ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER C138

CREMATION ACT

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition consolidates—
Act 7/2014, in force 11 December 2014
Act 4/2017, in force 28 June 2017

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CREMATION ACT

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CREMATION ACT

Interpretation

1. In this Act—

"Coroner" means the person appointed pursuant to section 2 of the Coroners Act;

"cremated remains" means human remains that have been reduced to ashes by cremation;
(Act 4/2017, s. 2(a))

"cremation" means the reduction to ashes of human remains by burning;

"cremation permit" means a permit issued under section 12;

"crematorium" means a building fitted with appliances for the purpose of cremating human remains and includes everything incidental or ancillary thereto;

"Environmental Health Officer" has the same meaning as in the Public Health Act;
(Act 4/2017, s. 2(c))

"human remains" includes—

(a) a dead human body in its entirety in any stage of decomposition;

(b) a body of a stillborn infant in any stage of decomposition;

(c) a part of a human body that has been removed from a person or deceased person for medical purposes during treatment, surgery, biopsy, autopsy, or medical research, including the head, limbs, trunk, appendages, organs, tissue or cells; or

(d) cadavers imported under the Cadavers (Importation) Act, for medical research or instruction purposes;

but does not include cremated remains;

"Land Development Control Committee" means the committee established under section 2 of the Land Development (Control) Act;

"licence" means a licence to establish a crematorium;
(Act 4/2017, s. 2(b))

"licensed crematorium" means a crematorium that is licensed under section 3 of this Act;

"Medical Officer" means a person duly appointed or authorised to act as a Medical Officer under the Public Health Act;

"Minister" means the Minister with the responsibility for Health;

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"near relative", in relation to a deceased person, means—

(a) the spouse or common law partner of the deceased, but only if the spouse or common law partner was living with the deceased immediately before his death;

(b) a parent of the deceased;

(c) a child of the deceased who is aged 18 years or over; or

(d) any other relative of the deceased who usually resided with him;

"still-born" includes—

(a) any child which has issued forth from its mother after the 24th week of pregnancy and which did not at any time after being completely expelled from its mother, breathe or show any other signs of life; and

(b) whose birth has been registered pursuant to section 8 of the Registration of Births, Deaths and Marriages Act.

Licence required to establish a crematorium

2. A person shall not establish a crematorium except under and in accordance with a licence issued by the Minister under section 3.

(Act 4/2017, s. 3)

Requirements for a licence to establish a crematorium

3. (1) An applicant for a licence to establish a crematorium shall apply in the prescribed manner and must satisfy the Minister that—

(a) he has been granted permission by the Land Development Control Committee to—

(i) construct a crematorium,

(ii) use the site or proposed site as a crematorium, or

(iii) retrofit a building with appliances for the purposes of cremating human remains;

(b) he has erected and provided on the site, such buildings, fittings, works and apparatus as are necessary for the inoffensive, decent and effective cremation of human remains or in case the crematorium that is not already established, that the Land Development Control Committee has approved the plans and specifications of the proposed buildings;

(c) he is in receipt of certificate from the Environmental Health Office stating that the crematorium is fit for the inoffensive, decent and effective cremation of human remains; and

(d) he has paid the prescribed fee for the issuance of a licence.

(2) The Minister may, where he is satisfied that the requirements in subsection (1) have been met by an applicant, issue a licence to that applicant for the establishment of a crematorium.

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(3) After the applicant is granted the licence to establish a crematorium, the applicant shall apply for a business licence to carry on business as a crematorium as required by the Licensing of Businesses Act.

(Act 4/2017, s. 4)

Revocation of licence to operate a crematorium

4. The Minister may, by order of Executive Council, revoke a licence to carry on business as a crematorium issued under the Licensing of Businesses Act where—

(a) a licensee has been convicted of an offence against this Act and sentenced to imprisonment or fined;

(b) a crematorium operator fails to comply with section 9(1); or

(c) the licensees have lost the right to occupy the site of the crematorium;

and on revocation, the licence is invalid.

(Act 4/2017, s. 5)

Power to close crematorium

5. (1) Where a crematorium operator fails to comply with section 9(1), the Minister may by order of Executive Council, revoke the licence pursuant to section 4(b).

(2) Before exercising the power of revocation under section 4(b) the Minister shall notify the crematorium operator of his or her intention to do so and state the reasons in the notice.

(3) A notice under subsection (2) shall give the crematorium operator 30 days within which to cure the breach, in the absence of which the Minister shall proceed under subsection (1).

(4) The Minister may allow the crematorium to continue to operate during the 30 day period.

(5) Where the crematorium operator takes steps to cure the breach within the 30 day period, the Minister shall rescind the revocation.

(6) The closure of any crematorium shall be published in the *Gazette* and in a newspaper circulating in Anguilla.

(7) A crematorium operator may close a crematorium at any time, where the intention to do so and the effective date of closure are published, at least one month before the effective date of closure, in the *Gazette* and in a newspaper circulating in Anguilla.

(Act 4/2017, s. 6)

Authorisation of cremation

6. It is lawful to dispose of human remains by cremating those remains in accordance with this Act and the Regulations.

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Cremation in an unlicensed crematorium prohibited

7. A person shall not cremate, or be party to the cremation of, any human remains in any place other than in a licensed crematorium.

