

Serial 97  
Burial and Cremation Bill 2019  
Mr McCarthy

A Bill for an Act to provide for the declaration and management of cemeteries for the burial of human remains and for the licensing and management of facilities for the disposal of human remains, and for related purposes



NORTHERN TERRITORY OF AUSTRALIA

BURIAL AND CREMATION ACT 2019

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Act No. [ ] of 2019

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# NORTHERN TERRITORY OF AUSTRALIA

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Act No. [ ] of 2019

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An Act to provide for the declaration and management of cemeteries for the burial of human remains and for the licensing and management of facilities for the disposal of human remains, and for related purposes

[Assented to [ ] 2019]  
[Introduced [ ] 2019]

**The Legislative Assembly of the Northern Territory enacts as follows:**

## **Part 1 Preliminary matters**

### **1 Short title**

This Act may be cited as the *Burial and Cremation Act 2019*.

### **2 Commencement**

This Act commences on the day fixed by the Administrator by *Gazette* notice.

### **3 Objects of Act**

The objects of this Act are:

- (a) to ensure human remains are treated with dignity and respect; and
- (b) to provide for different methods of burial and disposal of human remains; and
- (c) to accommodate different practices for and beliefs regarding the burial and disposal of human remains; and

- (d) to regulate cemeteries for the burial of human remains; and
- (e) to regulate facilities for the disposal of human remains.

#### 4 **Application of Act**

This Act does not apply to:

- (a) a cemetery or part of a cemetery controlled by the Commonwealth War Graves Commission incorporated by Royal Charter on 21 May 1917; or
- (b) a part of a human that has been or is intended to be disposed of following a medical or surgical procedure.

#### 5 **Definitions**

In this Act:

**Aboriginal community living area** means an area granted as an Aboriginal community living area under Part 8 of the *Pastoral Land Act 1992*, or the corresponding previous legislative provisions.

**Aboriginal community living area association**, see section 3 of the *Local Government Act 2008*.

**affected person**, see section 145(2).

**archives service**, see section 4 of the *Information Act 2002*.

**burial** includes:

- (a) burial in the ground; and
- (b) interment in a structure.

**burial approval**, see section 23(1).

**burial form**, see section 25.

**cemetery** means a cemetery declared by the Minister under section 11(1).

**cemetery plan**, see section 18.

**CEO** means the Chief Executive Officer of the Agency administering this Act.

**closed cemetery**, see section 96.

**community cemetery** means a class of cemetery declared under section 11(3)(b).

**compliance review** means a program mentioned in section 117.

**council**, for an area, means the local government council constituted for that area under the *Local Government Act 2008*.

**cremation** means the process of using fire and heat in a purpose-built industrial furnace to reduce human remains to ash.

**decision notice**, for a decision, means a written notice setting out:

- (a) the decision and the reasons for it; and
- (b) any right the person to whom the notice is to be given has, under this Act or another Act, to apply for a review of, or to appeal, the decision.

**disposal**, in relation to human remains, means disposal by:

- (a) cremation; or
- (b) any other process prescribed by regulation.

**disposal approval**, see section 80(1).

**disposal form**, see section 81.

**disposed remains** means human remains that have been reduced by cremation or any other process prescribed by regulation.

**enforcement order**:

- (a) for a cemetery – means an order issued under section 127; or
- (b) for a facility – means an order issued under section 135.

**exclusive right of burial** means a right mentioned in section 46(1).

**exhumation approval**, see section 59(4).

**facility** means:

- (a) a facility for cremation or any other process prescribed by regulation for the disposal of human remains; or
- (b) a type of facility prescribed by regulation for the disposal of human remains.

**funeral director** means a person who carries on the business of arranging for the burial of human remains or the disposal of human remains.

**grantee**, in relation to an exclusive right of burial, means the individual to whom an exclusive right of burial has been granted under section 46.

**human remains** means the body, or part of a body, of a deceased person, but does not include a body, or part of a body, that is cremated or undergoes any other process of disposal prescribed by regulation.

**independent cemetery** means a class of cemetery declared under section 11(3)(d).

**inspector** means an inspector appointed under section 113.

**local cemetery** means a class of cemetery declared under section 11(3)(c).

**location outside a cemetery**, for Part 3, Division 4, see section 38.

**manager**:

- (a) of a cemetery – see section 17; or
- (b) of a facility – see section 73.

**memorial** means a gravestone, headstone, tombstone, plaque, tablet, cenotaph or any other structure or permanent physical object used to memorialise a deceased person.

**next of kin**, see section 7.

**personal representative**, in relation to a grantee, means the person specified in section 49(1)(b).

**place of burial**, in a cemetery, means a particular:

- (a) grave; or
- (b) plot; or
- (c) section in a structure.

**premises** includes:

- (a) land; and
- (b) a permanent or temporary building or construction on land.

**provider**, see section 4(1) of the *Health and Community Services Complaints Act 1998*.

**public cemetery** means a class of cemetery declared under section 11(3)(a).

**responsible entity**:

- (a) for a cemetery – see section 16; or
- (b) for a facility – see section 72.

**reviewable decision**, see section 145(1).

**semi-closed cemetery**, see section 93.

**senior next of kin**, see section 8(1).

**structure**, whether natural or constructed, means a crypt or any other structure prescribed by regulation.

**suspended cemetery**, see section 131(1).

**suspension notice** means a notice issued under section 138.

*Note for section 5*

*The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.*

## **6 Meaning of land owner**

A **land owner** means the following:

- (a) if the land is a lot as defined in section 4 of the *Land Title Act 2000* – the registered owner of the lot;
- (b) if the land is Aboriginal land as defined by section 3(1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) – the relevant land trust for that Aboriginal land;
- (c) if the land is an Aboriginal community living area – the relevant Aboriginal community living area association or any other entity responsible for that area;
- (d) if the land is Crown land as defined by section 3 of the *Crown Lands Act 1992* – the Territory.

**7 Meaning of *next of kin***

A ***next of kin***, in relation to a deceased person, means any of the following people:

- (a) for a deceased person who was an Aboriginal or Torres Strait Islander person and who had strong cultural and traditional ties to a community or group – a person who, according to the customs and tradition of the community or group to which the person belonged, is appropriate to perform that role;
- (b) a spouse;
- (c) a de facto partner;
- (d) a child of or above 18 years of age;
- (e) a parent;
- (f) a sibling of or above 18 years of age.

**8 Meaning of *senior next of kin***

(1) A ***senior next of kin***, in relation to a deceased person, means one of the following people in descending order:

- (a) for a deceased person who was an Aboriginal or Torres Strait Islander person and who had strong cultural and traditional ties to a community or group – a person who, according to the customs and tradition of that community or group to which the person belonged, is appropriate to perform that role;
- (b) for a deceased person not mentioned in paragraph (a) who was both married and in a de facto relationship, immediately before death:
  - (i) if the deceased person was in a continuous de facto relationship for at least the 2 years immediately before death and the deceased person did not at any time during those 2 years live with the deceased person's spouse – the deceased person's de facto partner; or
  - (ii) if the deceased person had a child with the deceased person's de facto partner – the deceased person's de facto partner; or
  - (iii) in any other case – the deceased person's spouse;



- (c) for a deceased person not mentioned in paragraph (a) who was, immediately before death, married – the deceased person's spouse;
- (d) for a deceased person not mentioned in paragraph (a) who was, immediately before death, in a de facto relationship – the deceased person's de facto partner;
- (e) if paragraphs (a) to (d) do not apply – the deceased person's eldest child of or above 18 years of age who can be contacted within a reasonable period;
- (f) if paragraphs (a) to (e) do not apply – the deceased person's parent;
- (g) if paragraphs (a) to (f) do not apply – the deceased person's eldest sibling of or above 18 years of age who can be contacted within a reasonable period;
- (h) if paragraphs (a) to (g) do not apply – a person who:
  - (i) immediately before the death of the deceased person, had a relationship with the deceased person; and
  - (ii) in the opinion of the manager of a cemetery or the manager of a facility, is an appropriate person to make the decision.

*Note for subsection (1)(e)*

*If the eldest child cannot be contacted within a reasonable period, the next eldest child of or above 18 years of age who can be contacted is the senior next of kin for the deceased person.*

*Note for subsection (1)(g)*

*If the eldest sibling cannot be contacted within a reasonable period, the next eldest sibling of or above 18 years of age who can be contacted is the senior next of kin for the deceased person.*

- (2) Despite the seniority order mentioned in subsection (1), a senior next of kin must be the person in the most senior order:
  - (a) that has not been certified as mentally unfit; and
  - (b) who can be contacted within a reasonable period.
- (3) A person is certified as mentally unfit if 2 medical practitioners have certified that the person is mentally unfit.

**9 NTCAT may determine senior next of kin**

- (1) A person mentioned in section 8(1) may apply to NTCAT for a determination of the senior next of kin for the deceased person.
- (2) NTCAT must consider the following in determining the senior next of kin:
  - (a) the hierarchy of people mentioned in section 8(1);
  - (b) if 2 or more people have equal status as the senior next of kin because of their standing under section 8(1)(a), (f) or (h) – whether any of those people would provide to NTCAT an undertaking that they will organise and pay any relevant cost for the burial or disposal of the deceased person;
  - (c) if 2 or more people have equal status as the senior next of kin because of their standing under section 8(1)(f) or (h) – the nature of the relationship of each of those people to the deceased person immediately before death.
- (3) NTCAT, after determining the application, may:
  - (a) order that a person is the senior next of kin for the deceased person; and
  - (b) make any other order NTCAT considers appropriate.
- (4) Section 140 of the *Northern Territory Civil and Administrative Tribunal Act 2014* does not apply to a decision of NTCAT under this section.

