

South Australia

CREMATION REGULATIONS 1994

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LEGISLATIVE HISTORY

REGULATIONS UNDER THE CREMATION ACT 1891

Cremation Regulations 1994

being

No. 143 of 1994: *Gaz.* 25 August 1994, p. 564¹

varied by

No. 54 of 1995: *Gaz.* 10 May 1995, p. 1999²

No. 86 of 1996: *Gaz.* 30 May 1996, p. 2657³

No. 172 of 1997: *Gaz.* 10 July 1997, p. 74⁴

No. 72 of 1998: *Gaz.* 28 May 1998, p. 2328⁵

No. 54 of 1999: *Gaz.* 27 May 1999, p. 2800⁶

No. 80 of 2000: *Gaz.* 25 May 2000, p. 2753⁷

¹ Came into operation 1 September 1994: reg. 2.

² Came into operation 1 July 1995: reg. 2.

³ Came into operation 1 July 1996: reg. 2.

⁴ Came into operation 10 July 1997: reg. 2.

⁵ Came into operation 1 July 1998: reg. 2.

⁶ Came into operation 1 July 1999: reg. 2.

⁷ **Came into operation 1 July 2000: reg. 2.**

NOTE:

- *Asterisks indicate repeal or deletion of text.*
- *Entries appearing in bold type indicate the amendments incorporated since the last consolidation.*
- *For the legislative history of the regulations see Appendix.*

Citation

1. These regulations may be cited as the *Cremation Regulations 1994*.

Commencement

2. These regulations will come into operation on 1 September 1994.

Revocation

3. All regulations previously made under the *Cremation Act 1891* are revoked.

Interpretation

4. (1) In these regulations, unless the contrary intention appears—

"**the Act**" means the *Cremation Act 1891*;

"**crematorium authority**" means the person or body responsible for the administration of a crematorium and includes the person who holds the licence for the crematorium;

"**funeral director**" means a person who carries on a business consisting of or including arranging for the cremation of human remains;

"**medical practitioner**" means a legally qualified medical practitioner;

"**near relative**", of a deceased person, means—

- (a) a spouse of the deceased;
- (b) a child of the deceased of or over the age of 18 years;
- (c) a parent of the deceased;
- (d) a brother or sister of the deceased of or over the age of 18 years.

(2) In these regulations, a reference to a form of a particular number is a reference to the form of that number set out in the schedule.

Cremation permit

5. (1) An application for a cremation permit—

(a) may be made by—

- (i) the executor or administrator of the deceased person's estate; or
- (ii) a near relative of the deceased person; or
- (iii) a person of or over the age of 18 years who satisfies the registrar that he or she is, in all the circumstances, a proper person to make the application;¹ and

(b) must be a completed form 1; and

3.

(c) must be accompanied by a fee of \$30; and

(d) must be lodged with the registrar.

(2) A cremation permit must be a completed form 2.

¹ A cremation permit is issued by the registrar to the funeral director arranging the cremation.

Certificates about cause of death

6. The certificates about the cause of death of a person required to be given to the registrar under section 5(1a)(a) of the Act are as follows:

- (a) if two medical practitioners certify that the deceased died from natural causes—
- (i) a form 3 completed by a medical practitioner who was responsible for the deceased's medical care immediately before death or who examined the body of the deceased after death; and
 - (ii) a form 4 completed by a second medical practitioner;
- (b) if a medical practitioner certifies, after a *post mortem* examination of the deceased, that the deceased died from natural causes—a form 5 completed by the medical practitioner.

* * * * *

Tagging and marking of body by medical practitioner

7. (1) Where a medical practitioner who was responsible for the deceased's medical care immediately before death, or who examined the body of the deceased after death, certifies that the deceased died from natural causes,¹ the practitioner may—

- (a) attach to the body of the deceased a tag bearing the name of the deceased and the date of death; and
- (b) mark on the body in indelible ink the particulars referred to in paragraph (a).

(2) A person must not remove or deface, mark, alter or otherwise interfere with a tag attached to, or mark placed on, the body of a deceased person under subregulation (1).

¹ *I.e.* by completing a form 3.

Identification of body

8. (1) A funeral director arranging the cremation of the body of a deceased person must give to the person in charge of the crematorium the appropriate identification form as follows:¹

- (a) if the body has been tagged and marked under regulation 7—a form 7 completed by the medical practitioner who tagged and marked the body;

4.

- (b) if the body has not been so tagged and marked but can be visually identified—a form 8 completed by a person who knew the deceased personally;
- (c) if the body has not been so tagged and marked and cannot be visually identified—a form 9 completed by a medical practitioner.

(2) A crematorium authority must ensure that the body of a deceased person is not cremated at the crematorium unless—

- (a) the person in charge of the crematorium has received the relevant cremation permit and identification form from the funeral director arranging the cremation; and
- (b) the details of identification of the deceased person contained in the permit, identification form and on the coffin have been checked and found to correspond.

(3) A crematorium authority must, within 28 days after the body of a deceased person is cremated at the crematorium, give to the registrar the identification form provided to the authority by the funeral director arranging the cremation.

