

CREMATION

No. 10 of 1966

An Ordinance relating to Cremations.

1. This Ordinance may be cited as the *Cremation Ordinance* 1966.* Short title.

2. This Ordinance shall come into operation on a date to be fixed by the Minister by notice in the *Gazette*.† Commencement.

3.—(1.) In this Ordinance, unless the contrary intention appears— Definitions

“body” means the body of a dead person;

“crematorium” means a building fitted with apparatus for the purpose of burning human remains;

“cremation authority” means the holder of a licence to operate a crematorium;

“licence” means a licence granted under section five of this Ordinance that is in force;

“medical practitioner” means a person who is a registered medical practitioner for the purposes of the *Medical Practitioners Registration Ordinance* 1930-1963;

“medical referee” means a person appointed by the Minister to be a medical referee for the purposes of this Ordinance;

“the Coroner” includes a Deputy Coroner;

“the Registrar” means the Registrar of Births, Deaths and Marriages or an Acting Registrar of Births, Deaths and Marriages;

“undertaker” includes a person having charge of the arrangements for the cremation of a body.

(2.) In this Ordinance, a reference to a Form by number shall be read as a reference to the Form so numbered in the Schedule to this Ordinance.

4. The Minister may appoint a person who is a medical practitioner and has practised as a medical practitioner for a period of not less than five years to be a medical referee for the purposes of this Ordinance. Medical referees.

* Made on 13 May, 1966; notified in the *Commonwealth Gazette* on 16 May, 1966.

† The date fixed was 17 May, 1966; See *Commonwealth Gazette*, 17 May, 1966, p. 2489.

Licence to
operate
crematorium.

5.—(1.) A person may apply in writing to the Minister for the grant of a licence to operate a crematorium on premises specified in the application.

(2.) An application shall be accompanied by a full description of the equipment available, or to be made available, in the premises for the cremation of bodies.

(3.) The Minister may, in his discretion, approve the application or reject the application.

(4.) Where the Minister approves an application, he shall grant to the applicant a licence to operate a crematorium on premises specified in the licence.

Transfer of
licences.

6.—(1.) The holder of a licence may, with the consent in writing of the Minister, but without consent shall not, transfer a licence.

(2.) Where, with the consent of the Minister, the holder of a licence, transfers his licence to another person, that person shall be deemed to become the holder of the licence to the exclusion of the former holder.

Application to
cremate a body.

7.—(1.) Subject to this Ordinance, an application to a cremation authority for the cremation of a body shall be in accordance with a form approved by the Minister and made available by the Minister for that purpose.

(2.) Except where the Coroner has given, under his hand, a certificate under sub-section (2.) of section thirty-three of the *Registration of Births, Deaths and Marriages Ordinance* 1963 certifying that there is no reason why a body should not be cremated, an application referred to in the last preceding sub-section for the cremation of the body shall be accompanied by certificates given by a medical practitioner and a medical referee, respectively, each certificate being in accordance with a form approved by the Minister and made available by the Minister for that purpose.

Cremation
authority to
approve
application.

8.—(1.) Subject to the next succeeding section, a cremation authority shall not cremate a body at the crematorium, or permit or suffer a body to be cremated at the crematorium, unless it has approved an application made to it for the cremation of the body.

Penalty: Two hundred dollars.

(2.) Where application is made to a cremation authority for the cremation of a body, the authority may, in its discretion but subject to this Ordinance, approve or refuse to approve the application for the cremation of the body.

9.—(1.) Notwithstanding any other provision of this Ordinance, a cremation authority may cremate a body if the Medical Officer of Health appointed under the *Public Health Ordinance 1928-1951* gives the cremation authority notice in writing that he has, under regulation 21 of the Public Health (Infectious and Notifiable Diseases) Regulations, ordered that the body be cremated.

Procedure in relation to certain cremations.

(2.) A cremation authority may cremate the body of a person who has died outside the Territory if there is furnished to the authority a document duly given in accordance with the law of the State or Territory in which the person died that authorizes, or gives permission for, the cremation of the body in that State or Territory.

10.—(1.) Where the Attorney-General or a stipendiary or special magistrate appointed for the purposes of the *Court of Petty Sessions Ordinance 1930-1966* is satisfied that there is reasonable cause for so doing, he may by notice in writing to a cremation authority prohibit the cremation of the body of the person specified in the order—

Attorney-General and others may prohibit cremations.

(a) absolutely; or

(b) until the conditions specified in the notice have been complied with.

(2.) Where a notice referred to in the last preceding subsection has been given to a cremation authority, the authority shall not cremate the body referred to in the notice unless—

(a) the notice is revoked; or

(b) the conditions specified in the notice have been complied with.

