

South Australia

Burial and Cremation Regulations 2014

under the *Burial and Cremation Act 2013*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Burial and Cremation Regulations 2014*.

2—Commencement

- (1) Subject to subregulation (2), these regulations will come into operation on the day on which the *Burial and Cremation Act 2013* comes into operation.
- (2) Regulation 36 will come into operation on the day on which section 53 of the *Burial and Cremation Act 2013* comes into operation.

3—Interpretation

In these regulations—

Act means the *Burial and Cremation Act 2013*;

certificate of cause of death includes a partial certificate of cause of death as defined in section 12(6) of the Act;

certificate of identification means a certificate of identification in a form approved by the Registrar;

identification tag means an identification tag of a kind approved by the Registrar;

ossuary means a building or structure designed as a final resting place for human skeletal remains;

place includes land or premises;

reportable death has the same meaning as in the *Coroners Act 2003*.

Part 2—Disposal of human remains

4—Interment of bodily remains in prescribed area outside cemetery or natural burial ground (section 8(2)(a)(ii) and (b) of Act)

- (1) A person who interrs bodily remains in a prescribed area on land outside a cemetery or natural burial ground must ensure that the remains are interred—
 - (a) at a depth of at least 1 metre from the surface of the ground; and
 - (b) at a distance of at least 20 metres from any building, structure or water well on the land.
- (2) Subregulation (1) does not apply to the interment of bodily remains in a mausoleum or vault in accordance with regulation 18.

5—Bodily remains not to be moved within, or removed from, place of death until identified

- (1) Subject to this regulation, a funeral director or other person arranging for the disposal of the bodily remains of a deceased person must not move the bodily remains within the place of death, or remove the bodily remains from the place of death, unless—
 - (a) a permanent identification tag on which the full name of the deceased person and the place of his or her death written in indelible ink by—
 - (i) the medical practitioner who was responsible for the deceased person's medical care immediately before death; or
 - (ii) another person who personally knew the deceased person; or
 - (iii) a person who is otherwise able to confirm the identity of the deceased person,has been securely attached to the bodily remains in accordance with subregulation (5); and
 - (b) if the person who attached the identification tag to the bodily remains as required by paragraph (a) is a person referred to in paragraph (a)(i) or (ii)—that person has issued a certificate of identification in relation to the remains.

Maximum penalty: \$10 000.

- (2) A funeral director or other person arranging for the disposal of the bodily remains of a deceased person must, before removing the bodily remains from the place of death, check the certificate of identification (if any) against the identification tag attached to the bodily remains to ensure that the identifying information corresponds.

Maximum penalty: \$10 000.

- (3) Subregulation (1) or (2) does not apply in the case of a reportable death.
- (4) Bodily remains may be moved within the place of death without compliance with subregulation (1) if it is necessary to do so to prevent a risk to public health or safety or to ensure the security or dignity of the bodily remains.
- (5) An identification tag must be attached to—
 - (a) the left arm of the deceased person; or

- (b) if attachment to the left arm is not practicable—to the right arm; or
 - (c) if attachment to the right arm is not practicable—to the left leg; or
 - (d) if attachment to the left leg is not practicable—to the right leg; or
 - (e) if attachment to the right leg is not practicable—to some other part of the bodily remains of the deceased person.
- (6) Subject to subregulation (7), a person must not remove or interfere with an identification tag attached to bodily remains.
Maximum penalty: \$10 000.
- (7) If an identification tag that is attached to bodily remains becomes illegible or damaged, the tag may be removed and replaced in the presence of a witness.

6—Identification of bodily remains where identity has not been ascertained

For the purposes of section 12(1) of the Act, if the bodily remains of a deceased person cannot be identified for any reason, a medical practitioner who has viewed the bodily remains may issue a certificate of identification certifying that the bodily remains are those of a person whose identity has not been ascertained.

7—Identification of bodily remains to be checked before burial or cremation

- (1) A person must not inter bodily remains, or cause, suffer or permit the interment of bodily remains, unless identifying information on all of the following has been checked and found to correspond:
- (a) the certificate of cause of death or disposal authorisation, as the case may be;
 - (b) the certificate of identification;
 - (c) the name plate affixed to the coffin or placed on top of the bodily remains, as the case may be.