¹ This is in addition to giving the person in charge of the crematorium the cremation permit obtained from the registrar—see s. 5 of the Act.

Coffins

9. (1) A funeral director must ensure that a coffin used for the cremation of human remains—

- (a) is constructed only of—
 - (i) timber materials suitable for combustion in the course of a cremation;
 - (ii) other materials approved by the South Australian Health Commission; and
- (b) is so constructed that it will not distort or collapse on being subjected to the kind of handling to which a coffin is likely to be subjected during the normal course of events leading up to a cremation (including handling when damp); and
- (c) does not have cross pieces projecting from its base; and
- (d) subject to subregulation (2), is lined internally with impervious material that is at least 100 µm thick and of such a nature as to prevent the leakage of body fluids from the coffin; and
- (e) subject to subregulation (3), contains only material suitable for combustion in the course of a cremation; and
- (f) bears a name plate or inscription stating the surname and at least one other name of the deceased person whose body is to be cremated in the coffin.

5.

(2) A coffin need not be lined with impervious material if the body, when placed in the coffin, is completely enclosed in a bag made of impervious material at least 100 µm thick and the bag is effectively sealed so as to prevent leakage of body fluids from the body into the coffin.

(3) Materials that are not suitable for combustion in the course of a cremation may be used on the exterior of a coffin if the materials can be easily removed prior to cremation.

Removal and disposal of name plate, etc. from coffin before cremation

10. (1) A crematorium authority may remove a name plate, a metal or plastic fitting or other object from the exterior of a coffin containing the body of a deceased person before cremation and, subject to subregulation (3), dispose of it.

(2) A crematorium authority may dispose of any other thing that comes into the possession of the crematorium authority as a result of a cremation.

(3) A crematorium authority that removes a name plate from a coffin must keep the plate for 14 days after the cremation and give it, on request, to the person who applied for the cremation permit or a person authorised by that person.

Disposal of cremated ashes

11. (1) A crematorium authority must ensure that the ashes of the body of a deceased person cremated at the crematorium are not released except to the person who applied for the cremation permit or a person authorised in writing by that person.

(2) If the ashes of the body of a deceased person cremated at a crematorium are not claimed within six months after the cremation, the crematorium authority may dispose of the ashes.

General offence

12. A person who contravenes or fails to comply with these regulations is guilty of an offence.

Penalty: \$200.

SCHEDULE

Forms

Form 1

Cremation Regulations 1994

(reg. 5(1))

APPLICATION FOR CREMATION PERMIT

To the Registrar of Births, Deaths and Marriages:

I,
 (full name)
 of
 (address)
 apply for a cremation permit to cremate the remains of
 (occupation)

 (full name of deceased)
 late of
 (last residential address)
 date of birth sex
 (occupation)

In support of this application I supply the following information:

1. Date and time of death
2. Place of death
 (If the place of death was not the deceased's place of residence, state whether it was a hospital, nursing home, lodgings, etc.)
3. I am—
 *the executor or administrator of the deceased's estate.
 *the parent of the deceased.
 *the spouse of the deceased.
 *the child of the deceased and I am 18 or over.
 *the brother or sister of the deceased and I am 18 or over.
 *not any of the above but make this application because:

4. Did the deceased leave any written directions as to the mode of disposal of his or her remains?
 If yes, give details
5. Has the spouse or any next of kin or an executor or administrator of the deceased objected to the proposed cremation?
6. Do you know, or have any reason to believe, that the death of the deceased was not due to natural causes?
7. Medical practitioner ordinarily attending the deceased:
 Name
 Address
8. Is it proposed to hold a *post mortem* examination of the body of the deceased?
9. Is it proposed to hold an inquest or inquiry into the death of the deceased?
10. Name of crematorium at which cremation of the body of the deceased is proposed to take place:

11. Name of funeral director to whom the cremation permit is to be issued:

Signed Dated

(*Strike out whichever items are not applicable).

Form 2
Cremation Regulations 1994
(reg. 5(2))

CREMATION PERMIT

PARTICULARS OF DECEASED AND APPLICANT

Full name of deceased
Last residential address of deceased
Full name of applicant for permit
Address of applicant for permit

PERMISSION FOR CREMATION OF HUMAN REMAINS

Pursuant to section 5 of the *Cremation Act 1891*, I grant—
.....
(full name of person to whom permit issued)
of
(address of person to whom permit issued)

permission to have the body of the deceased named in this permit cremated at a licensed crematorium in South Australia.