**10 Application of Criminal Code**

Part IIAA of the Criminal Code applies to an offence against this Act.

*Note for section 10*

*Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.*

## **Part 2 Cemeteries**

### **Division 1 Classes of cemeteries**

#### **11 Declaration of cemetery**

- (1) The Minister may, by *Gazette* notice, declare an area of land to be a cemetery.
- (2) Before declaring an area of land to be a cemetery, the Minister must have regard to any matters prescribed by regulation relating to the declaration of a cemetery.
- (3) The notice must specify the cemetery as one of the following classes of cemetery:
  - (a) a public cemetery;
  - (b) a community cemetery;
  - (c) a local cemetery;
  - (d) an independent cemetery.
- (4) The notice must specify the following details:
  - (a) the name of the cemetery;
  - (b) the responsible entity for the cemetery;
  - (c) the location of the cemetery.
- (5) The Minister must not declare a community cemetery or a local cemetery unless the Minister is satisfied that there is one of the following documents:
  - (a) a lease between the land owner and the prospective responsible entity for the land to be used as a cemetery;
  - (b) a sublease between the sublessor and the prospective responsible entity for the land to be used as a cemetery;
  - (c) a licence issued by the land owner to the prospective responsible entity for the land to be used as a cemetery;
  - (d) written consent from the land owner for the land to be used as a cemetery;

- (e) an agreement executed between the Executive Director of Township Leasing and the prospective responsible entity that allows the land to be used as a cemetery.
- (6) The Minister must table a copy of the notice in the Legislative Assembly within 6 sitting days after the notice has been published in the *Gazette*.

- (7) In this section:

***Executive Director of Township Leasing***, see section 20B of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

## **12 Agency to keep register of cemeteries**

- (1) The Agency must establish and maintain a register of cemeteries declared by the Minister under section 11(1).
- (2) A copy of the register must be available on the Agency's website.

## **Division 2 Minister may change or revoke declaration**

### **13 Minister may change details of cemetery**

- (1) The Minister may, by *Gazette* notice, change the following details of a cemetery:
  - (a) the name of the cemetery;
  - (b) the responsible entity for the cemetery;
  - (c) the location of the cemetery.
- (2) Before the Minister changes the details of a cemetery under subsection (1), the Minister must have regard to any matters prescribed by regulation relating to changing the details of a cemetery.
- (3) Further, before the Minister changes the responsible entity for a community cemetery or a local cemetery under subsection (1)(b), the Minister must be satisfied there is one of the documents mentioned in section 11(5) for the new responsible entity.
- (4) The Minister must table a copy of the notice in the Legislative Assembly within 6 sitting days after the notice has been published in the *Gazette*.

#### **14 Minister may change class of cemetery**

- (1) The Minister may, by *Gazette* notice, change the class of a cemetery.
- (2) The notice must specify who is the responsible entity for the cemetery.
- (3) Before the Minister changes the class of a cemetery under subsection (1), the Minister must have regard to any matters prescribed by regulation relating to changing the class of a cemetery.
- (4) Further, any change in a class of cemetery is subject to the conditions mentioned in section 11(5).
- (5) The Minister must table a copy of the notice in the Legislative Assembly within 6 sitting days after the notice has been published in the *Gazette*.

#### **15 Minister may revoke declaration of cemetery**

- (1) If there are no human remains interred in a cemetery, the Minister may, by *Gazette* notice, revoke the declaration of the cemetery.
- (2) The notice must specify the following details:
  - (a) the name of the cemetery;
  - (b) the location of the cemetery;
  - (c) the responsible entity for the cemetery;
  - (d) the date the revocation takes effect.
- (3) The Minister must table a copy of the notice in the Legislative Assembly within 6 sitting days after the notice has been published in the *Gazette*.

### **Division 3 Management of cemeteries**

#### **16 Responsible entity for cemetery**

- (1) The ***responsible entity for a cemetery*** is as follows:
  - (a) for a public cemetery or a community cemetery located in a council area – the council;

- (b) for a public cemetery or a community cemetery located outside a council area – the entity specified in the notice under section 11(1);
  - (c) for an independent cemetery – the entity specified in the notice under section 11(1);
  - (d) for a local cemetery – the Aboriginal corporation, Aboriginal community living area association or entity specified in the notice under section 11(1).
- (2) The responsible entity for a cemetery must manage and control the cemetery.
- (3) The responsible entity has the following functions:
- (a) to ensure that burials of human remains and exhumations in the cemetery are undertaken in accordance with this Act;
  - (b) to establish and maintain the registers that are required under this Act;
  - (c) to establish and maintain records of burials and exhumations undertaken in the cemetery;
  - (d) to ensure that the burial register is accessible to the public in accordance with this Act or another Act;
  - (e) to establish a cemetery plan for the cemetery;
  - (f) to establish cemetery policies for the cemetery;
  - (g) to ensure that there is access to equipment to undertake burials and exhumations in the cemetery;
  - (h) to ensure that the cemetery is accessible to the public;
  - (i) to care for and maintain the cemetery;
  - (j) to fund the maintenance of the cemetery;
  - (k) any other functions conferred on the responsible entity under this Act or another Act.
- (4) In exercising a power or function under this Act, the responsible entity must have regard to the following:
- (a) if the cemetery serves a particular cultural or religious community – the values of that community;
  - (b) the heritage value of the cemetery;

- (c) the most efficient way of maintaining the cemetery.

## 17 Manager of cemetery

- (1) The **manager of a cemetery** is as follows:
  - (a) for a public cemetery or a community cemetery – the chief executive officer of the council for the area where the cemetery is located;
  - (b) for a public cemetery or a community cemetery located outside a council area – the chief executive officer of the responsible entity;
  - (c) for an independent cemetery or a local cemetery – the chief executive officer of the responsible entity.
- (2) If the responsible entity for a cemetery mentioned in subsection (1)(b) or (c) does not have a chief executive officer, the manager of the cemetery is the person employed in the position equivalent to a chief executive officer for that responsible entity.
- (3) The responsible entity for a cemetery must notify the Agency of the following information regarding the manager of the cemetery:
  - (a) the full name of the manager;
  - (b) the contact details of the manager.
- (4) A notification under subsection (3) must be in writing and occur as soon as reasonably practicable.

## 18 Cemetery plans

- (1) The responsible entity for a cemetery must establish and maintain a cemetery plan for the cemetery (a **cemetery plan**).
- (2) A cemetery plan must include the following information:
  - (a) the layout of the cemetery that identifies any portion of the cemetery for specific use;
  - (b) the types of burials available in the cemetery;
  - (c) any policy or other matter prescribed by regulation.
- (3) If the responsible entity for a cemetery has not yet established a cemetery plan under subsection (1), a burial approval may still be given to bury human remains in the cemetery.

**19 Public opening hours of cemetery**

A cemetery must be open to the public for a minimum of 8 hours a day.

**20 Fees for cemetery services**

- (1) The amount of any fees charged by the responsible entity for a cemetery must be shown as itemised fees.
- (2) Any fee charged by the responsible entity for a community cemetery or a local cemetery must be reasonable.

**21 Information to be publicly available**

- (1) The responsible entity for a cemetery must ensure that the following information is available on the responsible entity's website:
  - (a) the cemetery plan;
  - (b) general information relating to the cemetery including the public opening hours of the cemetery;
  - (c) details of the application process for a burial approval;
  - (d) if available at the cemetery – details of the application process for an exclusive right of burial;
  - (e) the amount of any fees charged by the responsible entity and shown in accordance with section 20(1);
  - (f) any other information prescribed by regulation.
- (2) Subsection (1) does not apply in relation to a local cemetery.

**22 Information to be displayed at cemetery**

The responsible entity for a cemetery must ensure that the following information is displayed at the cemetery:

- (a) the name of the cemetery;
- (b) the contact details of the responsible entity;
- (c) for a public cemetery – the public opening hours of the cemetery.



## Part 3 Burials

### Division 1 Burials within cemetery

#### 23 Burial approval

- (1) The manager of a cemetery may approve the burial of human remains in the cemetery (a **burial approval**).
- (2) The burial approval may be given subject to any conditions that the manager considers appropriate.
- (3) A person may apply to the manager for a burial approval by submitting:
  - (a) the following details regarding the applicant:
    - (i) full name, address and contact details;
    - (ii) relationship to the deceased person; and
  - (b) a burial form; and
  - (c) one of the following documents:
    - (i) a notice under section 34(1) of the *Births, Deaths and Marriages Registration Act 1996*;
    - (ii) a certificate issued by the coroner or the coroner's clerk under section 17(1) of the *Coroners Act 1993*.

*Note for subsection (3)*

*Part 3, Division 2 includes other provisions relevant to an application.*

- (4) Despite subsection (3), the manager of a cemetery may not apply for a burial approval under subsection (3) to bury human remains in that cemetery.
- (5) The manager may request a copy of the notice mentioned in subsection (3)(c)(i) from a provider if the notice is not submitted under subsection (3).
- (6) If the manager requests a copy of the notice under subsection (5), the provider must provide a copy of the notice to the manager unless the provider does not have access to the notice.
- (7) A manager may refuse to give a burial approval.

- (8) If a manager refuses to give a burial approval, the manager must give the applicant a decision notice.

*Note for subsection (8)*

*The Northern Territory Civil and Administrative Tribunal Act 2014 sets out the requirements of a decision maker after the decision maker has made a reviewable decision under this Act.*

## **24 Conditions on burial approval**

- (1) If the manager of a cemetery has given a burial approval subject to a condition under section 23(2), the applicant must comply with the condition.
- (2) The applicant may, in writing, request the manager to vary or remove any condition of a burial approval.
- (3) The manager must consider the following when making a decision to vary or remove any condition of a burial approval:
- (a) whether the condition is consistent with the objects of this Act;
  - (b) whether the condition is consistent with the matters mentioned in section 16(4).
- (4) If the manager approves a request to vary or remove a condition of a burial approval, the manager must give a new burial approval under section 23(1).
- (5) If the manager does not approve a request to vary or remove any condition on a burial approval, the manager must give the applicant a decision notice.

