

I certify that this is a copy of the authorised version of this Statutory Rule as at 16 November 2022, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 16 November 2022.

Robyn Webb  
Chief Parliamentary Counsel  
Dated 18 November 2022

## TASMANIA

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# BURIAL AND CREMATION REGULATIONS 2015

## STATUTORY RULES 2015, No. 33

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## **BURIAL AND CREMATION REGULATIONS 2015**

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Burial and Cremation Act 2002*.

Dated 22 May 2015.

C. WARNER  
Governor

By Her Excellency's Command,

PETER GUTWEIN  
Minister for Planning and Local Government

### **PART 1 – PRELIMINARY**

#### **1. Short title**

These regulations may be cited as the *Burial and Cremation Regulations 2015*.

#### **2. Commencement**

These regulations take effect on 21 June 2015.

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### 3. Interpretation

(1) In these regulations –

*Act* means the *Burial and Cremation Act 2002*;

*authorised officer* means an authorised officer as defined in section 51 of the Act;

*bodily discharges* includes blood, gas and bodily waste;

*certificate of exclusive right of burial* means a certificate issued under regulation 27;

*coffin* means a box, case, or other receptacle, designed for, and into which, human remains are placed for storage, movement, cremation or interment;

*container* means a container, bag, or other receptacle, into which human remains are placed for storage or movement;

*coroner* has the same meaning as in the *Coroners Act 1995*;

*coroner's certificate* means a certificate issued by a coroner in accordance with section 32 of the *Coroners Act 1995*;

*cremation permit* means a permit, authorising cremation, issued and in force under Division 1 of Part 4;

*declaration of life extinct* means a declaration of life extinct referred to in regulation 10;

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***Director of Local Government*** means  
Director as defined in the *Local  
Government Act 1993*;

***Director of Public Health*** means the person  
appointed as Director of Public Health  
under section 6 of the *Public Health Act  
1997*;

***employee*** means a person who is employed in  
a prescribed business;

***grave*** means –

- (a) an interment plot; or
- (b) a vault; or
- (c) any other site or structure –

in which human remains are interred;

***identification tag*** means an identification tag  
referred to in regulation 11;

***implanted medical device*** means a medical  
device, implanted in a person, that may  
cause an explosion if the body of that  
person, when deceased, is cremated, and  
includes, but is not limited to, any of the  
following:

- (a) a battery;
- (b) radioactive material;
- (c) a cardiac pacemaker;

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***manager*** means a person who, either alone or with others, manages, operates, or is in day-to-day control of, a prescribed business;

***medical certificate*** means –

- (a) a certificate certifying the cause of a person's death given by a medical practitioner under section 35(3) of the *Births, Deaths and Marriages Registration Act 1999*; or
- (b) a notice or certificate that is issued and is in force under a law of the Commonwealth, another State, a Territory, or any other place outside this State, that corresponds to a certificate of the kind referred to in paragraph (a);

***midwife*** means a person registered under the Health Practitioners Regulation National Law (Tasmania) in the midwifery profession;

***nurse*** means a registered nurse or an enrolled nurse;

***officer of the Ambulance Service*** means officer of the Ambulance Service as defined in the *Ambulance Service Act 1982*;

***personal representative***, in relation to a deceased person, includes –



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- (a) the executor of the will of the deceased person; and
  - (b) the administrator of the deceased person's estate; and
  - (c) the Public Trustee as defined in the *Public Trustee Act 1930*; and
  - (d) a person nominated by the coroner, under subregulation (3), as senior next of kin in relation to the deceased person;

***proclaimed war*** means any war or hostilities or special assignment in which any of the naval, military or air forces of the Crown or of the Commonwealth of Australia have been, are, or may be, engaged;

***Registrar of Births, Deaths and Marriages*** means Registrar as defined in the *Births, Deaths and Marriages Registration Act 1999*;

***reportable death*** means reportable death as defined in the *Coroners Act 1995* but does not include a death that is, by virtue of section 93(2) of the *End-of-Life-Choices (Voluntary Assisted Dying) Act 2021*, not a reportable death for the purposes of the *Coroners Act 1995*;

***responsible person*** means –

- (a) a nurse; or

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- (b) an officer of the Ambulance Service; or
- (c) any other person who, in the opinion of a medical practitioner, has the knowledge and skills necessary to determine if –
  - (i) the person who has been notified as dead is in fact dead; and
  - (ii) the death is a reportable death;

*service or duty* includes –

- (a) any naval, military or air service in any proclaimed war; and
- (b) any special defence undertaking within the meaning of section 6 of the *Defence (Special Undertakings) Act 1952* of the Commonwealth; and
- (c) any peacetime activities, including any peace-keeping activities; and
- (d) any training activities conducted in conditions simulating war or war-like activities;

*spouse* includes the other party to a significant relationship, within the meaning of the *Relationships Act 2003*;

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**tray** means a tray or table on which human remains are placed before being placed in a coffin;

**vault** means –

- (a) a compartment in a mausoleum;  
or
- (b) a compartment in an underground chamber –

in which human remains are or may be interred;

**veteran** means a person –

- (a) who is, or has been, employed as an officer, or a member, of the naval, military or air forces of –
  - (i) the Commonwealth of Australia; or
  - (ii) the Crown or an ally of the Crown; and
- (b) who, while so employed, performed a service or duty;

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Part 2 – Handling of Human Remains

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**PART 2 – HANDLING OF HUMAN REMAINS**

*Division 1 – Directions in relation to human remains*

**4. Directions**

(1) If the Director of Public Health considers it in the interests of public health or public safety to do so, he or she, by notice in writing given to a person, may direct that the person is to take any action specified in the notice relating to –

(a) the handling, transportation and storage of human remains; or

(b) the conduct of a prescribed business.

(2) A person must comply with a notice given under subregulation (1).

Penalty: Fine not exceeding 20 penalty units.

(3) If the Director of Public Health considers it in the interests of public health or public safety to do so, he or she, by notice in writing given to a manager, may direct that the manager is to take any action specified in the notice relating to –

(a) appropriate hygiene practices; and

(b) the appropriate handling and disposal of –

(i) medical instruments; and

(ii) infectious material; and

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- (iii) any other article or thing which may be contaminated; and
- (c) the use of aseptic techniques.
- (4) A manager must comply with a notice given under subregulation (3).

Penalty: Fine not exceeding 20 penalty units.

***Division 2 – Notification of death***

**5. Notification of death**

- (1) If a person reasonably believes that another person has died, he or she is to notify any of the following persons of that death as soon as practicable:
  - (a) a police officer;
  - (b) a medical practitioner;
  - (c) a nurse;
  - (d) a midwife;
  - (e) an officer of the Ambulance Service.
- (2) A police officer, nurse, midwife or officer of the Ambulance Service who is notified of a death under subregulation (1) is to notify a medical practitioner of that death as soon as practicable.

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**6. Action to be taken by medical practitioner after notification of death**

- (1) A medical practitioner who receives notification of a death under regulation 5(1)(b) or regulation 5(2) is to take one of the following actions within 8 hours after receiving that notification:
  - (a) attend the place of death;
  - (b) arrange for another medical practitioner to attend the place of death;
  - (c) arrange for a responsible person to attend the place of death.
- (2) A medical practitioner is not to make an arrangement for a responsible person to attend a place of death under subregulation (1)(c) unless the responsible person is capable of carrying out, and willing to carry out, that arrangement.
- (3) Another medical practitioner with whom an arrangement is made under subregulation (1)(b) is to attend the place of death within 8 hours after notification is received under regulation 5.
- (4) A responsible person with whom an arrangement is made under subregulation (1)(c) is to attend the place of death within 8 hours after notification is received under regulation 5.