Signed Dated.....
Registrar of Births, Deaths and Marriages

Form 3
Cremation Regulations 1994
(reg. 6(a)(i))

FIRST MEDICAL CERTIFICATE

To the Registrar of Births, Deaths and Marriages:

- 1. Full name of deceased
- 2. Last residential address of deceased
- 3. Place of death
(If the place of death was not the deceased's place of residence, state whether it was a hospital, nursing home, lodgings, etc.)
- 4. Date and time of death
- 5. Occupation of deceased
- 6. Date of birth of deceased
- 7. Marital status of deceased
- 8. How long have you professionally attended the deceased?
- 9. Were you responsible for the deceased's medical care immediately before death?
- 10. On what date did you last see the deceased alive?
- 11. Did you personally view the body of the deceased?
If no, who advised you of the death?
- 12. Cause of death:

CAUSE OF DEATH (PLEASE USE BLOCK LETTERS AND DO NOT ABBREVIATE)	Approximate interval between onset and death
I. Direct cause Disease or condition directly leading to death (<i>ie</i> the disease, injury or complication which caused death, NOT the mode of dying, for example, heart failure, asphyxia, asthenia etc.)	(a)
Antecedent causes Morbid conditions (if any) giving rise to the above cause, stating the underlying condition last	Due to (or as a consequence of) (b) (c)
II. Other significant conditions contributing to the death, but not related to the disease or condition causing it

13. Did the deceased undergo any surgical procedure within the period of four weeks before his or her death?
 If yes, specify the nature of the procedure
14. Have you any reason to believe that the death of the deceased was due, directly or indirectly, to privation or neglect?
15. Are you satisfied that the deceased died from natural causes?
16. Is there, to the best of your knowledge or belief, any reason why the body of the deceased should not be cremated?

I certify that the particulars given above are true to the best of my knowledge and belief.

Signed Dated

.....
 (address)

.....
 (qualification)

NOTE: It is an offence for a person to give this certificate knowing that he or she has a pecuniary or other interest in the estate of the deceased (s. 7 *Cremation Act 1891*).

9.

Form 4
Cremation Regulations 1994
(reg. 6(a)(ii))

SECOND MEDICAL CERTIFICATE

To the Registrar of Births, Deaths and Marriages:

Full name of deceased
Last residential address of deceased

1. Have you at any time professionally attended the deceased?
If yes, state when and the circumstances
2. Have you read and considered the certificate of the medical practitioner giving the first medical certificate?
3. Are you satisfied that the deceased died from natural causes?

I certify to the best of my knowledge and belief that there is no reason why the body of the deceased should not be cremated.

Signed Dated

.....
(address)
.....
(qualification)

NOTE: It is an offence for a person to give this certificate knowing that he or she has a pecuniary or other interest in the estate of the deceased (s. 7 *Cremation Act 1891*).

Form 5
Cremation Regulations 1994
(reg. 6(b))

CERTIFICATE OF MEDICAL PRACTITIONER WHO HAS CONDUCTED POST MORTEM

To the Registrar of Births, Deaths and Marriages:

Full name of deceased
Last residential address of deceased

I certify—

1. That on the ... day of 19.. I personally made a *post mortem* examination of all the vital organs of the deceased.
2. That to the best of my knowledge and belief—
(a) the deceased died from natural causes; and
(b) there is no reason why the remains of the deceased should not be cremated.

Signed Dated

.....
(address)
.....
(qualification)

* * * * *

Form 7
Cremation Regulations 1994
(reg. 8(1)(a))

CERTIFICATE OF MEDICAL PRACTITIONER AS TO TAGGING AND MARKING OF BODY

I,
(full name of medical practitioner)

of
(address)

being the medical practitioner who gave the first medical certificate (form 3) in relation to the death of the
deceased
(full name of deceased)

late of
(last residential address)

certify that the body of the deceased person has been tagged and marked under regulation 7 of the *Cremation
Regulations 1994*.

Signed Dated
Medical practitioner

Form 8
Cremation Regulations 1994
(reg. 8(1)(b))

CERTIFICATE OF IDENTIFICATION

I,
(full name)

of
(address)

being a person who personally knew:

.....
(full name of deceased)

late of
(last residential address)

certify—

1. That on the ... day of 19 .. at
I identified the body of a deceased person as being the body of the above person.
2. That the body was in a coffin bearing a name plate or inscription marked:

.....

Signed Dated

Form 9
Cremation Regulations 1994
(reg. 8(1)(c))

CERTIFICATE DISPENSING WITH IDENTIFICATION—MEDICAL PRACTITIONER

I,
(full name)

of
(address)

a legally qualified medical practitioner, having been requested by ,
being the funeral director arranging the cremation of the body of:

.....
(full name of deceased)

late of
(last residential address)

deceased, to examine the body of a deceased person believed to be the above person, certify—

- 1. That I have examined the body; and
- 2. That the body cannot be visually identified for the following reason:

.....

Signed Dated

.....
(address)

.....
(qualification)

(*Strike out whichever item is not applicable)

APPENDIX**LEGISLATIVE HISTORY**

(entries in bold type indicate amendments incorporated since the last consolidation)

Regulation 5(1):	varied by 54, 1995, reg. 3; 86, 1996, reg. 3; 72, 1998, reg. 3; 54, 1999, reg. 3; 80, 2000, reg. 3
Regulation 6:	varied by 172, 1997, reg. 3
Regulation 7(1):	varied by 172, 1997, reg. 4
Regulation 8(1):	varied by 172, 1997, reg. 5
Schedule	
Form 2:	substituted by 172, 1997, reg. 6(a) (Sched. 1)
Form 3:	varied by 172, 1997, reg. 6(b), (c)
Form 6:	revoked by 172, 1997, reg. 6(d)
Form 7:	substituted by 172, 1997, reg. 6(e) (Sched. 2)