

ORDINANCE
OF THE STATES OF DELIBERATION

ENTITLED

The Cremation Ordinance, 1972 *

[CONSOLIDATED TEXT]

NOTE

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* Recueil d'Ordonnances Tome XVIII, p. 90; as amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). See also the Police Force (Bailiwick of Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 207); the Still-Birth (Definition) (Bailiwick of Guernsey) Law, 1998 (Ordres en Conseil Vol. XXXVIII, p. 59); the Magistrate's Court (Guernsey) Law, 2008 (No. XVIII of 2009).

ORDINANCE

OF THE STATES OF DELIBERATION

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The Cremation Ordinance, 1972

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(Made on 31st May, 1972.)

The Cremation Ordinance, 1972¹

THE STATES, in exercise of the powers conferred upon them by Article IV of the Law entitled "Loi relative à la Crémation" registered on the Records of this Island on the first day of December, nineteen hundred and twenty-eight^a and all other powers enabling them in that behalf hereby order: –

Maintenance of crematorium.

1. Every crematorium shall be –
 - (a) maintained in good working order,
 - (b) provided with a sufficient number of attendants, and
 - (c) kept constantly in a clean and orderly condition.

Inspection of crematorium.

2. Every crematorium shall be open to inspection at any reasonable time by any person or persons appointed for that purpose by the Royal Court.

Written directions refusing cremation.

3. It shall not be lawful to cremate the remains of any person who is known to have left a written direction to the contrary.

Unidentified human remains.

4. Subject to the provisions of section eleven of this Ordinance, it shall not be lawful to cremate human remains which have not been identified.

^a Ordres en Conseil Vol. VIII, p. 209.

Registration of death and certificate of a Law Officer.

5. No cremation shall be allowed until the death of the deceased has been duly registered at the office of the Registrar of Deaths in conformity with the law relating to certificates of death and burials and unless a certificate has been issued by a Law Officer of the Crown in conformity with Form F in the First Schedule to this Ordinance to the effect that all the formalities required by law have been duly fulfilled.

Applications for cremation.

6. (1) No cremation shall be allowed to take place unless application therefor has been made in Form A set out in the First Schedule to this Ordinance and the information requested in that form duly furnished.

(2) The application shall be signed by an executor or the nearest relative of the deceased, so, however, that it may be signed by some other person if a Law Officer of the Crown is satisfied that such person is a proper one to have signed, and a satisfactory reason is given on the application why it is not signed by an executor or the nearest relative but by that other person.

(3) The application shall be verified by being countersigned by –

- (a) a Jurat,
- (b) a Member of the States,
- (c) the Magistrate,
- (d) a minister of religion,
- (e) an advocate,

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- (f) a Constable or Douzenier,
 - (g) a medical practitioner or dentist authorised respectively to practise in this Island as a medical practitioner or dentist according to the law for the time being in force,
 - (h) an officer on the active or half pay or pensions lists of any of Her Majesty's naval, military or air forces,
 - (i) a person who –
 - (i) is a member of the Established Staff of the States of Guernsey, or
 - (ii) is in receipt of a pension in respect of service as a member of the said Established Staff,and who is, or was at the date of his retirement, as the case may be, of the rank of clerical officer or equivalent or higher rank and is not less than twenty years of age,
 - (j) an appointed officer of a bank,
 - (k) a teacher at a school wholly or partly maintained by the States of Guernsey, or
 - (l) a member of the salaried police force of this Island not below the rank of sergeant.
- (4) For the purposes of this Ordinance, where a person has left a

husband or wife surviving, such husband or wife shall be deemed to be the nearest surviving relative.

(5) A Law Officer of the Crown may accept the application notwithstanding that it has not been verified in accordance with the provisions of subsection (3) of this section if it is accompanied by a declaration by the applicant that all the particulars given therein are true to the best of his knowledge and belief, made before any person having authority in this Island to administer an oath.

NOTES

In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 2008, section 47(3), with effect from 1st September, 2009, the reference in this section to the "Magistrate" shall be construed as a reference to a Judge of the Magistrate's Court within the meaning of the 2008 Law.

In accordance with the provisions of the Police Force (Bailiwick of Guernsey) Law, 1986, section 2(2), with effect from 19th August, 1986, the reference herein to a member of the salaried police force of the Island of Guernsey shall include a reference to a member of a force present in the Island by virtue of an agreement made under section 1 of the 1986 Law.

Certificates of medical attendance or post-mortem examination.