Maximum penalty: \$10 000.

- (2) A person must not cremate bodily remains, or cause, suffer or permit the cremation of bodily remains, unless identifying information on all of the following has been checked and found to correspond:
- (a) the cremation permit;
 - (b) the certificate of identification;
 - (c) the name plate affixed to the coffin.

Maximum penalty: \$10 000.

- (3) A person must, after checking details as required by subregulation (1) or (2), make and keep a record of the particulars set out in the certificate of identification and the fact that the identification of the bodily remains has been confirmed.

Maximum penalty: \$2 500.

- (4) In this regulation—

disposal authorisation includes an authorisation to dispose of human remains granted by the Minister or the Registrar under section 12 of the Act.

8—Documents to be provided for issue of cremation permit (section 10(5) of Act)

If a medical practitioner responsible for the medical care of a person immediately before the person's death is not available to sign 1 of the 2 certificates required by section 10(5)(b)(i) of the Act, that section applies so as to require—

- (a) 1 of those certificates to be signed by a medical practitioner who examined the body of the deceased after death; and
- (b) the other certificate to be signed by another medical practitioner.

9—Documents to be provided before disposal of bodily remains (section 12(2) of Act)

- (1) The particulars relating to a partial certificate of cause of death that must be recorded under section 12(2) of the Act are—
 - (a) the full name of the deceased; and
 - (b) the date of the death of the deceased; and
 - (c) whether the deceased died of natural causes.
- (2) The particulars relating to an authorisation that must be recorded under section 12(2) of the Act are—
 - (a) the full name of the deceased; and
 - (b) the date of the death of the deceased; and
 - (c) who issued the authorisation.

10—Certificate of identification to be forwarded to Registrar

A funeral director or other person who arranges for the disposal of human remains must, within 28 days after the disposal of the remains, forward to the Registrar the certificate of identification relating to the remains.

Maximum penalty: \$1 250.

11—Lift and deepen procedure (section 13(2)(b)(ii) of Act)

- (1) Section 13(1)(a) of the Act does not apply if a lift and deepen procedure is carried out at an interment site in a cemetery at which bodily remains were last interred in an air tight and water tight vault and—
 - (a) the remains are those of a child who at the time of death was not more than 5 years of age and 3 years or more have elapsed since the remains were interred; or
 - (b) the remains are those of a child who at the time of death was more than 5 years but not more than 10 years of age and 4 years or more have elapsed since the remains were interred; or
 - (c) 6 years or more have elapsed since the remains were interred.

- (2) Section 13(1)(a) of the Act does not apply if a lift and deepen procedure is carried out at an interment site in a cemetery or natural burial ground at which bodily remains were last interred other than in an air tight and water tight vault and—
- (a) the remains are those of a child who at the time of death was not more than 5 years of age and 18 months or more have elapsed since the remains were interred; or
 - (b) the remains are those of a child who at the time of death was more than 5 years but not more than 10 years of age and 2 years or more have elapsed since the remains were interred; or
 - (c) 3 years or more have elapsed since the remains were interred.

12—Removal of bodily remains to ossuary within cemetery (section 13(4)(b) of Act)

- (1) If—
- (a) an interment right relating to an interment site in a cemetery has expired; and
 - (b) the interment site is opened for re-use of the site; and
 - (c) the bodily remains of a deceased person are found in the interment site; and
 - (d) there is an ossuary in the cemetery; and
 - (e) the remains cannot be interred at a greater depth or a request to remove the remains to the ossuary is made by the former holder of the interment right or a relative of the deceased person,

the relevant authority for the cemetery must ensure that the remains are placed in a box or other container labelled with the deceased's full name and date of death and stored in the ossuary.

- (2) If a relevant authority acts under subregulation (1), the relevant authority must, within 14 days after the bodily remains are removed to an ossuary, give the Attorney-General and the Registrar written notice of that fact and of the location of the remains within the ossuary.

Maximum penalty: \$1 250.

