



## **Cremation Amendment Regulations 2008**

Anand Satyanand, Governor-General

### **Order in Council**

At Wellington this 20th day of October 2008

Present:

The Right Hon Helen Clark presiding in Council

Pursuant to section 37 of the Burial and Cremation Act 1964, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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**Schedule**  
**New form C of Schedule 1 substituted**

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**Regulations**

- 1 Title**  
These regulations are the Cremation Amendment Regulations 2008.
- 2 Commencement**
- (1) Regulations 5(3), 6(2), and 8(2) come into force on 25 January 2009.
  - (2) The rest of these regulations come into force on the 28th day after the date of the notification of these regulations in the *Gazette*.
- 3 Principal regulations amended**  
These regulations amend the Cremation Regulations 1973.
- 4 Interpretation**  
Regulation 2 is amended by inserting the following definition in its appropriate alphabetical order:  
“**coroner** includes the chief coroner, an acting chief coroner, or a relief coroner under the Coroners Act 2006”.
- 5 Restrictions on cremation**
- (1) Regulation 4(4) is amended by omitting “section 9 of the Health Act 1956” and substituting “section 28 of the State Sector Act 1988”.
  - (2) Regulation 4(6) is amended by omitting “subsection (2) of section 35 of the Births and Deaths Registration Act 1951” and substituting “section 46A(a) or (b) of the Burial and Cremation Act 1964”.
  - (3) Regulation 4(6) is amended by omitting “section 46A(a) or (b)” and substituting “section 46A(1)(a) or (b)”.

**6 Duties of Medical Referee**

- (1) Regulation 7 is amended by revoking subclause (1) and substituting the following subclause:
  - “(1) A Medical Referee must not permit any cremation unless a certificate in form AB of Schedule 1 has been given by a medical practitioner, and unless—
    - “(a) the death has not been, and is not required to be, reported under the Coroners Act 2006 to a coroner, and a certificate in form B of Schedule 1 has been given by a medical practitioner who is required or permitted by section 37 or 38(1) of the Births, Deaths, and Marriages Registration Act 1995 to give a doctor’s certificate (as defined in section 2 of that Act) for the death; or
    - “(b) the death has been reported under the Coroners Act 2006 to a coroner, and a certificate in form C of Schedule 1 has been given by a coroner.”
- (2) Regulation 7(1)(a) is amended by omitting “section 37 or 38(1) of the Births, Deaths, and Marriages Registration Act 1995 to give a doctor’s certificate (as defined in section 2 of that Act)” and substituting “section 46B or 46C(1) of the Burial and Cremation Act 1964 to give a doctor’s certificate (as defined in section 2(1) of that Act)”.
- (3) Regulation 7(4)(c) is amended—
  - (a) by omitting “pursuant to the Coroners Act 1951” and substituting “under the Coroners Act 2006”; and
  - (b) by omitting “or the said form D”; and
  - (c) by omitting “inquest” and substituting “inquiry”.
- (4) Regulation 7(5)(b) is amended by omitting “; or” and substituting “—”.
- (5) Regulation 7(5)(c) is revoked.
- (6) Regulation 7(6) is amended by omitting “or a certificate in the said form D, if he is a Justice,”.

**7 Form AB of Schedule 1 amended**

Form AB of Schedule 1 is amended by omitting “Reg. 7A” and substituting “r 7(1)”.