Cremation prohibited without a permit

8. A person shall not, without a cremation permit, cremate any human remains in a licensed crematorium.

Duty to maintain crematorium in good condition

9. (1) Every crematorium shall be—

(a) kept in a clean and sanitary order;

(b) maintained in good working order and condition; and

(c) properly staffed with a sufficient number of attendants.

(2) Every crematorium shall be open to inspection during working hours by Environmental Health Officers or other authorised officers assigned by the Permanent Secretary in the Ministry with responsibility for Health.

(Act 4/2017, s. 7)

Medical Officer to be satisfied on certain matters

10. (1) A Medical Officer shall not issue a cremation permit for the cremation of human remains—

(a) unless in relation to the deceased person—

(i) a certificate of cause of death has been provided pursuant to section 8 of the Registration of Births, Deaths and Marriages Act, or

(ii) where that deceased person died outside Anguilla, a certificate of cause of death provided under the law of the place where the deceased died; or

(b) unless he is satisfied that the applicant for the cremation permit is entitled or authorised to make the application.

(2) A Medical Officer shall not issue a cremation permit where the Medical Officer who gives the certificate referred to in subsection (1)(a) is—

(a) a near relative of the deceased;

(b) in a professional partnership with that Medical Officer; or

(c) himself.

(3) Where the Coroner has signified his intention to investigate the death of a deceased person, the Medical Officer shall not issue a cremation permit for the cremation of those human remains unless and until the Coroner gives a certificate in the prescribed form authorising him to grant the cremation permit.

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Cremation of still-born child

11. Notwithstanding section 10, where an application for a cremation permit in relation to the remains of a still-born child is made, the Medical Officer may issue the cremation permit if—

(a) a Medical Officer, other than himself, who was in attendance at the birth of the child certifies in writing that—

(i) the remains are those of a still-born child, and

(ii) the remains are not required to be submitted to post-mortem examination in accordance with the provisions of the Coroners Act; or

(b) he is satisfied after making such enquiries as he considers necessary that—

(i) the child, whose remains are the subject of the application, was in fact still-born,

(ii) there is, in his opinion, no reason for further examination, and

(iii) the remains are not required to be submitted to post-mortem examination in accordance with the provisions of the Coroners Act.

Cremation of a cadaver

12. Notwithstanding section 10, where an application for a cremation permit in relation to a cadaver is made, the Medical Officer may issue the cremation permit where he has ascertained that the cadaver was lawfully imported pursuant to the Cadavers (Importation) Act.

Notice to Registrar General of Births, Deaths and Marriages

13. (1) A Medical Officer who has issued a cremation permit shall notify the Registrar General of Births, Deaths and Marriages in writing within forty-eight hours, that the cremation permit has been issued.

(2) A person effecting a cremation shall notify the Registrar General of Births, Deaths and Marriages, in writing within ninety-six hours of such cremation of the date and place of the cremation.

No effect on the jurisdiction of the Coroner

14. Nothing in this Act shall interfere with the jurisdiction of a Coroner under the Coroner's Act.

Cremation deemed a funeral expense

15. Any fees and other expenses properly incurred in or in connection with the cremation of a deceased person, shall be deemed to be funeral expenses.

Powers under Act, etc., to be additional

16. The provisions of this Act shall be in addition to and not in derogation of any provisions contained in the—

(a) Public Health Act;

(b) Registration of Births, Deaths and Marriages Act; and

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(c) Cadavers (Importation) Act.

Offences

17. (1) Any person who contravenes sections 2, 7 or 8 is guilty of an offence and is liable on conviction on indictment to a fine of $50,000 or to imprisonment for 5 years or both.

(2) Any person who, with intent to conceal the commission or impede the prosecution of any offence, carries out or procures or attempts to procure the cremation of human remains or, with such intent, made any declaration or gives any certificate under this Act or the regulations, shall be liable on conviction on indictment to imprisonment for 5 years.

(3) Any person who wilfully makes a false representation, or signs or utters a false certificate, under this Act or the regulations with a view to procuring the cremation of human remains, shall be guilty of an offence and on summary conviction (in addition to any penalty or liability which he or she may otherwise incur) be liable to imprisonment for 6 months.

Regulations

18. (1) The Minister may make Regulations prescribing—

(a) the maintenance and inspection of crematoria;

(b) in what cases and under what conditions the cremation of any human remains may take place;

(c) the disposition or interment of the ashes;

(d) the forms of licences, permits and other documents to be issued under this Act and in what manner and form an application shall be made;

(e) the registration of such cremations of human remains as have taken place;

(f) the fees to be paid for the grant of a cremation permit;

(g) the issue and cancellation of a cremation permit to cremate human remains in a crematorium;

(h) the fees to be paid for the grant of a licence to establish a crematorium; and

(Act 4/2017, s. 8(a))

(i) any other matter relating to the administration and implementation of this Act.

(2) Regulations made under this section may provide that any person who contravenes the provision of such regulations is liable, on summary conviction, to a fine not exceeding $50,000 or to imprisonment for up to 5 years or both.

(3) Penalties imposed on any person under and by virtue of Regulations made under this section shall be in addition to and without prejudice to any liabilities or penalties which he or she may otherwise incur.

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Citation

19. This Act may be cited as the Cremation Act, Revised Statutes of Anguilla, Chapter C138.

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