Certification of Death (Scotland) Bill

<table>
<thead>
<tr>
<th>Bill Number:</th>
<th>SP Bill 58</th>
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<td>Introduced on</td>
<td>7 October 2010</td>
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<td>Introduced by</td>
<td>Nicola Sturgeon (Executive Bill)</td>
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<td>Passed:</td>
<td>16 March 2011</td>
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<td>Royal Assent:</td>
<td>20 April 2011</td>
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Passage of the Bill

The Certification of Death (Scotland) Bill [SP Bill 58]) was introduced in the Parliament on 7 October 2010. Stage 1 commenced on 24 November 2010 with the Health and Sport Committee as the lead committee. The Stage 1 (general principles) debate took place on 3 February 2011 and the Bill was passed following the Stage 3 parliamentary debate on 16 March 2011. The Bill received Royal Assent on 20 April 2011.

Purpose and objectives of the Bill

The Bill seeks to establish a system to review medical certificates of cause of death and still-birth certificates by medical reviewers and the senior medical reviewer. It also seeks to make provision for deaths occurring outwith Scotland.

Provisions of the Bill

The functions of the six medical reviewers and the senior medical reviewer will be to review a random sample of Medical Certificates of Cause of Death, which are referred to them by the Registrar General for Scotland.

The Registrar General will be required to refer for review certificates of a particular description, as requested by a medical reviewer. This may take place after the death has been registered. And a district registrar will have discretion to refer a certificate for review where he or she deems it appropriate. Reviews may also be conducted following the application of an interested person, that is:

- any relative of the deceased
- any person present at the death
- the deceased's executor or other legal representative
- the occupier, at the time of death, of the premises where the death occurred, or
- if there is no such person under (a)-(d) above, any other person having knowledge of the particulars to be registered.

Reviews will be done with a view to assessing the accuracy of the certificates, in respect of the cause of death among other factors. The Bill also proposes to amend
the form of medical certificates to show additional medical information and to indicate whether it is safe to cremate a body.

Where a person has died outwith Scotland and the body is to be cremated in Scotland, medical reviewers will determine whether it is safe to cremate the body. They may also assist with arranging a post-mortem in such cases from outwith the UK if no cause of death is available and the body is to be disposed of in Scotland.

The Bill seeks to create the offence of disposing of a body or body parts without authorisation.

There is scope for subordinate legislation throughout the Bill:

- to provide for the form and content of applications for a post-mortem examination of those who have died abroad
- in relation to fees to be charged in respect of medical reviewer functions
- for provision about applications by interested persons, such as the procedure to be followed, the form and content of applications and any action to be taken by medical reviewers in respect of the applications for review made by an interested person
- for any guidance issued for the purposes of, or in connection with, the provisions of the Bill, and
- for specifying the certificates or other documentation required for the burial, cremation or other disposal of the body of a still-born child or a deceased person.

The Bill seeks to provide for the establishment of two pilot test sites, with the outcome reported to the Parliament.

**Parliamentary consideration**

In its Stage 1 report the Health and Sport Committee recommended agreement to the general principles of the Bill. However, it expressed concerns surrounding the proposed sample size of certificates referred for review, but welcomed the Minister’s proposals to increase the random sample size and to add an extra tier of review.

The Committee expressed concern at the removal of the requirement for approval from a second and a third doctor from cremation cases. A further concern was expressed about the quality of, and confidence in, the system in respect of the accurate recording of the cause of death, to which the Minister responded in oral evidence that the level of scrutiny would be increased. However, the Committee believed that accuracy in the completion of death certificates could be improved with appropriate use of technology.

Another issue raised was that no level of experience was specified as a pre-requisite for eligibility to sign death certificates and that, if the aim is to drive up quality, there should be an experience qualification specified.

A concern was expressed around medical reviewers’ proposed workload and that the system should not unduly delay disposal of the body and this should be clear in the Bill. Further concerns were raised with respect to particular difficulties for remote and island communities, relating to potential delays in both initial certification and review.
The Committee felt that responsibility for assessing the validity of documentation in cases of repatriation of the deceased for burial or cremation should be exercised centrally.

Because most of the changes to the procedure for review of death certificates apply to subordinate legislation not before the Parliament, there were few amendments passed at Stage 2. But the Bill was amended to empower the medical reviewer to determine whether, in respect of someone who has died abroad and whose body has been repatriated, that the documentation is in order. This is to be done following the request of a relevant person. In addition, an employee of Health Improvement Scotland (HIS), other than a medical reviewer, may not exercise any function of a medical reviewer other than those under section 16A, that is the verification of foreign death certificates.

At Stage 3, amendments agreed to were largely technical, other than the amendment in the name of Shona Robison MSP. That amendment applied to the ability of Scottish Ministers, under paragraph 2(7) of the Bill, to suspend, by statutory instrument, the referral of certificates for review (a) during an epidemic, or (b) “where the Scottish Ministers consider, on reasonable grounds, that it is necessary to do so to prevent, or to prevent the spread of, infectious diseases or contamination.” The amendment adds subsections to the effect that where the statutory instrument consists only of revoking an earlier order made under subsection (7), or an order revoking an earlier order as well as making any “supplementary, incidental, consequential, transitional, transitory or saving provision as the Scottish Ministers think necessary or expedient.” In such cases, the original statutory instrument will be subject to annulment in pursuance of a resolution of the Parliament.