

South Australia

CREMATION REGULATIONS 2001

REGULATIONS UNDER THE CREMATION ACT 2000

Cremation Regulations 2001

being

No. 7 of 2001: *Gaz.* 1 February 2001, p. 418¹

as varied by

No. 80 of 2001: *Gaz.* 31 May 2001, p. 2019²

¹ Came into operation 1 February 2001: reg. 2.

² Came into operation 1 July 2001: reg. 2.

NOTE:

- *Asterisks indicate repeal or deletion of text.*
- *For the legislative history of the regulations see Appendix.*

SUMMARY OF PROVISIONS

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LEGISLATIVE HISTORY

Citation

1. These regulations may be cited as the *Cremation Regulations 2001*.

Commencement

2. These regulations will come into operation on the day on which the *Cremation Act 2000* comes into operation.

Revocation

3. The *Cremation Regulations 1994* (see *Gazette* 25 August 1994 p. 564), as varied, are revoked.

Interpretation

4. (1) In these regulations—

"**Act**" means the *Cremation Act 2000*;

"**crematorium authority**" means the person in charge of a crematorium;

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

"**near relative**" of a deceased 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.

Forms

5. (1) The forms set out in the Schedule are prescribed for the purposes of the Act.

- (2) A form set out in the Schedule must—

- (a) be used for the purposes specified in the Schedule; and
- (b) contain the information required by, and be completed in accordance with, the instructions contained in the form.

Application for cremation permit

6. An application for a cremation permit—

- (a) may be made by—
 - (i) the executor or administrator of the deceased's estate; or

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- (ii) a near relative of the deceased; 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 application¹; and
- (b) must be lodged with the Registrar and be accompanied by a fee of \$31.
1. For example, the Registrar may issue a cremation permit to a funeral director or other person arranging the cremation.

Certificates as to cause of death

7. For the purposes of section 6(2)(a) of the Act—

- (a) in the case where 2 doctors certify that the deceased died from natural causes—
 - (i) the doctor who was responsible for the deceased's medical care immediately before death, or examined the body of the deceased after death, must issue a certificate in the form of Form 3 (**a Form 3 certificate**); and
 - (ii) the other doctor must issue a certificate in the form of Form 4;
- (b) in the case where a doctor certifies, after completing a *post mortem* examination of all the vital organs of the deceased, that the deceased died from natural causes—the doctor must issue a certificate in the form of Form 5.

Tagging and marking of body by doctor

8. (1) If a doctor issues a Form 3 certificate that a deceased died from natural causes, the doctor may—

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

(2) A person must not remove or deface, mark, alter or otherwise interfere with a tag attached to, or a mark placed on, a body under this regulation.

Maximum penalty: \$2 500.

Coffins

9. (1) A funeral director or other person arranging for the cremation of the remains of a deceased must ensure that the coffin to be used for the cremation—

- (a) is constructed of timber or material derived from timber that will not release organochlorines during incineration in a crematorium; and
- (b) is constructed so 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

6.

- (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 family name and at least one other name of the deceased whose remains are to be cremated in the coffin.

Maximum penalty: \$2 500.

(2) A coffin need not be lined with impervious material if—

- (a) the body, when placed in the coffin, is completely enclosed in a bag made of impervious material at least 100 µm thick; and
- (b) 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 they can be removed easily prior to cremation.

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

10. (1) A crematorium authority may dispose of—

- (a) a name plate, metal or plastic fitting or any other object removed before cremation from the exterior of a coffin containing the remains of a deceased; or
- (b) any other thing that comes into the possession of the crematorium authority as a result of a cremation.

(2) However, the crematorium authority must keep any removed name 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.

Maximum penalty: \$2 500.

Identification of body

11. (1) A funeral director or other person arranging for the cremation of the remains of a deceased must give to the crematorium authority—

- (a) the cremation permit (Form 2) issued by the Registrar in respect of the deceased; and
- (b) the appropriate identification form as follows:
 - (i) in the case where the body of the deceased has been tagged and marked under these regulations—Form 6;
 - (ii) in the case where the body has not been so tagged and marked but can be visually identified—Form 7;

7.

(iii) in any other case—Form 8.

Maximum penalty: \$2 500.

(2) A crematorium authority must not cremate the remains of a deceased unless—

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

Maximum penalty: \$2 500.

(3) The crematorium authority must, within 28 days after a cremation at the crematorium, give to the Registrar the identification form provided to the authority by the funeral director or other person who arranged the cremation.

Maximum penalty: \$2 500.

