source (for example, a nurse) at the site of death in order to satisfy themselves that it is appropriate to permit cremation.

Recommendations

The Ministry recommends that you:

- a) **Note** that under regulation 7 of the Cremation Regulations 1973, a cremation cannot be authorised by a medical referee unless a Cremation Certificate is issued by a certifying practitioner. This requires certifying practitioners to see and identify the body
- b) **Note** that there are difficulties in meeting the requirements of the Cremation Regulations 1973 under COVID-19 Alert Level Four, as certifying practitioners may not be able to view a body without compromising self-isolation precautions
- c) **Agree** to authorise medical referees to permit cremations to be carried out without complying with regulation 7, as provided for under Section 12 (b) of the Cremation Regulations 1973 **Yes /No**

- d) **Agree** this authorisation will only apply: **Yes /No**
- i. during COVID-19 Alert Level Four
 - ii. in rest homes, residential care facilities, and other long-term in-patient facilities
 - iii. where the medical history and current conditions of the deceased are known by a medical practitioner
- e) **Agree** that under this authorisation a medical referee must receive advice from a trusted source who has a reasonable level of assurance of the cause of death to verify the identity of the deceased and that the deceased died of natural causes, in lieu of a certifying practitioner providing a Cremation Certificate **Yes /No**
- f) **Agree** that medical referees will have discretion in determining who constitutes a trusted source, but that the identity, contact details, and position of the trusted source must be recorded. **Yes /No**

Maree Roberts
Deputy Director-General
System Strategy and Policy



Hon Dr David Clark
Minister of Health
Date: 1 April 2020

Background

Regulatory framework for cremations

1. Before a body can be cremated, the Cremation Regulations 1973 require the permission of a medical referee. The medical referee must be an experienced medical practitioner. They review the death documents to ensure:
 - i. the cause of death has been clearly established
 - ii. that the death does not need to be reported to the coroner
 - iii. there is no reason why the body should not be cremated.
2. This system provides a check on the cause of death to ensure that the death had not occurred because of criminal wrongdoing before the body is irreversibly destroyed.

Issues with cremation due to COVID-19

3. Under regulation 7 of the Cremation Regulations 1973, a medical referee cannot permit any cremation unless a medical practitioner or nurse practitioner (certifying practitioner) has completed a Cremation Certificate. The certifying practitioner must see and identify the body to complete the Cremation Certificate.
4. Seeing and identifying the body of a deceased person in rest homes, residential care facilities, other long-term in-patient facilities presents difficulties for certifying practitioners to maintain the self-isolation requirements necessary during COVID-19 Alert Level 4. For example, concerns have been raised that a certifying practitioner could present a possible COVID-19 risk to people by entering the bubble of a rest home.

Provision for special circumstances

5. Section 12 (b) of the Cremation Regulations 1973 allows a Minister to permit cremations to be carried out or to authorise medical referees to permit cremations to be carried out without complying with regulation 7 in the event of an epidemic.
6. This permit can apply within the district of a local authority, in relation to particular cases or classes of cases, or in particular places. The Minister may also specify or impose exceptions or conditions to this permission or authorisation.

Authorisation of Medical Referees to permit cremations

7. Ministry officials recommend that you authorise medical referees to permit cremations to be carried out without complying with regulation 7, for cremations where completion of a Cremation Certificate would increase the risk of transmission of COVID-19.
8. Authorising medical referees to permit cremations will ensure there is still a level of risk assessment taking place before the deceased are cremated. This authorisation will not affect the existing processes regarding an executor or near relative providing consent for cremation.
9. Section 12 (b) of the Cremation Regulations 1973 also provides for the Minister to permit cremations to be carried out without the application required under regulation

5.¹ Ministry officials do not consider an exception to regulation 5 of the Cremations Regulations 1973 is necessary at this time.

Recommended conditions for authorisation

10. Ministry officials recommend that this authorisation would only apply:
 - i. during COVID-19 Alert Level Four
 - ii. in rest homes, residential care facilities, and other long-term in-patient facilities
 - iii. where the medical history and current conditions of the deceased are known by a medical practitioner.
11. Ministry officials also recommend requiring medical referees to receive advice from a trusted source (for example, a nurse) at the site of death in order to satisfy themselves that it is appropriate to permit cremation. A trusted source who has seen the body and has a reasonable level of assurance of the cause of death would be required to verify on the cremation certificate:
 - i. the identity of the deceased
 - ii. that the deceased died of natural causes.
12. Medical referees would have discretion in determining who constituted a trusted source. The identity, contact details, and position of the trusted source would be recorded.

Equity

13. The recommendations in this report are not expected to have a significant impact on equity.

Next steps

14. If approved, Ministry officials will work with the relevant agencies and organisations to communicate this decision and to provide any guidance needed on the operational considerations of implementing this permit.
15. Ministry officials will provide you with further advice on burials and cremation in the context of COVID-19 Alert Level Four as needed, including mitigating any wider risks that may emerge relevant to these processes.
16. The Ministry will also provide you with further advice on whether the authorisation recommended in this paper is still needed at COVID-19 Alert Levels Three and below as we move between alert levels in the future.

ENDS.

¹ Regulation 5 of the Cremation Regulations 1973 requires an application form to be completed by an executor or near relative of the deceased person before cremation. The form can also be completed by another person if the crematorium authority is satisfied that that person may reasonably make the application and that sufficient reason is given on the application why it is not signed by an executor or a near relative.