

STATES OF JERSEY



DRAFT CREMATION (SUSPENSION AND MODIFICATION OF REGULATIONS – COVID-19) (JERSEY) REGULATIONS 202- (P.21/2020): COMMENTS

**Presented to the States on 24th March 2020
by the Health and Social Security Scrutiny Panel**

STATES GREFFE

COMMENTS

1. [P.21/2020](#) – Draft Cremation (Suspension and Modification of Regulations – Covid-19) (Jersey) Regulations 202- has been lodged by the Minister for Health and Social Services in light of the ongoing Covid-19 pandemic. The purpose of P.21/2020 is to amend the current [Cremation \(Jersey\) Regulations 1961](#).
2. As outlined in the report accompanying P.21/2020, the purpose of the Regulations is to reduce the envisaged pressures that would be placed on medical practitioners during the period of the Covid-19 epidemic. It is proposed that this would be achieved by removing the requirement for one of the certificates and examinations required of a body prior to cremation, which had the potential to significantly reduce the burden on medical practitioners with regard to the authorisation of cremations. These amending Regulations would also provide a temporary discretion for the Medical Officer of Health, or Medical Referee, to waive the requirement for a re-examination of the deceased and the completion of a Certificate of Medical Attendance in respect of Covid-19 deaths only. It would also temporarily suspend the requirement for a second examination of a body by an independent registered medical practitioner. The Panel was advised that both changes to the process had been drawn up in collaboration with the Viscount, Superintendent Registrar and medical practitioners involved in delivering the present process.
3. The Panel was further advised that all of the temporary Covid-19 Regulations were being brought on clear and obvious Public Health grounds, that balance the changes the Government is having to make to usual processes.
4. Following a number of queries raised by the Panel to the Minister for Health and Social Services in respect of the draft Regulations, the Panel wishes to note the following –
 - The “Excess Death Group” currently meets weekly to consider issues, arrangements and to plan for situations of excess deaths in Jersey. The Group met last Tuesday and discussed the ability for the registration of the death process to cope with what was a worst-case scenario of 500 Covid-19 deaths in Jersey.
 - The Excess Death Group agreed the changes outlined in the draft Regulations to the Cremation certification process and requested that SPPP (Strategic Policy, Planning and Performance) Policy Officers made the legislative amendments to facilitate these process changes. A list of those who attended the previous Excess Death meeting on 17th March can be found in the attached **Appendix**.
 - The Excess Death Group agreed that it would be reasonable and practical to remove the requirement for a second certification (an independent doctor to re-examine the body). It was considered to be a risk, but a small and necessary risk. A normal death would still have two safeguard checks and would be certified by the attending doctor and by the Medical Referee. It was noted that the Group was currently undertaking a workstream to appoint doctors and ex-doctors as Medical

Referees to assist in the process due to those already appointed being otherwise engaged.

- The Panel had a concern regarding the potential for legal challenges due to the proposed reduction of safeguards. It was advised that the draft Regulations suspend and modify the existing Cremation (Jersey) Regulations 1961 and change the legal responsibilities and duties placed upon persons and roles cited in the 1961 Regulations. If issues were to arise with regard to the changes to the procedures and the authorisation of cremations, it would be a political and operational matter. A legal challenge would arise if a person cited in the draft Regulations did not comply with the amended duties placed upon them within those draft Regulations. However, a person acting in accordance with requirements in the Cremation Regulations or discharging a statutory duty, as specified in the Cremation Regulations, would be acting lawfully.
5. The Panel has reviewed the proposed changes, albeit briefly given the current circumstances, and understands the rationale for their introduction at this stage. The Panel supports the changes and, in the context of the current pandemic, would recommend that Members support the proposition.

APPENDIX

Attendance at the previous Excess Death meeting on 17th March was as follows:

Martin Barrett – Viscount’s Department
Chris Beechey – States of Jersey Police
Dr. Helen Goulding – Consultant
Peter Gavey – Chief Ambulance Officer
Claire Follain – Superintendent Registrar
Paul Battrick – Dignity UK
Ruth Johnson – Head of Policy, SPPP
Ben Sandeman – Senior Policy Officer, SPPP
Geoff Houghton – Representing the Dean
Mark Harris – Deputy Viscount
Gary Tye – Channel Island Co-op

Maillard’s Funeral Services and Pitcher and Le Quesne were also represented.

There is also an Excess Death Working Group that meet to consider just procedural amendments of the registration of death process in Jersey, attending these meetings are:

Mark Harris – Deputy Viscount
Claire Follain – Superintendent Registrar
Matt Berry – Law Officers’ Department
Anita de la Cour – Executive Assistant to the Medical Officer for Health
Dr. Peter Southhall – Clinical Lead for Mortality
Ruth Johnson – Head of Policy, SPPP
Ben Sandeman – Senior Policy Officer, SPPP.

Dr. Southhall has also consulted with what was discussed at the Excess Death Working Group with: Dr. John McInerney, Dr. Adrian Noon, Dr. Ivan Muscat and Dr. Helen Goulding.