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**7. Action to be taken by medical practitioner after attending place of death**

- (1) A medical practitioner who attends a place of death under regulation 6(1)(a) or in accordance with an arrangement under regulation 6(1)(b) is to –
- (a) issue a medical certificate, if satisfied that –
    - (i) the person who has been notified as dead is in fact dead; and
    - (ii) the death is not a reportable death; and
    - (iii) an identification tag is attached to the human remains in accordance with regulation 13; or
  - (b) issue a declaration of life extinct, if satisfied that –
    - (i) the person who has been notified as dead is in fact dead; and
    - (ii) an identification tag is attached to the human remains in accordance with regulation 13; or
  - (c) notify a police officer or a coroner of the death, if the medical practitioner believes that the death is a reportable death.
- (2) On issuing a declaration of life extinct under subregulation (1)(b), a medical practitioner is to –

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- (a) issue a medical certificate, if satisfied that the death is not a reportable death; or
- (b) specify in the declaration of life extinct the name of another medical practitioner who has agreed to issue a medical certificate.

**8. Action to be taken by medical practitioner after receiving duplicate copy of declaration of life extinct**

After receiving a duplicate copy of a declaration of life extinct under regulation 10(5)(b), a medical practitioner is to issue a medical certificate.

**9. Action to be taken by responsible persons, midwives and police officers after attending place of death**

- (1) A responsible person who attends a place of death under regulation 6(1)(c) is to –
  - (a) issue a declaration of life extinct if satisfied that –
    - (i) the person who has been notified as dead is in fact dead; and
    - (ii) an identification tag is attached to the human remains in accordance with regulation 13; or
  - (b) notify a police officer or a coroner of the death, if the responsible person believes that the death is a reportable death.



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- (2) A responsible person who issues a declaration of life extinct under subregulation (1) is to specify in that declaration –
- (a) the name of the medical practitioner who, in accordance with regulation 6(1)(c), arranged for that responsible person to attend the place of death; and
  - (b) the name of the medical practitioner who is to issue a medical certificate in relation to the deceased person to whom the declaration relates.
- (3) A nurse, or an officer of the Ambulance Service, who attends a place of death of a person, other than under regulation 6(1)(c) –
- (a) if satisfied that –
    - (i) the person who has been notified as dead is in fact dead; and
    - (ii) an identification tag is attached to the human remains in accordance with regulation 13 –
- is to partially complete the declaration of life extinct in relation to the deceased person by filling out the part of that declaration that indicates he or she is satisfied as to the matters referred to in subparagraphs (i) and (ii); or
- (b) is to notify a police officer or a coroner of the death, if the nurse or officer of the

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Ambulance Service believes that the death is a reportable death.

- (4) A nurse, or an officer of the Ambulance Service, who partially completes a declaration of life extinct under subregulation (3) is, if he or she does not intend to complete the declaration under subregulation (5), to ensure that, before leaving the place of death to which the declaration relates, he or she provides the declaration to –
- (a) a person referred to in subregulation (5) for completion by that person under subregulation (5); or
  - (b) a person who will provide the declaration to a person referred to in subregulation (5) for completion by that person under subregulation (5).
- (5) A police officer, a nurse, a midwife, or an officer of the Ambulance Service, who –
- (a) attends a place of death, other than under regulation 6(1)(c), in relation to a deceased person; and
  - (b) knows the name of the medical practitioner who is to issue a medical certificate in relation to the person –

is to complete the declaration of life extinct, if any, in relation to the deceased person, that has been partially completed under subregulation (3) and is in his or her possession, by filling out the part of the declaration that specifies the name of

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the medical practitioner who is to issue a medical certificate in relation to the person.

- (6) When a declaration of life extinct in relation to a deceased person is completed by a person under subregulation (5), the declaration is taken to have been issued by that person.

***Division 3 – Declaration of life extinct***

**10. Form of declaration of life extinct**

- (1) A declaration of life extinct is to be in a form determined by the Director of Local Government.
- (2) The Director of Local Government may approve –
- (a) a form for a declaration of life extinct for the purposes of regulation 7(1)(b) and regulation 9(1)(a); and
  - (b) a form for a declaration of life extinct for the purposes of regulation 9(3) and (5).
- (3) A form determined by the Director of Local Government in relation to a declaration of life extinct is to provide for the provision of information that, in the interests of public health or public safety, the Director considers appropriate.
- (4) The declaration of life extinct is to be issued in triplicate.

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- (5) The person issuing the declaration of life extinct is to, as soon as practicable –
- (a) hand the original copy of the declaration to the person who apparently has custody of the human remains; and
  - (b) forward the duplicate copy of the declaration to the medical practitioner named in the declaration as the medical practitioner who is to issue a medical certificate; and
  - (c) forward the triplicate copy of the declaration to the Registrar of Births, Deaths and Marriages.
- (6) A person must not complete any part of a declaration of life extinct if that person –
- (a) knows he or she is related to the deceased person; or
  - (b) has, in the previous 5 years, had a fiduciary relationship with the deceased person; or
  - (c) has any pecuniary interest in the estate of the deceased person.

Penalty: Fine not exceeding 20 penalty units.

***Division 4 – Identification of human remains***

**11. Form of identification tag**

An identification tag is to be in a form approved by the Director of Local Government.

**12. Information to be recorded on identification tag**

A medical practitioner or responsible person is to ensure that the following information is written on an identification tag, if the identity of the deceased person is known to him or her or if he or she is otherwise able to confirm the identity of the deceased person:

- (a) the full name of the deceased person;
- (b) the location of the deceased person at the time the information referred to in paragraph (a) is being written on the identification tag.

**13. Attachment of identification tag**

A person is to securely attach an identification tag to –

- (a) the left arm of the deceased person; or
- (b) if compliance with paragraph (a) is not practicable, the right arm of the deceased person; or

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- (c) if compliance with paragraphs (a) and (b) is not practicable, the left leg of the deceased person; or
- (d) if compliance with paragraphs (a), (b) and (c) is not practicable, the right leg of the deceased person; or
- (e) if compliance with paragraphs (a), (b), (c) and (d) is not practicable, any other part of the deceased person.

**14. Removal and replacement of identification tag**

- (1) Subject to subregulation (2), a medical practitioner, a responsible person or a manager may remove and replace an identification tag if –
  - (a) it is damaged, soiled or contaminated; or
  - (b) a coroner considers it appropriate to do so.
- (2) A medical practitioner, a responsible person or a manager must not remove and replace an identification tag unless –
  - (a) a witness is present during the removal of the identification tag and its replacement with a new identification tag; and
  - (b) the new identification tag has written on it –
    - (i) the identical words written on the original identification tag or, in

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the absence of sufficient legible words on the original identification tag, the particulars contained in the medical certificate or the declaration of life extinct; and

(ii) the name of the person who removed the original identification tag and the date of the replacement of the identification tag; and

(c) the new identification tag is attached to the human remains before the original identification tag is removed.

(3) A person must not remove an identification tag that is attached to human remains, except in accordance with these regulations.

Penalty: Fine not exceeding 5 penalty units.

***Division 5 – Handling, movement, transportation and storage of human remains***

**15. Handling of human remains**

A person who handles, moves, transports or stores human remains must do so –

(a) in a way so as not to be injurious to public health or public safety; and

(b) in a respectful and dignified manner.

Penalty: Fine not exceeding 10 penalty units.

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**16. Movement of human remains within place or premises**

A person must not move human remains within any place or premises before a medical certificate or a declaration of life extinct has been issued in respect of those human remains, unless –

- (a) the human remains are causing a risk to public health or public safety; or
- (b) the moving is to preserve the security or the dignity of the human remains.

Penalty: Fine not exceeding 5 penalty units.

**17. Transportation of human remains to prescribed business**

- (1) If a manager is informed that human remains are ready to be transported to a prescribed business, the manager is to arrange that transportation –
  - (a) within 8 hours after receiving that information; or
  - (b) as soon as practicable.
- (2) Subregulation (1) does not apply if human remains are being stored in accordance with regulation 20.



**18. Transportation of human remains for cremation or interment**

- (1) A person must not transport human remains to any place or premises to prepare those remains for cremation or interment unless a medical certificate or a declaration of life extinct has been issued in accordance with these regulations.

Penalty: Fine not exceeding 20 penalty units.

- (2) Subregulation (1) does not apply if the death of a person is, or may be, the subject of an investigation under Part 5 of the *Coroners Act 1995*.

