



CHIEF CORONER

SUMMARY OF THE CORONAVIRUS ACT 2020 PROVISIONS RELEVANT TO CORONERS

These are the essential things to know on MCCDs and cremation following implementation of relevant provisions in the Coronavirus Act 2020.¹

This is the Chief Coroner's Office's assessment of the legislative position. Coroners should also consult the underlying statutory provisions and any detailed published guidance from other organisations e.g. GRO, MOJ etc because there are more aspects of the new statutory position (and the practice that will accompany it) not dealt with here.

MCCDs

Signing and attendance are effectively decoupled, but with safeguards. Any registered medical practitioner can sign an MCCD, even if the deceased was not attended during their last illness and not seen after death, provided that they are able to state the cause of death to the best of their knowledge and belief.²

Once that MCCD reaches the registrar there are two possibilities depending on whether the deceased was seen before or after death.

First, if a medical practitioner (who does not have to be the same medical practitioner who signed the MCCD) attended the deceased within 28 days before death (a new, longer timescale)³ or after death, then the registrar can register the death in the normal way.

Second, if there was no attendance either within 28 days before death or after death, then the registrar would need to refer that to the coroner.⁴ This is a safeguard parliament put in

¹ <http://www.legislation.gov.uk/ukpga/2020/7/contents/enacted>

² If the deceased was attended by a registered medical practitioner, if that practitioner is unable to sign the MCCD or it is impractical for that practitioner to do so, another medical practitioner can sign (Schedule 13, Part 1, paragraph 4(2)(a) Coronavirus Act 2020).

³ The Registration of Births and Deaths Regulations 1987 (SI 1987/2088) Reg 41(b)(ii) as amended by Sched 13, Part 1, para (6)(3)(b) Coronavirus Act 2020.

⁴ Sched 13, Part 1, para 4(6) Coronavirus Act 2020 disapplies the normal duty on the registrar to report a death to the coroner when the deceased was not attended by a medical practitioner during their last illness (Reg 41(1)(a) of the 1987 Regulations). However, Reg 41(1)(b)(ii) (as modified by the Coronavirus Act) remains in

place to ensure that MCCDs are not issued without any recent medical practitioner attendance prior to or after death or without any other form of oversight (in this case, by a coroner).

The coroner could cover the second scenario with a Form 100A if they decided it was appropriate to do so. In practice, it may be that the signing medical practitioner and the coroner are in communication before the MCCD reaches the registrar. Either way the outcome would be the same upon issue of the 100A.

The General Register Office position is that attendance before death can be visual (i.e. in person) or by video (e.g. Skype), but cannot be audio (i.e. telephone) only. Attendance after death must be in person.

Clearly, some form of attendance would be ideal since it will reduce natural cause referrals to the coroner.

Medical practitioners' duty to notify coroners

The Notification of Deaths Regulations 2019 provide that a registered medical practitioner must notify the coroner where:

- it is reasonably believed that there is no attending medical practitioner required to sign the MCCD (Reg 3(1)(e)); or
- it is reasonably believed that the attending medical practitioner required to sign the MCCD is not available to do so within a reasonable time of the person's death (Reg 3(1)(f)).

The emergency legislation disapplies this requirement because, as set out above, the medical practitioner who signs the MCCD does not need to have attended. The duty on a medical practitioner to notify the coroner only applies during the emergency period where it is reasonably believed that there is no other medical practitioner who may sign the MCCD (or that such a medical practitioner is not available within a reasonable time of the person's death to do so).⁵

Cremation

The requirement for a confirmatory certificate (Cremation Form 5) is suspended. There is only a requirement for one medical certificate (Cremation Form 4).⁶

Any medical practitioner can complete Cremation Form 4. They do not have to have seen the deceased. However, a medical practitioner (not necessarily the medical practitioner who signs the Cremation Form 4)⁷ should have attended the deceased (including

force, i.e. that if the deceased was not seen by a medical practitioner either after death or within 28 days before death the registrar must refer the death to the coroner.

⁵ Sched 13, Part 1, para 7(1) Coronavirus Act 2020.

⁶ Section 19 Coronavirus Act 2020.

⁷ Reg 41(b)(ii) of the 1987 Regulations, as amended by s18 and Sched 13, Part 1, para 6(3) Coronavirus Act.

visual/video/skype consultation) within 28 days before death, or *viewed* the body after death. 'Viewing' here means in person.

However, the crematorium medical referee may accept a Cremation Form 4 where the deceased has not been seen within 28 days before death or after death but where the death has been registered with an MCCD supported by a Form 100A.

It is open to the medical referee to consult the coroner's office, should he so wish, before authorising the cremation.

COVID-19 as a notifiable death and jury inquests

COVID-19 has been listed as a notifiable death under the Health Protection (Notification) Regulations 2010 which means it is notifiable to Public Health England.

Where the coroner decides to open an inquest, section 30 of the Coronavirus Act 2020 removes the requirement for an inquest to be held with a jury if the coroner has reason to suspect death was caused by COVID-19.

It is worth restating here that although COVID-19 is a notifiable disease under the Health Protection (Notification) Regulations 2010 that does not mean a report of death to a coroner is required by virtue of its notifiable status (the notification is to Public Health England), and there will often be no reason for deaths caused by this disease to be referred to a coroner.

Exercise of powers in the Act

The Coronavirus Act 2020 is not retrospective. It received Royal Assent on 25 March 2020. The provisions on death registration came into force on 26 March 2020.⁸

The provisions in the Act regarding MCCDs will remain effective during the life of the Act.⁹

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⁸ <http://www.legislation.gov.uk/uksi/2020/361/introduction/made>

⁹ See Sched 13, Part 1, para 4(1) Coronavirus Act. This 'future-proofs' the MCCD provisions in case the prospective provisions in para 14, Sched 21 Coroners and Justice Act 2009 are commenced during the two year life of the Coronavirus Act.