*Note for subsection (5)*

*The Northern Territory Civil and Administrative Tribunal Act 2014 sets out the requirements of a decision maker after the decision maker has made a reviewable decision under this Act.*

## **25 Burial form**

A **burial form** must include the following information about the deceased person, if known:

- (a) full name;
- (b) sex or gender;
- (c) date of birth;
- (d) country of birth;

- (e) date of death;
- (f) place of death;
- (g) address of residence immediately before date of death;
- (h) last occupation before death;
- (i) marital status;
- (j) any other information prescribed by regulation.

**26 Burial approval given without complete application**

- (1) A person commits an offence if:
- (a) the person receives an application under section 23(3); and
  - (b) the application does not contain the details and documents mentioned in section 23(3); and
  - (c) the person gives a burial approval for that application.

Maximum penalty: 50 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

**27 Burial without approval**

- (1) A person commits an offence if:
- (a) the person intentionally buries human remains; and
  - (b) the human remains are buried in a cemetery; and
  - (c) a burial approval was not given for the burial of those human remains.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(b) and (c).

**28 Interment in structure**

A person must not inter human remains in a structure unless the human remains are interred in accordance with the Regulations.

## **29 Manner and conduct of burial**

- (1) The responsible entity for a cemetery must not require that human remains are to be buried in the ground in a certain manner other than wrapped in a shroud.

*Example for subsection (1)*

*The responsible entity for a cemetery must not require that human remains are to be placed into a coffin for burial in the ground.*

- (2) Despite subsection (1), if the Chief Health Officer has made guidelines under section 149 regarding the manner of burial of human remains, the responsible entity must require that human remains are buried in accordance with the guidelines.
- (3) The responsible entity for a cemetery, except for an independent cemetery, must not require a burial to be conducted by a funeral director.
- (4) The Regulations may prescribe further requirements for the manner or conduct of a burial in a cemetery.

## **30 Multiple burials or internments**

- (1) The manager of a cemetery may authorise multiple burials at a place of burial.
- (2) A person must not bury human remains from multiple deceased persons in a particular grave or plot unless the human remains are buried in accordance with the requirements of section 45.
- (3) A person must not inter human remains from multiple deceased persons in a section of a structure unless the human remains are interred in accordance with the Regulations.

## **31 Register of burials**

- (1) The responsible entity for a cemetery must establish and maintain a register of the burials of human remains that occur in the cemetery.
- (2) The register must include the following information regarding each burial in the cemetery:
  - (a) the information mentioned in section 25;
  - (b) the date of burial;
  - (c) the plot number, GPS coordinates or other means of locating the place of burial;
  - (d) the type of burial;

- (e) the depth of the human remains below ground level, if applicable;
- (f) the name of the person who officiated at the ceremony, if any;
- (g) the name of the funeral director or any other person that arranged the burial, if any;
- (h) descriptive details of any memorial erected at the place of burial;
- (i) the date of erection of any memorial at the place of burial, if known;
- (j) if the human remains have been exhumed after a burial – the information required by section 64;
- (k) any other information prescribed by regulation.

### **32            Inspection of register of burials**

- (1) The manager of a cemetery must:
  - (a) allow the executor or administrator of the estate of a deceased person or any next of kin of a deceased person to inspect the register of burials for the entry of the deceased person; and
  - (b) on request, provide a copy or summary of information in the register for the entry of a deceased person to the executor or administrator of the estate of the deceased person or any next of kin of the deceased person.
- (2) The manager of a cemetery must:
  - (a) allow an Agency to inspect the register; and
  - (b) on request, provide a copy or summary of information in the register to an Agency.
- (3) If a person or an organisation has an adequate reason for wanting to inspect the register, the manager of a cemetery may allow the person or the organisation to inspect the register.
- (4) If a person or an organisation has an adequate reason for wanting a copy or summary of information in the register, the manager of a cemetery may, on request of the person or organisation, provide a copy or summary of information in the register to the person or organisation.

- (5) In deciding whether a person or an organisation has an adequate reason for wanting to inspect the register or wanting a copy or summary of information in the register, the manager must have regard to the following:
- (a) the nature of the person's or organisation's interest;
  - (b) the sensitivity of the information;
  - (c) the use to be made of the information;
  - (d) the need to protect the deceased person about whom the information is sought from unjustified intrusion of the deceased person's privacy;
  - (e) any other considerations prescribed by regulation.
- (6) The following must be done in accordance with any policy determined by the responsible entity for a cemetery:
- (a) an inspection of the register under subsection (1)(a) or (3);
  - (b) the production of a copy or summary of information in the register under subsection (1)(b) or (4).

### **33 Fees regarding register of burials**

The responsible entity for a cemetery may determine and charge a fee for the following:

- (a) the inspection of the register of burials under section 32(3);
- (b) the production of a copy or summary of information in the register under section 32(1)(b) or (4).

## **Division 2 Interstate and overseas deaths**

### **34 Interstate deaths**

If a person dies in another State or Territory, a document that satisfies the requirements for burial of human remains in that State or Territory may be used instead of a document mentioned in section 23(3)(c).

### **35 Overseas deaths**

- (1) If a person dies outside Australia, any of the following documents may be used instead of a document mentioned in section 23(3)(c):
  - (a) a death certificate issued by a person legally authorised to do so in the place where the death occurred;
  - (b) a notice under a law in force in the place where the death occurred that is equivalent to a notice issued under section 34(1) of the *Births, Deaths and Marriages Registration Act 1996*, stating the cause of death;
  - (c) a certificate issued by a coroner or a person or entity equivalent to a coroner in the place where the death occurred.
- (2) If a document mentioned in subsection (1) is in a language other than English, the following documents must be submitted:
  - (a) the document;
  - (b) a certified translation of the document into English language.
- (3) If none of the documents mentioned in subsection (1) are able to be provided, any of the following documents may be used instead:
  - (a) a certificate of cause of death issued by a medical practitioner after a post-mortem examination is performed;
  - (b) a certificate from an Australian coroner stating that:
    - (i) no further examination of the human remains is necessary; and
    - (ii) there is no reason not to dispose of the human remains in a lawful manner.

## **Division 3 Memorials within public cemetery**

### **36 Application for authorisation to erect memorial**

- (1) Before erecting a memorial in a public cemetery, a person must, in writing, apply to the manager of the cemetery for authorisation to erect a memorial in the cemetery.
- (2) The manager may authorise the erection of the memorial in accordance with any policy determined by the responsible entity.
- (3) The manager may authorise the erection of the memorial subject to any conditions the manager considers appropriate.

- (4) If the manager has authorised the erection of the memorial subject to any conditions under subsection (3), the applicant must comply with those conditions.
- (5) If there is an exclusive right of burial at a place of burial, the manager must not authorise the erection of a memorial at that place unless:
  - (a) the grantee of the exclusive right of burial has provided consent to the erection of the memorial; or
  - (b) if the grantee of the exclusive right of burial is deceased – the person mentioned in section 50(1) has provided consent to the erection of the memorial.

### **37 Requirement to repair memorial**

- (1) If a memorial in a public cemetery becomes unsafe, the responsible entity for the cemetery may, by written notice, require the person who applied for authorisation to erect the memorial, to repair, remove or reinstate the memorial within a reasonable period specified in the notice.

*Note for subsection (1)*

*The responsible entity must provide all the options (repair, remove or reinstate a memorial) to the applicant.*

- (2) A notice under subsection (1) must also state that the applicant may apply to NTCAT for a review of the requirement made in subsection (1).

*Note for subsection (2)*

*The Northern Territory Civil and Administrative Tribunal Act 2014 sets out the requirements of a decision maker after the decision maker has made a reviewable decision under this Act.*

- (3) If the work required under subsection (1) is not carried out within the period specified in the notice, the responsible entity may carry out the required work.
- (4) If a memorial in a public cemetery becomes unsafe or is damaged due to the actions of the responsible entity for the cemetery, the responsible entity:
  - (a) must make reasonable attempts to provide, by written notice, information to the applicant for that memorial:
    - (i) on the state of the memorial; and



- (ii) on the responsible entity's plan to repair or reinstate the memorial within a reasonable period; and
- (b) must repair or reinstate the memorial within a reasonable period; and
- (c) must not recover costs from the applicant.
- (5) The applicant may, in writing, waive the requirement of the responsible entity to repair or reinstate a memorial under subsection (4).
- (6) If the applicant waives the requirement of the responsible entity to repair or reinstate a memorial under subsection (5), the responsible entity must remove the memorial.
- (7) A written notice under subsection (1) or (4) is not required if:
  - (a) a memorial in a public cemetery becomes unsafe; and
  - (b) urgent action to repair, remove or reinstate the memorial is considered necessary by the responsible entity.
- (8) The responsible entity for the cemetery may carry out the work mentioned in subsection (7)(b).
- (9) In this section:

***unsafe***, in relation to a memorial, means likely to cause physical danger to a person.

#### **Division 4 Burials outside cemetery**

##### **38 Definition**

In this Division:

***location outside a cemetery*** includes a suspended cemetery.

##### **39 Burial outside cemetery**

- (1) The CEO may approve the burial of human remains at a location outside a cemetery.
- (2) The approval may be given subject to any conditions that the CEO considers appropriate.

