

PRESS RELEASE



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DOCTORS "FACE PROSECUTION FOR FLOUTING CREMATION LAWS"

Doctors face prosecution if they fail to follow cremation laws, the Medical and Dental Defence Union of Scotland (MDDUS) warns today (Friday, 23 May 2008).

A doctor who fails to fulfil his or her obligations under the Cremation Act 1902 and associated rules could be jailed for up to two years following new guidance for prosecutors, points out Dr George Fernie, medico-legal advisor for MDDUS.

"If a doctor signs a form saying that he or she has viewed the deceased, they must have viewed the deceased. If they have not, they are potentially committing a criminal offence," says Dr Fernie.

New Crown Prosecution Service legal guidance published this week warns that breaching death and cremation certification rules will no longer be regarded as a matter for professional regulation, to be dealt with by the GMC, but as a potential criminal offence.

Said Dr Fernie: "This guidance will affect everyone who has to sign a death certificate or cremation forms. Doctors must comply with the regulations."

In cases where a coroner has not ordered a post mortem, there is a three-step procedure before a cremation can take place:

- The doctor certifying a death completes form B. He or she must have viewed the body of the deceased.
- A confirmatory medical certificate, form C, is issued after a further examination by a second doctor, who must have been registered for at least five years, must not be a partner of, or related to the first doctor and must not be related to the deceased.
- The medical referee then checks forms B and C before issuing form F, the authority to cremate.

p2/

MDDUS/CREMATE 2

A doctor who signs form C without viewing the deceased commits the offence of “wilfully making a false declaration, or representation, or signing or uttering any false certificate with a view to procuring the burning of any human remains”.

Completing forms B and C without inspecting the body – which CCTV could confirm – is an offence under Section 8 of the Cremation Act of 1902.

Doctors who do not follow the correct procedures would also be breaching GMC guidelines on probity. These state: ‘You must do your best to make sure that any documents you write or sign are not false or misleading.’

The guidance for prosecutors follows a CPS policy review on the issue and is also in line with guidance issued by the BMA’s Forensic Medicine Committee. The government is also reviewing death certification and cremation certification following the inquiry into the actions of serial killer GP Harold Shipman.

Ends

For further information contact Mike Hutchinson on 020 7624 6257 or 07760 155216.

Notes to editors

1. MDDUS is a medical defence organisation providing access to professional indemnity and expert medicolegal advice for doctors, dentists and other healthcare professionals throughout the UK.
2. For further information on MDDUS go to www.mddus.com.