**19. Vehicle used for transportation of human remains**

- (1) A person who is transporting human remains to any place or premises must place the human remains in a coffin, container, or tray, that is capable of preventing the escape of any bodily discharges, contaminants or infectious materials.

Penalty: Fine not exceeding 20 penalty units.

- (2) A manager must ensure that any vehicle used to transport human remains is of a standard sufficient to maintain the dignity of the human remains and has either –
- (a) a compartment in which the coffin, container or tray is placed which –
- (i) is physically separate from the driving and passenger section of the vehicle; and

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- (ii) has sufficient facilities for securing the coffin, container or tray; and
  - (iii) is capable of being easily cleaned and disinfected; or
- (b) a coffin, container, or tray, in which the human remains are placed –
- (i) so as to not allow any bodily discharges, contaminants or infectious materials to escape into the vehicle; and
  - (ii) that is secured as far as practicable within that vehicle.

Penalty: Fine not exceeding 10 penalty units.

- (3) A manager must ensure that any vehicle used to transport human remains is kept in a clean and disinfected state.

Penalty: Fine not exceeding 10 penalty units.

**20. Storage of human remains**

- (1) If human remains are to be placed into storage, the person responsible for that storage must first place the human remains in a coffin, container, or tray, capable of –
- (a) ensuring that the escape of bodily discharges, contaminants or infectious materials is prevented or confined to that coffin, container or tray; and

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- (b) protecting any person who comes into contact with the coffin, container or tray from bodily discharges, contaminants or infectious materials.

Penalty: Fine not exceeding 10 penalty units.

- (2) A person responsible for the storage of human remains must ensure that the human remains, or the storage facility in which the human remains are placed, is brought to, and maintained at, a temperature not exceeding 5°C, as soon as practicable after the custody of the human remains becomes that person's responsibility.

Penalty: Fine not exceeding 5 penalty units.

***Division 6 – Cleaning and disinfection of premises and vehicles***

**21. Manager to ensure premises, &c., are cleaned and disinfected**

- (1) A manager must ensure that any place, premises, or equipment, contaminated with bodily discharges, contaminants or infectious materials is cleaned and disinfected as soon as practicable after the contamination occurs.

Penalty: Fine not exceeding 10 penalty units.

- (2) A manager must ensure that appropriate cleaning equipment and materials are –
- (a) readily available to clean and disinfect any spillage of bodily discharges, contaminants or infectious materials; and

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- (b) stored in a place made known to all employees.

Penalty: Fine not exceeding 10 penalty units.

**22. Manager to ensure protective clothing and cleaning equipment are made available in vehicles**

A manager must ensure that the following are available in any vehicle used to transport human remains:

- (a) suitable quantities of protective clothing for employees;
- (b) adequate materials and equipment to clean and disinfect any spillage of bodily discharges, contaminants or infectious materials.

Penalty: Fine not exceeding 10 penalty units.

**23. Manager to provide protective clothing to employees**

A manager must ensure that all employees who may come into contact with human remains or who may work in close proximity to human remains are provided with suitable protective clothing to protect them from contamination by bodily discharges, contaminants or infectious materials.

Penalty: Fine not exceeding 10 penalty units.

**24. Manager to provide information on infection hazards to employees**

A manager must ensure that all employees are provided with –

- (a) information about all infection hazards that are reasonably foreseeable as arising from, or incidental to, the prescribed business; and
- (b) full written details of procedures describing safe work practices.

Penalty: Fine not exceeding 10 penalty units.

***Division 7 – Construction of coffins***

**25. Coffin construction**

- (1) A person arranging for the interment or cremation of human remains must ensure that the coffin used for the interment or cremation is –
  - (a) impervious, so as to prevent the escape of bodily discharges, contaminants or infectious materials; and
  - (b) of sufficiently robust construction to enable the coffin and the human remains to be disposed of in accordance with the Act.

Penalty: Fine not exceeding 10 penalty units.

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- (2) A manager may refuse to accept a coffin for cremation if, in his or her opinion, it is made from, or contains, any material which is likely to –
- (a) damage any equipment in the crematorium; or
  - (b) be injurious to public health or public safety.

**26. Nameplate to be attached to coffin**

A person who places human remains in a coffin to be used for an interment or cremation must ensure that the coffin bears an identifying nameplate, inscription, or marking, stating –

- (a) the family name; and
- (b) at least one given name of the deceased person –

that correspond with the names shown on the identification tag for those human remains.

Penalty: Fine not exceeding 5 penalty units.

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**PART 3 – CEMETERIES**

***Division 1 – Exclusive right of burial***

**27. Certificate of exclusive right of burial**

- (1) Within 30 days after granting an exclusive right of burial under section 23 of the Act, the cemetery manager must issue, in accordance with subregulation (2), a certificate of exclusive right of burial to the holder of the right.

Penalty: Fine not exceeding 20 penalty units.

- (2) A certificate of exclusive right of burial is to –
- (a) identify the holder of the exclusive right of burial; and
  - (b) identify the person, persons, or class of persons, entitled to be buried under that exclusive right of burial; and
  - (c) either –
    - (i) identify, by number or other identifier, the plot, or the portion of the cemetery, where the human remains are to be interred under the exclusive right of burial; or
    - (ii) specify how the plot, or the portion of the cemetery, where the human remains are to be interred under the exclusive right of burial is to be determined; and

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- (d) specify whether the exclusive right of burial has been granted in fee or for a term of 25 years; and
  - (e) specify whether the exclusive right of burial may be renewed, cancelled or transferred; and
  - (f) specify the conditions to which the renewal, cancellation or transfer of the exclusive right of burial, if allowed, is subject.
- (3) A certificate of exclusive right of burial may include other terms as agreed between the cemetery manager and the holder of the exclusive right of burial.
- (4) A cemetery manager must keep a copy of a certificate of exclusive right of burial issued under this regulation –
- (a) until the certificate has expired; or
  - (b) for a period of 5 years after all persons entitled to be buried under the exclusive right of burial have been buried.

Penalty: Fine not exceeding 20 penalty units.

**28. Amendment of certificate of exclusive right of burial**

- (1) A cemetery manager may amend a certificate of exclusive right of burial if the holder of the exclusive right of burial gives written consent to the amendment.



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- (2) A certificate of exclusive right of burial may be amended by –
- (a) marking or endorsing the amendment on that certificate; or
  - (b) issuing a new certificate of exclusive right of burial that includes the amendment.

**29. Cancellation or transfer of exclusive right of burial**

A cancellation, or transfer, in accordance with the certificate of exclusive right of burial, of an exclusive right of burial takes effect when the cemetery manager receives notice in writing of the cancellation or transfer.

*Division 2 – Authority to inter human remains*

**30. Permission to inter human remains**

- (1) A person must not inter human remains in a cemetery except with the permission of the cemetery manager.

Penalty: Fine not exceeding 10 penalty units.

- (2) A person may apply, in writing, to the cemetery manager for permission to inter human remains in the cemetery.
- (3) On the application of a person, a cemetery manager –

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- (a) may grant, or refuse to grant, permission to inter human remains in the cemetery; and
  - (b) is to give written notice to the applicant that permission to inter the remains has been granted or has been refused; and
  - (c) if the cemetery manager refuses to grant permission, is to give reasons for the refusal in writing.
- (4) On giving permission to inter human remains in the cemetery, the cemetery manager may place conditions on the interment of the remains.

**31. Information required before permitting interment of human remains**

- (1) An application under regulation 30(2) is to include the following information:
  - (a) the full name of the applicant;
  - (b) the residential or contact address of the applicant;
  - (c) the full name of the deceased person;
  - (d) the last place of residence of the deceased person, if known;
  - (e) the date of birth of the deceased person;
  - (f) the date of death of the deceased person;

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- (g) the age of the deceased person at the date of his or her death;
  - (ga) if known –
    - (i) whether the deceased person was a veteran; and
    - (ii) if the deceased person was a veteran, details of the service or duty performed by the person;
  - (h) any further information the cemetery manager considers necessary to determine whether to grant the person permission to inter the human remains.
- (2) Subject to subregulation (3), the cemetery manager must obtain the information specified in subregulation (1) before granting a person permission to inter human remains.
- Penalty: Fine not exceeding 10 penalty units.
- (3) The cemetery manager may grant permission to inter human remains in the cemetery without obtaining all the information required under subregulation (1), if the cemetery manager is satisfied that the applicant has made all reasonable enquiries but has been unable to obtain the information.