Disposal of cremated ashes

12. (1) A crematorium authority must ensure that the ashes of the remains of a deceased 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.

Maximum penalty: \$2 500.

(2) If the ashes of the remains of a deceased cremated at a crematorium are not claimed within 6 months after the cremation, the crematorium authority may dispose of the ashes.

8.

SCHEDULE

Forms

- FORM 1: APPLICATION FOR CREMATION PERMIT
- FORM 2: CREMATION PERMIT
- FORM 3: DEATH FROM NATURAL CAUSES—CERTIFICATE OF TREATING OR EXAMINING DOCTOR
- FORM 4: DEATH FROM NATURAL CAUSES—CERTIFICATE OF SECOND DOCTOR
- FORM 5: DEATH FROM NATURAL CAUSES—CERTIFICATE OF DOCTOR CONDUCTING POST MORTEM
- FORM 6: TAGGING AND MARKING OF BODY—CERTIFICATE OF DOCTOR
- FORM 7: CERTIFICATE OF IDENTIFICATION OF DECEASED
- FORM 8: CERTIFICATE OF DOCTOR DISPENSING WITH IDENTIFICATION OF DECEASED

APPLICATION FOR CREMATION PERMIT

THIS FORM MUST BE LODGED WITH THE REGISTRAR OF BIRTHS, DEATHS AND MARRIAGES TOGETHER WITH A FEE OF \$30.

I (**the Applicant**) apply for a cremation permit to cremate the remains of—
 (insert deceased's name) (**the deceased**).

DETAILS OF DECEASED

Full Name:			
Last residential address:			
Occupation:			
Date of birth:			
Sex: (tick appropriate box)	Female	<input type="checkbox"/>	
	Male	<input type="checkbox"/>	

DETAILS OF APPLICANT

Full name:			
Address:			
Occupation:			

Signed:			
Dated:			

The Applicant must also complete the details requested in the box overleaf in support of the application.

<p>You must provide the following details: <i>(where a "yes" or "no" answer is required, tick the appropriate box)</i></p>			
1. Date and time of death:			
2. Place of death: <i>(If this was not the deceased's place of residence, state whether it was a hospital, nursing home, lodgings, etc.)</i>			
3. I am—	<ul style="list-style-type: none"> * the executor or administrator of the deceased's estate. * a parent of the deceased. * the spouse of the deceased. * a child of the deceased and I am at least 18 years of age. * a brother/sister of the deceased and I am at least 18 years of age. * not any of the above but make this application because <i>(insert reasons for making the application)</i>— <p>.....</p> <p>.....</p>		
4. Did the deceased leave any written directions as to the mode of disposal of his or her remains?	Yes	<input type="checkbox"/>	If yes, give details:
	No	<input type="checkbox"/>	
5. Has the spouse, a parent or child, or an executor or administrator, of the deceased objected to the proposed cremation?	Yes	<input type="checkbox"/>	
	No	<input type="checkbox"/>	
6. Do you know, or have any reason to believe, that the death of the deceased was not due to natural causes?	Yes	<input type="checkbox"/>	If yes, give details:
	No	<input type="checkbox"/>	
7. Provide the following details about the doctor who ordinarily attended the deceased:	Name:		
	Address:		
		
8. Will there be a <i>post mortem</i> examination of the body of the deceased?	Yes	<input type="checkbox"/>	
	No	<input type="checkbox"/>	
9. Will there be an inquest or inquiry into the death of the deceased?	Yes	<input type="checkbox"/>	
	No	<input type="checkbox"/>	
10. What is the name of the crematorium at which it is intended that the cremation of the body of the deceased will occur?			
11. In whose name is the cremation permit to be issued? <i>(insert name)</i>			

* *Strike out whichever does not apply.*

CREMATION PERMIT

PARTICULARS OF DECEASED

Full name:

Last residential address:

.....

PARTICULARS OF APPLICANT FOR PERMIT

Full name:

Address:

.....

PARTICULARS OF PERSON TO WHOM PERMIT IS ISSUED

Full name:

Address:

.....

PERMISSION FOR CREMATION OF HUMAN REMAINS

Pursuant to section 6 of the *Cremation Act 2000*, I grant permission for the remains of the deceased to be cremated at a lawfully established crematorium in South Australia.

