

Gen Heading	Issue	Resolution	Act/Regulation Section, Page
General Authority	The authority has some general powers	<ul style="list-style-type: none"> <li>to enlarge the cemetery, natural burial ground, or crematorium</li> <li>improve or embellish the cemetery, natural burial ground, or crematorium</li> <li>restrict interments in any part of the cemetery except, where the interment right has already been issued</li> <li>do anything else that the authority considers necessary, or desirable for the proper management of the cemetery, natural burial ground, or crematorium</li> </ul>	Act: 43, p25
	Authorised Officers	<p>An Authorised Officer means:</p> <ul style="list-style-type: none"> <li>a police officer</li> <li>a person appointed by the Minister</li> <li>a council may appoint as an authorised officer a specified officer, or employee of the council</li> <li>an appointment under the Act may be made subject to conditions limiting the period and the areas within which, or the purposes for which, the appointee may exercise the powers</li> </ul> <p>Authorised Officer may:</p> <ul style="list-style-type: none"> <li>enter and inspect any cemetery, burial grounds, crematorium, mortuary</li> <li>enter and inspect any vehicle used for the transportation of human remains</li> <li>give directions with respect to the stopping, or movement of a vehicle, plant, equipment, or other thing used for the handling, storage, transportation, preparation or disposal of human remains</li> <li>require a person apparently in charge of a vehicle used for the transportation of human remains to facilitate entry and inspection of the vehicle</li> <li>seize and retain anything that the authorised officer reasonably suspects has been used in, or may constitute evidence of, a contravention of the Act</li> <li>require a person (with the authority of a warrant issued by a magistrate) to produce specified documents, including a written record that reproduces in an understandable form information stored by computer, microfilm or other process</li> </ul>	<p>Act: 58, p31</p> <p>Act: 59, p31</p>

<b>Registers and Records</b>	Meeting the requirements of Section 53 of the Act, relating to registers	Any authority, or organisation associated with the burial, or cremation of remains is required to meet the requirements of the Act	
	Inspection of registers	The registers described above must be made available for inspection by members of the public during ordinary office hours on the payment of a fee fixed by the authority. The registers described above must also be made available for inspection to an Authorised Officer appointed under the Act	Act: 53.4, p30 Act: 53.5, p30
	Register of interment rights	<p>The relevant authority must keep a register a register that:</p> <ul style="list-style-type: none"> <li>identifies the person(s) whose remains are interred in the burial ground, mausoleum, or vault including their full name, their age at the date of death and their last place of residence</li> <li>identifies the site in which the remains of each such person(s) are interred including: <ul style="list-style-type: none"> <li>whether the remains are interred, reinterred, or cremated remains</li> <li>the depth at which the remains were interred, or reinterred</li> <li>whether the remains were interred, or reinterred in a coffin, or shroud, or whether the remains were interred in a cinerary urn, or other container</li> </ul> </li> <li>records exhumations of any human remains in the interred burial ground</li> <li>interment rights issued by the relevant authority, including the period of the interment rights</li> <li>memorials erected in the cemetery, or burial ground</li> <li>any other matters specified by the regulations</li> <li>a plan of the cemetery or burial ground that shows: <ul style="list-style-type: none"> <li>each site at which human remains are interred, and</li> <li>each site set aside for the interment of human remains</li> </ul> </li> </ul>	Act: 53.1, p29 Regulations: 36, p14 see Interment Rights below