7. Except as hereafter provided, no cremation shall be allowed to take place unless –

- (a) a certificate in Form B in the First Schedule to this Ordinance has been given by a medical practitioner authorised to practise in this Island who has attended the deceased during his last illness and who can certify definitely as to the cause of death, and a confirmatory medical certificate in Form C in the First Schedule to this Ordinance has been given by another medical practitioner of not less than five years standing and

authorised to practise in this Island, who is not a relative of the deceased or a relative or partner of the medical practitioner who has given the certificate in the said Form B, or

- (b) a post-mortem examination has been made by the Consultant Pathologist at the request of a Law Officer of the Crown and a certificate in Form D.1. in the First Schedule to this Ordinance has been given by the Consultant Pathologist, or
- (c) a post-mortem examination has been made by two medical practitioners authorised to practise in this Island and appointed by a Law Officer of the Crown for the purpose and a certificate in Form D.2. in the First Schedule to this Ordinance has been given by those medical practitioners.

Duties of a Law Officer of the Crown.

8. (1) The duties of a Law Officer of the Crown shall be in accordance with the following provisions of this section.

(2) He shall not allow any cremation to take place if it appears that the deceased left a written direction to the contrary.

(3) He shall not (except where an inquest has been held and certificate given by the Magistrate in Form E in the First Schedule to this Ordinance) allow any cremation to take place unless he is satisfied that the death of the deceased has been duly registered by the production of a certificate of registry of death on one of the forms provided by the Registrar of Deaths for production in cases of burial.

(4) He shall, before allowing the cremation, examine the application and certificates and ascertain that they are such as are required by this Ordinance and that the inquiry made by the persons giving the certificates has been adequate. He may make any inquiry with regard to the application and certificates that he may think necessary.

(5) He shall not allow the cremation unless he is satisfied that the application is made by an executor or by the nearest surviving relative of the deceased, or if made by any other person, that the fact that the executor or nearest relative has not made the application is sufficiently explained, and that the person making the application is a proper person to do so.

(6) He shall not allow the cremation unless he is satisfied that the fact and cause of death have been definitely ascertained; and in particular, if the cause of death assigned in the medical certificates be such as, regard being had to all the circumstances might be due to poison, to violence, to any illegal operation, or to privation or neglect, he shall not allow the cremation unless a post-mortem examination be held, and if a post-mortem fails to reveal the cause of death, shall decline to allow the cremation unless an inquest be held and a certificate be given by the Magistrate in the said Form E.

(7) If it appears that death was due to poison, to violence, to any illegal operation, or to privation or neglect, or if there are any suspicious circumstances whatsoever, whether revealed in the certificates or otherwise coming to his knowledge, he shall decline to allow the cremation unless an inquest be held and a certificate given by the Magistrate in the said Form E.

(8) If it is intended to hold an inquest on the body he shall not allow the cremation to take place until the inquest has been held, or until the Magistrate has given permission to dispose of the body.

(9) He may in any case decline to allow the cremation without stating any reason:

Provided that nothing herein contained shall affect the fulfilment of the provisions of the Law entitled "Loi relative à l'enregistrement des naissances et décès dans le Bailliage de l'Île de Guernesey" registered on the Records of this Island on the ninth day of March, nineteen hundred and thirty-five^b.

NOTE

In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 2008, section 47(3), with effect from 1st September, 2009, the references in this section to the "Magistrate" shall be construed as references to a Judge of the Magistrate's Court within the meaning of the 2008 Law.

Applications for cremation of remains of persons who died outside this Island.

9. In the case of the remains of a person who has died in any place out of this Island, a Law Officer may accept an application in Form A in the First Schedule to this Ordinance –

- (a) in the case where such person died in the Island of Alderney, if the application has been verified by being countersigned by any person described in subsection (3) of section six of this Ordinance or by the Chairman or a Jurat of the Court of Alderney or by a Member of the States of Alderney, or if the application be accompanied by a declaration by the applicant that all the particulars given therein are true to the best of his knowledge and belief, made before any person having authority in the said Island of Alderney to administer an

^b Ordres en Conseil Vol. X, p. 20; No. VI of 1969.

oath,

- (b) in the case where such person died in the Island of Sark, if the application has been verified by being countersigned by any person described in subsection (3) of section six of this Ordinance or by the Seneschal, Prévôt, Greffier, Constable or Vingtenier of Sark, or if the application be accompanied by a declaration by the applicant that all the particulars given therein are true to the best of his knowledge and belief, made before the Seneschal,
- (c) in the case where such person died in any other place out of this Island, if the application be accompanied by a declaration by the applicant that all the particulars given therein are true to the best of his knowledge and belief, made before any person having authority in that place to administer an oath or take a declaration,

and the Law Officer may, in any such case, accept certificates in Forms B, C and D in the First Schedule to this Ordinance if they be signed by a medical practitioner who is shown to the satisfaction of the Law Officer to possess qualifications substantially equivalent to the minimum qualifications required to be possessed by a medical practitioner practising in this Island.