**32. Authority to make decisions about interment of human remains**

- (1) The senior next of kin of the deceased person has authority to make any decisions, that the

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cemetery manager requests the person to make, that are incidental to, or in connection with, the interment of the deceased person's remains, including decisions in relation to the erection of a monument or memorial.

- (2) A person other than the senior next of kin of the deceased person may make any of the decisions set out in subregulation (1) if that person has received written consent to do so from the senior next of kin.

*Division 3 – Requirements for interment of human remains*

**33. Nameplate to be interred with human remains**

- (1) In this regulation –

*approved nameplate* means a plate that is –

- (a) made of metal, stone, plastic or other durable material; and
- (b) engraved, printed, stamped, or otherwise marked, with the family name and at least one given name of the deceased person;
- (2) A cemetery manager must ensure that all human remains interred in the cemetery, whether interred in the ground, in a vault or otherwise, are interred with an approved nameplate that –
- (a) in the case of human remains interred in a coffin, is affixed to the coffin; or

- (b) in the case of human remains interred without a coffin, is placed on top of the remains; or
- (c) in the case of a vault, is placed on the exterior of the vault.

Penalty: Fine not exceeding 10 penalty units.

#### **34. Interment of human remains in the ground**

- (1) A cemetery manager must ensure that all human remains interred in the cemetery, otherwise than in a vault, are interred –
  - (a) so that the remains are completely covered by soil that is at least one metre deep at its shallowest point; or
  - (b) if it is not possible to inter the remains as required by paragraph (a) – so that the remains are completely covered by –
    - (i) at least a 50 millimetre thick layer of stone, concrete or similar durable material placed directly over the remains; and
    - (ii) soil that is at least 500 millimetres deep at its shallowest point; or
  - (c) in another manner approved by the Director of Public Health.

Penalty: Fine not exceeding 10 penalty units.

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- (2) The cemetery manager must ensure that the manner of interment utilised under subregulation (1) is not one which is prejudicial to public health or public safety.

Penalty: Fine not exceeding 10 penalty units.

**35. Interment of human remains in a vault**

- (1) In this regulation –

*above-ground vault* means a compartment in a mausoleum in which human remains are or may be interred;

*arterially embalmed* means the process of introducing preservative fluid to bodily tissue of human remains by means of an injection into, or through, the circulatory system.

- (2) A cemetery manager must ensure that human remains interred in an above-ground vault are –
- (a) arterially embalmed; and
  - (b) interred in a manner that –
    - (i) prevents the escape of bodily fluids or odour from the vault; and
    - (ii) ensures that the human remains are secure against unauthorised access; and

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- (iii) ensures that the human remains are secure against insects and vermin.

Penalty: Fine not exceeding 10 penalty units.

**36. Closing grave after interment**

A cemetery manager must ensure that –

- (a) an open grave is closed as soon as practicable after the interment; and
- (b) once an open grave has been closed, it is secured against unauthorised access at all times.

Penalty: Fine not exceeding 10 penalty units.

**37. Re-interment of human remains**

The re-interment of human remains is taken to be an original interment of the human remains for the purposes of these regulations.

**38. Defence to offence under this Division**

- (1) It is a defence in proceedings for an offence under this Division if the cemetery manager proves that another person agreed, in writing, to inter the human remains in accordance with this Division.
- (2) A person who has agreed in writing to inter human remains in accordance with this Division may be convicted of an offence under this

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Division as if he or she were the cemetery manager.

***Division 4 – Records to be kept by cemetery manager***

**39. Plan of cemetery**

- (1) A cemetery manager must keep a plan of the cemetery that shows –
  - (a) the location of each grave; and
  - (b) each plot or portion of the cemetery set aside in respect of an exclusive right of burial.

Penalty: Fine not exceeding 20 penalty units.

- (2) As soon as practicable after a certificate of exclusive right of burial identifies, by number or other identifier, the plot at which, or a portion of the cemetery in which, human remains are to be interred under that exclusive right of burial, the cemetery manager must identify that plot or portion in the plan of the cemetery with that number or other identifier.

Penalty: Fine not exceeding 20 penalty units.

- (3) A cemetery manager must provide to any person, at the person's request, reasonable access to the plan of the cemetery for inspection.

Penalty: Fine not exceeding 10 penalty units.



**40. Register of interments**

- (1) For the purposes of section 19(2) of the Act, a cemetery manager must keep a register of interments containing –
- (a) the following particulars in relation to each interment in the cemetery:
    - (i) the name of the deceased person;
    - (ii) the last place of residence of the deceased person, if known;
    - (iii) the age of the deceased person at the date of his or her death, if known;
    - (iv) the date of birth of the deceased person, if known;
    - (iva) whether the deceased person was a veteran, if known;
    - (v) the date of cremation, if any, of the deceased person;
    - (vi) the date on which the interment occurred;
    - (vii) the number or other identifier of the grave; and
  - (b) the following particulars in relation to each exhumation of human remains conducted in the cemetery:
    - (i) the name of the deceased person;

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- (ii) the date on which the exhumation was conducted;
- (iii) the authority under which the exhumation was conducted.

Penalty: Fine not exceeding 20 penalty units.

- (2) A cemetery manager must provide to any person, at the person's request, reasonable access to the interment register for inspection.

Penalty: Fine not exceeding 10 penalty units.

**41. Register of exclusive rights of burial**

- (1) In this regulation –

*closed entry* means an entry in the register that is not an open entry;

*open entry* means an entry in the register in respect of an exclusive right of burial if –

- (a) all persons entitled to be buried under that exclusive right of burial have been buried; or
- (b) the exclusive right of burial has expired;

*register* means the register of exclusive rights of burial kept under subregulation (2).

- (2) A cemetery manager must keep a register of all exclusive rights of burial granted for the cemetery.

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Penalty: Fine not exceeding 20 penalty units.

- (3) For each exclusive right of burial granted for the cemetery, the cemetery manager must ensure that the following details are entered in the register:
- (a) the name of the person holding the exclusive right of burial;
  - (b) the name of all persons entitled to be buried under the exclusive right of burial, where known;
  - (c) if appropriate, a description of all classes of persons entitled to be buried under the exclusive right of burial;
  - (d) the number or other identifier of each plot in the cemetery, or portion of the cemetery, in respect of which the exclusive right of burial has been granted.

Penalty: Fine not exceeding 20 penalty units.

- (4) The following persons are entitled to inspect a closed entry in the register at any reasonable time:
- (a) an authorised officer;
  - (b) a person who is –
    - (i) the holder of the exclusive right of burial in respect of which the entry in the register was made; or

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- (ii) a person with authority to act on behalf of that holder;
  - (c) a person entitled to be buried under the exclusive right of burial in respect of which the entry in the register was made.
- (5) A cemetery manager must not allow a person to inspect a closed entry if the person is not specified in subregulation (4).

Penalty: Fine not exceeding 20 penalty units.

- (6) A cemetery manager must ensure that an open entry in the register is available for inspection, by a member of the public, at all reasonable times.

Penalty: Fine not exceeding 10 penalty units.

***Division 5 – Conduct in cemeteries***

**42. Dangerous driving**

- (1) A person must not drive a motor vehicle in a cemetery –
- (a) in a dangerous or careless manner; or
  - (b) without reasonable consideration for others.

Penalty: Fine not exceeding 10 penalty units.

- (2) A person who is in charge of a motor vehicle in a cemetery must comply with –

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- (a) any reasonable directions as to the driving or parking of the motor vehicle given to the person by the cemetery manager or a person authorised by the cemetery manager to give such directions; and
- (b) any traffic control sign erected by the cemetery manager or a person authorised by the cemetery manager to erect such a sign.

Penalty: Fine not exceeding 10 penalty units.