	Register of memorials erected in the cemetery	<p>The authority must keep a register containing the prescribed particulars pertaining to memorials erected in the cemetery including the:</p> <ul style="list-style-type: none"> <li>• size of the memorial</li> <li>• type of memorial</li> <li>• name, or names inscribed on the memorial</li> <li>• any epitaphs and other inscriptions on the memorial</li> <li>• location of the memorial the cemetery</li> </ul> <p>It should be noted that the requirement to keep a record of the names inscribed on the memorial is not limited to the deceased persons interred at the site.</p> <p>This requirement should also be read in conjunction with the memorials disposed of records.</p>	<p>Act: 53.1 ii, p29 Reg: 36.2, p14 see Memorials below</p>
	Plan of the cemetery	<p>The authority must keep a plan of the cemetery that shows each site:</p> <ul style="list-style-type: none"> <li>• at which human remains are interred</li> <li>• set aside for the interment of human remains</li> </ul> <p>If an interment right in force identifies the site at which the interments are to be interred, the plan must include the number allocated to, or a description of, that site</p>	Act: 53.1, 29
<b>Human Remains</b>	Refer to the correct description of remains	<p>Human Remains includes:</p> <ul style="list-style-type: none"> <li>• bodily remains (whole or part of the body that has not been cremated)</li> <li>• the remains of a still-born child and</li> <li>• created remains</li> </ul>	Act: Part 1.3, p3
	Only two forms of disposal for human remains	Bodily remains only to be disposed of by burial or cremation	<p>Act: 7, p2 see Burial and Cremation below</p>
	Transporting bodily remains in a cemetery	<p>Transportation of bodily remains in a cemetery must be in:</p> <ul style="list-style-type: none"> <li>• a coffin, or other rigid container from which no bodily discharges, contaminants, or infectious substances may escape; <i>or</i></li> <li>• the remains are: <ul style="list-style-type: none"> <li>○ fixed to a rigid base to prevent movement, <i>and</i></li> <li>○ contained in a shroud, or other wrapping from which no bodily discharges, contaminants, or infectious substances may escape;</li> </ul> </li> </ul>	<p>Act: 15, p13 Regulations: 14, p7</p>

<b>Interment Rights</b>	Interment Right	<p>All interments will be subject to an interment right that must be issued by the relevant authority and contain:</p> <ul style="list-style-type: none"> <li>• identification of the person to whom it is issued</li> <li>• identifies who can be interred in the site, or who can instruct the authority on who can be interred at the site</li> <li>• clearly identifies the site</li> <li>• specifies the period for which the interment right is granted</li> <li>• sets out the rights of renewal for the interment right</li> <li>• specifies the cancellation or transfer conditions of the interment right</li> </ul> <p>The relevant authority may prescribe the number of interments allowed at the site.</p> <p>The interment right obliges the relevant authority to:</p> <ul style="list-style-type: none"> <li>• permit the interment of remains as per the interment right</li> <li>• permit a memorial to be erected as approved by the authority</li> <li>• leave undisturbed remains at the site for the duration of the interment right</li> <li>• leave a memorial in place so long as the memorial is in good order and the interment</li> <li>• right remains in force</li> </ul>	<p>Act: 30.1, p20</p> <p>Act: 30.3, p20</p> <p>Act: 30.4, p20</p>
	Before an interment right is issued	<p>The prospective interment right holder must be given a plain English statement that includes:</p> <ul style="list-style-type: none"> <li>• all of the requirements of an interment right detail in 30(1)</li> <li>• sets out the rights and responsibilities of the relevant authority and relatives of a deceased in relation to any memorial to the deceased, and</li> <li>• details the cost of the interment right and any options for periodic payments.</li> </ul> <p>CCASA supply Plain English Statements for cemetery authorities. Please refer to their website</p>	<p>Act: 30.2, p20</p>

	Duration of interment right	<p>In accordance with Section 30 of the Act the period for which the interment right is granted maybe</p> <ul style="list-style-type: none"> <li>for a specified period as detailed on the interment right, or</li> <li>in perpetuity</li> </ul> <p>(it is therefore imperative that a term is specified, if it is not then it will be deemed to be in perpetuity)</p>	Act: 30, p21
	Renewal of interment right	<p>The authority, on application from the interment right holder, must allow an interment right to be renewed for a minimum of 5 years.</p> <p>(If the interment right is for an initial fixed period, it may be appropriate for the authority to determine a maximum number of years that the interment right may renewed for in a single transaction. This may be pertinent if you do not wish someone to renew "in perpetuity").</p>	Act: 32.1, p21
	Notification of impending expiry of an interment right	<p>A relevant authority must, at least 12 months prior to the expiry of an interment right, take reasonable steps to inform the interment right holder a written notice</p> <ul style="list-style-type: none"> <li>in a form approved by the Minister</li> <li>set out the holder's entitlement to renew the interment right; and</li> <li>if not renewed the right to reclaim any memorial by the holder</li> <li>if not renewed that the authority is entitled to re-use the interment right under section 38 of the Act</li> <li>the cost to renew the interment right</li> </ul>	Act: 32.2, p21 Regulations: 30, p13
	Renewal of interment right by someone other than the original holder	<p>A new Plain English Statement must be issued to the applicant that sets out all the details as if it was a new interment right</p> <p>CCASA supply Plain English Statements for cemetery authorities. Please refer to their website</p>	Act: 32.3, p21
	Transfer of an interment right	<p>The authority may impose conditions on limiting the right of transfer to persons who adhere to a particular religion, or belong to some other specified class</p> <p>A transfer does not take effect until it is recorded by the relevant authority</p>	Act: 33.1, p22 Act: 33.3, p22
	Surrender of interment right	The interment right holder may surrender the interment right	Act: 34.1, p22