Remains of deceased person who has been buried.

10. The remains of a deceased person who has been buried shall not be cremated without the sanction of the Royal Court and subject to such conditions as the Royal Court may impose.

Unidentified bodies washed ashore or found at sea.

11. In the case of a body washed ashore or found at sea which cannot be identified, a Law Officer of the Crown may dispense with any of the requirements of sections three, four, five, six, seven and eight of this Ordinance.

Still-born children.

12. Notwithstanding the foregoing provisions of this Ordinance, a Law Officer of the Crown may permit the cremation of the remains of a still-born child if it be certified after examination of the body in this Island to be still-born by a medical practitioner authorised to practise in this Island or elsewhere so certified by a medical practitioner who is shown to the satisfaction of a Law Officer to possess qualifications substantially equivalent to the minimum qualifications required to be possessed by a medical practitioner practising in this Island, and if the Consultant Pathologist, after such enquiries as he may think necessary, declares in writing that he is satisfied that it was still-born and that there is no reason for further examination.

NOTE

In accordance with the provisions of the Still-Birth (Definition) (Bailiwick of Guernsey) Law, 1998, section 1(1), with effect from 3rd March, 1998, the reference herein to a child who is born dead or still-born is to be construed as referring to a child who has issued forth from its mother after the 24th week of pregnancy, and who did not at any time after being completely expelled from its mother breathe or show any other signs of life.

Disposition of ashes.

13. After the cremation of the remains of a deceased person, the ashes shall be given into the charge of the person who applied for the cremation if he so desires. If not, they shall be retained by the Committee and in the absence of any special arrangement for their burial or preservation, they shall be decently interred in a burial ground or scattered on the land reserved for the burial or scattering of ashes. In the case of ashes left temporarily in the charge of the Committee and not removed within a reasonable time, a fortnight's notice by the Committee shall be given to the person who applied for the cremation before the remains are interred or scattered.

Records.

14. The Committee shall immediately after a cremation has taken place make a record thereof and shall deliver the same dated and signed by its authorised officer at the Office of the Registrar of Deaths within 24 hours of the cremation. The record shall be made by entries in Form G in the First Schedule to this Ordinance except the entry in the last column, which the Committee shall make at the office of the Registrar of Deaths as soon as the remains of the deceased have been handed to the relatives or otherwise disposed of. The Registrar of Deaths shall keep a register of all cremations in the said Form G.

Particulars to be preserved by Registrar of Deaths.

15. (1) All applications, certificates, declarations and other documents relating to any cremation shall be marked with a number corresponding to the number in the register, shall be filed in order and shall be forwarded to and carefully preserved by the Registrar of Deaths.

(2) During the hours at which the office of the Greffe is open all such registers and documents shall be open to inspection by the Medical Officer of Health or by any person appointed for that purpose by a Law Officer of the Crown.

Fees and charges.

16. The fees and charges payable in respect of a cremation shall be in accordance with a tariff prescribed by the Committee.

Interpretation.

17. (1) In this Ordinance the expression "**the Committee**" means the States [Committee for Home Affairs] appointed by the States as a Committee pursuant to the provisions of Article III of the Law entitled "Loi relative à la Crémation" registered on the Records of this Island on the first day of September, nineteen hundred and twenty-eight.

(2) Except so far as the context otherwise requires, any reference in this Ordinance to any other enactment shall be construed as a reference to that enactment as re-enacted, amended, extended or applied by or under any subsequent enactment including this Ordinance.

NOTES

In section 17, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 6(a), with effect from 1st May, 2016.²

The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Committee for Home Affairs and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 6(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.³

Repeals.

18. The Ordinances set out in the Second Schedule to this Ordinance are hereby repealed.

Citation.

19. This Ordinance may be cited as the Cremation Ordinance, 1972.

NOTE

The Ordinance was made and came into operation on 31st May, 1972.

FIRST SCHEDULE

Sections five, six,
seven, eight, fourteen.

