

Australian Capital Territory

Cemeteries and Crematoria Code of Practice 2020

Disallowable instrument DI2020–242

made under the

Cemeteries and Crematoria Act 2020, section 123 (Code of Practice - approval)

1 Name of instrument

This instrument is the *Cemeteries and Crematoria Code of Practice 2020*.

2 Commencement

This instrument commences on the commencement of the *Cemeteries and Crematoria Act 2020*, section 3.

3 Approval of Code of Practice

I approve the attached “ACT Cemeteries and Crematoria Code of Practice 2020” as a code of practice.

Chris Steel MLA
Minister for City Services

13 August 2020

ACT
Cemeteries and
Crematoria

Code of Practice

2020

ACT Cemeteries and Crematoria Code of Practice 2020

1. Background

- 1.1 This Code of Practice (the Code) has been made under section 123 of the Cemeteries and Crematoria Act 2020 (the Act) and should be read in conjunction with the Act and any Regulations made under the Act.
- 1.2 The Code outlines the operating requirements that apply to all cemeteries and crematoria in the ACT, whether public or private.

Note Terms used in this code have the same meaning that they have in the *Cemeteries and Crematoria Act 2020* (see Legislation Act, s 148). For example, the following terms are defined in the *Cemeteries and Crematoria Act 2020*, dict:

- cemetery
- crematorium
- facility
- human remains

2. Right to Burial or Interment

- 2.1 A right to burial under section 8 of the Act includes the right to decide if a monument or memorial is placed or erected on the burial site; and the responsibility for any maintenance of the monument or memorial.
- 2.2 A right to interment under section 9 of the Act includes the right to decide if a monument or memorial is placed or erected on the burial site or interment site; and the responsibility for any maintenance of the monument or memorial.
- 2.3 An application for right to burial or right to interment may only be granted to the person who wishes to use that right. An undertaker or funeral director may not make application for, or on behalf, of a person. The licensee of a facility may refuse to set apart and grant to any person the right of burial or right of interment of ashes in more than one site. However, family estates, where a person may purchase at least two adjacent sites with multiple burials per grave, are allowed.
- 2.4 The licensee of a facility may, on being satisfied that a certificate of right to burial or right to interment of ashes has been lost or destroyed, issue a duplicate certificate.
- 2.5 The licensee of a facility may grant a person who is not the descendant or lawful successor of a person buried or interred at a burial or interment site in accordance with a right to burial or right to interment, the right to decide if a monument or memorial is placed at the site if –
 - (a) a substantial amount of time has passed since the burial or interment has occurred; and

- (b) reasonable steps have been taken by the licensee to inform the descendant or lawful successor of their right to decide if a monument or memorial is placed at the site; and
 - (c) the descendant or lawful successor has not arranged a monument or memorial.
- 2.6 The licensee of a facility may grant a person who is not a holder of a right to burial or right to interment, the right to replace or modify a monument or memorial placed at the burial or interment site in accordance with a right if –
- (a) the holder of the right to burial or right to interment for the site is deceased; and
 - (b) the person can supply appropriate evidence of their relationship to the person buried or interred at the site; and
 - (c) the person supplies a completed Statutory Declaration stating their relationship to the person buried or interred at the site and that there are no known objections to replacing or modifying the existing monument or memorial.

3. Maintenance of graves and vaults

- 3.1 Generally the licensee of a facility is not responsible for the maintenance of any grave, monuments or memorials. The holder of the right to burial or right to interment is responsible for the maintenance of a grave, monument or memorial unless they have paid the licensee of the facility a fee for the licensee to maintain them. If the holder of the right to burial or right to interment does not maintain a monument or memorial, then the licensee may remove any structures, which they deem a safety risk.

4. Design and construction of monuments etc.

- 4.1 A person shall not erect any building, monument, memorial, tombstone, gravestone, tablet, monumental inscription, mausoleum, vault, kerbing, railing or other structure in a facility unless the plans and particulars have been submitted to and approved in writing by the licensee of the facility.
- 4.2 Construction of vaults, mausoleums and other buildings above ground may need development approval. In addition, any monuments, memorials, tombstones, gravestones, or tablets that are greater than 1.8 m high (the measurement does not include the foundation), may need development approval under the *Planning and Development Act 2007*. The licensee of a facility must not approve the erection of any building, monument, memorial etc. that needs development approval unless it has development approval from the ACT Planning and Land Authority.

5. Removal, alterations or repair of monuments, inscriptions etc.

- 5.1 The licensee of a facility may remove, alter or repair any building, monument, memorial, tombstone, gravestone, tablet, monumental inscription, mausoleum, vault, kerbing, railing or other structure in a facility; or any inscription on the structure, that is, in their opinion, dangerous, unsightly, or in disrepair, or has not been erected in accordance with the plans and particulars approved by the licensee. Costs will be borne by the holder of the right of burial or interment.

6. Planting of trees, covering of graves, memorial areas etc.

- 6.1 The licensee of a facility may set apart a site as a lawn burial or interment area. In a lawn burial or interment area, a person must not erect or place any monument, tablet, gravestone, kerbing, railing, vessel, container (e.g. glass vases), statue, candle or any structure other than the standard tablet approved by the licensee.
- 6.2 In all other areas, a person must not, unless the licensee of a facility agrees in writing, plant a tree or shrub in a cemetery or memorial area; cover a grave with tiles, cement, chips or any other covering; place a vessel, statue or container on a grave; or place an inscription on a structure.
- 6.3 The licensee of a facility may set aside areas for commemorative purposes that do not involve the burial or interment of human remains.