13—Prohibition on giving certificate of cause of death in certain circumstances (section 14 of Act)

For the purposes of section 14(3)(c) of the Act, if a medical practitioner gives a certificate of death in relation to a death that occurred outside Metropolitan Adelaide and in circumstances in which no other medical practitioner was reasonably available, within 24 hours after the death, to give the certificate, the medical practitioner must—

- (a) attach to the certificate of cause of death a statutory declaration made by the medical practitioner setting out—
 - (i) details of—
 - (A) any pecuniary or proprietary interest of the medical practitioner or his or her spouse or domestic partner in the hospital, nursing home or aged care facility where the person died; or

- (B) any pecuniary or proprietary interest of the medical practitioner or his or her spouse or domestic partner in the death of the person under a policy of life insurance or superannuation; or
 - (C) any entitlement of the medical practitioner or his or her spouse or domestic partner to a benefit in the form of property under a will or intestate distribution,
- as the case may be; and
- (ii) a statement that no other medical practitioner was reasonably available, within 24 hours after the death, to give the certificate; and
 - (iii) a statement that the medical practitioner considered it appropriate or necessary to give the certificate of cause of death and the reasons why he or she considered it appropriate or necessary; and
- (b) send a copy of the statutory declaration to the Registrar and the Coroner within 24 hours after making the statutory declaration.

14—Transport of bodily remains (section 15 of Act)

- (1) A person must not transport, or cause, suffer or permit the transportation of, bodily remains within a cemetery or natural burial ground unless—
 - (a) the remains are contained in a coffin or other rigid container from which no bodily discharges, contaminants or infectious substances may escape; or
 - (b) the remains are—
 - (i) affixed or otherwise secured to a rigid base to prevent movement; and
 - (ii) contained within a shroud or other wrapping from which no bodily discharges, contaminants or infectious substances may escape.
- (2) A person must not transport, or cause, suffer or permit the transportation of, bodily remains in a vehicle unless—
 - (a) the remains are secured or restrained against movement within the vehicle; and
 - (b) the remains—
 - (i) are kept in a compartment that—
 - (A) is physically separate from a part of the vehicle designed for the carriage of the driver and passengers; and
 - (B) is capable of being easily cleaned and disinfected; or
 - (ii) are contained in a coffin, shroud or other container or wrapping from which no bodily discharges, contaminants or infectious substances may escape.

15—Depth of interment

- (1) A person must not inter, or cause, suffer or permit the interment of, bodily remains in a cemetery or natural burial ground so that any of the remains are at a depth of less than 1 metre from the surface of the ground.

Maximum penalty: \$5 000.

- (2) Subregulation (1) does not apply to the interment of bodily remains in a mausoleum or vault in accordance with regulation 18.

16—Filling of sunken interment sites

If the surface of an interment site in a cemetery or natural burial ground sinks below the level of the natural surface of the ground, the relevant authority for the cemetery or natural burial ground may cause the site to be filled up to that level.

17—Interment of name plate with human remains

- (1) A person must not inter, or cause, suffer or permit the interment of, bodily remains in a cemetery or natural burial ground unless a name plate made of a durable material with the surname, at least 1 given name and the date of the death of the deceased engraved, printed or stamped on it in a manner approved by the designated Minister is—

- (a) in the case of remains interred in a coffin—affixed to the coffin; or
- (b) in the case of remains interred without a coffin—placed on top of the remains.

Maximum penalty: \$2 500.

- (2) A person must not inter, or cause, suffer or permit the interment of, cremated remains in a cemetery or natural burial ground unless a name plate made of a durable material with the surname, at least 1 given name and the date of the death of the deceased engraved, printed or stamped on it in a manner approved by the relevant authority for the cemetery or natural burial ground is affixed to the outside of, or placed within, the receptacle that contains the remains.

Maximum penalty: \$2 500.

- (3) Subregulation (2) does not apply in relation to the interment of cremated remains in the earth without a container.

18—Interment in mausolea and vaults

- (1) A person must not inter, or cause, suffer or permit the interment of, bodily remains in a mausoleum or vault in a cemetery unless—

- (a) the mausoleum or vault is constructed of brick, stone, concrete or other material approved by the relevant authority for the cemetery; and
- (b) subject to subregulations (2) and (3), the mausoleum or vault is air tight; and
- (c) subject to subregulations (4) and (5), the mausoleum or vault is water tight; and
- (d) in the case of a vault—no part of the vault (excluding any memorial attached to the vault) is more than 150 millimetres above the surface of the ground.