FORM A
APPLICATION FOR CREMATION

I (name of applicant)

(address)

(occupation)

apply to the States of Guernsey to undertake the cremation of the remains of

(name of deceased)

(address)

(occupation)

(age)

(sex)

(whether married, widow, widower, or unmarried)

The true answers to the questions set out below are as follows –

1. Are you an executor or the nearest surviving relative of the deceased?

2. If not, state

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- (a) your relationship to the deceased (a)
- (b) the reason why the application is made by you and not by an executor or any nearer relative. (b)

3. Did the deceased leave any written directions as to the mode of disposal of his or her remains? If so, what?

4. Have the near relatives of the deceased been informed of the proposed cremation?

5. Has any near relative of the deceased expressed any objection to the proposed cremation? If so, on what ground?

6. What was the date and hour of the death of deceased?

7. What was the place where deceased died? (Give address and say whether own residence, lodgings, hotel, hospital, nursing home, etc.)

8. Do you know, or have any reason to suspect, that the death of the deceased was due, directly or indirectly to

- (a) violence,
- (b) poison,
- (c) privation or neglect?

9. Do you know any reason whatever for supposing that an examination of the remains of the deceased may be desirable?

10. Give name and address of the ordinary medical attendant of the deceased.

11. Give names and addresses of the medical practitioners who attended deceased during his or her last illness.

I declare that to the best of my knowledge and belief the information given in this application is correct and no material particular has been omitted.

Date (Signature)

The applicant is known to me and I have no reason to doubt the truth of any of the information furnished by the applicant.

Date (Signature)

(Capacity in which signatory
has signed)

Address
.....

FORM B
CERTIFICATE OF MEDICAL ATTENDANT

I am informed that application is about to be made for the cremation of the remains of

(name of deceased)

(address)

(occupation)

Having attended the deceased before death, and seen and identified the body after death, I give the following answers to the questions set out below –

1. On what date, and at what hour did he or she die?

2. What was the place where the deceased died?
(Give address and say whether own residence, lodgings, hotel, hospital, nursing home, etc.)

3. Are you a relative of the deceased? If so, state the relationship.

4. Have you, so far as you are aware, any pecuniary interest in the death of the deceased?

5. Were you the ordinary medical attendant of the deceased? If so, for how long?

6. Did you attend the deceased during his or her

last illness? If so, for how long?

7. When did you last see the deceased alive? (Say how many days or hours before death.)

8. How soon after death did you see the body, and what examination of it did you make?

9. What was the cause of death? Primary
Secondary

(Specify the disease, injury, etc., and if possible distinguish the primary from the secondary cause as in the death certificate.)

What was its duration in years, months, or days?

9a. Was there any other cause which contributed to or accelerated death? If so, state it, and if more than one other cause, state them all.

10. What was the mode of death? (Say whether syncope, coma, exhaustion, convulsions, etc.)

What was its duration in days, hours, or minutes?

11. State how far the answers to the last two questions are the result of your own observations, or are based on statements made by others. If on statements made by others, say by whom.

12. Did the deceased undergo any operation during

the final illness or within a year before death? If so, what was its nature, and who performed it?

13. By whom was the deceased nursed during his or her last illness? (Give names, and say whether professional nurse, relative, etc. If the illness was a long one, this question should be answered with reference to the period of four weeks before the death.)

14. Who were the persons (if any) present at the moment of death?

15. In view of the knowledge of the deceased's habits and constitution do you feel any doubt whatever as to the character of the disease or the cause of death?

16. Do you know, or have you any reason to suspect, that the death of the deceased was due, directly or indirectly, to

- (a) violence,
- (b) poison,
- (c) privation or neglect?

17. Have you any reason whatever to suppose a further examination of the body to be desirable?

18. Have you given the certificate required for registration of death?

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I hereby certify that the answers given above are true and accurate to the best of my knowledge and belief,
that there is no circumstance known to me which can give rise to any suspicion that the death was due wholly or in part to any other cause than

(disease)

(accident)

and that there is no circumstance of any sort known to me which makes it undesirable that the body should be cremated.

(Signature)

(Address)

(Date)

(Registered qualifications)

FORM C
CONFIRMATORY MEDICAL CERTIFICATE

I, being a medical practitioner of not less than five years standing and authorised to practise in this Island, and being neither a relative of the deceased, nor a relative or partner of the medical practitioner who has given the foregoing medical certificate, have examined it and have made personal inquiry as stated in my answers to the questions below –

1. Have you seen the body of the deceased?
2. Have you carefully examined the body externally?
3. Have you made a post-mortem examination?
4. Have you seen and questioned the medical practitioner who gave the above certificate?
5. Have you seen and questioned any other medical practitioner who attended the deceased?
6. Have you seen and questioned any person who nursed the deceased during his last illness, or who was present at the death?
7. Have you seen and questioned any of the relatives of the deceased?
8. Have you seen and questioned any other person?

