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| Guidance notes for registered medical practitioners authorising cremation |
| OFFICIAL |

# Who completes the ‘Certificate of registered medical practitioner authorising cremation’ form?

The ‘Certificate of registered medical practitioner authorising cremation’ is to be completed by medical practitioners authorising cremation who are registered under the *Medical Practice Act 1994*.

Any registered medical practitioner may complete the ‘Certificate of registered medical practitioner authorising cremation’ provided that they are not the registered medical practitioner who signed the notice as required under s. 37(2) of the *Births, Deaths and Marriages Registration Act 1996* in respect of the death of the deceased person, and:

* are not in partnership[[1]](#footnote-1) with any registered medical practitioner who professionally attended the deceased; and
* will not derive any professional remuneration from any registered medical practitioner who professionally attended the deceased; and
* has not acquired and does not anticipate acquiring, directly or indirectly, any property or pecuniary or other benefit of any description by reason of the death of the deceased (apart from any fee payable for the provision of the ‘Certificate of registered medical practitioner authorising cremation’).

# Required documentation

The funeral director or person who is otherwise arranging for the cremation of the remains of the deceased must provide the registered medical practitioner with:

* the ‘Application for cremation authorisation for deceased persons of known identity’; and
* a notice given under s. 37(2) of the Births, Deaths and Marriages Act:
	+ ‘Medical Certificate of Cause of Death’ of a person aged 28 days or over; or
	+ ‘Medical Certificate of Cause of Perinatal Death’.

These documents should be complete, clear and legible.

# Steps for authorising cremation and completing the ‘Certificate of registered medical practitioner authorising cremation’

Prior to authorising cremation, the registered medical practitioner must:

1. carefully read the statements contained in the ‘Application for cremation authorisation for deceased persons of known identity’ relating to the deceased; and
2. examine the body of the deceased; and
3. sight the notice given under s. 37(2) of the Births, Deaths and Marriages Act; and
4. make careful and independent inquiry into the circumstances surrounding the death.

# Making careful and independent inquiry before authorising cremation

Prior to authorising cremation, the registered medical practitioner must state on the certificate that they have made careful and independent inquiry into the circumstances surrounding the death of the deceased. This is in order to be satisfied that they can make a number of statements on the ‘Certificate of registered medical practitioner authorising cremation’, including that:

* they agree with the cause of death as shown on the notice given under s. 37(2) of the Births, Deaths and Marriages Act
* in their opinion, the death is not reportable or reviewable under the *Coroners Act 2008[[2]](#footnote-2)*
* there is no circumstance concerning the death of the deceased that might necessitate further examination of the body before it is cremated, or which could, in their opinion, make exhumation of the body necessary at any time in the future
* in their opinion, there is no reason why the cremation should not proceed.

Careful and independent inquiry into the circumstances of the death should include:

* A discussion with the treating and attending doctors about the circumstances surrounding the death, including:
	+ the cause of death
	+ whether there is any reason to suspect that the death resulted from injury inflicted by the deceased or any other person, poison, privation or neglect, or any illegal operation
	+ pre-existing disease/medical conditions
	+ recent surgery.
* Where the registered medical practitioner considers it appropriate, the registered medical practitioner may also:
	+ access and carefully peruse the medical records of the deceased[[3]](#footnote-3)
	+ contact any other registered medical practitioners attending the deceased during the deceased’s last illness to discuss the circumstances surrounding the death, including the cause of death[[4]](#footnote-4)
	+ contact any persons present at the moment of the deceased’s death and/or any other persons who nursed the deceased during their last illness to discuss the circumstances surrounding the death.

# Certification and statements for authorising cremation

Prior to authorising cremation, the registered medical practitioner must be satisfied that they are willing to make the statements numbered 1 to 7 as detailed on the ‘Certificate of registered medical practitioner authorising cremation’.

If a registered medical practitioner is prepared to authorise cremation, they should clearly indicate this on the certificate, by checking the tick box next to the statement “I authorise the cremation of the deceased”.

The medical practitioner should then return the following documents to the funeral director or other person arranging the cremation:

* the signed and completed ‘Certificate of registered medical practitioner authorising cremation’
* the completed ‘Application for cremation authorisation for deceased persons of known identity’
* the notice given under s. 37(2) of the Births, Deaths and Marriages Act.

# Refusing to authorise cremation

If a registered medical practitioner is not prepared to make one or more of the statements detailed on the ‘Certificate of registered medical practitioner authorising cremation’, they must refuse to sign the certificate.

The medical practitioner must clearly indicate this on the ‘Certificate of registered medical practitioner authorising cremation’, by checking the tick box next to the statement “I refuse to authorise the cremation of the deceased” and detailing the grounds for refusal in the space provided.

# Requirement to contact the Coroner’s Office in certain circumstances

If a medical practitioner does not agree with one or more of the statements numbered 2, 3, 4 or 5 on the ‘Certificate of registered medical practitioner authorising cremation’, they must contact the Coroners Court of Victoria by telephoning 1300 309 519.