Penalty: Two hundred dollars.

11.—(1.) A cremation authority shall not approve an application for the cremation of a body unless there has been furnished to it—

Restrictions on cremations.

(a) a notice referred to in paragraph (b) of sub-section (1.) or paragraph (b) of sub-section (2.) of section thirty-four of the *Registration of Births, Deaths and Marriages Ordinance 1963*, signed by a medical practitioner relating to the body; or

(b) a certificate under sub-section (2.) of section thirty-three of the *Registration of Births, Deaths and Marriages Ordinance 1963*, certifying that there is no reason why the body should not be cremated.

(2.) In the application of the last preceding sub-section in the case of the cremation in the Territory of the body of a person who died outside the Territory—

- (a) a notice, signed by a medical practitioner duly qualified to practise as a medical practitioner at the place where the person died, stating that the practitioner has, in accordance with the law of that place, signed a certificate of death with respect to the death, has the same force and effect as a notice referred to in paragraph (a) of the last preceding sub-section; and
- (b) a certificate under the hand of the Coroner at the place where the person died authorizing, in accordance with the law of that place, the cremation of the body has the same force and effect as a certificate under the hand of the Coroner for the Territory authorizing the cremation of the body.

(3.) Where an application for the cremation of the body of a deceased person states that the person left directions that his dead body was not to be cremated, the cremation authority shall not approve the application.

Penalty: Two hundred dollars.

Certificate of delivery of body to cremation authority.

12. An undertaker who delivers a body to a cremation authority shall forthwith give notice of the delivery to the Registrar by delivering to the Registrar a certificate, in accordance with Form 1, signed—

- (a) by the undertaker;
- (b) by two persons each of whom has apparently attained the age of eighteen years and was present at the delivery of the body to the cremation authority; and
- (c) if a minister of religion performed a religious or funeral service before the cremation of the body—by that minister.

Notice of cremation to be given to Registrar.

13. Where a body is cremated at a crematorium, the person in charge of the crematorium shall forthwith give notice of the cremation of the body to the Registrar by delivering to the Registrar a certificate, in accordance with Form 2, signed by that person.

Disposal of ashes.

14.—(1.) After the cremation of a dead body, a cremation authority may deliver the ashes to the person who made application for the cremation or, with the consent in writing of that person, to any other person.

(2.) Where, in accordance with a notice under section nine of this Ordinance, a cremation authority cremates the body of a deceased person, the authority may deliver the ashes to the executor of the will, or the administrator of the estate, of the deceased person or, if the cremation authority does not know the name or address of that executor or administrator or there is no such executor or administrator, to the person believed by the cremation authority to be the nearest relative of the deceased person or, with the consent in writing of that executor, administrator or nearest relative, as the case may be, to any other person.

(3.) A cremation authority may give notice to the applicant for the cremation of a body, or to a person entitled to receive the ashes of a body under the last preceding sub-section, that the ashes of the body are available for disposal.

(4.) Where—

(a) a period of fourteen days has elapsed after a cremation authority has given notice to a person in accordance with the last preceding sub-section; and

(b) the ashes of the body referred to in the notice have not been disposed of in accordance with the direction of that person,

the cremation authority may inter those ashes in ground reserved for that purpose.

15.—(1.) A cremation authority shall—

Registers.

(a) enter in a register particulars of each cremation at the crematorium; and

(b) subject to this Ordinance, retain each application made to it for the cremation of a body together with any documents furnished to it in relation to the application.

(2.) Where a cremation authority ceases to operate the crematorium, it shall deposit with the Minister the register kept in accordance with the last preceding sub-section and deal with the applications and other documents referred to in that sub-section as the Minister directs.

Penalty: One hundred dollars.

16. A cremation authority may, in its discretion, after twenty years from the date of the cremation of a body, destroy the application for that cremation and any documents retained by it relating to that cremation.

Power to destroy applications after twenty years.

Minister may
revoke
licence.

17. Where a cremation authority has been convicted of an offence against this Ordinance or any of the regulations made under this Ordinance, the Minister may, by notice in writing to the authority, revoke the licence granted to the authority from and including a date specified in the notice, being a date not earlier than twenty-eight days after the day on which the notice is received by the authority.

Cremation
authority may
cease to
cremate on
giving notice.

18.—(1.) A cremation authority may, after publishing in a newspaper published in the Territory notice of its intention so to do, discontinue cremations from and including a date specified in the notice, being a date not earlier than twenty-eight days after the day on which the notice is so published.

(2.) On the day on which the period referred to in the notice given under the last preceding sub-section expires, the cremation authority shall forward to the Minister its licence to operate a crematorium for cancellation.

