

South Australia

Cremation Act 2000

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

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Legislative history

The Parliament of South Australia enacts as follows:

1—Short title

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

4—Interpretation

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*).

5—Offence to cremate human remains other than in lawfully established crematorium

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.

6—Issue of cremation permit

- (a1) A person must not cremate human remains, or cause, suffer or permit human remains to be cremated, unless he or she has received a cremation permit issued under this section.

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

- (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 human remains issued under the *Coroners Act 2003*.

- (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 the State Coroner or a police officer is required to be notified of the death under the *Coroners Act 2003*.

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.

7—Relatives etc may object to cremation in cases where cremation not directed by deceased person

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.

8—Attorney-General, State Coroner etc may prohibit cremation

- (1) The Attorney-General, the State Coroner or a 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, State 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.

9—Regulations

- (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.

Legislative history

Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes.

Legislation repealed by principal Act

The *Cremation Act 2000* repealed the following:

Cremation Act 1891

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
2000	52	<i>Cremation Act 2000</i>	20.7.2000	1.2.2001 (<i>Gazette 1.2.2001 p392</i>)
2003	33	<i>Coroners Act 2003</i>	31.7.2003	Sch (cl 8 & 9)—1.7.2005 (<i>Gazette 23.6.2005 p1899</i>)
2006	10	<i>Statutes Amendment (Disposal of Human Remains) Act 2006</i>	29.6.2006	Pt 4 (ss 7—9)—24.7.2006 (<i>Gazette 20.7.2006 p2335</i>)

Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended under <i>Legislation Revision and Publication Act 2002</i>	1.7.2005
<i>ss 2 and 3</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	1.7.2005
s 6		
s 6(a1)	inserted by 33/2003 Sch (cl 8(1))	1.7.2005
s 6(2)	amended by 33/2003 Sch (cl 8(2))	1.7.2005
s 6(4)	substituted by 33/2003 Sch (cl 8(3))	1.7.2005
s 8		
s 8(1)	amended by 33/2003 Sch (cl 9(1), (2))	1.7.2005