

**EXPLANATORY MEMORANDUM TO**  
**THE BIRTHS AND DEATHS REGISTRATION (ELECTRONIC COMMUNICATIONS AND ELECTRONIC STORAGE) ORDER 2021**

**2021 No. 1231**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 This instrument enables the Minister to make an Order under s. 8 and 9 of the Electronic Communications Act 2000 (ECA), to make amendments to the Births and Deaths Registration Act 1953 (the 1953 Act) and the Births and Deaths Registration Act 1926 (the 1926 Act) aimed at facilitating the use of electronic communications and storage, enabling the documentation required when registering a birth or death to be transmitted in an approved electronic form.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

**4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is England and Wales.  
4.2 The territorial application of this instrument is England and Wales.

**5. European Convention on Human Rights**

- 5.1 The Minister for Future Borders and Immigration, Kevin Foster MP, has made the following statement regarding Human Rights:

“In my view the provisions of the Births and Deaths Registration (Electronic Communications and Electronic Storage) Order 2021 are compatible with the Convention rights.”

**6. Legislative Context**

- 6.1 The provisions for registering births and deaths are in the Births and Deaths Registration Act 1953 (1953 Act), the Births and Deaths Registration Act 1926 (the 1926 Act), the Registration Service Act 1953 and the Registration of Births and Deaths Regulations 1987. The 1953 Act is a consolidation of legislation dating back to 1836 and provides for a paper-based system.
- 6.2 With the exception of time-limited easements contained in the Coronavirus Act 2020, which amended the 1953 and 1926 Acts to enable documentation to be transmitted electronically relating to the registration of deaths, there is currently no provision to transmit the documentation for a registration, re-registration or correction of a birth or death electronically.

## 7. Policy background

### *What is being done and why?*

- 7.1 The registration of births and deaths is administered by the local registration service in 174 registration districts. There are on average 700,089 births and 514,554 deaths each year in England and Wales.
- 7.2 All births in England and Wales must be registered within 42 days of the child being born and in the district in which the birth occurred and all deaths in England and Wales must be registered within 5 days in the district in which the death occurred, as required by the 1953 Act.
- 7.3 The Coronavirus Act 2020 made amendments to the 1953 and 1926 Acts. These amendments enabled documentation required relating to a death registration to be transmitted electronically. The Coronavirus Act 2020 included the following provision - '*any relevant document may be delivered by any electronic or other means specified in guidance issued by the Registrar General*'. The relaxation of the existing requirements on the death registration process has proven successful for the local registration service, the public and other stakeholders.

However, the Coronavirus Act 2020 requires that its provisions are only used for so long as they are necessary, and the need for its provisions to continue to be in force, with reference to the COVID-19 pandemic. These provisions are reviewed and reported on at two-monthly review points and debated in Parliament at six-monthly checkpoints. These reviews, aligned with the emergency nature of the provisions, means that the easements introduced on the registration process could be withdrawn at any time. Furthermore, the life of the Act is time-limited due to a sunset clause which takes effect in March 2022. To enable the electronic transmission of documents to continue for death registration, and to extend the electronic transmission of documents to birth registration, we are required to update our existing legislation. This instrument will make the necessary changes to the 1953 and 1926 Acts.

### *Explanations*

#### *What did any law do before the changes to be made by this instrument?*

- 7.4 When someone dies, a medical practitioner will verify the cause of death and complete a 'medical certificate of cause of death' (MCCD) as required by section 22 of the 1953 Act. The MCCD is collected and taken by the informant to the registrar in a sealed envelope when attending to register the death. The registrar records the details of the death from the MCCD in the register entry alongside other relevant details. Once the registration is complete, the registrar issues the informant with a paper 'disposal document'. This document enables the cremation/burial to proceed and is taken by the informant to the person effecting the disposal of the deceased person as required by section 24 of the 1953 Act.
- 7.5 Once the cremation/burial of the deceased person has taken place, the person effecting the disposal of the body will complete the 'tear off' slip from the disposal document and return it to the relevant registrar by post. This must be done within 72 hours.
- 7.6 Although all deaths are required to be registered by a registrar in the sub-district in which the death occurred, it may be difficult or inconvenient for an informant to travel to that district.