	Surrender of unexercised interment right	<p>Unexercised interment right means one under which:</p> <ul style="list-style-type: none"> <li>human remains are yet to be interred, and</li> <li>a memorial is yet to be erected.</li> </ul> <p>Both conditions mentioned need to have not occurred for the interment right to be unexercised. If either has occurred then the interment right has been exercised.</p>	Act: 34.4, p22
	Refund for an unexercised interment right	<p>If the interment right has been identified as unexercised then a refund must be paid by the relevant authority to the former interment right holder, based on the current fee payable for an interment right of the same kind.</p> <p>The fee that may be deducted by a relevant authority from a refund on the surrender of an interment right issued for a specified term, the amount of which is to be determined in accordance with a specific formula prescribed in the Act.</p>	<p>Act: 34.2, p22</p> <p>Regulations: 31, p13</p> <p>Schedule 1, p16</p>
	If the interment right holder has died who can exercise, or enforce the right	<p>If the interment right holder has died the interment right may be exercised, or enforced by:</p> <ul style="list-style-type: none"> <li>if an interment right is held by more than 1 person, it may be exercised, or enforced by the surviving holders, or</li> <li>the personal representative of the deceased being a person who is aged 18 year or more, or</li> <li>if there is no personal representative, person determined in accordance with the regulations</li> </ul> <p>If the holder of an interment right has died, the interment right may be exercised or enforced by:</p> <ul style="list-style-type: none"> <li>the spouse or domestic partner of the deceased interment right holder</li> <li>if there is no surviving spouse or domestic partner, by the eldest living relative of the deceased interment right holder in the following descending order of priority: <ul style="list-style-type: none"> <li>a child</li> <li>a grandchild, or great-grandchild</li> <li>a brother, or sister</li> <li>a parent</li> <li>a grandparent</li> <li>an aunt, uncle, nephew, niece, or cousin</li> <li>any other blood relative</li> </ul> </li> </ul>	<p>Act: 35, p22</p> <p>Regulations: 32, p13</p>

	Re-use of interment sites	<p>If an interment right expires the authority may:</p> <ul style="list-style-type: none"> <li>re-use the interment site to which the interment right related, and</li> <li>remove any memorial erected on, or at the site</li> </ul>	Act: 38.1, p23
	What to do prior to re-using a site	<p>The relevant authority cannot re-use a site unless:</p> <ul style="list-style-type: none"> <li>an advert has been taken out in a newspaper circulating throughout the State giving notice of the intent to re-use, and</li> <li>reasonable steps have been taken to give written notice of the intent to re-use to the personal representative of the deceased, and either: <ul style="list-style-type: none"> <li>the personal representative, or a relative of the deceased has advised there is no objection to the re-use, or</li> <li>2 years have elapsed since the notice to the personal representative, or relative and the interment right has not been renewed</li> </ul> </li> </ul> <p>What constitutes reasonable steps?</p> <ul style="list-style-type: none"> <li>if the interment was 50 years ago, is the personal representative going to be alive, or found, because they may have moved.</li> <li>what if you do not know of any relatives?</li> <li>check the monument for names and then try and trace those people through electoral roles , etc.</li> <li>the two years since the notice was served is not two years since the interment right expired</li> <li>you will need an audit trail to prove the process occurred</li> </ul>	Act: 38.2, p23