Maximum penalty: \$5 000.

- (2) A mausoleum or vault may have a vent if—
 - (a) the vent is insect and vermin proof; and
 - (b) the vent—
 - (i) is equipped with a filter; or
 - (ii) terminates at least 1 metre below the surface of the ground,
so as to prevent the discharge of any offensive odours or noxious gases into the atmosphere.
- (3) A vault must, unless it is air tight or has a vent that complies with subregulation (2), be impervious to air for at least 1 metre below the natural surface of the ground.
- (4) A mausoleum or vault may have a drain if—
 - (a) the drain is insect and vermin proof; and
 - (b) the drain terminates—
 - (i) in the case of a drain for a mausoleum—at least 1 metre below the lowest part of the mausoleum; or
 - (ii) in the case of a vault—at least 1 metre below the surface of the ground.
- (5) A person who interrs, or arranges for the interment of, bodily remains in a mausoleum or vault in a cemetery must ensure that the opening of the mausoleum or vault is sealed to the satisfaction of the relevant authority for the cemetery as soon as practicable after the interment.
Maximum penalty: \$5 000.
- (6) A mausoleum or vault must be sealed so that the opening is at all times air tight, water tight and secure against unauthorised access.

19—Powers of relevant authority in relation to mausolea and vaults

- (1) If the relevant authority for a cemetery suspects on reasonable grounds that—
 - (a) a mausoleum or vault in the cemetery does not comply with these regulations; or
 - (b) offensive odours or noxious gases or fluids have escaped or are escaping from a mausoleum or vault in the cemetery,the relevant authority may open the mausoleum or vault and inspect it.
- (2) If, after inspecting a mausoleum or vault, the relevant authority is satisfied that—
 - (a) the mausoleum or vault does not comply with these regulations; or
 - (b) offensive odours or noxious gases or fluids have escaped or are escaping from the mausoleum or vault,the relevant authority may, by notice in writing to a person who holds an interment right in force in relation to that mausoleum or vault or who is, under such an interment right, entitled to have his or her remains interred in that mausoleum or vault, require the person to take specified remedial action within a reasonable period specified in the notice.

- (3) If a person refuses or fails to comply with a notice under subregulation (2), the relevant authority may cause the work to be carried out and recover the costs as a debt from the person.

20—Coffins

- (1) A funeral director or other person arranging for the disposal of bodily remains must ensure that the coffin to be used—
- (a) 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 escape of bodily fluids, contaminants or infectious substances from the coffin; 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 interment or cremation (including handling when damp); and
 - (c) in the case of a coffin to be used for a cremation—
 - (i) is constructed of timber or material derived from timber that will not release organochlorines during incineration in a crematorium; and
 - (ii) does not have cross pieces projecting from its base; and
 - (iii) subject to subregulation (3), contains only material suitable for combustion in the course of a cremation; and
 - (iv) bears a name plate or inscription stating the surname, at least 1 given name and the date of the death of the deceased whose remains are to be cremated in the coffin.

Maximum penalty: \$5 000.

- (2) A coffin need not be lined with impervious material in accordance with subregulation (1)(a)—
- (a) if the coffin is to be used for the burial of bodily remains in accordance with the usages of a culture or religion that does not permit the use of such impervious material; or
 - (b) if the bodily remains, when placed in the coffin, are 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 bodily fluids from the bodily remains 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.

21—Removal and disposal of name plate etc from coffin before cremation

- (1) A relevant authority for a crematorium 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 bodily remains of a deceased person; or
 - (b) any other thing that comes into the possession of the relevant authority as a result of a cremation.

- (2) However, a relevant authority for a crematorium must not dispose of a name plate removed from a coffin before a cremation unless—
 - (a) the holder of the relevant cremation permit, or a person authorised in writing by that person, has not claimed the name plate; and
 - (b) more than 14 days have elapsed since the cremation took place.
- (3) A relevant authority for a crematorium must ensure that a name plate removed from a coffin before a cremation is only given to a person referred to in subregulation (2)(a).
Maximum penalty: \$2 500.