- (3) A person may apply to the CEO for an approval mentioned in subsection (1) by submitting the following:
- (a) the details and documents mentioned in section 23(3);
  - (b) any objections, known to the applicant, from the executor or administrator of the estate of the deceased person or any next of kin of the deceased person to the burial of the human remains at a location outside a cemetery;
  - (c) any other information or document prescribed by regulation.
- (4) The CEO must:
- (a) be satisfied that there is consent from the land owner and any relevant lessee for the burial of human remains on that land; and
  - (b) have regard to any matter prescribed by regulation when making a decision to approve a burial of human remains at a location outside a cemetery.
- (5) The CEO may refuse to give an approval under subsection (1).
- (6) If the CEO refuses to give an approval, the CEO must give the applicant a decision notice.

*Note for subsection (6)*

*The Northern Territory Civil and Administrative Tribunal Act 2014 sets out the requirements of a decision maker after the decision maker has made a reviewable decision under this Act.*

#### **40 Burial outside cemetery without approval**

- (1) A person commits an offence if:
- (a) the person intentionally buries human remains; and
  - (b) the human remains are buried at a location outside a cemetery; and
  - (c) an approval under section 39(1) has not been given for the burial of the human remains.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(b) and (c).

#### **41 Contravention of approval**

- (1) A person commits an offence if:
- (a) an approval mentioned in section 39(1) has been given to a person; and
  - (b) the approval is subject to a condition under section 39(2); and
  - (c) the person intentionally engages in conduct; and
  - (d) the conduct results in a contravention of the condition and the person is reckless in relation to that result.

Maximum penalty: 100 penalty units.

- (2) Strict liability applies to subsection (1)(a) and (b).

#### **42 Objection to burial outside cemetery**

- (1) The following persons may object to the burial of human remains of a deceased person at a location outside a cemetery:
- (a) the executor or administrator of the estate of the deceased person;
  - (b) any next of kin of the deceased person.
- (2) The objection mentioned in subsection (1) must:
- (a) be in writing; and
  - (b) state the applicant's relationship to the deceased person; and
  - (c) state the reasons for the objection; and
  - (d) be submitted to the CEO before the CEO makes a decision under section 39(1).

#### **43 Information about burial outside cemetery**

- (1) A person given an approval under section 39(1) must provide the following information to the Agency regarding the burial:
- (a) the approval number;
  - (b) the GPS coordinates of the place where the human remains are buried;
  - (c) the date of burial;

- (d) if the human remains are buried in the ground – the depth of the human remains below ground level;
  - (e) details about how the human remains are buried;
  - (f) the name of the person who officiated at the ceremony, if any;
  - (g) the name of the funeral director or any other person who arranged the burial, if any;
  - (h) descriptive details of any memorial erected at the place where the human remains are buried;
  - (i) the date of erection of any memorial at the place where the human remains are buried, if known;
  - (j) any other information prescribed by regulation.
- (2) If the GPS coordinates mentioned in subsection (1)(b) cannot be provided, a map indicating the location of the burial may be provided instead.
- (3) The person must provide the information mentioned in subsection (1) to the Agency within 30 days after the burial occurred.
- (4) If human remains are buried at a location outside a cemetery, the Agency must provide the appropriate information for the record of administrative interests kept under section 38 of the *Land Title Act 2000* to the Registrar-General.

#### **44            Register of burials outside a cemetery**

- (1) The Agency must establish and maintain a register of burials located outside a cemetery.
- (2) The register must include the following:
- (a) the information mentioned in section 25;
  - (b) the information provided under section 43(1).
- (3) The CEO must, on request of the following persons, give the persons a copy or summary of information in the register for an entry of a deceased person:
- (a) the executor or administrator of the estate of the deceased person;
  - (b) any next of kin of the deceased person.

- (4) If a person or an organisation has an adequate reason for wanting a copy or summary of information in the register, the CEO may, on request of the person or organisation, provide a copy or summary of information in the register to the person or organisation.
- (5) In deciding whether a person or an organisation has an adequate reason for wanting to be given a copy or summary of information in the register, the CEO must have regard to the following:
  - (a) the nature of the person's or organisation's interest;
  - (b) the sensitivity of the information;
  - (c) the use to be made of the information;
  - (d) the need to protect the deceased person about whom the information is sought from unjustified intrusion of the deceased person's privacy;
  - (e) any other considerations prescribed by regulation.
- (6) The CEO may allow a person to inspect the register if the CEO considers it appropriate to do so.
- (7) The CEO may determine and charge a fee for the production of a copy or summary of information in the register under subsection (4).

## **Division 5            Depth of burial**

### **45            Depth of burial within cemetery and outside cemetery**

- (1) Human remains that are buried in the ground must be completely covered by soil that is at least 1 m deep at its shallowest point.
- (2) If it is not reasonably practicable to comply with subsection (1), human remains that are buried in the ground must be completely covered by:
  - (a) a layer of stone, concrete or similar material impervious to water, which is at least 50 mm thick and placed directly over the remains; and
  - (b) soil that is at least 500 mm deep at its shallowest point.

## **Part 4 Exclusive rights of burial in cemetery**

### **Division 1 Rights of burial generally**

#### **46 Grant of exclusive right of burial**

- (1) An exclusive right of burial entitles the grantee to the exclusive right to bury any human remains at a specific place of burial in a cemetery.
- (2) In accordance with the responsible entity's policy, the manager of a cemetery, on payment of the relevant fee, may grant to an individual an exclusive right of burial in that cemetery.
- (3) A particular exclusive right of burial cannot be granted:
  - (a) to more than one individual; or
  - (b) for a specific place of burial if human remains are already buried at that place of burial.
- (4) An exclusive right of burial may be granted subject to any conditions that the manager specifies in the right.
- (5) The responsible entity may determine and charge a fee for an exclusive right of burial.

#### **47 Certificate of grant of exclusive right of burial**

- (1) If the manager of a cemetery grants an exclusive right of burial, the manager must issue to the grantee a certificate of the grant.
- (2) If the grantee has specified any information under section 49(1)(b), (c) or (d) for an exclusive right of burial, the manager must record that information on the certificate.

#### **48 Duration of right**

An exclusive right of burial expires after 50 years or any shorter period specified on the certificate issued under section 47(1).

*Note for section 48*

*Part 4, Division 3 sets out the process for the expiry and renewal of an exclusive right of burial.*

**49 Entitlements of exclusive right of burial**

- (1) The grantee is entitled to do the following in relation to an exclusive right of burial:
  - (a) bury human remains in accordance with a burial approval at the place of burial in respect of which the right was granted;
  - (b) specify a personal representative for the exercise of the right once the grantee is deceased;
  - (c) specify persons to be buried at the place of burial in respect of which the right was granted;
  - (d) specify any conditions for the exercise of the right upon the death of the grantee.
- (2) If a grantee has specified any information under subsection (1)(b), (c) or (d), the grantee may amend that information from time to time.
- (3) A grantee is the only person who has the entitlement to specify or amend any information in subsection (1)(b), (c) or (d).

**50 Exercise of exclusive right of burial**

- (1) If the grantee of an exclusive right of burial is deceased, the right may be exercised, subject to any conditions specified on the certificate issued under section 47(1), by any of the following persons in descending order:
  - (a) the executor or administrator of the estate of the grantee;
  - (b) if there is no executor or administrator of the estate of the grantee – the personal representative specified in section 49(1)(b);
  - (c) if paragraphs (a) and (b) do not apply – any next of kin of the grantee.
- (2) Despite the seniority order mentioned in subsection (1), the person exercising the exclusive right of burial must be the person in the most senior order that:
  - (a) has not been certified as mentally unfit; and
  - (b) can be contacted within a reasonable period.
- (3) A person is certified as mentally unfit if 2 medical practitioners have certified that the person is mentally unfit.

- (4) If there is a dispute regarding the exercise of an exclusive right of burial and there is no executor or administrator of the estate of the grantee or personal representative for the grantee, the senior next of kin for the grantee has the power to decide the outcome of the dispute.

**51 Change of contact details**

If the contact details for the grantee change, the grantee must notify the responsible entity as soon as practicable after the change.

**Division 2 Transfer and surrender**

**52 Transfer of exclusive right of burial prohibited**

An exclusive right of burial is not transferable to another person.

**53 Surrender of unexercised right of burial**

- (1) The grantee of an unexercised exclusive right of burial may surrender the right to the manager of the cemetery for which it was granted.
- (2) Subsection (1) includes a right that has been exercised but after which the human remains have been exhumed.
- (3) On the surrender of an exclusive right of burial to the manager the grantee surrendering the right has no further entitlements under that right.
- (4) If an exclusive right of burial is surrendered, the manager may do any of the following in respect of the place of burial to which the surrendered right applied:
- (a) grant a new exclusive right of burial under section 46(2);
  - (b) give a burial approval under section 23(1) for the burial of human remains not in relation to an exclusive right of burial;
  - (c) use the area for a different purpose other than burying human remains.

**54 Refund for unexercised or refused exclusive right of burial**

- (1) If the responsible entity for a cemetery provides for exclusive rights of burial, the responsible entity must establish a policy for refunds of payments for exclusive rights of burial in relation to the surrender of unexercised exclusive rights of burial under section 53(1).



- (2) The manager of the cemetery must ensure that a person applying for an exclusive right of burial is aware of the refund policy before entering into an agreement for the exclusive right of burial.
- (3) The refund policy that applies to the surrender of the exclusive right of burial is the policy current at the time the person entered into the agreement for the exclusive right of burial.

