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The Local Government (Cremation) Regulations (Northern Ireland) 2024 Consultation Document

June 2024

Scope of Consultation	
Topic of this consultation:	This consultation seeks views about the regulation of cremations, conducted in crematoria operated and maintained by councils.
Scope of this consultation:	We are keen to hear the views of all parties with an interest in this issue, so that relevant views and evidence can be taken into account in deciding the way forward.
Geographical scope:	This consultation relates to Northern Ireland only.
Impact Assessments:	<p>When introducing new measures or a new or amended strategy, policy, procedure, or legislation, the Department is required to consider the impact the proposals may have on Section 75 groups and to have due regard to rural needs.</p> <p>Where regulation is being proposed, a Regulatory Impact Assessment is also required.</p> <p>This consultation is seeking views on the regulation of cremations and does not adversely impact on any of the Section 75 groups and no rural needs issues have been identified.</p> <p>The proposed legislation does not impact on small or medium sized enterprises and therefore no Regulatory Impact Assessment has been conducted.</p>

Basic Information

Body/bodies responsible for the consultation:	This consultation is being undertaken by Local Government and Housing Regulation Division in the Department for Communities..
Duration:	This consultation commenced on 24 June 2024 and will end on 30 September 2024.
Enquiries:	<p>For any enquiries about the consultation please email the Department at:</p> <p>cremationconsultation@communities-ni.gov.uk</p> <p>or write to:</p> <p>Local Government Cremation Regulations Department for Communities Local Government and Housing Regulation Division, Level 4, Causeway Exchange 1-7 Bedford Street Belfast, BT2 7EG</p> <p>or telephone: 028 9082 3355</p>

How to Respond

Email:	<p>You can reply by email to:</p> <p>cremationconsultation@communities-ni.go.uk</p> <p>or by post to:</p> <p>Local Government Cremation Regulations Department for Communities Local Government and Housing Regulation Division, Level 4 Causeway Exchange 1-7 Bedford Street Belfast, BT2 7EG</p> <p>When you reply, it would be very useful if you could confirm whether you are replying as an individual or submitting an official response on behalf of an organisation.</p> <p>If you are replying on behalf of an organisation please include:</p> <ul style="list-style-type: none">• Your name• Your position (if applicable)• The name of your organisation• An address (including postcode)• An email address
Consultation Response:	<p>We will consider the responses received and publish an outcome report on the Departmental website. In line with good practice and sustainable development this document has been published electronically.</p>
Accessibility:	<p>A range of alternative formats are available upon request from this Department. Please email the Department at:</p> <p>cremationconsultation@communities-ni.go.uk</p> <p>or write to:</p> <p>Local Government Cremation Regulations Department for Communities Local Government and Housing Regulation Division, Level 4, Causeway Exchange 1-7 Bedford Street, Belfast, BT2 7EG</p> <p>or telephone: 028 9082 3355</p>

How we Consult	
Consultation Principles:	This consultation is being conducted in line with the Fresh Start Agreement – (Appendix F6 – Eight steps to Good Practice in Public Consultation – Engagement). These eight steps give clear guidance to Northern Ireland departments on conducting consultations.
Feedback on the consultation process:	<p>We value your feedback on how well we consult.</p> <p>If you have any comments about the consultation process (as opposed to comments about the issues which are the subject of the consultation), including if you feel that the consultation does not adhere to the values expressed in the Eight Steps to Good Practice in Public Consultation Engagement or that the process could be improved, please address them to:</p> <p>Local Government Cremation Regulations Department for Communities Local Government and Housing Regulation Division, Level 4 Causeway Exchange 1-7 Bedford Street Belfast, BT2 7EG</p> <p>Email: cremationconsultation@communities-ni.gov.uk</p>
Privacy, Confidentiality and Access to Consultation Responses	<p>For this consultation, we may publish all responses except for those where the respondent indicates that they are an individual acting in a private capacity (e.g. a member of the public). All responses from organisations and individuals responding in a professional capacity may be published. We will remove names, email addresses and telephone numbers from these responses; but apart from this, we will publish them in full. For more information about what we do with personal data please see our consultation privacy notice.</p> <p>Your response, and all other responses to this consultation, may also be disclosed on request in accordance with the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR); however, all disclosures will be in line with the requirements of the Data Protection Act 2018 (DPA) and the General Data Protection Regulation (GDPR) (EU) 2016/679.</p> <p>If you want the information that you provide to be treated as confidential it would be helpful if you could explain to us why you regard the information you have provided as confidential, so that this may be considered if the Department should receive a request for information under the FOIA or EIR.</p> <p>DfC is the data controller in respect of any personal data that you provide, and DfCs privacy notice, which gives details of your rights in respect of the handling of your personal data, can be found at:</p> <p>www.communities-ni.gov.uk/dfc-privacy-notice</p>

