

South Australia



ANNO QUADRAGESIMO NONO
ELIZABETHAE II REGINAE
A.D. 2000

CREMATION ACT 2000

No. 52 of 2000

[Assented to 20 July 2000]

An Act to regulate the cremation of human remains; to repeal the Cremation Act 1891; and for other purposes.

SUMMARY OF PROVISIONS

1. Short title
2. Commencement
3. Repeal of Cremation Act 1891
4. Interpretation
5. Offence to cremate human remains other than in lawfully established crematorium
6. Issue of cremation permit (s.31B of the Coroners Act 1975)
7. Relatives, etc. may object to cremation in cases where cremation not directed by deceased person
8. Attorney-General, coroner, etc. may prohibit cremation
9. Regulations

The Parliament of South Australia enacts as follows:

Short title

1. This Act may be cited as the *Cremation Act 2000*.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Repeal of Cremation Act 1891

3. The *Cremation Act 1891* is repealed.

Interpretation

4. In this Act, unless the contrary intention appears—

"crematorium" means a place for the cremation of human remains;

"doctor" means a person registered as a medical practitioner under the *Medical Practitioners Act 1983*;

"human remains" has the same meaning as in the *Births, Deaths and Marriages Registration Act 1996*;

"Registrar" means the Registrar of Births, Deaths and Marriages or a Deputy Registrar of Births, Deaths and Marriages;

"spouse" includes putative spouse (whether or not a declaration of the relationship has been made under the *Family Relationships Act 1975*).

Offence to cremate human remains other than in lawfully established crematorium

5. A person must not cremate human remains, or cause, suffer or permit human remains to be cremated, other than in a lawfully established crematorium.

Maximum penalty: \$10 000 or imprisonment for 2 years.

Issue of cremation permit (s.31B of the Coroners Act 1975)

6. (1) Subject to this Act, the Registrar may, on due application made under this section, issue the applicant with a cremation permit in the prescribed form.

(2) The Registrar must not issue a permit under this section unless the application is accompanied by—

(a) —

- (i) certificates from 2 doctors (one of whom was responsible for the deceased's medical care immediately before death or examined the body of the deceased after death); or

- (ii) a certificate from a doctor who has completed a *post mortem* examination of all the vital organs of the deceased,

certifying that the deceased died from natural causes; or

(b) an authorisation for the disposal of the deceased's remains issued by a coroner.

(3) However, an application made for a cremation permit in respect of the remains of a person who died in another State or a Territory of the Commonwealth may instead be accompanied by the documents that would be required under the law of that State or Territory for the issue of a cremation permit or other authorisation for cremation of the remains in that State or Territory.

(4) A doctor must not give a certificate under this section if a coroner or a police officer is required to be notified of the death under the *Coroners Act 1975*.

Maximum penalty: \$5 000 or imprisonment for 1 year.

(5) A doctor must not, knowing—

(a) that he or she has a pecuniary interest in the death of another person under a policy of life insurance; or

(b) that he or she is entitled in expectancy of the death of another person to any real or personal property,

give a certificate under this section.

Maximum penalty: Imprisonment for 4 years.

Relatives, etc. may object to cremation in cases where cremation not directed by deceased person

7. A person must not cremate human remains, or cause, suffer or authorise the cremation of human remains, knowing that the personal representative or a spouse, parent or child of the deceased person objects to the cremation, unless the deceased person directed, by a will or some other attested instrument, that his or her body be cremated.

Maximum penalty: \$5 000.

Attorney-General, coroner, etc. may prohibit cremation

8. (1) The Attorney-General or a coroner or magistrate may, if he or she considers that there is reasonable cause for doing so, by order in writing given to the person in charge of a crematorium, prohibit the cremation of the remains of a specified deceased person, either absolutely or until the viscera or any other organs have been removed from the body and lodged in such manner and custody as the Attorney-General, coroner or magistrate may require.

(2) An order under subsection (1) may be given personally or by post.

(3) A person in charge of a crematorium who causes, suffers or permits the cremation of human remains in the crematorium in contravention of an order under subsection (1) is guilty of an offence.

Maximum penalty: \$15 000 or imprisonment for 4 years.

Regulations

9. (1) The Governor may make such regulations as are contemplated by, or as are necessary or expedient for the purposes of, this Act.

(2) The regulations may prescribe penalties, not exceeding \$2 500, for breach of, or non-compliance with, a regulation.