### **Division 3            Expiry and renewal of exclusive right of burial**

#### **55            Notification of expiry of exclusive right of burial**

- (1) At least 12 months before an exclusive right of burial expires, the manager for the cemetery to which the right applies must take reasonable steps to notify the following persons that the right will expire at the end of the period for which it was granted:
  - (a) the grantee of the exclusive right of burial;
  - (b) if the grantee is deceased – the following persons:
    - (i) the executor or administrator of the estate of the grantee;
    - (ii) the personal representative specified on the certificate issued under section 47(1);
    - (iii) any known next of kin of the grantee.
- (2) A notification under subsection (1) must be in writing and include the following details:
  - (a) the expiry date;
  - (b) the fee for renewal;
  - (c) the maximum period, not exceeding a further 50 years, for which it may be renewed.

#### **56            Renewal of exclusive right of burial**

- (1) If an exclusive right of burial is available for renewal, the manager of a cemetery must, in the notice under section 55(1), give the grantee of the exclusive right of burial the option to renew the right.
- (2) The grantee of an exclusive right of burial that is available for renewal may apply to renew the right for a further period specified in the notice not exceeding 50 years.

- (3) An application under subsection (2):
- (a) must be in writing to the manager; and
  - (b) may be made at any time within 12 months before the expiry date of the right, but no later than 28 days after the expiry date of the right; and
  - (c) must be accompanied by the renewal fee.
- (4) On receiving a renewal application under subsection (2), the manager must renew the right for the period specified.
- (5) Despite subsection (4), the manager may, only in exceptional circumstances, refuse to renew the right.

*Example of exceptional circumstances for subsection (5)*

*A natural event has destroyed the place of burial for which the exclusive right of burial relates.*

- (6) If the manager refuses to renew the right, the manager must give the grantee or if the grantee is deceased, the person specified in subsection (7), a decision notice.
- (7) If the grantee is deceased, the exclusive right of burial may be renewed by any of the following persons:
- (a) the executor or administrator of the estate of the grantee;
  - (b) the personal representative specified on the certificate issued under section 47(1);
  - (c) any next of kin of the grantee.
- (8) An exclusive right of burial renewed under this section applies to the same place of burial as the original right.

## **57 Exclusive right of burial not renewed**

If an unexercised exclusive right of burial is not renewed within the period allowed under section 56(3)(b), the manager of a cemetery may do any of the following in respect of the place of burial to which an expired right applied:

- (a) grant a new exclusive right of burial under section 46(2);
- (b) give a burial approval under section 23(1) for the burial of human remains not in relation to an exclusive right of burial;
- (c) use the area for a different purpose other than burying human remains.

**Division 4 Register of exclusive rights of burial****58 Responsible entity to keep register of exclusive rights of burial**

- (1) The responsible entity for a cemetery must establish and maintain a register of exclusive rights of burial that the manager of the cemetery has granted.
- (2) The register must include the following details:
  - (a) the full name, address and contact details of the grantee of the exclusive right of burial;
  - (b) the place of burial in respect of which each exclusive right of burial was granted;
  - (c) any information recorded on the certificate issued under section 47(1);
  - (d) the expiry date of each exclusive right of burial granted;
  - (e) any other information prescribed by regulation.
- (3) The responsible entity must not make the register publicly available.

**Part 5 Exhumations****59 Application for exhumation and relocation of human remains**

- (1) The following persons may apply to the CEO for approval to exhume human remains and relocate the human remains from the Territory or to another place in the Territory:
  - (a) the executor or administrator of the estate of the deceased person;
  - (b) any next of kin of the deceased person;
  - (c) a person who, in the opinion of the CEO, is an appropriate person in the circumstances.
- (2) Before making an application under subsection (1), the applicant must notify the following persons that the applicant is making an application under this section:
  - (a) any executor or administrator of the deceased person;
  - (b) the senior next of kin;

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- (c) if the human remains are buried at a specific place of burial in accordance with an exclusive right of burial – the grantee of the exclusive right of burial;
  - (d) if the grantee mentioned in paragraph (c) is deceased – the personal representative for the grantee.
- (3) The applicant must include in the notification under subsection (2) a statement advising that:
- (a) any person mentioned in subsection (2) may, in writing, object on reasonable grounds to the CEO to the proposed exhumation and relocation; and
  - (b) an objection must be made within 28 days from the date of the notification under subsection (2).
- (4) The CEO may, in writing, approve the exhumation and relocation of human remains of a deceased person (an **exhumation approval**) if satisfied of the matters prescribed by regulation.
- (5) The exhumation approval may be given subject to any conditions that the CEO considers appropriate.
- (6) The CEO may refuse to give an exhumation approval.
- (7) If the CEO refuses to give an exhumation approval, the CEO must give the applicant a decision notice.

*Note for subsection (7)*

*The Northern Territory Civil and Administrative Tribunal Act 2014 sets out the requirements of a decision maker after the decision maker has made a reviewable decision under this Act.*

## **60 Exhumation without approval**

- (1) A person commits an offence if:
- (a) the person intentionally exhumes human remains; and
  - (b) an exhumation approval is required; and
  - (c) an exhumation approval was not given for the exhumation of the human remains.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(b) and (c).



- (2) The objection must be made in writing to the CEO and include the following information:
  - (a) the person's relationship to the deceased person;
  - (b) the reasons for the objection.
- (3) Before giving an exhumation approval, the CEO may take into account any objection received within the time period provided for in section 59(3)(b).

**64            Exhumation information**

The responsible entity must ensure the following information for each exhumation is included in the register of burials:

- (a) the date the exhumation approval was given by the CEO;
- (b) the date of exhumation;
- (c) the name of the person carrying out the exhumation;
- (d) the place of relocation.

**Part 6            Facilities**

**Division 1        Licence to operate facility**

**65            Minister may grant licence to operate facility**

- (1) The Minister may grant a person a licence to operate a facility.
- (2) A person may, in writing, apply to the Minister for a licence to operate a facility.
- (3) The Minister may, in a licence granted under subsection (1), specify conditions in respect of the operation of a facility.
- (4) The Minister must give notice in the *Gazette* that a licence to operate a facility has been granted.
- (5) The notice must specify the following details:
  - (a) the responsible entity for the facility;
  - (b) the location of the facility or, if it is mobile, a description that identifies the facility;
  - (c) any processes available at the facility for the disposal of human remains;



**69            Surrender of licence to operate facility**

- (1) A person who holds a licence to operate a facility may surrender the licence to the Minister.
- (2) The Minister must give notice in the *Gazette* that the licence to operate a facility has been surrendered.
- (3) The Minister must table a copy of the notice in the Legislative Assembly within 6 sitting days after the notice has been published in the *Gazette*.

**70            Requirement to forward records**

- (1) If a licence to operate a facility is surrendered under section 69(1), the responsible entity for that facility must forward all its registers and records prescribed by regulation to the archives service within 9 months of the surrender.
- (2) A responsible entity commits an offence if the responsible entity contravenes the requirement under subsection (1).

Maximum penalty:        100 penalty units.

- (3) An offence against subsection (2) is an offence of strict liability.

**71            Agency to keep register of facilities**

- (1) The Agency must establish and maintain a register of licences to operate a facility.
- (2) A copy of the register must be available on the Agency's website.

**Division 2            Management of facilities**

**72            Responsible entity for facility**

- (1) The ***responsible entity for a facility*** is the person who holds the licence granted under section 65(1).
- (2) Despite subsection (1), if a facility is located in a public cemetery, the responsible entity for that facility is the responsible entity for that public cemetery.
- (3) The responsible entity must manage and control the facility.



- (4) The responsible entity has the following functions:
- (a) to ensure the disposal of human remains at the facility is undertaken in accordance with this Act and the licence granted to operate the facility;
  - (b) to establish and maintain a register of disposals of human remains;
  - (c) to establish and maintain records relating to the operation of the facility;
  - (d) to ensure that the register of disposals of human remains is accessible to the public in accordance with this Act or another Act;
  - (e) to ensure the facility has the proper equipment to undertake the disposal of human remains;
  - (f) to establish policies for the facility;
  - (g) any other functions conferred on the responsible entity under this Act or another Act.

### **73            Manager of facility**

- (1) The ***manager of a facility*** is the chief executive officer of the responsible entity for the facility.
- (2) If the responsible entity does not have a chief executive officer, the manager of the facility is the person employed in the position equivalent to a chief executive officer for that responsible entity.
- (3) The responsible entity for a facility must notify the Agency of the following information regarding the manager of the facility:
  - (a) the full name of the manager;
  - (b) the contact details of the manager.
- (4) A notification under subsection (3) must be in writing and occur as soon as reasonably practicable.

### **74            Register of disposals of human remains**

- (1) The responsible entity for a facility must establish and maintain a register of disposals of human remains undertaken at the facility.

- (2) The register must include the following information regarding each disposal of human remains undertaken at the facility:
  - (a) the information mentioned in section 81;
  - (b) the date of disposal of human remains;
  - (c) the process of disposal of human remains;
  - (d) the name of person who disposed of the human remains;
  - (e) any other information prescribed by regulation.

## **75            Inspection of register of disposals of human remains**

- (1) The manager of a facility must:
  - (a) allow the executor or administrator of the estate of a deceased person or any next of kin of a deceased person to inspect the register of disposals of human remains for the entry of the deceased person; and
  - (b) on request, provide a copy or summary of information in the register for the entry of a deceased person to the executor or administrator of the deceased person or any next of kin of the deceased person.
- (2) The manager of a facility must:
  - (a) allow an Agency to inspect the register; and
  - (b) on request, provide a copy or summary of information in the register to an Agency.
- (3) If a person or an organisation has an adequate reason for wanting to inspect the register, the manager of a facility may allow the person or the organisation to inspect the register.
- (4) If a person or an organisation has an adequate reason for wanting a copy or summary of information in the register, the manager of a facility may, on request of the person or organisation, provide a copy or summary of information in the register to the person or organisation.
- (5) In deciding whether a person or an organisation has an adequate reason for wanting to inspect the register or wanting a copy or summary of information in the register, the manager must have regard to the following:
  - (a) the nature of the person's or organisation's interest;

- (b) the sensitivity of the information;
  - (c) the use to be made of the information;
  - (d) the need to protect the deceased person about whom the information is sought from unjustified intrusion of the deceased person's privacy;
  - (e) any other considerations prescribed by regulation.
- (6) The following must be done in accordance with any policy determined by the responsible entity for a facility:
- (a) an inspection of the register under subsection (1)(a) or (3);
  - (b) the production of a copy or summary of information in the register under subsection (1)(b) or (4).

