

CERTIFICATION OF DEATH (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Referral of medical certificates of cause of death for review

Section 4: Application for review of certificate by interested person

16. This section provides for a list of “interested persons” who may also apply to a medical reviewer for a review. These applications may relate to deaths either before or after they have been registered but applications must be made within three years of the date of death. A medical reviewer may reject an application that is considered vexatious.
17. The medical reviewer must notify the Registrar General of the application. The purpose of this is to stay the registration process, as provided for in section 5, where the death has not already been registered. This also provides the medical reviewer with a means for discovering whether the certificate has already been reviewed (and therefore is ineligible).
18. Subsection (5) sets out the list of interested persons, which may be added to by order of the Scottish Ministers. Interested persons either have some personal connection to the deceased or are in a position to have informed concerns about the accuracy of the medical certificate of cause of death.
19. Certain certificates are excluded from this type of review. These are cases where a Health Board direction has been issued regarding a contaminated or infectious body, where the certificate has already been referred or reviewed, a replacement certificate has already been issued under sections 10 or 11, or the death has been referred to the procurator fiscal.
20. Subsection (7) allows the Scottish Ministers to suspend applications for review from interested persons during an epidemic or when necessary to prevent or halt the spread of infectious diseases or contamination. This mirrors the provision in section 24A(7) of the 1965 Act (introduced by section 2) which allows for the suspension of referrals under that section in the same circumstances. Suspension of applications could be necessary in situations where there are large numbers of deaths and it becomes a priority to expedite the disposal of bodies and free up medical personnel. By virtue of section 29(2) to (6), the same Parliamentary procedures apply to orders made under section 4(7) as apply to orders made under section 24A(7) of the 1965 Act.
21. Subsection (8) allows the Scottish Ministers to prescribe in regulations the content of and procedure for making “interested person” applications and the actions to be taken by medical reviewers in respect of such applications.