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Consultation on the Local Government (Cremation) Regulations (NI) 2024

1. Introduction

1.1. For the majority of time cremation has been available in Northern Ireland, it has been carried out at the City of Belfast Crematorium, located within the grounds of Roselawn Cemetery. The legislation under which this crematorium operates was originally the Cremation Act 1902. This Act did not generally apply to Northern Ireland but was applied by the Belfast Corporation (General Powers) Act 1948. This permitted Belfast City Council to be treated as a burial authority under that Act and therefore establish a crematorium. Cremations at the crematorium are currently regulated by the **Cremation (Belfast) Regulations (Northern Ireland) 1961** (the 1961 Regulations).

1.2. Whilst the 1961 Regulations regulate the provision of cremations carried out by Belfast City Council, they do not apply to crematoria provided and maintained by other councils and are urgently in need of being updated and to apply a common regulatory system to all council crematoria.

1.3. Article 17 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 provides that all councils may provide and maintain a crematorium. Under that Article, the Department may make regulations regarding crematoria to regulate:

- a) their maintenance and inspection;
- b) the cases in, and the conditions under which, cremations may take place;
- c) the disposition or interment of the ashes resulting from cremations;
- d) the forms of the notices, certificates and applications to be given or made before any cremation is permitted to take place;
- e) the registration of cremations;
- f) the notification of cremations to the Register General or to registrars of births and deaths; and
- g) the fees that may be charged in respect of the issue of any medical certificate required under the regulations.

- 1.4. The Department proposes to make the first Regulations under Article 17, to supersede and update the current 1961 Regulations. The proposed draft Regulations will apply to all council-provided crematoria where councils have decided or decide in the future to provide this service in their area.
- 1.5. The Department is aware that Antrim and Newtownabbey Borough Council opened their Crematorium and Memorial Garden on 5 June 2023 and also that the Crematorium is operating under the same administrative process as Belfast City Council Crematorium. The Department notes this is in keeping with the Council's power under Article 17 of the 1985 Order. As mentioned previously, the proposed Regulations will apply to this Crematorium when they become operational.
- 1.6. To ensure that all cremation services are regulated under legislation, the Department proposes that the proposed Regulations should be drafted to incorporate the latest arrangements in place in England and Wales, to enable the current crematoria and those proposed, to operate under comparable legislation. This provides limited scope to develop policies in other related areas regarding the process of cremation and wider societal issues.

2. The position in England and Wales

- 2.1. The 1961 Regulations were based on 'The 1930 Regulations' made under the Cremation Act 1902. The 1930 Regulations were amended four times since the making of the 1961 Regulations mainly in regard to the:
 - a) issuing of a certificate by a coroner;
 - b) countersigning of the application Form;
 - c) deaths which took place abroad;
 - d) authorisation by the medical referee where a body has undergone an anatomical examination;
 - e) need for a Confirmatory Certificate where the deceased has died as an inpatient and a post-mortem has been conducted; and
 - f) cremation of parts of the body of a deceased person or a still-born child.
- 2.2. The Cremation (England and Wales) Regulations 2008 (the 2008 Regulations) were introduced to consolidate the legislation, modernise the language and to permit bereaved families to have the right to inspect the medical forms before cremation. The latter point was to allow relatives to discuss any concerns they may have about the death with the medical referee. This was seen as a necessary reform following the conviction of Harold Shipman and the subsequent investigation into the process surrounding the certification of death.