**76            Fees regarding register of disposals of human remains**

The responsible entity for a facility may determine and charge a fee for the following:

- (a) the inspection of the register of disposals of human remains under section 75(3);
- (b) the production of a copy or summary of information in the register under section 75(1)(b) or (4).

**77            Information to be publicly available**

The responsible entity for a facility must ensure that the following information is available on the responsible entity's website:

- (a) general information relating to the facility including the public opening hours of the facility;
- (b) the types of processes available for the disposal of human remains;
- (c) details of the application process for the disposal of human remains;
- (d) the amount of any fees charged by the responsible entity and shown as itemised fees;
- (e) any other information prescribed by regulation.

**78            Information to be displayed at facility**

The manager of a facility must ensure that the following information is displayed at the facility:

- (a) the name of the facility;
- (b) the contact details of the manager;
- (c) the public opening hours of the facility.

**Part 7            Cremation and other prescribed processes for disposal of human remains**

**Division 1        Disposal of human remains**

**79            Application of Part 7**

This Part applies to the following processes for disposal of human remains:

- (a) cremation;
- (b) any other process prescribed by regulation.

**80            Application for disposal approval**

- (1) The manager of a facility may approve the disposal of human remains of a deceased person at the facility (a ***disposal approval***).
- (2) The following persons may apply to the manager of a facility for a disposal approval:
  - (a) the executor or administrator of the estate of the deceased person;
  - (b) a next of kin of the deceased person;
  - (c) any other person the manager of the facility considers appropriate.
- (3) Despite subsection (2), the manager of a facility may not apply for an approval under subsection (2) to dispose of human remains in that facility.

- (4) An application must include the following:
- (a) the following details regarding the applicant:
    - (i) full name, address and contact details;
    - (ii) relationship to the deceased person;
  - (b) a disposal form;
  - (c) confirmation of the notification of, or confirmation of reasonable attempts to notify:
    - (i) the executor or administrator of the estate of the deceased person; or
    - (ii) if there is no executor or administrator of the estate of the deceased person – the senior next of kin;
  - (d) any objections, known to the applicant, from the executor or administrator or a next of kin to the disposal of the deceased person;
  - (e) the documents specified in subsection (5).
- (5) An application under subsection (4) must include:
- (a) each of the following:
    - (i) a notice under section 34(1) of the *Births, Deaths and Marriages Registration Act 1996*;
    - (ii) a certificate signed by 2 medical practitioners stating that the death is not a reportable death under section 12 of the *Coroners Act 1993*; or
  - (b) a certificate issued by the coroner or the coroner's clerk under section 17(1) of the *Coroners Act 1993*.
- (6) Before giving a disposal approval for a deceased person, the manager must be satisfied that the applicant has taken reasonable steps to notify the following persons of the application for the disposal of the deceased person:
- (a) the executor or administrator of the estate of the deceased person;
  - (b) the senior next of kin for the deceased person.

- (7) The manager may request a copy of a notice or certificate mentioned in subsection (5)(a) from a provider if the notice or certificate is not submitted under subsection (4).
- (8) If the manager requests a copy of the notice or certificate under subsection (7), the provider must provide a copy of the notice or certificate to the manager unless the provider does not have access to the notice or certificate.
- (9) A manager may refuse to give a disposal approval.
- (10) If a manager refuses to give a disposal approval, the manager must give the applicant a decision notice.

*Note for subsection (10)*

*The Northern Territory Civil and Administrative Tribunal Act 2014 sets out the requirements of a decision maker after the decision maker has made a reviewable decision under this Act.*

## **81 Disposal form**

A **disposal form** must include the following information about the deceased person, if known:

- (a) full name;
- (b) sex or gender;
- (c) date of birth;
- (d) country of birth;
- (e) date of death;
- (f) place of death;
- (g) address of residence immediately before date of death;
- (h) last occupation before death;
- (i) marital status;
- (j) any other information prescribed by regulation.

## **82 Disposal approval given without complete application**

- (1) A person commits an offence if:
  - (a) the person receives an application under section 80(2); and

(b) the application does not contain the information, details and documents required in section 80(4) and (5); and

(c) the person gives a disposal approval for that application.

Maximum penalty: 100 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

### **83 Disposal without approval**

(1) A person commits an offence if:

(a) the person intentionally disposes of human remains; and

(b) a disposal approval has not been given for that disposal.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

(2) Strict liability applies to subsection (1)(b).

### **84 Interested persons not to certify**

(1) A person commits an offence if:

(a) the person intentionally signs a certificate mentioned in section 80(5)(a)(ii) for a deceased person; and

(b) the person has a direct or indirect interest, resulting from the death of the deceased person, in any proceeds of a policy of insurance or assurance and the person has knowledge of that circumstance.

Maximum penalty: 50 penalty units.

(2) A person commits an offence if:

(a) the person intentionally signs a certificate mentioned in section 80(5)(a)(ii) for a deceased person; and

(b) the person has a direct or indirect interest, resulting from the death of the deceased person, in any real or personal property or income, whether immediately or in the future, and the person has knowledge of that circumstance.

Maximum penalty: 50 penalty units.

## **85 Disposal outside a facility**

- (1) A person commits an offence if:
  - (a) the person intentionally disposes of human remains; and
  - (b) the disposal occurs at a location outside a facility.

Maximum penalty: 300 penalty units or imprisonment for 3 years.

- (2) Strict liability applies to subsection (1)(b).
- (3) An offence against this section is a summary offence.

## **86 Objections**

- (1) The following persons may object to the disposal of human remains of a deceased person:
  - (a) the executor or administrator of the estate of the deceased person;
  - (b) any next of kin of the deceased person.
- (2) The objection must be made in writing to the manager of the facility at which it is proposed to dispose of the human remains and include the following information:
  - (a) the person's relationship to the deceased person;
  - (b) the reasons for the objection.
- (3) Before giving a disposal approval, the manager must take into account any objection received under subsection (1) or any known objection specified in the application for the disposal approval under section 80(4).
- (4) If there are any objections under subsection (1) or there is a known objection specified in the application for the disposal approval under section 80(4), the outcome must be decided in accordance with section 148.

## **Division 2 Interstate and overseas deaths**

### **87 Interstate deaths**

If a person dies in another State or Territory, a document that satisfies the requirements of that State or Territory may be used instead of a document mentioned in section 80(5).



**88 Overseas deaths**

- (1) If a person dies outside Australia, any of the following documents may be used instead of a document mentioned in section 80(5):
  - (a) a death certificate issued by a person legally authorised to do so in the place where the death occurred;
  - (b) a notice under a law in force in the place where the death occurred that is equivalent to a notice issued under section 34(1) of the *Births, Deaths and Marriages Registration Act 1996*, stating the cause of death;
  - (c) a certificate issued by a coroner or a person or entity equivalent to a coroner in the place where the death occurred.
- (2) If a document mentioned in subsection (1) is in a language other than English, the following documents must be submitted:
  - (a) the document;
  - (b) a certified translation of the document into English language.
- (3) If none of the documents mentioned in subsection (1) are able to be provided, then any of the following documents may be used instead:
  - (a) a certificate of cause of death issued by a medical practitioner after a post-mortem examination has been performed;
  - (b) a certificate from an Australian coroner stating that:
    - (i) no further examination of the human remains is necessary; and
    - (ii) there is no reason not to dispose of the human remains in a lawful manner.

**Part 8 Officers may prohibit burial or disposal of human remains****89 Officers may prohibit burial or disposal of human remains**

- (1) Any of the following persons may, by written notice, prohibit the burial or disposal of human remains if that person believes on reasonable grounds that it is appropriate to prohibit the burial or disposal:
  - (a) the Coroner;

- (b) the Director of Public Prosecutions;
  - (c) the Solicitor for the Northern Territory;
  - (d) the CEO;
  - (e) a justice of the peace;
  - (f) a police officer;
  - (g) an inspector.
- (2) A notice under subsection (1):
- (a) must be given to the responsible entity for the cemetery or facility or the manager of the cemetery or facility; and
  - (b) must specify the following information in relation to the grounds of the prohibition of the burial or disposal:
    - (i) the human remains to which the prohibition applies;
    - (ii) the period of the prohibition;
    - (iii) any conditions or other relevant information; and
  - (c) may order that the human remains:
    - (i) be moved to a specified place; or
    - (ii) be placed in the custody of a specified person; and
  - (d) must state that the responsible entity for the cemetery or facility may apply to NTCAT for a review of the prohibition.
- Note for subsection (2)(d)*
- The Northern Territory Civil and Administrative Tribunal Act 2014 sets out the requirements of a decision maker after the decision maker has made a reviewable decision under this Act.*
- (3) A notice under subsection (1) may be:
- (a) absolute; or
  - (b) subject to stated conditions.
- (4) A notice under subsection (1) may, in writing, be withdrawn by the person who prohibited the burial or disposal in the notice.