Part 3—Cemeteries, natural burial grounds and crematoria

22—Cemetery to be fenced

The relevant authority for a cemetery or natural burial ground must ensure that the cemetery or natural burial ground is securely fenced at all times.

Maximum penalty: \$2 500.

23—Dangerous driving

A person must not drive a motor vehicle within a cemetery or natural burial ground in a dangerous or careless manner or without reasonable consideration for others.

Maximum penalty: \$2 500.

24—Drivers to comply with directions of relevant authority

- (1) A person must, while in charge of a motor vehicle within a cemetery or natural burial ground, comply with any lawful directions of the relevant authority for the cemetery or natural burial ground as to the driving of vehicles.

Maximum penalty: \$2 500.

Expiation fee: \$210.

- (2) A person must, while in charge of a motor vehicle within a cemetery or natural burial ground, comply with any lawful directions of the relevant authority for the cemetery or natural burial ground as to the parking of vehicles.

Maximum penalty: \$1 250.

Expiation fee: \$160.

25—Prohibited activities

A person must not, without lawful authority, remove, damage, deface or interfere with—

- (a) a building, memorial or other fixture or structure in a cemetery or natural burial ground; or
- (b) a part of the grounds of a cemetery or natural burial ground, including a tree, shrub, plant, flower or lawn, or a stake or label on or near such a thing.

Maximum penalty: \$5 000.

26—Power of relevant authority in relation to things on interment sites

The relevant authority for a cemetery or natural burial ground may—

- (a) cause to be removed from an interment site in the cemetery or natural burial ground any unattached ornament, empty flower container, broken masonry, decayed or broken wreath or dead flowers; and
- (b) cause to be pruned, cut down or removed any plant on an interment site in the cemetery or natural burial ground that is, in the opinion of the relevant authority, unsightly or overgrown.

27—Power of relevant authority to require persons to leave cemetery or natural burial ground

- (1) If the relevant authority for a cemetery or natural burial ground has reason to suspect that a person has committed, is committing or is about to commit an offence in the cemetery or natural burial ground, the relevant authority may require the person to leave the cemetery or natural burial ground.
- (2) A person must not fail or refuse to comply with a requirement of a relevant authority under subregulation (1).

Maximum penalty: \$1 250.

28—Closure of cemeteries and natural burial grounds (section 24 of Act)

A notice under section 24(3) of the Act must contain the following information:

- (a) the date of the proposed closure of the cemetery or natural burial ground;
- (b) the reasons for the proposed closure of the cemetery or natural burial ground;
- (c) the rights (under section 24(8) of the Act) of holders of unexercised interment rights in respect of interment sites in the cemetery or natural burial ground proposed to be closed;
- (d) the rights (under section 24(9) of the Act) of holders of exercised interment rights in respect of interment sites in the cemetery or natural burial ground to be closed.

29—Conversion of closed cemeteries into public parks or gardens (section 26 of Act)

A notice under section 26(3) of the Act must contain the following information:

- (a) the date of the proposed conversion of the closed cemetery;
- (b) the reasons for the proposed conversion of the closed cemetery;
- (c) the rights (under section 26(6) of the Act) of the relevant authority to remove, relocate and replace memorials.

30—Renewal of interment rights (section 32 of Act)

A notice under section 32(2)(c) of the Act must inform the holder of the interment right of the following matters:

- (a) that if the interment right is not renewed, the relevant authority is entitled to re-use the interment site under section 38 of the Act;

- (b) the cost of renewing the interment right.

31—Surrender of interment rights (section 34 of Act)

The fee that may be deducted by a relevant authority from a refund under section 34(2) of the Act on the surrender of an interment right is an amount to be determined in accordance with Schedule 1.

32—Exercise or enforcement of interment rights (section 35 of Act)

If the holder of an interment right has died, the interment right may be exercised or enforced under section 35(1)(b) of the Act—

- (a) by the spouse or domestic partner of the deceased interment right holder; or
- (b) if there is no surviving spouse or domestic partner—by the eldest living relative of the deceased interment right holder in the following descending order of priority:
 - (i) a child;
 - (ii) a grandchild or great-grandchild;
 - (iii) a brother or sister;
 - (iv) a parent;
 - (v) a grandparent;
 - (vi) an aunt or uncle;
 - (vii) a nephew or niece;
 - (viii) a cousin;
 - (ix) any other blood relative.