- 2.3. The 2008 Regulations were amended in 2016 following a consultation on the report of Lord Bonyon's Scottish Infant Cremation Commission which found that in some Scottish cases parents had been incorrectly told there had been, or would be, no ashes from their babies' cremations; and, the report by David Jenkins into infant cremations at Emstrey Crematorium in Shropshire where it was reported that between 1996 and 2012 the crematorium failed to obtain ashes to return to parents following infant cremations. The regulations were amended to:
- a) insert a definition of "ashes", to make clear that this means all that is left in a cremator, other than metal, at the end of the cremation process; and
 - b) to require the retention of documents relating to cremations for two years where a copy of the documents was also kept electronically.
- 2.4. Following on from the above-mentioned reports, the 2008 Regulations were again amended in 2017 to make provision for the applicant for a cremation to give instructions as to the disposal of the ashes and make changes to the cremation forms. This was introduced to ensure that cremations would not be carried out until a record of the applicant's decision was received.
- 2.5. Following consultation on the proposed amendment it was reported that the majority of respondents were in favour of only allowing a cremation to proceed where the applicant specified what should happen to the ashes, as long as one of the options was to allow an applicant to say that they wished the ashes to be held pending the applicant's final decision after the cremation. This was to address the concern that it could be difficult for some newly bereaved parents to make a final decision.
- 2.6. The **Explanatory Memorandum to the 2017 amending regulations** advises that "new wording on all cremation application forms, introduced by these regulations, notifies applicants that in some rare cases, such as the cremation of still-born children, there may be no ashes to recover. The risk that no ashes are recovered and returned, through the introduction in 2016 of the definition of ashes that includes all that remains after the cremation, which in the case of still-born and small babies, may only be ash from the casket and clothing. However, it remains a possibility that there will be nothing recovered, and the new wording allows applicants to make an informed decision about cremation and will ensure transparency about the process."
- 2.7. The Department proposes to replicate the current versions of the above-mentioned changes which are applicable in England and Wales.

3. The Proposed Regulations - Parts 1, 2 and 7

- 3.1 Parts 1 and 2 of the Regulations set out the date on which the Regulations come into operation and the meaning of the terms used within the Regulations. They also set out the requirements which must take place prior to a crematorium becoming operational.
- 3.2 It is intended that the Regulations will come into operation as soon as possible (but not less than 3 weeks) after they have been made and laid in the Assembly. Part 7 provides for transitional arrangements and for the continuation of the posts of a Medical Referee (where they are licenced -see Paragraph 4 below) and the Registrar of Cremations.
- 3.3 Part 7 also, in Regulation 40, provides for the use of current cremation forms for the period of 1 month after the Regulations have come into operation.

Questions

- 1. Do you agree with the following definition of “ashes”? (see Regulation 2) “ashes” means all the material left in the cremator after a cremation, and following–
 - a) the removal of any metal, and
 - b) any subsequent grinding or other process which is applied to the material;
- 2. Do the savings and transitional provisions in Part 7, in particular Regulation 40, provide for a smooth transition to the new Regulations?

4. The Proposed Regulations - Part 3

- 4.1 The Medical Referee plays a vital role in the process of cremation. Due to the finality in the cremation of a deceased person, it is important that the cause of death has been established and verified and due process has been followed.
- 4.2 The current provision for a Medical Referee to be appointed, requires that person to be a registered medical practitioner and to have been registered for 5 years. The General Medical Council (Licence to Practise) Regulations Order of Council 2009 introduced a requirement for medical practitioners to hold licences to practise and with the implementation of the licensing scheme, the Medical Act 1983 (Amendment) Order 2002 made a subsequent amendment to the definition of “registered medical practitioner” contained within the Interpretation Act 1978. This amendment had the effect of defining the term “registered medical practitioner” in all legislation which applied in England, Scotland and Wales and also to legislation which was UK-wide.
- 4.3 The result of this change is that medical referees in England and Wales must be registered and licensed to practise, however, the requirement to be licensed was never applied to the position of medical referees in Northern Ireland. The proposed Regulation 7 stipulates that the Medical Referee must be a registered medical practitioner of at least five years’ standing and Regulation 2 proposes that this will include being registered and licenced to practise.