More information about reporting a death is available on the [Coroners Court of Victoria website](https://www.coronerscourt.vic.gov.au/report-death-or-fire) <https://www.coronerscourt.vic.gov.au/report-death-or-fire>.

# Statutory requirements under the *Cemeteries and Crematoria Act 2003*

## Section 138 – Who can sign Certificate of registered medical practitioner authorising cremation?

A ‘Certificate of registered medical practitioner authorising cremation’ must be signed by a registered medical practitioner who is not the registered medical practitioner who signed the notice as required under s. 37(2) of the Births, Deaths and Marriages Act in respect of the death of the deceased person who is to be cremated.

## Section 139 – Refusal to sign Certificate of registered medical practitioner authorising cremation

If a registered medical practitioner refuses to sign a ‘Certificate of registered medical practitioner authorising cremation’, they must clearly endorse that fact on the certificate.

## Section 140 – Offence to make false statement in Certificate of registered medical practitioner authorising cremation

A person must not make a false statement in a ‘Certificate of registered medical practitioner authorising cremation’. Penalty: 600 penalty units or 5 years imprisonment or both.

# Statutory requirements under the *Coroners Act 2008*

## Section 10 – Obligation of registered medical practitioner to report death

1. Subject to subsection (2), a registered medical practitioner who is present at or after the death of a person must report the death without delay to a coroner if the death is a reportable death.
Penalty: 20 penalty units.
2. If more than one registered medical practitioner is present at or after a death and one of them reports it to a coroner, the other practitioners need not report the death.

## Section 13 – Obligation to report reviewable death

1. Subject to subsection (2), a registered medical practitioner who is present at or after the death of a child must report the death without delay to the State Coroner if the death is a reviewable death.
Penalty: 20 penalty units.
2. If more than one registered medical practitioner is present at or after a reviewable death and one of them reports it to the State Coroner, the other practitioners need not report the death.
3. A person who has reasonable grounds to believe that a reviewable death has not been reported to the State Coroner as a reviewable death must report the death without delay to the State Coroner.
Penalty: 20 penalty units.

## Definition of ‘reportable death’

1. In this Act, a death of a person is a reportable death if—
	1. the body is in Victoria; or
	2. the death occurred in Victoria; or
	3. the cause of the death occurred in Victoria; or
	4. the person ordinarily resided in Victoria at the time of death—

and the death was a death specified in subsection (2)

1. For the purposes of subsection (1), the deaths are—
	1. a death that appears to have been unexpected, unnatural or violent or to have resulted, directly or indirectly, from an accident or injury; or
	2. a death that occurs—
	3. during a medical procedure; or
	4. following a medical procedure where the death is or may be causally related to the medical procedure—

and a registered medical practitioner would not, immediately before the procedure was undertaken, have reasonably expected the death; or

* 1. the death of a person who immediately before death was a person placed in custody or care; or
	2. the death of a person who immediately before death was a patient within the meaning of the *Mental Health Act 1986*; or
	3. the death of a person under the control, care or custody of the Secretary to the Department of Justice and Community Safety or a member of the police force; or
	4. the death of a person who is subject to a non-custodial supervision order under s. 26 of the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*; or
	5. the death of a person whose identity is unknown; or
	6. a death that occurs in Victoria if a notice under s.37(1) of the Births, Deaths and Marriages Act has not been signed and is not likely to be signed; or
	7. a death that occurs at a place outside Victoria if the cause of death is not certified by a person who, under the law in force in that place, is authorised to certify that death and the cause of death is not likely to be certified by a person who is authorised to certify in that place; or
	8. a death—
	9. of a prescribed class of person;
	10. that occurs in prescribed circumstances.

## Definition of ‘reviewable death’

1. In this Act, the death of a child (the deceased child) is a reviewable death if the deceased child is the second or subsequent child of the deceased child's parent to have died and one of the following applies—
	1. the body is in Victoria; or
	2. the death occurred in Victoria; or
	3. the cause of the death occurred in Victoria; or
	4. the child ordinarily resided in Victoria at the time of death.
2. Despite subsection (1), a death of a deceased child is not a reviewable death if—
	1. the death occurs in a hospital; and
	2. the child was born at a hospital and had always been an in-patient of a hospital; and
	3. the death is not a reportable death.
3. In this section—

hospital means a public hospital, a public health service, a denominational hospital or a private hospital within the meaning of the *Health Services Act 1988*;

in-patient of a hospital includes a child whose only period spent outside a hospital was during a transfer from one hospital to another, by whatever means.

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1. ‘Partnership’ refers to a legal relationship of persons carrying on a business with a view to profit. Partners are jointly and severally liable for the debts incurred in connection with the partnership. It does not include, for example, two doctors who work in a hospital and share the same employer. [↑](#footnote-ref-1)
2. See pages 4-6 of this document for definitions of reportable and reviewable deaths under the *Coroners Act 2008.* [↑](#footnote-ref-2)
3. This is an allowable disclosure under Health Privacy Principle 2.2(c) of the *Health Records Act 2001* or s.141(2)(c) the *Health Services Act 1988.* [↑](#footnote-ref-3)
4. See footnote 3. [↑](#footnote-ref-4)