7. Multiple burials in a grave or burial site

- 7.1 There may be multiple burials in a burial site in a cemetery. There must be at least 150mm between the top of one coffin or casket and the bottom of the next. The upper surface of a coffin or casket must be at least 900mm below the natural surface level of the soil where it is buried or have a 75mm concrete slab on top of the coffin or casket.

8. Rights of the head of religious denominations or other recognised group in relation to the portion of a facility set apart for that group

- 9.1 The recognised head of any religious denomination or other group with a specific part of a facility dedicated for it by the licensee of a facility has the following rights:
- 8.1.1 They may prohibit the performance of a service within the part of the facility set apart for their group by giving a written notice to the licensee. On receipt of this notice, the licensee of the facility must prevent the holding of services in that area.

- 8.1.2 They may object to a burial or interment or a grant of right to burial or interment in the part of a facility set apart for their group by writing to the licensee. The licensee of the facility must inform the applicant that an objection has been received and invite the applicant to submit a response to the objection. The licensee must consider the objection and the response to the objection when they are making a decision about whether to allow the burial or interment or granting the right to burial or interment. The licensee may also consult with other cultural leaders within the community or nationally when appropriate. If the objection remains valid, the licensee must refuse to allow the burial or interment or grant the exclusive right of burial.
- 8.1.3 They may object to the placing of any monumental design or inscription within the part of the facility set apart for their group. The licensee of the facility must inform the applicant that an objection has been received and invite the applicant to submit a response to the objection. The licensee must consider the objection and the response to the objection when they are making a decision about whether to allow the design or inscription. If the objection remains valid the licensee must prevent the design or inscription from being placed in that area, or if it is already in the area, ask the owner of the right to burial or right of interment to remove the design or inscription.

9. Content of coffins delivered for cremation

- 9.1 In addition to human remains, the following are acceptable contents of coffins for cremation:
- (a) coffin lining (must not be constructed of materials containing Poly-vinyl chloride (PVC));
 - (b) sheets, pillows, mattress (must not contain PVC and the mattresses must not be inner spring or latex-based rubber mattresses);
 - (c) body wrap/bag (must not contain PVC);
 - (d) shroud;
 - (e) clothing must not contain outer garments made wholly or principally of latex-based rubber or plastic (e.g. wet weather gear, fishing waders);
 - (f) footwear, such as shoes, sandals, slippers etc are acceptable, although rubber/plastic soles or uppers are not desirable (note - some heavier forms of footwear are not acceptable);
 - (g) embalming or temporary preservation fluid;
 - (h) radioactive injectable solutions;
 - (i) metal joints, pins, and plates;
 - (j) silicone implants;
 - (k) dental work including false teeth;

- (l) prosthetic limbs, callipers, plaster casts, although funeral directors must discuss these with the licensee of the crematorium to determine whether the particular bodily appliance will be acceptable and, if appropriate, the extent of body covered by a plaster cast;
- (m) spectacles and jewellery are acceptable but not recommended;
- (n) handbags are not recommended but acceptable if they do not contain PVC and they do not exceed 300 mm x 200 mm x 100 mm;
- (o) a single book of maximum dimensions 200 mm x 125 mm x 40 mm;
- (p) photographs without metal frames or glass; or
- (q) any other items comprised entirely of readily combustible materials that do not explode when subjected to heat or upon combustion generate temperatures, emissions, or residues that are unacceptable to the crematorium licensee.

9.2 The following are unacceptable contents of coffins for cremation:

- (a) cardiac defibrillator, battery powered;
- (b) cardiac pacemaker, battery powered;
- (c) drug infusion pump;
- (d) irradiated metal pellets;
- (e) metal walking stick;
- (f) any item containing poly-vinyl chloride (PVC) or latex-based rubber;
- (g) work boots, military boots, gumboots or similar;
- (h) any item containing metal or glass, other than those listed as acceptable content;
- (i) pathological waste (including infection-control gear, syringes, gauze) and materials used in preparation of the body for cremation;
- (j) fluid in any container, including a bottle or can containing alcohol;
- (k) any battery (whether or not implanted in the body), pressurised spray can and any other item, which explodes when, subjected to heat;
- (l) the body of any animal or bird (unless it has already been cremated);
- (m) any book, paper or paper products, other than those listed in acceptable content, and shredded paper in pillows and mattresses;
- (n) plastic and metal handles on coffins (these are to be removed before cremation); or
- (o) any other item that explodes when subjected to heat or upon combustion generates temperatures, emissions, or residues that are unacceptable to the crematorium licensee.

9.3 At the time of booking the cremation, the licensee of the crematorium should be made aware if the temperature of the body will be less than 4 degrees centigrade when it is delivered to the crematorium.

10. Handling of cremated remains

- 10.1 Crematorium staff should not open coffins. If the person who completed the application for cremation requests that the coffin be opened after the crematorium has accepted the coffin, the relevant funeral director should first be contacted.
- 10.2 The body and subsequent remains must be correctly identified throughout the cremation process. For example, this may be done by the coffin nameplate, code, tag or other form of identification being placed in a keeper on an external panel of the cremator to indicate in which compartment the relevant remains are located, or a non-combustible metal tag or disc, stamped with a unique number previously registered on the cremation documentation of the deceased, which accompanies the coffin and body into the cremator.