**90 Approval of burial or disposal despite prohibition notice**

- (1) A person commits an offence if:
- (a) a notice under section 89(1) applies to human remains and the person has knowledge of that circumstance; and
  - (b) the person receives an application under section 23(3) or 80(2) relating to the human remains; and
  - (c) the person intentionally approves:
    - (i) the burial of the human remains under section 23(1); or
    - (ii) the disposal of the human remains under section 80(1).

Maximum penalty      300 penalty units or imprisonment for 3 years.

- (2) Strict liability applies to subsection (1)(b).
- (3) An offence against subsection (1) is a summary offence.

**91 Contravention of prohibition notice**

- (1) A person commits an offence if:
- (a) a notice under section 89(1) applies to human remains and the person has knowledge of that circumstance; and
  - (b) the person intentionally buries or disposes of human remains; and
  - (c) the burial or disposal of human remains results in a contravention of the notice and the person is reckless in relation to that result.

Maximum penalty      300 penalty units or imprisonment for 3 years.

- (2) An offence against subsection (1) is a summary offence.
- (3) A person commits an offence if:
- (a) a notice under section 89(1) applies to human remains and the person has knowledge of that circumstance; and
  - (b) the person intentionally engages in conduct; and

- (c) that conduct results in the contravention of an order made under section 89(2)(c) or a condition under section 89(3)(b) and the person is reckless in relation to that result.

Maximum penalty: 100 penalty units or imprisonment for 12 months.

**92 Manager must notify applicant of prohibition notice**

- (1) This section applies if a prohibition notice is given to the responsible entity for a cemetery or facility or the manager of a cemetery or facility under section 89(1).
- (2) The manager must immediately notify the applicant who was given a burial approval or a disposal approval for the human remains to which the prohibition applies that a prohibition notice has been given for those human remains.

**Part 9 Closure of cemeteries**

**Division 1 Semi-closed cemeteries**

**93 Semi-closed cemetery**

A ***semi-closed cemetery*** is a cemetery at which burials are no longer available except in the following circumstances:

- (a) a multiple burial under section 30;
- (b) the exercise of an exclusive right of burial under section 50 that was granted before the cemetery was declared a semi-closed cemetery;
- (c) the exercise of an exclusive right of burial under section 50 for the following situations after the cemetery was declared a semi-closed cemetery:
- (i) an exclusive right of burial for a place of burial is surrendered under section 53(1) and a new exclusive right of burial for that place is granted under section 46(2);
- (ii) an exclusive right of burial for a place of burial is not renewed under section 56(2) and a new exclusive right of burial for that place is granted under section 46(2);

- (d) in accordance with section 53(4)(b) where an exclusive right of burial is surrendered and the manager of the cemetery has given a burial approval in respect of the place of burial to which the surrendered right applied;
- (e) in accordance with section 57(b) where an exclusive right of burial is not renewed and the manager of the cemetery has given a burial approval in respect of the place of burial to which the expired right applied.

**94 Application to semi-close cemetery**

- (1) The following may, in writing, apply to the Minister to declare a cemetery a semi-closed cemetery:
  - (a) the land owner for the land on which the cemetery is located;
  - (b) the responsible entity for the cemetery.
- (2) An application under subsection (1) must include the reason for the cemetery to be declared a semi-closed cemetery.

**95 Declaration of semi-closed cemetery**

- (1) The Minister may, by *Gazette* notice, declare a cemetery a semi-closed cemetery:
  - (a) on application under section 94; or
  - (b) on the Minister's own initiative.
- (2) The Minister must not make a declaration under subsection (1) unless the Minister has consulted with the land owner for the land the cemetery is located on.
- (3) The notice must include the following information:
  - (a) the conditions of the semi-closure of the cemetery, if any;
  - (b) whether multiple burials are available in accordance with the cemetery's policies;
  - (c) the date the semi-closure takes effect.

**Division 2 Closed cemeteries**

**96 Closed cemetery**

A **closed cemetery** is a cemetery at which burials are no longer available.

**97 Application to close cemetery**

- (1) The following may, in writing, apply to the Minister to declare a cemetery a closed cemetery:
  - (a) the land owner for the area on which the cemetery is located;
  - (b) the responsible entity for the cemetery.
- (2) An application under subsection (1) must include the reason for the cemetery to be declared a closed cemetery.
- (3) Before making an application under subsection (1)(b), the responsible entity for a cemetery must take reasonable steps to ensure there are no outstanding exclusive rights of burial in the cemetery.

**98 Declaration of closed cemetery**

- (1) The Minister may, by *Gazette* notice, declare a cemetery to be a closed cemetery:
  - (a) on application under section 97; or
  - (b) on the Minister's own initiative.
- (2) The Minister must not make a declaration under subsection (1) in relation to an application under section 97(1)(b) if there are any outstanding exclusive rights of burial in the cemetery.
- (3) The Minister must not make a declaration under subsection (1) unless the Minister has consulted with the land owner for the land the cemetery is located on.
- (4) The declaration must include the following information:
  - (a) conditions of the closure of the cemetery, if any;
  - (b) the date the closure takes effect.

**Division 3 Notification and management of semi-closed cemetery or closed cemetery**

**99 Notification of semi-closed cemetery and closed cemetery**

- (1) The Minister must table a copy of the notice made under section 95 or 98 in the Legislative Assembly within 6 sittings days after the notice has been published in the *Gazette*.

- (2) The responsible entity for a cemetery must ensure that the following information is displayed at the cemetery:
  - (a) a statement that the cemetery is a semi-closed cemetery or a closed cemetery;
  - (b) the information contained in the declaration under section 95 or 98.

#### **Division 4 Revocation of semi-closed or closed declaration**

##### **100 Revocation of declaration of semi-closed cemetery**

- (1) If a semi-closed cemetery is able to provide for more burials other than the burials mentioned in section 93, the Minister may, by *Gazette* notice, revoke the declaration that declared the cemetery as a semi-closed cemetery.
- (2) The Minister must table a copy of the notice in the Legislative Assembly within 6 sittings days after the notice has been published in the *Gazette*.

##### **101 Revocation of declaration of closed cemetery**

- (1) If a closed cemetery is able to provide for more burials after being declared as a closed cemetery, the Minister may, by *Gazette* notice, revoke the declaration that declared the cemetery as a closed cemetery.
- (2) The Minister must table a copy of the notice in the Legislative Assembly within 6 sittings days after the notice has been published in the *Gazette*.

#### **Division 5 Transformation of closed cemetery into public park**

##### **102 Closed cemetery**

A closed cemetery may, after 50 years of closure, be transformed into a public park under section 109.

##### **103 Application to transform closed cemetery into public park**

- (1) The responsible entity for a closed cemetery may, in writing, apply to the Minister to transform the closed cemetery into a public park.
- (2) If a cemetery or a portion of a cemetery has been consecrated according to the rites or practices of a religious or cultural group, the responsible entity may offer an opportunity to control or

maintain the area of land that the cemetery or the portion of the cemetery resides on to that group before making an application under subsection (1).

- (3) If the religious or cultural group does not accept an offer under subsection (2), the group may request that the responsible entity not interfere with the places of burial in the cemetery or portion of the cemetery.
- (4) The responsible entity must fulfil all reasonable requests mentioned in subsection (3) of the religious or cultural group.

#### **104 Content of application**

- (1) An application to transform a closed cemetery into a public park must be in writing and include the following information:
  - (a) particulars about the proposal to transform a cemetery into a public park;
  - (b) the total number of burials, if known;
  - (c) the dates of the first and last burial, if known;
  - (d) the number of memorials;
  - (e) the particulars about whether the memorials are proposed to be removed and disposed of, relocated within the cemetery, or relocated to another cemetery;
  - (f) the number of any memorials controlled or maintained by the Commonwealth War Graves Commission;
  - (g) if any memorials controlled or maintained by the Commonwealth War Graves Commission are proposed to be removed, disposed of, or relocated – consent from the Commonwealth War Graves Commission for the removal, disposal or relocation of those memorials;
  - (h) particulars about the proposed future use of any building in the cemetery;
  - (i) the estimated costs of:
    - (i) transforming the cemetery into a public park; and
    - (ii) maintaining the proposed public park;
  - (j) particulars about how the responsible entity for the cemetery proposes to meet the costs mentioned in paragraph (i);



- (k) copies of any objections received during the public consultation under section 106;
  - (l) consent from the land owner for the transformation;
  - (m) any other information prescribed by regulation.
- (2) The Minister may, in writing, request further information from the responsible entity.

### **105 Notice of intention to transform cemetery into public park**

- (1) Before making an application under section 103(1), the responsible entity for the closed cemetery must give 6 months' notice of the responsible entity's intention to apply to transform a cemetery into a park by advertising:
- (a) in a newspaper that is circulated throughout the Territory; and
  - (b) on the responsible entity's website; and
  - (c) at the cemetery.
- (2) The responsible entity must take all reasonable steps to notify the following persons of the responsible entity's intention to transform a closed cemetery into a public park:
- (a) any next of kin of a deceased person buried in the cemetery;
  - (b) any other person who was given a burial approval for a deceased person buried in the cemetery.
- (3) A notice under subsection (2) must include the following:
- (a) a plan of the proposed public park including the timeframe of the proposed transformation;
  - (b) details regarding the public consultation process required to be undertaken by the responsible entity under section 106;
  - (c) information on how to object, under section 108, to the transformation of a closed cemetery into a public park.

### **106 Public consultation**

Before making an application under section 103(1), the responsible entity for the closed cemetery must undertake public consultation as prescribed by regulation on the proposed transformation.