33—Re-use of interment sites (section 38 of Act)

A notice under section 38(2)(b) of the Act must inform the personal representative or relative of the deceased that the relevant authority may re-use an interment site if the interment right relating to the site has expired and—

- (a) the personal representative or relative of the deceased has informed the relevant authority that there is no objection on the part of the relatives to the re-use of the interment site; or
- (b) the interment right is not renewed within 2 years from the date on which the notice is given.

34—Disposal of unclaimed memorials (section 42 of Act)

A record kept under section 42(2) of the Act relating to a memorial that has been disposed of by a relevant authority must include—

- (a) a digital photograph of the memorial that shows—
 - (i) any inscription on the memorial; and
 - (ii) the design of the memorial; and
- (b) particulars of the previous location of the memorial within the cemetery or natural burial ground; and

- (c) if it is not evident from the digital photograph—details of the materials from which the memorial was made.

35—Neglected cemeteries and natural burial grounds (section 46 of Act)

A notice under section 46(1) of the Act must specify a period of not less than 28 days from the day on which the notice is given.

36—Registers, records and plans to be kept by relevant authorities (section 53 of Act)

- (1) A register under section 53(1)(b)(i) of the Act must include the following particulars in relation to each interment right issued by the relevant authority:
 - (a) the full name and address of the holder of the interment right;
 - (b) if the interment right identifies the person or persons whose remains may be interred pursuant to the interment right—the full names of the persons;
 - (c) if the interment right identifies the site at which remains may be interred pursuant to the interment right—the location of the interment site;
 - (d) the period for which the interment right has been issued.
- (2) A register under section 53(1)(b)(ii) of the Act must include the following particulars in relation to each memorial erected in a cemetery:
 - (a) the size of the memorial;
 - (b) the type of memorial;
 - (c) the name or names inscribed on the memorial;
 - (d) any epitaphs and other inscriptions on the memorial;
 - (e) the location of the memorial in the cemetery.
- (3) A register under section 53(1)(b)(iii) of the Act must include the following particulars in relation to each interment or re-interment in the cemetery or natural burial ground:
 - (a) the name of the deceased person whose remains are interred;
 - (b) the age of the deceased person at the date of his or her death;
 - (c) the address of the last place of residence of the deceased person before his or her death;
 - (d) the date on which the interment or re-interment took place;
 - (e) the location of the interment site and the number (if any) allocated to the interment site;
 - (f) whether the remains interred or re-interred were bodily remains or cremated remains;
 - (g) in the case of bodily remains—
 - (i) whether the remains were interred or re-interred in a coffin, other receptacle or in a shroud only; and
 - (ii) whether the remains were interred or re-interred within a mausoleum or vault; and

- (iii) the depth at which the remains were interred or re-interred;
 - (h) in the case of cremated remains—whether the remains were interred or re-interred in a cinerary urn or other container or directly in the earth;
 - (i) in the case of remains interred or re-interred in a mausoleum or vault—
 - (i) the location of the mausoleum or vault in the cemetery; and
 - (ii) if the remains were interred in a mausoleum or vault with more than 1 compartment—the compartment in which the remains were interred; and
 - (iii) if the remains were interred in a vault—
 - (A) the number allocated to the vault site; and
 - (B) the depth of cover between the highest part of the vault and the surface of the ground.
- (4) A record under section 53(3) of the Act kept by a relevant authority for a crematorium must include the following particulars in relation to each cremation that takes place at the crematorium:
 - (a) the name and gender of the deceased person whose bodily remains were cremated;
 - (b) the age of the deceased person at the date of his or her death;
 - (c) the particulars set out on the certificate of identification relating to the deceased person whose bodily remains were cremated;
 - (d) the full name and address of the person to whom the cremation permit was issued;
 - (e) the date on which the cremation took place;
 - (f) the date on which the cremated remains were collected and the identity of the person who collected them;
 - (g) if known to the relevant authority—the manner of disposition of the cremated remains.
- (5) Section 53(4) of the Act does not apply in relation to the particulars referred to in subregulations (1)(a), (3)(c) and (4)(d).