- 7.7 There is provision in section 23A of the 1953 Act for a qualified informant to give the information relating to a death by making a declaration, in writing, to an officer in a more convenient district closer to home. An officer within that district takes all the particulars required for the declaration, which the informant signs in the presence of the officer. The declaration is posted by Royal Mail 1st class, to the registrar in the sub-district in which the event occurred. On receipt of the signed declaration the registrar will register the death in the register and issue the relevant documentation to enable the funeral to take place.
- 7.8 There is also a similar provision in section 9 of the 1953 Act for the mother or other qualified informant to give information relating to a birth by making a declaration, in writing, to an officer in a more convenient district closer to home. An officer within that district takes all the particulars required for the declaration, which the informant signs in the presence of the officer. The declaration is posted by Royal Mail 1st class, to the registrar in the sub-district in which the event occurred. The registrar completes the registration on receipt of the documents and issues any certificates the informant wishes to purchase.
- 7.9 When parents are unmarried or in a civil partnership there are provisions in the 1953 Act requiring an informant to produce documentation such as a statutory declaration, a prescribed declaration, or copy of an order. Section 10 enables the father's name to be recorded in the birth entry on production of a statutory declaration or order, where the parents are neither married or in a civil partnership, if he is unable to attend with the mother to register the birth and sign the birth register. Similar requirements are in section 10A of the 1953 Act for the re-registration of a birth where parents are neither married nor in a civil partnership if the father's name was omitted from the original registration to enable his name to be included.
- 7.10 Sections 29/29A allows for the correction of errors in registers. If an error of fact or substance is identified in a birth or death entry the error may be corrected upon production of a statutory declaration setting out the nature of the error and the true facts of the case made by two qualified informants, or two credible witnesses, having knowledge of the case.

Why is it being changed?

- 7.11 COVID-19 had a significant impact on the local registration service and has highlighted a need to move away from paper-based processes to digital methods of transmitting the required documentation when registering births and deaths. The transmission of documents electronically instead of in paper form or by post will provide timely and more efficient processes for the registration service, the public and those in the funeral industry.

What will it now do?

- 7.12 The registration service will be able to transmit and receive documentation electronically when registering births, still births and deaths, instead of documentation being provided in paper form and/or sent by post.
- 7.13 The medical practitioner will be able to complete the MCCD and send it electronically directly to the registrar in the district where the event occurred. This will make this a more timely and secure process.
- 7.14 Once the death has been registered by the informant, the registrar will be able to send the disposal document, authorising the cremation/burial to take place, directly to the

person effecting the disposal of the body electronically. Once the cremation/burial has taken place, the person effecting the disposal of the deceased person will be able to notify the registrar electronically.

- 7.15 An officer who has taken the particulars relating to a birth or death by declaration, for transmission to the registrar in the district where the event occurred, will be able to send the declaration electronically instead of sending it by post. This will make the process more efficient, and informants will be able to obtain quicker access to services, e.g. obtaining the required documentation to enable a funeral to be arranged or to obtain a birth certificate to enable the informant to claim benefits such as Child Benefit or Universal Credit.
- 7.16 Prescribed and statutory declarations required to be produced when the parents of a child are not married or in a civil partnership, for the re-registration of a birth or for the correction of a birth entry will be able to be transmitted electronically.

## **8. European Union Withdrawal and Future Relationship**

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## **9. Consolidation**

- 9.1 This instrument does not consolidate other legislation.

## **10. Consultation outcome**

- 10.1 No formal consultation has been conducted on this instrument. It does not change the fundamental requirements and processes for how births and deaths are registered, it only enables documentation to be transmitted electronically instead of in paper form. The electronic transmission of documents has been trialled during the pandemic when the easements were put in place by the provisions in the Coronavirus Act 2020. These easements have proven successful and welcomed by stakeholders, the public and the funeral industry, therefore a formal consultation was not considered necessary.

## **11. Guidance**

- 11.1 The General Register Office is developing guidance for key stakeholders, e.g. registration officials in England and Wales and this will be made available on gov.uk prior to implementation.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

## **13. Regulating small business**

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken is that the legislation is enabling and businesses could continue to use paper documentation. However, the legislation is expected to be

welcomed as being able to transmit documentation electronically is more efficient compared to the use of a paper-based system.

**14. Monitoring & review**

- 14.1 The approach to monitoring of this legislation is that officials at the General Register Office will engage regularly with key stakeholders, e.g. registration officials, to ensure the electronic transmission of documents is running smoothly.

**15. Contact**

- 15.1 Linda Edwards at the General Register Office (Telephone: 07766727246 or email: linda.edwards@gro.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Eric Powell, Deputy Director for Registration Services, General Register Office, can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Kevin Foster MP, the Minister for Future Borders and Immigration at the Home Office, can confirm that this Explanatory Memorandum meets the required standard.