Non-interference
with
ceremonies.

19. A cremation authority shall not interfere, directly or indirectly, with the performance of any religious ceremony in a place set aside for the performance of religious ceremonies or the interment of the ashes of a body.

Penalty: One hundred dollars.

Condition of
crematorium.

20. A cremation authority shall maintain the crematorium, and the premises on which the crematorium is erected, in a clean and tidy condition and cause it to be operated in such a manner that noxious gases do not escape from the crematorium or otherwise cause a nuisance.

Penalty: One hundred dollars.

Inspectors.

21.—(1.) The Minister may, by writing under his hand, appoint a person to be an inspector for the purposes of this Ordinance.

(2.) For the purposes of this Ordinance, an inspector may, at all reasonable times, enter a crematorium and may—

- (a) inspect the crematorium, any equipment used in connexion with the crematorium and the grounds of the crematorium;
- (b) take samples of the gases given off in the course of operating the crematorium; and
- (c) examine any documents kept by the cremation authority in accordance with this Ordinance.

22. The person in charge of a crematorium shall provide an inspector with all reasonable facilities and assistance for the effective exercise of his powers under this Ordinance.

Person in charge of crematorium to assist inspectors.

Penalty: One hundred dollars.

23.—(1.) A person shall not furnish to a medical practitioner, medical referee or cremation authority a document that is, to the knowledge of the person, false or misleading in a material particular.

Offences.

(2.) A medical practitioner or a medical referee shall not give a certificate referred to in sub-section (2.) of section seven of this Ordinance that, to the knowledge of the person, is false or misleading in a material particular.

(3.) A person, other than a medical practitioner or a medical referee, shall not sign a medical practitioner's certificate or medical referee's certificate, respectively, referred to in sub-section (2.) of section seven of this Ordinance.

Penalty: Imprisonment for two years.

24. A person shall not cremate a body elsewhere than in a crematorium on premises specified in a licence.

Persons not to cremate otherwise than at a crematorium.

Penalty: Two hundred dollars.

25. A person shall not procure the cremation of a body with intent to conceal the commission of an offence.

Offence.

Penalty: Imprisonment for five years.

26.—(1.) A person shall not anywhere within a crematorium or the grounds of a crematorium—

Offences.

- (a) distribute any hand-bill, card, circular or advertisement;
- (b) take part in any meeting, other than a meeting of a religious or commemorative character connected with the cremation of a body or the inurnment of the ashes of a body;
- (c) disturb any funeral service;
- (d) discharge any firearms, except at a military funeral and with the consent of the cremation authority;
- (e) wantonly damage or disturb any real or personal property or plants, shrubs or trees or disturb memorial tokens;
- (f) throw, cast or lay or cause to be thrown, cast or laid, any refuse or rubbish (except in receptacles provided for the purpose) or any offensive, noxious or dangerous matter; or

(g) commit any breach of the peace or nuisance, or otherwise offend against decency or decorum.

Penalty: One hundred dollars.

(2.) The last preceding sub-section does not prevent a cremation authority distributing a card, advertisement or other document relating to the crematorium to any person within the crematorium or the grounds of the crematorium.

Regulations.

27. The Minister may make regulations not inconsistent with this Ordinance, prescribing all matters which are required or permitted to be prescribed for carrying out and giving effect to this Ordinance, and in particular prescribing matters providing for and in relation to—

- (a) the fees payable to cremation authorities; and
- (b) the fees payable to medical practitioners and medical referees for certificates referred to in this Ordinance.

THE SCHEDULE.

Form 1.

Section 12.

AUSTRALIAN CAPITAL TERRITORY.

Cremation Ordinance 1966.

CERTIFICATE OF DELIVERY OF A BODY AT A CREMATORIUM.

I, _____ of _____, Undertaker, hereby certify that the body of _____ was on the _____ day of _____, 19 _____, duly delivered to* _____ in my presence and in the presence of the persons and † minister of religion whose signatures appear hereunder.

* Here insert the name of crematorium authority.

† Leave out "and minister of religion" if inapplicable.

‡ Leave out if inapplicable.

Signature of Witnesses.
‡ Signature of Minister of Religion.

Dated the _____ day of _____, 19 _____.

Undertaker.

Form 2.

Section 13.

AUSTRALIAN CAPITAL TERRITORY.

Cremation Ordinance 1966.

CERTIFICATE AS TO CREMATION.

I, _____ of _____, the person in charge of* _____ do hereby certify that the body of _____ was on the _____ day of _____, 19 _____, duly cremated in my presence.

* Here insert the name of crematorium.

Person in charge.