**8 Form B of Schedule 1 amended**

- (1) Form B of Schedule 1 is amended—
- (a) by omitting from the second sentence “Having attended the deceased before, and seen and identified the body after, death,” and substituting “As a medical practitioner who is required or permitted by section 37 or 38(1) of the Births, Deaths, and Marriages Registration Act 1995 to give a doctor’s certificate (as defined in section 2 of that Act) for the death, and who has seen and identified the body after death,”; and
  - (b) by omitting from question 7 “When” and substituting “If you attended the deceased during his or her last illness, when”; and
  - (c) by omitting from question 13 “Was” and substituting “By what medical attendants (besides yourself, if applicable) was”; and
  - (d) by omitting from question 13 “by any medical attendant besides yourself”; and
  - (e) by omitting from question 17 “certificate required for the registration of death” and substituting “doctor’s certificate (as defined in section 2 of the Births, Deaths, and Marriages Registration Act 1995) for the death”.
- (2) Form B of Schedule 1 is amended—
- (a) by omitting from the second sentence “section 37 or 38(1) of the Births, Deaths, and Marriages Registration Act 1995 to give a doctor’s certificate (as defined in section 2 of that Act)” and substituting “section 46B or 46C(1) of the Burial and Cremation Act 1964 to give a doctor’s certificate (as defined in section 2(1) of that Act)”; and
  - (b) by omitting from question 17 “(as defined in section 2 of the Births, Deaths, and Marriages Registration Act 1995)” and substituting “(as defined in section 2(1) of the Burial and Cremation Act 1964)”.

**9 New form C of Schedule 1 substituted**

Schedule 1 is amended by revoking form C and substituting the form C set out in the Schedule.

- 10 Form D of Schedule 1 revoked**  
Schedule 1 is amended by revoking Form D.
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**Schedule** r 9  
**New form C of Schedule 1 substituted**  
Form C r 7(1)(b)  
Coroner's certificate  
*Regulation 7(1)(b), Cremation Regulations 1973*

I certify that—

- (a) a death has been reported under the Coroners Act 2006 to a coroner, and the details of the death are as follows:  
Full name of deceased:  
Late of: [*full residential address*]  
Occupation:  
Sex: [*male or female*]  
Date of birth:  
Date of death:  
Place of death:
- (b) I am satisfied that there are no circumstances likely to call for an examination or, as the case may be, a further examination, of the body.

**Signed**

Signed at [*location*] on [*date*]

Signature:

Name:

(Coroner)

Rebecca Kitteridge,  
Clerk of the Executive Council.

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## Explanatory note

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, most of which come into force on the 28th day after the notification of these regulations in the *Gazette*, are made under the Burial and Cremation Act 1964. They amend the Cremation Regulations 1973.

Most of the amendments are to take account of the enactment of the Coroners Act 2006. In particular, these amendments—

- make clear that a coroner, for the purposes of those regulations, includes the chief coroner, an acting chief coroner, or a relief coroner under the Coroners Act 2006:
- substitute a *new regulation 7(1)* that—
  - clarifies what certificates are required before a Medical Referee may permit a cremation; and
  - enables the required medical practitioner's certificate to be given by any medical practitioner required or permitted to give a doctor's certificate for the death (given that disposal of a body without a doctor's certificate for the death, or an authorisation by a coroner for the release of the body, is prohibited) under the Births, Deaths, and Marriages Registration Act 1995 or, after the commencement of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008, under the Burial and Cremation Act 1964:
- align the medical practitioner's certificate (form B of Schedule 1) with *new regulation 7(1)*:
- substitute a new certificate (*new form C of Schedule 1*) that may be given if a death has been reported under the Coroners Act 2006 to a coroner, and a coroner is satisfied there are no circumstances likely to call for an examination or, as the case may be, a further examination, of the body:
- revoke, and do not replace, provisions on cremation being permitted on a certificate given by a Justice who has authorised a post-mortem examination (because, under the Coroners Act 2006, only a coroner can direct a pathologist to perform a post-mortem of a body).

The amendments in *regulations 5 and 7*, however,—

- replace references to repealed enactments with references to enactments that, with or without modification, replace, or that correspond to, the enactments repealed; and
- correct an erroneous cross-reference.

*Regulations 5(3), 6(2), and 8(2)* make amendments consequential on amendments made by the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008.

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Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 23 October 2008.

These regulations are administered by the Ministry of Health.

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