Part 4—Miscellaneous

37—Fees

The fees set out in Schedule 2 are prescribed for the purposes set out in that Schedule.

38—Applications for warrants (section 59(6) of Act)

- (1) The grounds of an application for a warrant under section 59 of the Act made personally must be verified by affidavit.

- (2) If an application for the issue of a warrant under section 59 of the Act is made by telephone—
- (a) the applicant must inform the magistrate of the applicant's name and identify the position that he or she holds for the purposes of the Act, and the magistrate, on receiving that information, is entitled to assume, without further inquiry, that the applicant holds that position; and
 - (b) the applicant must inform the magistrate of the purpose for which the warrant is required and the grounds on which it is sought; and
 - (c) if it appears to the magistrate from the information given by the applicant that there are proper grounds to issue a warrant, the magistrate must inform the applicant of the facts that justify, in the magistrate's opinion, the issue of the warrant, and must not proceed to issue the warrant unless the applicant undertakes to make an affidavit verifying those facts; and
 - (d) if the applicant gives such an undertaking, the magistrate may then make out and sign a warrant, noting on the warrant the facts that justify, in the magistrate's opinion, the issue of the warrant; and
 - (e) the warrant is taken to have been issued, and comes into force, when signed by the magistrate; and
 - (f) the magistrate must inform the applicant of the terms of the warrant; and
 - (g) the applicant must, as soon as practicable after the issue of the warrant, forward to the magistrate an affidavit verifying the facts referred to in paragraph (c).

Schedule 1—Surrender of interment rights

1—Determination of fee that may be deducted from refunds

- (1) The fee that may be deducted by a relevant authority from a refund under section 34(2) of the Act on the surrender of an interment right issued for a specified term is an amount to be determined in accordance with the following formula:

$$A - ((B \div C) \times D)$$

Where—

A is the current fee payable for an interment right of the same kind

B is 75% of the current fee payable for an interment right of the same kind

C is the number of years for which the interment right was issued

D is the number of full years in the unexpired portion of the period for which the interment right was issued

- (2) The fee that may be deducted by a relevant authority from a refund under section 34(2) of the Act on the surrender of an interment right issued in perpetuity is an amount to be determined in accordance with the following table:

Number of years expired since the interment right was issued	Maximum percentage of the current fee for an interment right that may be deducted for costs at date of surrender
1	25.00
2	25.88
3	26.76
4	27.64
5	28.51
6	29.39
7	30.27
8	31.15
9	32.03
10	32.91
11	33.78
12	34.66
13	35.54
14	36.42
15	37.30
16	38.18
17	39.05
18	39.93
19	40.81
20	41.69
21	42.57
22	43.45
23	44.32
24	45.20
25	46.08
26	46.96
27	47.84
28	48.72
29	49.59
30	50.47
31	51.35
32	52.23
33	53.11

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Number of years expired since the interment right was issued	Maximum percentage of the current fee for an interment right that may be deducted for costs at date of surrender
34	53.99
35	54.86
36	55.74
37	56.62
38	57.50
39	58.38
40	59.26
41	60.14
42	61.01
43	61.89
44	62.77
45	63.65
46	64.53
47	65.41
48	66.28
49	67.16
50	68.04
51	68.92
52	69.80
53	70.68
54	71.55
55	72.43
56	73.31
57	74.19
58	75.07
59	75.95
60	76.82
61	77.70
62	78.58
63	79.46
64	80.34
65	81.22
66	82.09
67	82.97
68	83.85
69	84.73

Number of years expired since the interment right was issued	Maximum percentage of the current fee for an interment right that may be deducted for costs at date of surrender
70	85.61
71	86.49
72	87.36
73	88.24
74	89.12
75 or more	90.00

Schedule 2—Fees

Cremation permits

Application for cremation permit (section 10(4) of Act)—

- | | |
|---|---------|
| (a) if the application is accompanied by documents as required by section 10(5) of the Act or as referred to in section 10(6)(a) of the Act | \$44.75 |
| (b) in any other case | \$89.50 |

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 16 January 2014

No 5 of 2014

AGO0099/13CS