**43. Prohibited activities**

- (1) A person must not –
  - (a) remove, damage, deface or otherwise interfere with any building, monument, memorial or other fixture or structure in a cemetery; or
  - (b) damage, deface or otherwise interfere with any part of the grounds of a cemetery, including any plants, flowers or tokens; or
  - (c) remove any plants or flowers that are growing in a cemetery; or
  - (d) in any manner, hinder or disturb the performance in a cemetery of any religious or cultural ceremony relating to the interment of human remains; or

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- (e) without the approval of the cemetery manager, sell any thing in a cemetery; or
- (f) without the approval of the cemetery manager, carry on, promote or advertise a trade, profession or business in a cemetery; or
- (g) commit any breach of the peace or nuisance, or otherwise behave in an offensive manner, in a cemetery.

Penalty: Fine not exceeding 20 penalty units.

- (2) Subregulation (1) does not apply to the cemetery manager.

***Division 6 – Powers and duties of cemetery managers***

**44. Power of cemetery manager in relation to graves and plots**

- (1) A cemetery manager may –
  - (a) remove from a grave or plot in the cemetery any broken masonry, decayed or broken wreath or dead flowers, or any other object, which, in the opinion of the cemetery manager, detracts from the overall appearance of the cemetery; and
  - (b) prune or cut down any plant on, or remove any plant from, a grave or plot in the cemetery, if the cemetery manager is of the opinion that it is necessary to do so for the purposes of maintenance of the cemetery.

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- (2) For the purposes of section 19(1) of the Act, a cemetery manager may remove from a grave or plot in the cemetery any object that the cemetery manager believes may be prejudicial to public health or public safety.
  - (3) The removal of an object under subregulation (2) must be done in accordance with the relevant provisions of the Act and these regulations, if any.

**45. Power of cemetery manager to approve permanent items**

- (1) A cemetery manager may approve an item, or a class of items, that may be permanently affixed to, or next to, a grave or plot in a cemetery.
- (2) A person must not permanently affix an item to, or next to, a grave or plot in a cemetery unless the cemetery manager has approved the affixing of that item.

Penalty: Fine not exceeding 5 penalty units.

**46. Power of cemetery manager to remove persons**

- (1) A cemetery manager may require a person to leave the cemetery and not re-enter the cemetery for a period of not more than 24 hours determined by the cemetery manager if the cemetery manager –
  - (a) has reason to suspect that the person has committed, is committing or is about to commit an offence in the cemetery; or

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- (b) is of the opinion that the person is behaving in a manner that is, or may be, offensive to other visitors to the cemetery.
- (2) A person must comply with a requirement of a cemetery manager under subregulation (1).
- Penalty: Fine not exceeding 5 penalty units.
- (3) If a person refuses to leave the cemetery, or re-enters or attempts to re-enter the cemetery, in contravention of a requirement of a cemetery manager under subregulation (1), the cemetery manager may remove, or prevent the re-entry of, the person and in doing so may be assisted by a police officer.
- (4) A cemetery manager exercising a power under subregulation (3), and a police officer assisting the manager in the exercise of that power, may use such reasonable force as is necessary to remove or prevent the re-entry of the person into the cemetery.

**47. Duty of cemetery manager on removal of monument**

- (1) In this regulation –

*Heritage Council* has the same meaning as in the *Historic Cultural Heritage Act 1995*;

*Heritage Register* has the same meaning as in the *Historic Cultural Heritage Act 1995*;



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*unlisted cemetery* means a cemetery not entered on the Heritage Register.

- (2) If a cemetery manager of an unlisted cemetery proposes to take down and remove a monument without notice under section 21(3) of the Act, and in his or her opinion it is safe to do so, he or she is to take the following photographs of the monument before taking it down:
- (a) one photograph showing only the monument and its architectural detail;
  - (b) one photograph showing the monument and its location in relation to –
    - (i) any surrounding monuments or graves; or
    - (ii) if there are no surrounding monuments or graves – the area surrounding the monument to a radius of approximately 5 metres from the monument.
- (3) If a cemetery manager has taken down and removed a monument without notice under section 21(3) of the Act without taking the photographs referred to in subregulation (2), he or she must take 2 photographs as follows:
- (a) one photograph showing only the architectural detail of the monument after its removal or, if the monument has been demolished, any significant pieces of the monument that show the architectural detail;

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- (b) the other photograph showing the site where the monument was located, including –
  - (i) any surrounding monuments or graves; or
  - (ii) if there are no surrounding monuments or graves – the area surrounding the site to a radius of approximately 5 metres from the site.

Penalty: Fine not exceeding 20 penalty units.

- (4) Within 14 days after taking down and removing a monument without notice under section 21(3) of the Act, a cemetery manager must provide the Heritage Council with –
  - (a) written notice of that taking down or removal which contains the following particulars, if available:
    - (i) the name of the deceased person recorded on the monument;
    - (ii) the date of death of the deceased person recorded on the monument;
    - (iii) the number or other identifier of the grave; and
  - (b) the photographs taken under subregulation (2) or (3).

Penalty: Fine not exceeding 20 penalty units.

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- (5) This regulation does not apply to a monument that has been erected for less than 50 years.

*Division 7 – Miscellaneous*

**47A. Public notification requirements of Act in relation to cemeteries**

- (1) This regulation applies in respect of the following sections of the Act:
- (a) section 27C(4);
  - (b) section 27J(1)(a);
  - (c) section 27S(c);
  - (d) section 29(2)(d).
- (2) For the purposes of a section of the Act to which this regulation applies, a notice under that section is published in the prescribed manner if –
- (a) the notice is published –
    - (i) in at least one daily newspaper circulating generally in all areas of the State; and
    - (ii) in the general, or public notice or equivalent section, of that newspaper; and
  - (b) the font used in the notice –
    - (i) is not smaller than the standard font used by the newspaper; and

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- (ii) does not use spacing that is smaller than the standard spacing used by the newspaper; and
- (c) the notice contains a heading, in bold text, that specifies –
  - (i) if the notice is made under section 27C(4), that the notice relates to the approval of a new cemetery; or
  - (ii) if the notice is made under section 27J(1)(a), that the notice relates to the proposed sale of a cemetery; or
  - (iii) if the notice is made under section 27S(c), that the notice relates to the sale and transfer of a cemetery; or
  - (iv) if the notice is made under section 29(2)(d), that the notice relates to the closure of a cemetery.

**47B. Prescribed information for certain notices relating to cemeteries**

- (1) For the purposes of section 27C(4) of the Act, the following information is prescribed in respect of a notice under that section:
  - (a) the name of, and address for, the new cemetery to which the notice relates;

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- (b) the name and contact details of the cemetery manager for the new cemetery to which the notice relates;
  - (c) the date from which human remains may be interred at the new cemetery.
- (2) For the purposes of section 27J(2)(a) of the Act, if a notice under that section relates to a portion of a cemetery, the contact information for a person who can identify if a particular grave, monument or interment is in that portion is prescribed as information to be contained in the notice.
- (3) For the purposes of section 27S(c) of the Act, the following information is prescribed in respect of a notice under that section:
  - (a) the name of, and address for, the cemetery to which the notice relates;
  - (b) the name and contact details of the new cemetery manager for the cemetery to which the notice relates;
  - (c) if the arrangements in respect of access to the cemetery, to which the notice relates, are to change under the new cemetery manager, details of those changes or details of how a member of the public may inspect a copy of those changes.
- (4) For the purposes of section 29(2)(a) of the Act, the date on which a cemetery, to which a notice

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under that section relates, is proposed to be closed under the Act is prescribed information.

**47C. Manner of identification of cemeteries in certain circumstances**

- (1) This regulation applies in respect of the following sections of the Act:
  - (a) section 27J(2)(b);
  - (b) section 29(2)(b).
- (2) For the purposes of a section of the Act to which this regulation applies, a cemetery, or portion of a cemetery, is identified in the prescribed manner in a notice under that section if the notice includes –
  - (a) the name of the cemetery; and
  - (b) the full address for the location of the cemetery; and
  - (c) if the name and address of the cemetery is not clear and unambiguous, a description and image of a map of the cemetery that clearly specifies the cemetery to be identified; and
  - (d) if a portion of the cemetery is to be identified, a description and a map of the cemetery that clearly specifies the portion of the cemetery to be identified.