	What needs to be in the notice of intent to re-use?	<p>The advertisement, or notice must:</p> <ul style="list-style-type: none"> <li>• set out the rights to renewal of the interment right, and</li> <li>• inform the personal representative, or relative that if the interment right is not renewed, that the owner of the memorial to the deceased may reclaim it from the authority, and</li> <li>• inform the personal representative, or relative of the deceased that the site may be re- used, if the interment right has expired, and t</li> <li>• the personal representative, or a relative of the deceased has advised there is no objection to the re-use, or</li> <li>• 2 years have elapsed since the notice was given to the personal representative, or relative and the interment right has not been renewed</li> </ul>	<p>Act: 38.3, p23 Regulations: 33, p13</p>
	Register of interment rights	<p>The relevant authority must keep a register a register that:</p> <ul style="list-style-type: none"> <li>• identifies the person(s) whose remains are interred in the burial ground, including their full name and address</li> <li>• identifies the site in which the remains of each such person(s) are interred</li> <li>• records exhumations of any human remains in the interred burial ground</li> <li>• interment rights issued by the relevant authority, including the period of the interment rights</li> <li>• memorials erected in the cemetery, or burial ground</li> <li>• any other matters specified by the regulations</li> <li>• a plan of the cemetery or burial ground that shows <ul style="list-style-type: none"> <li>○ each site at which human remains are interred, and</li> <li>○ each site set aside for the interment of human remains</li> </ul> </li> </ul> <p>The form that the register must take is not defined. It is assumed that an electronic register is appropriate so long as it, or extracts of it can be printed.</p> <p>As there are provisions for retrospectivity of this legislation, if you do not have a register now you will need to create one for all sites that have been used in your cemetery.</p> <p>It is important to note that being a resident of a nursing home will be the last place of residence, irrespective of whether they have only been there for 12 months prior to their death and had previously lived in the family home for 50 years.</p>	<p>Act: 53.1, p29 Regulations: 36, p14</p>



		<p>It is suggested that the following also be recorded in the register, to save concerns later:</p> <ul style="list-style-type: none"> <li>the date of death</li> <li>the date the interment, or re-interment took place</li> <li>whether the remains interred, or re-interred were bodily remains: <ul style="list-style-type: none"> <li>where bodily remains are interred, whether the remains were interred or re-interred in a coffin, other receptacle, or in a shroud only, and</li> <li>the depth at which the remains were interred, or re-interred, or</li> <li>whether the remains were interred or re-interred within a mausoleum or vault</li> </ul> </li> <li>whether the remains interred cremated remains: <ul style="list-style-type: none"> <li>whether the remains were interred, or re-interred in a cinerary urn, or other container, or directly in the earth</li> </ul> </li> </ul>	
<b>Burial or Cremation</b>	Ownership of a burial site	The relevant authority for a cemetery, or natural burial ground must issue an Interment Right noting who the Interment Right has been issued to, and identifies the person(s) whose remains may be interred	Act: 30, p20
	Only two forms of disposal for human remains	Bodily remains only to be disposed of by burial or cremation	Act: 7, p2
	Dispose of bodily remains in a cemetery, or natural burial ground	It is an offence to dispose of bodily remains other than in a cemetery or natural burial ground	Act: 8.1, p8
	Establishment of cemetery	Subject to the Act any person may establish a cemetery	Act: 19, p14
	Establishment of mausoleum	The relevant Authority may establish a mausoleum within the cemetery	Act: 21, p15
	Interment in a mausoleum or vault	A mausoleum, or vault must constructed of brick, stone, concrete, or other material approved by the relevant cemetery authority	Act: 7, p7 Regulations: 18, p8
	Disposal outside of a cemetery, or natural burial ground	<p>Can be done with permission in a prescribed area:</p> <ul style="list-style-type: none"> <li>with permission of the land holder, and</li> <li>if in a council area with permission of the council, or</li> <li>in a prescribed area outside of a township or metro Adelaide Can also be done at sea with the approval of the Attorney-General</li> </ul>	Act: 8.2, p8