Registrar of Births, Deaths and Marriages:

Dated:

DEATH FROM NATURAL CAUSES—CERTIFICATE OF TREATING OR EXAMINING DOCTOR

- NOTE:**
1. This certificate must be completed by the doctor who—
 - (a) was responsible for the deceased’s medical care immediately before death; or
 - (b) examined the body of the deceased after death.
 2. It is an offence (the maximum penalty for which is \$5 000 or imprisonment for 1 year) for a doctor to give this certificate knowing that he or she has a pecuniary or other interest in the estate of the deceased (*see section 6(5) Cremation Act 2000*).
 3. This certificate must be lodged with the Registrar of Births, Deaths and Marriages together with Form 1 (the Application for Cremation Permit) and Form 4 (the Death from natural causes—certificate of second doctor).

DETAILS RELATING TO DECEASED

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. 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
13. Have you any reason to believe that the death of the deceased was due, directly or indirectly, to privation or neglect?
14. Are you satisfied that the deceased died from natural causes?
15. Is there, to the best of your knowledge or belief, any reason why the body of the deceased should not be cremated?
12. Please provide details (IN BLOCK LETTERS) of the cause of death in the box overleaf.

CAUSE OF DEATH (PLEASE USE BLOCK LETTERS AND DO NOT ABBREVIATE)		
	Description of cause of death	Interval between onset and death (approximate)
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.)	
Antecedent causes Morbid conditions (if any) giving rise to the above cause, stating the underlying condition last	Due to, or as a consequence of—	
Other significant contributing conditions Other significant conditions contributing to the death but not related to the disease or condition causing it	

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

Signed:

Dated:

Address:

Qualifications:

DEATH FROM NATURAL CAUSES—CERTIFICATE OF SECOND DOCTOR

- NOTE:**
1. This certificate must be completed by a doctor.
 2. It is an offence (the maximum penalty for which is \$5 000 or imprisonment for 1 year) for a doctor to give this certificate knowing that he or she has a pecuniary or other interest in the estate of the deceased (*see section 6(5) Cremation Act 2000*).
 3. This certificate must be lodged with the Registrar of Births, Deaths and Marriages together with Form 1 (the Application for Cremation Permit) and Form 3 (the Death from natural causes—certificate of treating or examining doctor).

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 doctor 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:

.....

.....

.....

Qualifications:

DEATH FROM NATURAL CAUSES—CERTIFICATE OF DOCTOR CONDUCTING POST MORTEM

- NOTE:**
1. This certificate must be completed by the doctor who has completed a *post mortem* examination of all the vital organs of the deceased.
 2. It is an offence (the maximum penalty for which is \$5 000 or imprisonment for 1 year) for a doctor to give this certificate knowing that he or she has a pecuniary or other interest in the estate of the deceased (*see section 6(5) Cremation Act 2000*).
 3. This certificate must be lodged with the Registrar of Births, Deaths and Marriages together with Form 1 (the Application for Cremation Permit).

Full name of deceased

Last residential address of deceased

I certify that—

1. On (*insert date*)
I personally made a *post mortem* examination of all the vital organs of the deceased.
2. 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:
.....
.....

Qualifications:



TAGGING AND MARKING OF BODY—CERTIFICATE OF DOCTOR

1. I am the doctor who issued the Form 3 certificate (Death from natural causes—certificate of treating or examining doctor) in relation to the death of *(insert full name of deceased)*

.....

late of *(insert last residential address of deceased)*

.....

.....

2. I certify that the body of the deceased has been tagged and marked in accordance with the *Cremation Regulations 2001*.

Full name of doctor:

Address:

Signature of doctor:

Dated:



CERTIFICATE OF IDENTIFICATION OF DECEASED

I (*insert full name*)
of (*insert address*)
.....

being a person who personally knew:

(*insert full name of deceased*)
late of (*insert last residential address of deceased*)
.....

certify that—

- 1. On (*insert date*)
at (*insert place where identification of deceased occurred*)

I identified the body of a deceased person as being the body of the abovenamed deceased.

- 2. The body was in a coffin bearing a name plate or inscription marked:
.....
.....

Signed:

Dated:



CERTIFICATE OF DOCTOR DISPENSING WITH IDENTIFICATION OF DECEASED

- 1. I am a legally qualified doctor.
- 2. *(insert name)*
 is arranging the cremation of the body of *(insert full name of deceased)*

 late of *(insert last residential address of deceased)*

- 2. I have been requested by the person arranging the cremation to examine the body of a deceased person believed to be the body of the abovenamed deceased.

I certify that—

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

Signed:

Dated:

Address:
.....
.....

Qualifications:



19.

APPENDIX

LEGISLATIVE HISTORY

Regulation 6:

varied by 80, 2001, reg. 3