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(In the answers to questions 5, 6, 7 and 8, give names and addresses of persons seen and say whether you saw them alone.)

I am satisfied that the cause of death was
and I certify that I know of no reasonable cause to suspect that the deceased died
either a violent or an unnatural death or a sudden death of which the cause is
unknown or died in such place or circumstances as to require an inquest.

(Signature)

(Address)

(Date)

(Registered qualifications)

(Office)

FORM D.1.
CERTIFICATE OF CONSULTANT PATHOLOGIST AFTER POST-MORTEM
EXAMINATION

I hereby certify that on the day of 19 , acting under appointment by one of the Law Officers of the Crown, I made a post-mortem examination of the remains of

The result of the examination is as follows –

I am satisfied that the cause of death was

and that there is no reason for making any toxicological analysis or for the holding of an inquest.

(Signature of Consultant Pathologist)

(Address)

(Registered qualifications)

Date

FORM D.2.

CERTIFICATE AFTER POST-MORTEM EXAMINATION

We hereby certify that on the day of 19 , acting under appointment by one of the Law Officers of the Crown we made a post-mortem examination of the remains of

(name)

(address)

(occupation)

The result of the examination is as follows –

We are satisfied that the cause of the death was

and that there is no reason for making any toxicological analysis or for the holding of an inquest.

Date

(Signature of Medical Practitioner)

(Address)

(Registered qualifications)

(Signature of Medical Practitioner)

(Address)

(Registered qualifications)

FORM E
MAGISTRATE'S CERTIFICATE

I certify that I held an inquest on the body of

and that my verdict was as follows –

Medical evidence was given by

I am satisfied from the evidence that the cause of death was

and that no circumstance exists which could render necessary any further examination of the remains or any analysis of any part of the body.

(Date)

Magistrate.

FORM F
AUTHORITY TO CREMATE

Whereas application has been made for the cremation of the remains of

(name)

(address)

(occupation)

And whereas I have satisfied myself that all the requirements of the law relating to Cremation (1928), and of the Ordinance made in pursuance of that law, have been complied with, that the cause of death has been definitely ascertained, and that there exists no reason for any further inquiry or examination:

I hereby authorise the Superintendent of the Crematorium at
to cremate the said remains.

(Date)

H.M. Procureur
or
H.M. Comptroller.

FORM G
REGISTER OF CREMATIONS

carried out by

at the Crematorium at

How ashes were disposed of.	Names and addresses of persons signing certificates.	Name and address of person who applied for cremation.	Date of Death.	Whether married or unmarried.	Age and sex.	Name, Residence and Occupation of Deceased.

Date of Cremation.	
No.	

NOTE

In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 2008, section 47(3), the references in this Schedule to the "Magistrate" shall be construed as references to a Judge of the Magistrate's Court within the meaning of the 2008 Law, with effect from 1st September, 2009.

SECOND SCHEDULE
ORDINANCES REPEALED

Section eighteen

1. The Ordinance entitled "Ordonnance relative à la Crémation" of the twelfth day of October, nineteen hundred and twenty-nine^c.
2. The Ordinance entitled "Ordonnance portant amendement à l'Ordonnance relative à la Crémation du 12 octobre 1929" of the sixteenth day of November, nineteen hundred and twenty-nine^d.
3. The Cremation (Amendment) Ordinance, 1965^e.
4. The Cremation (Amendment) Ordinance, 1967^f.
5. The Cremation (Amendment) Ordinance, 1968^g.

¹ The Ordinance was previously modified by several Emergency Powers (Coronavirus) Regulations between 2nd April, 2020 and 5th March, 2021.

^c Recueil d'Ordonnances Tome VIII, p. 43.
^d Recueil d'Ordonnances Tome VIII, p. 58.
^e Recueil d'Ordonnances Tome XIV, p. 130.
^f Recueil d'Ordonnances Tome XV, p. 3.
^g Recueil d'Ordonnances Tome XV, p. 358.

2 These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 3(a), with effect from 6th May, 2004.

3 The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Ordinance were previously transferred to and vested in them, respectively, from the Board of Administration and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 3(a), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.