4.4 Currently medical referees appointed under the 1961 Regulations are done so with the approval of the Department - this provision has been replicated in draft Regulation 6. The Department has taken the opportunity to clarify, by applying section 18(2) of the Interpretation Act (NI) 1954 to the appointment of Medical Referees, that the power to appoint, under this Regulation, also includes the power to remove or suspend the person by the appointing authority i.e. councils.

Question

3. Do you have any comments on the proposed Part 3?

5. The Proposed Regulations - Part 4

5.1 Part 4 of the proposed Regulations sets out the conditions under which a cremation may take place.

5.2 Under the 1961 Regulations no cremation may take place in a crematorium unless notice of its opening has been given to the Department and it is not lawful to cremate a person who has left instruction that they should not be cremated, or human remains which have not been identified. These provisions will remain.

5.3 The regulations in this Part are similar to those in place at the moment in relation to cremation of a deceased person or a still-born child.

5.4 The Regulations have been updated

to provide for the cremation of body parts which may have been removed during a post-mortem and retained. These Regulations do not provide for the cremation of body parts from a person who is still alive.

5.5 The proposed Regulations will enable the electronic transfer of the Forms providing they have the electronic signature of any person who is required to sign them. The term “electronic signature” has the same meaning as given by section 7(2) of the Electronic Communications Act 2000.

- An electronic signature is so much of anything in electronic form as-
 - is incorporated into or otherwise logically associated with any electronic communication or electronic data; and
 - purports to be used by the individual creating it to sign.

5.6 The Forms set out in the schedule to the Regulations shall be used for a cremation to take place in Northern Ireland where the death or still-birth has occurred in NI . The Regulations set out the content the Forms must contain. It is proposed that the Application for Cremation Form produced by the council which provides and maintains the crematorium where the cremation is to take place, should be used, although councils may accept other NI Cremation Application Forms.

5.7 The Medical Certificate Form (Form 4) and the Confirmatory Medical Certificate (Form 5) issued by the council where the cremation is to take place should also be used, however, the content of these Forms is set out in the Regulations and there should be no need to have these Forms completed again in the case where a cremation has been re-arranged at a different crematorium.

5.8 Councils should accept the completed Medical Forms (regardless of whether they were produced by another council) to remove the requirement of applicants having to request new forms being completed which may delay a cremation taking place and duplicating the work of the medical staff completing them.

6. Part 4 – Deaths abroad

6.1 The process of death certification has changed in other jurisdictions within the United Kingdom from when the 1961 Regulations were introduced. In each jurisdiction there are checks and balances to ensure nothing untoward has occurred in relation to a death and there is no need for further investigation, or that the proper procedure for further investigation has been carried out, before proceeding with a cremation.

6.2 The current Regulations provide that the equivalent Forms to those required in NI may be used, however, changes in the death certification procedures

in England, Wales and Scotland has removed the need for some of these Forms. An example of this would be that the Confirmatory Medical Certificate (Form5) is no longer required due to alternative checks and procedures being put in place (such as the introduction of the Medical Examiner in England and Wales). The current Medical Certificate (Form 4) is also proposed to be removed in England and Wales from April 2024 (see Parliamentary Statement made on 14 December 2023 - <https://questions-statements.parliament.uk/written-statements/detail/2023-12-14/hcws131>)

6.3 It is important that these procedures are catered for and followed, in cases where a death has occurred in England, Wales, Scotland, Isle of Man and the Channel Islands and the cremation will take place in NI. This will allow the processes in place in those jurisdictions to take place and will provide a medical referee in NI with all the relevant information to base their consideration on whether a cremation should proceed.

6.4 A table of the medical certificates required in each jurisdiction and the relevant legislation is set out at **Appendix A**.

6.5 In applying for cremation in this circumstance, draft Regulation 19 stipulates that-

- one of the following conditions must be satisfied, namely–
 - i) any medical certificates required in the relevant jurisdiction in connection with a cremation in that jurisdiction are given;
 - ii) where a death has been referred to a coroner in the relevant jurisdiction, a certificate from that coroner is given; or
 - iii) a certificate is given that the body of the deceased person has undergone an anatomical examination under the authority of a licence granted under the 2004 Act for that purpose; and
- a certificate as to the registration of death or a certified copy of the entry of the death in the relevant jurisdiction’s register is given.