	Burial at sea	It is an offence to dispose of bodily remains without the appropriate approvals	Act: 8.3, p8
	What is a prescribed area	<p>A Prescribed area means:</p> <ul style="list-style-type: none"> <li>• an area outside a township or Metropolitan Adelaide, or</li> <li>• in a prescribed area in land outside a cemetery where the remains must be: <ul style="list-style-type: none"> <li>○ at a depth of at least 1 metre from the surface of the ground, and</li> <li>○ at a distance at least 20 metres from any building, structure, or water well on the land</li> </ul> </li> </ul>	Act: 8.4, p8 Regulations: 4, p2
	Offence to bury without identification	<p>A burial cannot occur unless identifying information is checked and recorded, including the:</p> <ul style="list-style-type: none"> <li>• certificate of cause of death, or a partial certificate of cause of death</li> <li>• a disposal authorisation</li> <li>• certificate of identification</li> <li>• name plate affixed to the coffin, including name, date of death and spelling</li> </ul> <p>It is necessary to check information on the nameplate prior to the burial being completed, to ensure the correct person is being interred. Identification needs to be completed by a member of the authority, or their nominated representative (other than the Funeral Director).</p>	Act: 12, p11 Regulations: 7.1, p4
	Particulars on a name plate for burial	<p>A burial cannot occur unless there is a name plate:</p> <ul style="list-style-type: none"> <li>• made of a durable material</li> <li>• with the surname</li> <li>• at least on given name (cannot be initials)</li> <li>• date of the death of the deceased</li> <li>• engraved, printed, or stamped on it</li> </ul> <p>The name plate must:</p> <ul style="list-style-type: none"> <li>• be affixed to the coffin, or</li> <li>• if no coffin placed on top of the remains</li> </ul>	Regulation: 17, p8
	Offence to cremate without a permit	Cannot cremate unless a permit has been issued by the Registrar	Act: 9.1, p8

	Offence to cremate without identification	Cannot cremate unless identifying information is checked and recorded: <ul style="list-style-type: none"> <li>the cremation permit</li> <li>the certificate of identification</li> </ul> The name plate affixed to the coffin	Act: 12, p11 Regulations: 7.2, p4
	Particulars on a name plate for cremation	Cannot cremate unless in a coffin which bears a name plate: <ul style="list-style-type: none"> <li>with the surname</li> <li>at least on given name (cannot be initials)</li> <li>date of the death of the deceased</li> </ul>	Regulation: 20.1c, p10
	Interment of cremated remains	Cannot inter cremated remains in a receptacle, unless there is a name plate: <ul style="list-style-type: none"> <li>made of a durable material; and</li> <li>with the surname</li> <li>at least on given name (cannot be initials)</li> <li>date of the death of the deceased</li> <li>engraved, printed, or stamped on it</li> <li>affixed to the outside of, or placed within the receptacle that contains the remains</li> </ul>	Regulations: 17.2, p8
	Scattering of cremated remains	No interment right is required for the scattering of cremated remains in a cemetery. The relevant authority may wish to create their own policy requiring permission	Act: 36
	Restricting interments in any part of the cemetery	The authority may restrict interments in any part of the cemetery, but this power does not allow the authority to breach the terms of an interment right	Act: 45, p26
	Depth of interment	Bodily remains must be interred so that none of the remains are less than 1 metre from the surface. This does not apply to mausoleums, or vaults	Regulations: 15, p8
	Filling of sunken graves	The relevant cemetery authority may require a sunken grave to be filled up to the level of the natural surface of the ground, for safety reasons	Regulations: 16, p8
	Perform a Lift and Deepen	Interment right holder may request a lift and deepen be performed	Act: 30.5, p21