**47D. Manner of notification to certain holders of exclusive rights of burial**

For the purposes of section 29(2)(a) of the Act, the holder of an exclusive right of burial is notified, under that section, in the prescribed manner if the cemetery manager gives the holder the notification in writing.

**47E. Manner of audit of cemeteries**

For the purposes of section 49A of the Act, an audit of a cemetery is undertaken in the prescribed manner if the audit is performed –

- (a) if the regulator requests a formal audit, by an auditor who –
  - (i) is a member of a recognised professional body for auditors; and
  - (ii) does not have a conflict of interest in respect of the cemetery or the cemetery manager for the cemetery; or
- (b) if the regulator requests a self-audit, by the cemetery manager in accordance with the request of the regulator.

**47F. Certain churches to be cemeteries under Act**

For the purposes of paragraph (a)(ii) of the definition of *cemetery* in section 3 of the Act, the following churches are prescribed as a cemetery:

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- (a) St Mary's Church, located at 65 Church Lane in Hagley;
- (b) St John the Baptist Church, located at Bridge Hotel Road in Ouse.



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**PART 4 – CREMATION**

*Division 1 – Cremation permits*

**48. Applications for cremation permits**

- (1) The senior next of kin of a deceased person may apply, in writing, to a medical practitioner for a permit authorising the cremation of the deceased person.
- (2) The application for a cremation permit is to –
  - (a) include the following particulars:
    - (i) the full name of the applicant;
    - (ii) the residential address of the applicant;
    - (iii) a declaration that the applicant is the senior next of kin of the deceased person;
    - (iv) the full name of the deceased person;
    - (v) the last place of residence of the deceased person;
    - (vi) the date of death of the deceased person;
    - (vii) the age of the deceased person at the date of his or her death;
    - (viii) if known, the name and address of the usual medical practitioner

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who attended the deceased person before his or her death;

(ix) if known, whether the deceased person had an implanted medical device;

(x) the business name and address of the crematorium where the deceased person is to be cremated; and

(b) be accompanied by a copy of the medical certificate given in respect of the deceased person.

**49. Medical practitioners to refuse certain applications**

A medical practitioner must not accept an application for a cremation permit, or grant the application and issue a cremation permit in respect of a deceased person, if the medical practitioner –

(a) is the senior next of kin of the deceased person; or

(b) is related by marriage to, or is the spouse of, a person who is the senior next of kin of the deceased person; or

(c) is a partner, or an employee, of the medical practitioner who issued the medical certificate in respect of the deceased person; or

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- (d) was, immediately before the death of the deceased person, a partner or an employee of the deceased person; or
- (e) is a relative of the medical practitioner who issued the medical certificate in respect of the deceased person; or
- (f) has already issued a medical certificate in respect of the deceased person; or
- (g) has a pecuniary interest in the estate of the deceased person.

**50. Consideration of applications for cremation permits**

In considering an application for a cremation permit, a medical practitioner may –

- (a) with the consent of the senior next of kin, obtain any medical records relating to the deceased person referred to in the application for a cremation permit; and
- (b) allow other medical practitioners access to those medical records; and
- (c) make any inquiries that the medical practitioner considers necessary to his or her consideration of the application for a cremation permit.

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**51. Grant and issue of cremation permits**

- (1) After considering an application for a cremation permit under regulation 50, and subject to this regulation, a medical practitioner may –
  - (a) grant the application; or
  - (b) refuse to grant the application.
- (2) A medical practitioner must grant an application for a cremation permit, if, after having examined the deceased person to whom the application relates, the medical practitioner is satisfied –
  - (a) that a medical certificate has been given in respect of the deceased person; and
  - (b) as to the accuracy of the cause of death stated in that medical certificate; and
  - (c) that the death is not a reportable death; and
  - (d) that any implanted medical device of which the medical practitioner is aware has been removed from the deceased person.
- (3) A medical practitioner must refuse to grant an application for a cremation permit unless the medical practitioner –
  - (a) has examined the deceased person to whom the cremation permit application relates; and

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- (b) is satisfied as to the accuracy of the matters referred to in subregulation (2).

Penalty: Fine not exceeding 20 penalty units.

- (4) If a medical practitioner refuses, in accordance with subregulation (3), to grant an application for a cremation permit, the medical practitioner must –
  - (a) report the death of the person, to whom the application for the cremation permit relates, to a coroner or a police officer in accordance with section 19 of the *Coroners Act 1995*; and
  - (b) notify the refusal to the senior next of kin referred to in the application for the cremation permit.
- (5) If a medical practitioner grants an application for a cremation permit in accordance with subregulation (2), the medical practitioner is to issue a cremation permit to the senior next of kin referred to in the application.
- (6) A cremation permit is to be in a form approved by the Director of Local Government.

***Division 2 – Duties of crematorium managers and managers of prescribed businesses***

**52. Approval of equipment**

- (1) A crematorium manager must not operate a crematorium, or permit a crematorium to be operated, unless the crematorium equipment

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complies with any guidelines issued by the Director of Local Government under subregulation (2).

Penalty: Fine not exceeding 20 penalty units.

- (2) The Director of Local Government may, by notice in the *Gazette*, issue guidelines in respect of equipment used in crematoriums.
- (3) A notice under subregulation (2) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

**53. Identification of deceased persons**

- (1) A crematorium manager must not cremate a deceased person unless the crematorium manager is satisfied, in accordance with subregulation (2), that the deceased person is correctly identified.

Penalty: Fine not exceeding 20 penalty units.

- (2) For subregulation (1), a crematorium manager may be satisfied as to the correct identity of a deceased person if –
  - (a) there is no discrepancy between the identity of the deceased person –
    - (i) as shown on the cremation permit or coroner’s certificate issued in respect of the deceased person; and

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- (ii) as shown on the identifying nameplate, inscription or marking attached to the outside of the coffin containing the deceased person; and
  - (b) the coffin containing the deceased person has come from the premises of a prescribed business; and
  - (c) the coffin containing the deceased person does not appear to have been opened after leaving the premises of a prescribed business.
- (3) A crematorium manager must refuse to accept a deceased person for cremation if the documentation required under these regulations is incomplete or does not comply with these regulations.

Penalty: Fine not exceeding 20 penalty units.

**54. Security of deceased persons**

- (1) A crematorium manager must ensure that no person opens a coffin containing a deceased person for cremation that has been received by the manager for cremation, unless the opening of the coffin is authorised by –
  - (a) the crematorium manager; or
  - (b) the medical practitioner who issued the cremation permit in respect of the deceased person; or

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- (c) a person authorised to do so in accordance with an order of a coroner.
- (2) A crematorium manager may require a coffin, authorised to be opened under subregulation (1), to be –
  - (a) removed from the crematorium for the purpose of the authorised opening; or
  - (b) taken to the premises of a prescribed business for the purpose of the authorised opening.
- (3) A crematorium manager must ensure that any coffin containing a deceased person for cremation is –
  - (a) stored in a secure place; and
  - (b) appropriately identified at all times.

**55. Cremated remains to be kept separately**

A crematorium manager is to ensure that the cremated remains of a deceased person, recovered from the cremator, are kept separately from the cremated remains of other deceased persons recovered from the cremator.

**56. Storage of cremated remains**

Until the cremated remains of a deceased person are dealt with under regulation 57(1) or (3), a crematorium manager must ensure that the cremated remains –



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- (a) are stored in an appropriate container;  
and
- (b) are clearly identified; and
- (c) are stored in a secure place.

Penalty: Fine not exceeding 5 penalty units.

**57. Retention and disposal of cremated remains**

- (1) A crematorium manager, or manager of a prescribed business, who has custody of the cremated remains of a deceased person must deal with the cremated remains in accordance with any reasonable instructions given to the manager by the senior next of kin of the deceased person.
- (2) A crematorium manager or manager of a prescribed business must retain the cremated remains of a deceased person if –
  - (a) no instructions, as to the collection or disposal of the cremated remains, are given to the manager by the senior next of kin of the deceased person; or
  - (b) the instructions, as to the collection or disposal of the cremated remains, given to the manager by the senior next of kin of the deceased person are not reasonable; or
  - (c) the cremated remains are not collected by the senior next of kin of the deceased person.