6.6 Similarly in cases where a still-birth occurred in these jurisdictions, the following are required by draft Regulation 20 -

- either–
 - i) any medical certificates or declarations required in connection with a cremation in the relevant jurisdiction are given; or
 - ii) in cases in which a still-birth has been referred to a corner in the relevant jurisdiction, a certificate from that coroner is given; and
- a certificate as to registration of still-birth or a certified copy of the entry of the still-birth in the relevant jurisdiction’s register, is given.

6.7 In cases where a death or a still-birth occurred **in any other place** outside of NI, draft Regulations 19 and 20 provide for the following documentation to be given.

In cases of a death:

- an NI application Form;
- where a death has been referred to a coroner in the relevant jurisdiction, a certificate from that coroner is given; and
- a certificate of death or a certificate of the registration of death.

In the cases of a still-birth;

- an NI application Form;
- where a still-birth has been referred to a coroner in the relevant jurisdiction, a certificate from that coroner is given: and
- a certificate containing the same information as that requested by Form 8 is given by a person entitled to practise as a medical practitioner or midwife in the relevant jurisdiction.

6.8 In each of the above-mentioned cases where it is a requirement in the relevant jurisdiction that authorisation must be given before the remains can be removed from that jurisdiction, such authorisation must be submitted with the application for cremation.

6.9 The Northern Ireland Coroner currently has no role where deaths occur outside of Northern Ireland, however, this has been the subject of a consultation by the Department of Justice (**Consultation on coronial investigations into deaths abroad**).

The Department will liaise with the Department of Justice on any changes resulting from this consultation.

- 6.10 Where a death or still-birth occurs outside of NI, any query regarding the cause should be raised with the relevant authorities in the jurisdiction where the death or still-birth occurred.

Questions

4. Do you agree with the proposals put forward for deaths and still-births which occur outside of NI but within England, Wales, Scotland, Isle of Man or the Channel Islands?
5. Do you agree with the proposals put forward for deaths or still-births which occurred in any other place outside of NI?
6. Should the Department include a checklist of additional forms to be submitted on the Application Form? (This will necessitate additional legislation to update forms if requirements change in other jurisdictions).

7. Part 4 – Applications

- 7.1 An application under the 1961 Regulations may be made by an executor or the nearest surviving relative. Where an application is not made by either of these persons it may be made by another person giving reason as to why an application was not made by those persons. It is the duty of the medical referee to determine if the application has been made by the proper person. The 1961 Regulations provide, in Form A, that the ‘near relative’ includes widow or widower, parents, children above the age of 16, and any other relative usually residing with the deceased.
- 7.2 The proposed regulations propose that ‘near relative’ changes to – “widow, widower, or surviving civil partner of the deceased person, or parent or child of the deceased person, or any other relative usually residing with the deceased person” And in the case of a still-born child “the parent of a still-born child”
- 7.3 The 1961 Regulations require an application for cremation to be countersigned under a Statutory Declaration by virtue of the Statutory Declarations Act 1835 and, therefore, the need to have the signing of the Form Witnessed by a Justice of the Peace or a Commissioner for Oaths.

7.4 This requirement has been reported to the Department as onerous and outdated. The same requirement was in place in England and Wales as a requirement under the Cremation Act 1902. This was replaced with a provision to permit the Secretary of State to specify in regulations how applications should be verified. Regulations made in 1952 provided for a range of persons who may countersign an application which was in turn changed in 1965 to “a householder to whom the applicant is known”. When the regulations were consolidated and amended in 2008 this was changed to remove the need for countersigning and replaced with a “Statement of Truth” and a reminder that it is an offence to make a false statement regarding the obtaining of the cremation of human remains.

7.5 The Department proposes to remove the Statutory Declaration and replace it with a Statement of Truth and include a reminder that it is an offence to make a false statement.

Section 17(9) of the 1985 Order provides that any person who -

- wilfully makes a false representation, or signs or utters any false certificate, with a view to procuring the cremation of any human remains in a crematorium provided under this Article shall be guilty of an offence and liable—

- a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
- b) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine of any amount, or to both.

