EXPLANATORY MEMORANDUM TO

THE MEDICAL CERTIFICATE OF CAUSE OF DEATH (AMENDMENT) REGULATIONS 2024

2024 No. 1064

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department of Health and Social Care and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Baroness Gillian Merron, Parliamentary Under-Secretary of State for Patient Safety, Women's Health and Mental Health at the Department of Health and Social Care, confirms that this Explanatory Memorandum meets the required standard.

2.2 William Vineall, Director of NHS Quality, Safety and Investigations at the Department of Health and Social Care confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 David Hayward at the Department of Health and Social Care, email: david.hayward@dhsc.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends the Medical Certificate of Cause of Death Regulations 2024 (S.I. 2024/492) (the principle regulations) to correct errors in the bilingual forms prescribed for use in Schedule 3 and Schedule 4.

4.2 The regulations also include an express override of the common law duty of confidence in respect of information provided as part of the death certification process.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction which the instrument forms part of the law of) is England and Wales.

4.4 The territorial application of this instrument is England and Wales.

5. Policy Context

What is being done and why?

5.1 As part of the reforms of the death certification process and introduction of a statutory medical examiner system - introduced on the 9 September 2024 - the principle regulations introduced four new medical certificates of cause of death and the circumstances in which each should be used when certifying a death. The certificates

are contained in Schedules 1 to 4 of the principle regulations and include a bilingual version of each form.

5.2 Some minor errors have been identified in two of the prescribed bilingual forms. These regulations amend the relevant forms to correct these errors and remove a redundant field.

5.3 This instrument also amends the principle regulations to provide that the supply of information under those regulations does not breach any obligation of confidence. It also provides that the requirements on provision of information do not require or authorise the disclosure or use of information which would contravene data protection legislation. The inclusion of this provision ensures consistency with the Medical Examiners (England) Regulations 2024.

What was the previous policy, how is this different?

5.4 In its Third Report, the Shipman Inquiry examined the process of death certification and the coroner system. The Inquiry concluded that the previous arrangements for scrutinising Medical Certificates of Cause of Death (MCCD) were confusing and provided inadequate safeguards. The Government of the day accepted the Shipman Inquiry's conclusions, and its action programme in response to the inquiry's key recommendations led to the design and piloting of a new rigorous and unified system of certification and independent scrutiny for all deaths in England and Wales that do not require investigation by a coroner (regardless of whether they are followed by burial or cremation).

5.5 This led to the introduction of reforms to the death certification process. The reforms change the way in which the causes of deaths are scrutinised and certified in England and Wales with the introduction of a statutory medical examiner system.

5.6 Medical Examiners will independently scrutinise the cause of death proposed by the attending medical practitioner on the MCCD. They will also highlight any concerns they might have about a death.

5.7 The principle regulations introduced new medical certificates of cause of death (MCCDs).

6. Legislative and Legal Context

How has the law changed?

6.1 These Regulations correct minor errors in the forms prescribed in the principle regulations.

6.2 Copies of this instrument will be provided under the free issue procedure.

Why was this approach taken to change the law?

6.3 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 In accordance with section 20(3) of the Coroners and Justice Act 2009, Welsh Ministers, the Registrar General and the Statistics Board have been consulted in respect of the content of this instrument and the prescribed forms and are supportive.

7.2 Furthermore, full consultation on the proposed changes to the death certification process and accompanying draft regulations was carried out between March 2016 and June 2016. The Government's response was published in March 2018 at *Death certification reforms - GOV.UK (www.gov.uk)*[1]. The consultation response sets out the government's analysis of responses received and addresses the issues raised.

8. Applicable Guidance

8.1 Guidance on completion of an MCCD was published on 9 September 2024 to coincide with the coming into force of regulations. *Medical certificate of cause of death (MCCD): guidance for medical practitioners - GOV.UK (www.gov.uk)*[2]

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument as impact assessments on the reforms to the death certification process were prepared in 2018[3] and in 2022[4]. The Department of Health and Social Care (DHSC) considers the 2018 and 2022 English impact assessments, and Welsh impact assessment, as sufficiently accurate.

9.2 To accompany the principle regulations, a document has been prepared which provides an updated summary of the potential impact of the introduction of medical examiners and death certification reform in England and Wales and this is published *Death certification reform and the introduction of medical examiners: updated summary of impact - GOV.UK (www.gov.uk)*[5]. The summary document builds upon the two previous impact assessments (2018 and 2022) and should be read alongside those. This summary document seeks to provide updates, where appropriate.

Impact on businesses, charities, and voluntary bodies

9.3 There is no, or no significant, impact on business, charities, or voluntary bodies.

9.4 The legislation does not impact small or micro businesses.

9.5 There is no impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is through ongoing stakeholder engagement, to ensure that this instrument meets the policy objectives set out in section 6 of this Explanatory Memorandum.

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[1] https://www.gov.uk/government/consultations/death-certification-reforms
[2] https://www.gov.uk/government/publications/medical-certificate-of-cause-of-death-mccd-guidance-for-medical-practitioners
[3] Introduction of medical examiners and death certification reform in England: impact assessment (publishing.service.gov.uk) - https://assets.publishing.service.gov.uk/media/5b1e59c440f0b634d557afba/death-certification-reform-impact-assessment.pdf
[4] health-and-care-act-2022-summary-and-additional-measures-impact-assessment.pdf (publishing.service.gov.uk) - https://assets.publishing.service.gov.uk/media/6363d911e90e0705a8c35457/health-and-care-act-2022-summary-and-additional-measures-impact-assessment.pdf
[5] https://www.gov.uk/government/publications/medical-examiners-and-death-certification-reform-summary-of-impact/death-certification-reform-and-the-introduction-of-medical-examiners-updated-summary-of-impact

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").