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- (3) A crematorium manager or manager of a prescribed business may dispose of the cremated remains of a deceased person if –
- (a) the crematorium manager or manager of a prescribed business has, despite all reasonable efforts, been unable to contact the senior next of kin of the deceased person; and
  - (b) a period of 2 years has elapsed from the date of the cremation of the deceased person.

**58. Prescribed records**

- (1) For section 12(2) of the Act, the prescribed records that a crematorium manager must keep for all cremations in a crematorium and for all monuments maintained on the premises are –
- (a) in the case of a cremation on the authority of a cremation permit, the cremation permit; and
  - (b) in the case of a cremation on the authority of a coroner's certificate, the coroner's certificate; and
  - (c) in all cases –
    - (i) the full name and address of the person who applied for the cremation to be conducted; and
    - (ii) the date of the cremation; and

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- (iii) the information recorded in the register in accordance with subregulation (2).
- (2) A crematorium manager must ensure that –
- (a) each cremation is recorded in a register as soon as practicable after the cremation has taken place; and
  - (b) the disposal or interment of cremated remains is recorded in a register as soon as practicable after the cremated remains have been interred or otherwise disposed of.

Penalty: Fine not exceeding 10 penalty units.

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**PART 5 – POWERS OF AUTHORISED OFFICERS TO  
COLLECT EVIDENCE**

**59. Collection of evidence**

- (1) For determining if the Act (including these regulations) has been, or is being, contravened, an authorised officer who enters any crematorium, cemetery, place or premises, referred to in section 51(2) of the Act, may do any or all of the following:
  - (a) search the crematorium, cemetery, place or premises;
  - (b) require any person to produce any records, documents or other things for inspection by the authorised officer;
  - (c) take extracts from, or make copies of, those records or documents;
  - (d) take samples of those things for analysis;
  - (e) take into the crematorium, cemetery, place or premises, referred to in section 51(2) of the Act, any equipment or material reasonably necessary for the purpose of the authorised officer exercising a power under the Act or these regulations;
  - (f) require any person to give the authorised officer any reasonable assistance that the authorised officer may require.

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- (2) If an authorised officer has a reasonable belief that the Act or these regulations have been, or are being, contravened, the authorised officer may seize any records, documents or other things relevant to the contravention.
  - (3) An authorised officer in the exercise or performance of a power or function under the Act or these regulations, or another person assisting an authorised officer under these regulations, must not unnecessarily impede or obstruct the work carried out in a crematorium, cemetery, place or premises, referred to in section 51(2) of the Act.

**60. Obstruction of authorised officers**

- (1) A person must not obstruct or hinder an authorised officer in the exercise or performance of a power or function under the Act or these regulations or another person assisting an authorised officer under these regulations.

Penalty: Fine not exceeding 20 penalty units.

- (2) A person must not –
  - (a) fail to comply with a lawful request or requirement of an authorised officer or another person assisting an authorised officer; or
  - (b) fail to produce to an authorised officer, or another person assisting an authorised officer, any record, document or other thing in the person's possession or under

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his or her control, when the person has been required by an authorised officer to produce it under these regulations; or

- (c) fail to give any reasonable assistance to an authorised officer, or another person assisting an authorised officer, when required to do so by the authorised officer.

Penalty: Fine not exceeding 20 penalty units.

**61. False or misleading statements**

A person must not, in giving any information under these regulations –

- (a) make a statement knowing it to be false or misleading; or
- (b) omit any matter from a statement, knowing that without that matter the statement is false or misleading; or
- (c) provide a document that the person knows to be false or misleading without informing the person to whom the document is provided of that knowledge.

Penalty: Fine not exceeding 20 penalty units.

**62. Retention of records, &c., by authorised officers**

- (1) An authorised officer may retain a record, document or other thing seized under these regulations –

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- (a) for the purpose of investigating if the Act or these regulations have been, or are being, contravened and, if required, for the purposes of any subsequent prosecution; or
  - (b) for the purpose of an investigation under Part 5 of the *Coroners Act 1995*.
- (2) A person otherwise entitled to possession of a record or document retained by an authorised officer under these regulations is entitled to be provided at his or her request with a copy of that record, or document, certified by the authorised officer to be a true copy.
- (3) A certified copy of a record or document referred to in subregulation (2) is to be received in all courts and elsewhere as if it were the original record or document.

**PART 6 – MISCELLANEOUS**

**63. Prescribed person may enter cemeteries and crematoria**

- (1) The following persons may enter, at any reasonable time, a cemetery or crematorium, for the purpose of determining if the Act (including these regulations) has been, or is being, complied with:
  - (a) the Director of Local Government;
  - (b) an authorised officer.
- (2) In addition to subregulation (1), the regulator may enter a cemetery, at any time, for the purpose of determining if the Act (including these regulations) has been, or is being, complied with.
- (3) A person who enters a cemetery or crematorium under this regulation, for the purpose of determining if the Act (including these regulations) has been, or is being, complied with, may do any one or more of the following measures:
  - (a) search the crematorium or cemetery;
  - (b) require a person to produce any records, documents or other things for inspection;
  - (c) take extracts from, or make copies of, those records or documents;



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- (d) take into the crematorium or cemetery any equipment or material reasonably necessary for the purpose of undertaking a measure specified in this regulation;
- (e) require a person to give the person entering the cemetery or crematorium under this regulation any assistance that the person so entering requires;
- (f) if the person has a reasonable belief that the Act or these regulations have been, or are being, contravened, seize any records, documents, samples or other things relevant to the contravention.

**63A. Medical practitioner fees**

A medical practitioner who attends a place of death of a deceased person in accordance with these regulations is entitled to claim from the estate of the deceased person a fee for that attendance as if a medical certificate or a declaration of life extinct had not been issued in respect of that deceased person.

**63B. Fees generally**

For the purposes of the Act, the fees specified in Schedule 2 are prescribed for the matters to which they respectively relate.

**63C. Infringement offences**

For the purposes of section 50B of the Act –

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- (a) an offence against a provision specified in column 2 of the table in Schedule 3 is prescribed as an infringement notice offence; and
- (b) the penalty specified in column 3 of the table in Schedule 3 is prescribed as the penalty payable in respect of an individual for the relevant offence specified in column 2 of that table; and
- (c) the penalty specified in column 4 of the table in Schedule 3 is prescribed as the penalty payable in respect of a body corporate for the relevant offence specified in column 2 of that table.

**64. Savings and transitional provisions**

- (1) An application made under regulation 4 of the *Burial and Cremation (Cremation) Regulations 2012* for a cremation permit that has not been determined under those regulations before the day on which these regulations take effect is taken to be an application made under regulation 48 of these regulations for a cremation permit.
- (2) A cremation permit issued under –
  - (a) Part 2 of the *Burial and Cremation (Cremation) Regulations 2002*; or
  - (b) Part 2 of the *Burial and Cremation (Cremation) Regulations 2012* –

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is taken to be a cremation permit issued under Division 1 of Part 4 of these regulations.

- (3) An application made under regulation 7 of the *Burial and Cremation (Cemetery) Regulations 2005* that has not been determined under those regulations before the day on which these regulations take effect is taken to be an application made under regulation 30 of these regulations.
- (4) A declaration of life extinct issued under regulation 10 of the *Burial and Cremation (Handling of Human Remains) Regulations 2005* is taken to be a declaration of life extinct issued under regulation 7(1)(b) or regulation 9(1)(a) of these regulations.
- (5) A certificate of exclusive right of burial issued under regulation 4 of the *Burial and Cremation (Cemetery) Regulations 2005* is taken to be a certificate of exclusive right of burial issued under regulation 27 of these regulations.
- (6) Guidelines issued under regulation 19 of the *Burial and Cremation (Cremation) Regulations 2012* are to be taken to be guidelines issued under regulation 52 of these regulations.
- (7) An approval of a declaration of life extinct under regulation 10 of the *Burial and Cremation (Handling of Human Remains) Regulations 2005* is taken to be an approval of a declaration of life extinct under regulation 10 of these regulations for the purposes of regulation 7(1)(b) or regulation 9(1)(a) of these regulations.