7.6 As mentioned in paragraph 2.2, the legislation in England and Wales was changed to allow the applicant, or someone else proposed by the applicant, to inspect the medical forms prior to the medical referee authorising the cremation. The Department proposes to replicate this provision (see draft Regulation 24) as it was seen as an important Shipman-related reform and family members may be able to draw the medical referee’s attention to concerns about unexpected symptoms or features of the case. It should be noted that if the applicant chooses to exercise this right it may delay the conducting of the cremation.

7.7 The 1961 Regulations provide for a Certificate of Medical Attendant (Form B) and for a Confirmatory Medical Certificate (Form C).

The proposed Regulations will continue the requirement for similar forms to be completed (Forms 4 and 5). However, the regulations contain an exception to the need for a Confirmatory Certificate Form 5 and specify that it is unnecessary where the death of the deceased occurred in a hospital and the deceased was an in-patient and a post-mortem examination has been performed by a doctor (Hospital Consented Post-Mortem Examination) and the results are known to the doctor completing Form 4 (this is separate from a coroner’s post-mortem or one completed at the request of the Medical Referee). The doctor completing Form 4 will confirm, at question 10 that a hospital post-mortem has been completed and the result is known to them.

Questions

- 7. Do you have any comments in relation to the proposals put forward in this part?
- 8. Do you agree with the wording of draft regulation 24?

8. Part 5 – Disposal of Ashes

8.1 This is a new provision, see paragraphs 2.3 to 2.5. Draft regulation 33 sets out that ashes must be handled in accordance with the applicants wishes as recorded on the application form. This regulation also permits a council, where there are no instructions or where the ashes are not collected, to dispose of the ashes by decently interring them in a burial ground or in a part of the crematorium reserved for the burial of ashes or scattered there.

Question

9. Do you agree with the wording of draft regulation 33?

9. Part 6 – Registration of Cremations

9.1 This part provides for the appointment and the duties of a Registrar of Cremations. These provisions are similar to those currently in place.

10. Confirmatory Medical Certificate (Form C)

10.1 As part of the response to the Coronavirus outbreak, the requirement to complete Form C was temporarily removed under section 21 of the Coronavirus Act 2020 and extended until 24 March 2023. This was done to remove the administrative burden on medical staff and to free up their time to deal with medical matters. A similar temporary provision was in place in England and Wales until March 2022 when the requirement for this form was removed permanently.

10.2 The permanent removal of this Form in England and Wales was done to stop the Form being re-introduced when plans were in place for its removal as part of the Health and Social Care Act 2022 (the 2022 Act) which was due to be implemented shortly after March 2022.

10.3 Provisions within that Act regarding the introduction of the statutory medical examiner system would render the need for a confirmatory medical certificate obsolete.

10.4 The role of the medical examiner under the 2022 Act includes scrutiny at the beginning of the death certification process and a non-statutory system was already in place.

10.5 Similar plans are in place in Northern Ireland for the introduction of a statutory Medical Examiner Service which will require legislation. The Department will keep under review the need for the new Form 5 in the run up to this service receiving a legislative footing.

Question

10. Do you have any views on the continuation of the use of a Confirmatory Medical Certificate?

11. Referral to the Coroner

11.1 The Department has consulted with the Coroners' Office and, subject to the outcome of this consultation, proposes to remove the requirement for a Coroner to complete Form E of the 1961 Regulations. Regulation 22 of the proposed regulations will instead require a Coroner to have given their authorisation under the Coroners Act 1959 in the cases where a death or a still-birth has been referred to them. This authorisation serves the same purpose as the current Form E and its removal is seen as an administrative correction of the process.

11.2 The current Form E also contains a separate section for completion by the Cremations Registrar, to state that the deceased whose death was reported to the Coroner has been cremated;

this is then forwarded to the Registrar General. The Department proposes that this process be retained and Form 14 should be completed by the Cremations Registrar in these cases and forwarded to the Registrar General.

12. Dispensations

12.1 The 1961 Regulations provide, in regulation 16, for the Department to consent to the setting aside of certain regulations at the request of a Health Authority in cases where an infectious disease is involved. The 1961 Regulations also provide for the regulations to be temporarily modified or suspended during an epidemic or other sufficient reason by an order of the Department at the request of a Health Authority.