<b>Multicultural</b>	Set aside part of a cemetery for a particular religion	This power exists and is not considered to be contrary to anti-discrimination laws	Act: 23, p15
	Multicultural needs	When establishing, administering, extending, or improving the cemetery the authority must have due regard to the customs and needs of the various ethnic and religious communities that <b>may</b> resort to the cemetery for the disposal of human remains. This only applies to existing cemeteries to the extent that it is reasonably practicable.	Act: 44, p25
<b>Memorials</b>	Who owns a memorial?	A memorial to a deceased person is the personal property of the person who holds the interment right, in respect of the interment site where the memorial is situated. This part of the Act applies to any memorial irrespective of when it was erected. The interment right holder (as the owner) is the one who can instruct that a memorial is erected (with Authority approval under the Act 30(4)) irrespective of who paid.	Act: 39, p24
	Who must maintain a memorial	Unless an agreement has been entered into with the authority, for the authority to maintain the memorial, it is the responsibility of the interment right holder (as the owner) to maintain the memorial. When a transfer of an interment right is effected, the ownership and responsibility for the memorial is also transferred.	Act: 40, p24
	Power to require repair, removal, or reinstatement of memorial	If a memorial becomes unsafe, then the authority may, in a form approved by the minister, give notice either personally or by post to the owner of the memorial requiring the repair, removal, or reinstatement of the of the memorial within the period specified in the notice. If there is an agreement for the authority to maintain the memorial, or if the cemetery is or forms part of a State heritage place, then this part of the Act does not apply.	Act: 41, p24
	What if the work is not carried out?	If the notice has been properly served the authority may carry out the work and treat the cost of such work as a debt recoverable from the owner. If there is an agreement for the authority to maintain the memorial, or if the cemetery is or forms part of a State heritage place, then this part of the Act does not apply.	Act: 41, p24
	What if the work is deemed as urgent?	If a memorial becomes unsafe and urgent action to repair, remove or reinstate the memorial is considered necessary, the authority can have the work carried out and then recover the cost from the owner. The authority will run the risk of not getting the debt paid, so it may be appropriate to do the minimum work required to make the monument safe and then notify the owner to take additional action.	Act: 41, p24

		If there is an agreement for the authority to maintain the memorial, or if the cemetery is or forms part of a State heritage place, then this part of the Act does not apply.	
	Register of memorials erected in the cemetery	<p>The authority must keep a register containing the prescribed particulars pertaining to memorials erected in the cemetery including the:</p> <ul style="list-style-type: none"> <li>• size of the memorial</li> <li>• type of memorial</li> <li>• name, or names inscribed on the memorial</li> <li>• any epitaphs and other inscriptions on the memorial</li> <li>• location of the memorial the cemetery</li> </ul> <p>It should be noted that the requirement to keep a record of the names inscribed on the memorial is not limited to the deceased persons interred at the site.</p> <p>This requirement should also be read in conjunction with the memorials disposed of records.</p>	<p>Act: 53.1 ii, p29 Reg: 36.2, p14</p>
	Record of disposal of unclaimed memorials	<p>Section 42 requires records to be kept regarding memorials disposed of including:</p> <ul style="list-style-type: none"> <li>• a digital photograph of the memorial that shows: <ul style="list-style-type: none"> <li>○ any inscriptions on the memorial</li> <li>○ the design of the memorial</li> <li>○ particulars of the previous location of the memorial within the cemetery</li> <li>○ if not evident from the digital photograph, details of the materials from which the memorial as made</li> </ul> </li> </ul>	<p>Act: 42, p24 Reg: 34, p13</p>
<b>Cemeteries</b>	Closing a cemetery	<p>The relevant authority for a cemetery may close the cemetery (or natural burial ground) if:</p> <ul style="list-style-type: none"> <li>• the cemetery, or natural burial ground is, or has become unsuitable for the disposal of human remains, or</li> <li>• 50 or more years have elapsed since human remains were last interred in the Cemetery, or natural burial ground</li> </ul> <p>In the case of a cemetery, or natural burial ground for which the council is the relevant authority, the Minister has to approve the closure.</p> <p>Sections 24 to 28 of the Act detail the requirements to close a cemetery and Sections 51 and 52 of the Act, detail the disposal of land formerly used, or designated for cemetery purposes.</p>	<p>Act: 24, p15</p>



## Quick Reference List: Burial and Cremation Act 2013 and Cremation Regulations 2014

		<p>The requirements are comprehensive and quite rigorous including, amongst other things, to prescribe to community consultation, preservation of memorials and retention of cemetery records.</p> <p>Closing a cemetery is a lengthy and difficult process and it is suggested that legal advice be sought before commencing such a process.</p>	
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