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- (8) An approval, determination, nomination, direction, permission, refusal or requirement given, or imposed, by a relevant person under a provision of any regulations rescinded by these regulations is to be taken to have been given by the relevant person under the provision of these regulations that most closely corresponds to the provision of the rescinded regulations.
- (9) For the purposes of subregulation (8), the Director of Local Government, the Director of Public Health, a crematorium manager and a cemetery manager are relevant persons.

**65. Legislation rescinded**

The legislation specified in Schedule 1 is rescinded.

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**SCHEDULE 1 – LEGISLATION RESCINDED**

Regulation 65

*Burial and Cremation (Cemetery) Regulations 2005* (No. 55 of 2005)

*Burial and Cremation (Handling of Human Remains) Regulations 2005* (No. 56 of 2005)

*Burial and Cremation (Cremation) Regulations 2012* (No. 35 of 2012)

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**SCHEDULE 2 – FEES**

Regulation 63B

	<b>Description</b>	<b>Fee units</b>
1.	Application under section 11A to become a cemetery manager	120
2.	Application under section 27B to establish a new cemetery	60
3.	Application under section 27L for a certificate of compliance	120
4.	Application under section 29 for approval to close a cemetery	120
5.	Application under section 51A to reduce certain time frames	80

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**SCHEDULE 3 – INFRINGEMENT NOTICE OFFENCES**

Regulation 63C

	<b>Provision</b>	<b>Individual Penalty units</b>	<b>Body corporate Penalty units</b>
1.	Section 7	5	10
2.	Section 9(2)	5	10
3.	Section 12(1)	5	10
4.	Section 12(2)	5	10
5.	Section 13(2)	5	10
6.	Section 15	1	3
7.	Section 16(1)	3	6
8.	Section 16(2)	5	10
9.	Section 17	15	30
10.	Section 19(1)	15	30
11.	Section 19(1A)	15	30
12.	Section 19(2)	15	30
13.	Section 19(3)	6	12
14.	Section 22(1)	3	6
15.	Section 22(2)	5	10
16.	Section 22(3)	5	10

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	<b>Provision</b>	<b>Individual Penalty units</b>	<b>Body corporate Penalty units</b>
17.	Section 23(6)	15	30
18.	Section 27C(4)	5	10
19.	Section 27E	5	10
20.	Section 27F	5	10
21.	Section 27H(1)	5	10
22.	Section 27O	5	10
23.	Section 27P(1)	15	30
24.	Section 27S	5	10
25.	Section 29B(3)	15	30
26.	Section 36(2)	15	30
27.	Section 43	5	10
28.	Section 46	3	6
29.	Section 47(1)	5	10
30.	Section 49	15	30
31.	Section 49A(2)	5	10
32.	Section 49B(2)	30	60
33.	Section 50(4)	15	30



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	<b>Provision</b>	<b>Individual Penalty units</b>	<b>Body corporate Penalty units</b>
34.	Section 50A(3)	15	30
35.	Regulation 4(2)	5	10
36.	Regulation 4(4)	5	10
37.	Regulation 10(6)	5	10
38.	Regulation 14(3)	1	2
39.	Regulation 15	3	6
40.	Regulation 16	1	2
41.	Regulation 18(1)	5	10
42.	Regulation 19(1)	5	10
43.	Regulation 19(2)	3	6
44.	Regulation 19(3)	3	6
45.	Regulation 20(1)	3	6
46.	Regulation 20(2)	1	2
47.	Regulation 21(1)	3	6
48.	Regulation 21(2)	3	6
49.	Regulation 22	3	6
50.	Regulation 23	3	6

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	<b>Provision</b>	<b>Individual Penalty units</b>	<b>Body corporate Penalty units</b>
51.	Regulation 24	3	6
52.	Regulation 25(1)	3	6
53.	Regulation 26	1	2
54.	Regulation 27(1)	5	10
55.	Regulation 27(4)	5	10
56.	Regulation 30(1)	3	6
57.	Regulation 31(2)	3	6
58.	Regulation 33(2)	3	6
59.	Regulation 34(1)	3	6
60.	Regulation 34(2)	3	6
61.	Regulation 35(2)	3	6
62.	Regulation 36	3	6
63.	Regulation 39(1)	5	10
64.	Regulation 39(2)	3	6
65.	Regulation 39(3)	3	6
66.	Regulation 40(1)	5	10
67.	Regulation 40(2)	3	6

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	<b>Provision</b>	<b>Individual Penalty units</b>	<b>Body corporate Penalty units</b>
68.	Regulation 41(2)	5	10
69.	Regulation 41(3)	5	10
70.	Regulation 41(5)	3	6
71.	Regulation 41(6)	3	6
72.	Regulation 42(1)	3	6
73.	Regulation 42(2)	3	6
74.	Regulation 43(1)	5	10
75.	Regulation 45(2)	1	2
76.	Regulation 46(2)	1	2
77.	Regulation 47(3)	5	10
78.	Regulation 47(4)	5	10
79.	Regulation 51(3)	5	10
80.	Regulation 52(1)	5	10
81.	Regulation 53(1)	5	10
82.	Regulation 53(3)	5	10
83.	Regulation 56	1	2
84.	Regulation 58(2)	3	6

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	<b>Provision</b>	<b>Individual Penalty units</b>	<b>Body corporate Penalty units</b>
85.	Regulation 60(1)	5	10
86.	Regulation 60(2)	5	10
87.	Regulation 61	5	10

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 27 May 2015.

These regulations are administered in the Department of Premier and Cabinet.

**NOTES**

The foregoing text of the *Burial and Cremation Regulations 2015* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 16 November 2022 are not specifically referred to in the following table of amendments.

Citation	Serial Number	Date of commencement
<sup>1</sup> <i>Burial and Cremation Regulations 2015</i>	S.R. 2015, No. 33	21.6.2015
<i>Burial and Cremation Amendment Regulations 2018</i>	S.R. 2018, No. 86	26.12.2018
<i>Burial and Cremation Amendment Regulations 2022</i>	S.R. 2022, No. 94	16.11.2022

<sup>1</sup>Expires 27 May 2025 - Subordinate Legislation Act 1992. Despite the repeal of the Burial and Cremation Act 2002 by the Burial and Cremation Act 2019, the 2015 Regulations were saved under clause 3 of Part 1 of Schedule 1 of the 2019 Act

**TABLE OF AMENDMENTS**

Provision affected	How affected
Regulation 3	Amended by S.R. 2018, No. 86 and S.R. 2022, No. 94
Regulation 7	Amended by S.R. 2022, No. 94
Regulation 9	Amended by S.R. 2022, No. 94
Regulation 27	Amended by S.R. 2018, No. 86
Regulation 31	Amended by S.R. 2018, No. 86
Regulation 39	Amended by S.R. 2018, No. 86

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Provision affected	How affected
Regulation 40	Amended by S.R. 2018, No. 86
Regulation 41	Amended by S.R. 2018, No. 86
Regulation 43	Amended by S.R. 2018, No. 86
Regulation 47	Amended by S.R. 2018, No. 86
Regulation 47A of Part 3	Inserted by S.R. 2018, No. 86
Regulation 47B of Part 3	Inserted by S.R. 2018, No. 86
Regulation 47C of Part 3	Inserted by S.R. 2018, No. 86
Regulation 47D of Part 3	Inserted by S.R. 2018, No. 86
Regulation 47E of Part 3	Inserted by S.R. 2018, No. 86
Regulation 47F of Part 3	Inserted by S.R. 2018, No. 86
Regulation 63	Substituted by S.R. 2018, No. 86
Regulation 63A	Inserted by S.R. 2018, No. 86
Regulation 63B	Inserted by S.R. 2018, No. 86
Regulation 63C	Inserted by S.R. 2018, No. 86
Schedule 2	Inserted by S.R. 2018, No. 86
Schedule 3	Inserted by S.R. 2018, No. 86