12.2 The Department has modified the wording of this regulation to incorporate a wider range of contaminations rather than replicate a prohibitive list. This is to enable the regulations to accommodate future outbreaks in line with procedures put in place by the Department of Health. The requirement for the Department of Health and this Department to agree on this course of action and for the Department to issue an order in the case of an epidemic remains.

Questions

11. Do you agree with the removal of Form E and the separation of the Cremations Registrar return from that Form?
12. Do you agree with the wording of the revised regulation 16?

13. Forms

13.1 The Department has updated the Forms to be used in connection with cremation in line with those in England and Wales, where appropriate. The Department would welcome any views on the Forms and their content and, if any additional information should be included on them, for example additional contact details.

14. Overview

14.1 The table in Annex B is given to show the 1961 Regulations and their equivalent in the proposed draft regulations and also the equivalent provisions in England and Wales.

14.2 A list of the questions asked in this consultation are set out in Annex C.

Appendix A - Medical Certificates required in other jurisdictions

Jurisdiction	Medical Certificates Required
England and Wales	<p>The Cremation (England and Wales) Regulations 2008</p> <p>Death</p> <ul style="list-style-type: none"> • Medical Certificate (Cremation Form 4) (to be removed from April 2024) <p>Still-birth</p> <ul style="list-style-type: none"> • Certificate of stillbirth (Cremation Form 9)
Scotland	<p>The Cremation (Scotland) Regulations 2019</p> <p>None</p>
Isle of Man	<p>The Cremation Regulations 2000</p> <p>Death</p> <ul style="list-style-type: none"> • Certificate of Medical Attendant (Form B) • Confirmatory Medical Certificate (Form C) <p>Still-birth</p> <ul style="list-style-type: none"> • No Statutory Form – Regulation 14 requires the certificate of a registered medical practitioner after examination to be submitted.
Jersey	<p>Cremation (Jersey) Regulations 1961</p> <p>Death</p> <ul style="list-style-type: none"> • Certificate of Medical Attendant - Schedule 2 Form • Confirmatory Medical Certificate – Schedule 3 Form <p>Still-birth</p> <ul style="list-style-type: none"> • No medical certificate
Guernsey	<p>The Cremation Ordinance, 1972</p> <p>Death</p> <ul style="list-style-type: none"> • Certificate of Medical Attendant (Form B) • Confirmatory Medical Certificate (Form C) <p>Still-birth</p> <ul style="list-style-type: none"> • No Statutory Form – Regulation 12 requires- <ul style="list-style-type: none"> - the certificate of a medical practitioner registered to practice in Guernsey to be submitted; and - Declaration of Consultant Pathologist that no further examination is necessary.

Appendix B - Draft Cremation Regulations comparison table

Draft S.R.	S.I. 2008/2841	1961 Cremation Regulations
Regulations 1	Regulation 1	Regulation 1
Regulation 2	Regulation 2	Regulation 2
Regulation 3	Regulation 3	Regulation 5 (opening) Regulation 3 (closing)
Regulation 4	Regulation 4	Regulation 3(a)(b) & (c)
Regulation 5	Regulation 5	Regulation 4
Regulation 6	Regulation 6	Regulation 11
Regulation 7	Regulation 7	Regulation 11
Regulation 8	Regulation 10	Regulation 11
	Regulation 8 Not replicated	No equivalent to E&W Reg 8
	Regulation 9 Application of section 18 in draft regulation 6 provides clarification.	Section 18 of the Interpretation Act (NI) 1954
Regulation 9	Regulation 11	Not included – New provision
Regulation 10	Regulation 12	Regulation 12
Regulation 11	Regulation 13	Regulation 5
Regulation 12	N/A -These provisions were in earlier versions of legislation for Eng & Wales and were revoked by S.I. 1965/1146	Regulations 6 & 7
Regulation 13	Regulation 14(1) –(1A-C)	Not included – New provision

Draft S.R.	S.I. 2008/2841	1961 Cremation Regulations
Regulation 14	Regulation 15	Regulation 9 • “near relative” not defined in regulations but set out in Form A
Regulation 15	Regulation 17 (Requirement for Form C removed)	Regulation 10(a)
Regulation 16	Regulation 16	Regulations 8, 9 and 10 • Requirement for a Statutory Declaration is removed
Regulation 17	Regulation 20	Regulations 8, 9 and 10 • Requirement for a Statutory Declaration is removed
Regulation 18	Regulation 19	Not included – new
Regulation 19	Regulation 14(2)	Regulations 8(c) & (d), 14(a), (b) & (c)
Regulation 20	Regulation 14(4)	Regulations 8(c) & (d), 14(a), (b) & (c)
Regulation 21	Regulation 14(3)	Not included – new
Regulation 22	Regulation 18	Regulation 8 & 10(d) & (e)
Regulation 23	Regulation 16(2) & 21	Regulation 15
Regulation 24	Regulation 22	Not included - new
Regulation 25	Regulation 23	Regulation 10(d), (e) and (f) Draft regulations 25(2) & (3) are new in relation to access to medical certificates
Regulation 26	Regulation 26	Regulation 13(c)
Regulation 27	Regulation 25	Not included - new
Regulation 28	Regulation 23(3)	Regulation 13(h)
Regulation 29	No equivalent	Regulation 16
Regulation 30	Regulation 24	Regulation 10(c), (d) & (f), 12, and 13(e), (f), (g) & (h)

Draft S.R.	S.I. 2008/2841	1961 Cremation Regulations
Regulation 31	Regulation 27	Regulation 13(c), (d), (e) & 14(c)
Regulation 32	Regulation 28	Regulation 13(i) permits no reason to be given – new requirement in draft regulation to give reason.
-----	Regulation 29 not replicated	-----
Regulation 33	Regulation 30	Regulation 17 – new provision in draft regulations for the giving of instructions (completion on application form)
Regulation 34	Regulation 31	Regulation 18
Regulation 35	Regulation 32	Regulations 18 & 20
Regulation 36	Regulation 33	Regulation 18 and Form G
Regulation 37	Regulation 34	Regulations 21 & 22
Regulation 38	Regulation 35	Regulation 21
Regulations 39 and 40	Regulations 36 and 37	-----

Appendix C – Questions Asked Throughout Document

Question	Page No.	Detail
1	(11)	<ul style="list-style-type: none"> Do you agree with the following definition of “ashes”? (see Regulation 2) “ashes” means all the material left in the cremator after a cremation, and following – <ol style="list-style-type: none"> the removal of any metal, and any subsequent grinding or other process which is applied to the material;
2	(11)	<ul style="list-style-type: none"> Do the savings and transitional provisions in Part 7, in particular Regulation 40, provide for a smooth transition to the new regulations?
3	(12)	<ul style="list-style-type: none"> Do you have any comments on the proposed Part 3?
4	(15)	<ul style="list-style-type: none"> Do you agree with the proposals put forward for deaths and still-births which occur outside of NI but within England, Wales, Scotland, Isle of Man or the Channel Islands?
5	(15)	<ul style="list-style-type: none"> Do you agree with the proposals put forward for deaths or still-births which occurred in any other place outside of NI?
6	(15)	<ul style="list-style-type: none"> Should the Department include a checklist of additional forms to be submitted on the Application Form? (This will necessitate additional legislation to update forms if requirements change in other jurisdictions).
7	(17)	<ul style="list-style-type: none"> Do you have any comments in relation to the proposals put forward in this part?
8	(17)	<ul style="list-style-type: none"> Do you agree with the wording of draft regulation 24?
9	(17)	<ul style="list-style-type: none"> Do you agree with the wording of draft regulation 33?
10	(18)	<ul style="list-style-type: none"> Do you have any views on the continuation of the use of a Confirmatory Medical Certificate?
11	(18)	<ul style="list-style-type: none"> Do you agree with the removal of Form E and the separation of the Cremations Registrar return from that Form?
12	(18)	<ul style="list-style-type: none"> Do you agree with the wording of the revised regulation 16?

Appendix D – List of Consultees

All Members of the Northern Ireland Legislative Assembly

All Northern Ireland political parties and MPs

All Northern Ireland District Councils

Northern Ireland Local Government Association

National Association of Councillors (Northern Ireland Region)

Northern Ireland Committee of the Irish Congress of Trade Unions

Northern Ireland Public Service Alliance

Unite

GMB

Unison

Various representative groups and bodies

Equality Commission for Northern Ireland

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