### **107 Obligations of responsible entity**

- (1) Before making an application under section 103(1), the responsible entity for the closed cemetery must:
  - (a) establish an inventory and a layout of the cemetery that identifies all places of burial and memorials including any inscriptions or other particulars; and
  - (b) photograph each memorial.
- (2) The responsible entity for a closed public cemetery must ensure the records mentioned in subsection (1) are available on the responsible entity's website.
- (3) The responsible entity for any closed cemetery must ensure the records mentioned in subsection (1) are publicly available in accordance with the responsible entity's policy.

### **108 Objections**

- (1) A person may object to the proposal to transform a closed cemetery into a public park.
- (2) The objection must be made in writing to the Minister and include the following details:
  - (a) the person's full name and contact details;
  - (b) the reason for the objection.

### **109 Minister may transform closed cemetery into public park**

- (1) The Minister may approve an application under section 103(1) to transform a closed cemetery into a public park.
- (2) The Minister may take into account any objection received under section 108(1) before approving an application under subsection (1).
- (3) The Minister may impose conditions on the approval of the application that the Minister considers appropriate.
- (4) The Minister must give notice in the *Gazette* that an application under section 103(1) to transform a closed cemetery into a public park has been approved.
- (5) The Minister must table a copy of the notice in the Legislative Assembly within 6 sitting days after the notice has been published in the *Gazette*.

**110 Relocation of memorials**

If, under section 109(1), the Minister approves the transformation of a closed cemetery into a public park, the responsible entity for a cemetery may, subject to any conditions imposed by the Minister:

- (a) remove and dispose of any memorial; or
- (b) relocate any memorial to a different place within the public park; or
- (c) relocate any memorial to another cemetery.

**111 Prohibited activities**

A person must not organise or participate in any competitive sports in a public park mentioned in section 109(1).

**112 Minimum period of public park for independent cemetery**

A closed independent cemetery that was transformed into a public park under section 109(1) must remain as a public park for a minimum period of 50 years.

## **Part 10 Compliance reviews and investigations**

### **Division 1 Inspectors**

**113 Appointment of inspectors**

- (1) The CEO may, in writing, appoint a person to be an inspector for this Act.
- (2) An appointment may be subject to any conditions the CEO considers appropriate and that are specified in the instrument of appointment.

**114 Identity cards for inspectors**

- (1) The CEO must give an inspector an identity card stating the person's name and that the person is an inspector.
- (2) The identity card must:
  - (a) display a recent photograph of the inspector; and
  - (b) state the card's date of issue; and
  - (c) be signed by the inspector.

- (3) This section does not prevent the issue of a single identity card to a person for this and another Act.

**115 Return of identity card**

- (1) A person who ceases to be an inspector must return the person's identity card to the CEO as soon as reasonably practicable.

Maximum penalty: 20 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

**116 Functions of inspector**

- (1) An inspector has the following functions:
- (a) to assess whether or not persons are complying with this Act;
  - (b) to carry out compliance reviews;
  - (c) to investigate and gather evidence of suspected offences against this Act;
  - (d) to perform any other function conferred on inspectors under this Act or another Act.
- (2) An inspector has the powers necessary to perform the inspector's functions under this Act.
- (3) In exercising a power or performing a function under this Act, an inspector is subject to the direction of the CEO.

**Division 2 Compliance reviews**

**117 Program of compliance reviews**

- (1) The Agency must establish a program of compliance reviews for cemeteries and facilities.
- (2) The purpose of a compliance review is to ensure that responsible entities operate and administer cemeteries or facilities in accordance with this Act.

**118 Agency must report on results of compliance review**

- (1) The Agency must report to the responsible entity for a cemetery or facility on the results of any compliance review of the cemetery or the facility.
- (2) The report may contain recommendations for operational or administrative changes.

**Division 3 Investigations**

**119 Investigations**

- (1) The Agency may, at any time, direct an investigation into the operation or administration of a cemetery or facility.
- (2) An investigation is to be carried out by one or more inspectors assigned to the investigation by the Agency.

**Division 4 Powers of inspectors**

**120 Power of entry**

- (1) For the purposes of performing functions under this Act, an inspector may:
  - (a) enter, examine and search the premises of the responsible entity; and
  - (b) examine and take copies of any records or other documents relating to the cemetery or facility.
- (2) The responsible entity for a cemetery or facility must, at the request of an inspector and within the reasonable period specified in the request:
  - (a) do anything reasonably necessary to facilitate the exercise of powers under subsection (1); or
  - (b) answer any question relevant to the compliance review or the investigation asked by the inspector; or
  - (c) produce any specified record or documentary material relevant to the compliance review or the investigation; or
  - (d) give any other assistance the inspector reasonably requires; or
  - (e) any combination of the above.

- (3) A request under subsection (2) must be in writing.
- (4) A person commits an offence if the person fails to comply with a request under subsection (2).

Maximum penalty: 100 penalty units.

- (5) An offence against subsection (4) is an offence of strict liability.
- (6) It is a defence to a prosecution for an offence against subsection (4) if the defendant took reasonable steps to comply with the request under subsection (2).

### **121 Procedure for entry**

Before entering any premises in the exercise of a function under this Act, an inspector must:

- (a) announce that the inspector is an inspector who is authorised under this Act to enter the premises; and
- (b) give any person on the premises a reasonable opportunity to allow entry to the premises.

### **122 Production of identity card**

- (1) An inspector must show the inspector's identity card to any persons present before exercising a power under this Act.
- (2) An inspector must show the inspector's identity card for inspection if asked to do so by an occupier of the premises during the exercise of a power under this Act.
- (3) If an inspector does not comply with a request under subsection (2), the inspector must immediately cease exercising the power under this Act.

### **123 Power of formal questioning**

- (1) For the purposes of a compliance review or an investigation, an inspector may, by written notice, require a person:
  - (a) within the time allowed in the notice, to provide written answers to specific questions or other specified written information; or
  - (b) to attend before the inspector at a specified time and place for examination on a subject stated in the notice; or
  - (c) within the time allowed in the notice, to produce specified records or documents; or

- (d) within the time allowed in the notice, to produce records or documents of a specified kind.
- (2) A person required under subsection (1)(a) to provide written answers to questions or other written information must verify the answers or information by statutory declaration.
- (3) A person who attends for examination before an inspector must:
  - (a) if the inspector so requires – take an oath to answer truthfully all questions put to the person by the inspector; and
  - (b) answer any question put to the person at the examination.
- (4) A person commits an offence if the person fails to comply with a requirement under this section.  
  
Maximum penalty: 100 penalty units.
- (5) An offence against subsection (4) is an offence of strict liability.
- (6) It is a defence to a prosecution for an offence against subsection (4) if the defendant took reasonable steps to comply with a requirement under this section.

#### **124 Self-incrimination**

- (1) A person required to answer a question, give information or produce a document under this Act is not excused from doing so on the ground that the answer, information or document might tend to incriminate the person or make the person liable to a penalty.
- (2) However, the answer, information or document is not admissible in evidence against the person in a civil or criminal proceeding except a proceeding for an offence in which the falsity or misleading nature of the answer, information or document is relevant.

#### **125 Confidential matters**

- (1) A person must not refuse to comply with a requirement under section 120 or 123 because the answer, information, record or document is confidential.
- (2) However, the person is not required to comply with the requirement if it requires the person to disclose legally privileged information.

**126 Inspector's report**

- (1) If an inspector finds evidence of an irregularity in the operation or administration of a cemetery or facility, the inspector must report the matter to:
  - (a) the CEO; and
  - (b) the responsible entity for that cemetery or facility.
- (2) If the irregularity appears to involve dishonesty or serious illegality, the CEO must report the matter to the Minister.

**Part 11 Enforcement for cemeteries**

**Division 1 Enforcement order for cemetery**

**127 Minister may issue an enforcement order**

If the Minister believes on reasonable grounds that there have been repeated contraventions of this Act or another Act, or irregularities in the operation or administration of a cemetery, the Minister may issue an enforcement order to the responsible entity for that cemetery requiring action to be taken.

**128 Content of enforcement order**

An enforcement order under this Division must be in writing and must:

- (a) state the grounds on which it was issued; and
- (b) state the actions or measures that the responsible entity for the cemetery is required to take in order:
  - (i) to comply with each provision being contravened; and
  - (ii) to remedy any contravention or the matters or activities causing any contravention; and
  - (iii) to remedy any irregularity or the matters or activities causing any irregularity; and
- (c) specify a date by which the responsible entity for the cemetery is required to comply with the order; and
- (d) state the maximum penalty for contravening the order; and



- (e) state that the responsible entity for the cemetery may seek a review by NTCAT of the decision to issue the order or any of its terms.

### **129 Contravention of enforcement order**

- (1) A responsible entity commits an offence if:
  - (a) the responsible entity for a cemetery was issued an enforcement order under section 127; and
  - (b) the responsible entity intentionally engages in conduct; and
  - (c) the conduct results in a contravention of the enforcement order and the responsible entity is reckless in relation to that result.

Maximum penalty: 300 penalty units or imprisonment for 3 years.

- (2) Strict liability applies to subsection (1)(a).
- (3) An offence against this section is a summary offence.

### **130 Requirements after issue of enforcement order**

The responsible entity for a cemetery to which an enforcement order is issued must, by the end of the period specified in the order, report, in writing, to the Minister:

- (a) the steps taken by the responsible entity to address the matters raised in the order; or
- (b) if no steps have been taken – the reasons why no steps have been taken.

## **Division 2 Enforcement actions for cemetery**

### **131 Minister may suspend cemetery**

- (1) If, after the issue of an enforcement order in respect of a cemetery, the specified contraventions or irregularities are not remedied, the Minister may, by *Gazette* notice, suspend the cemetery (a **suspended cemetery**).
- (2) A notice under subsection (1) must include the following information:
  - (a) any conditions of the suspension of the cemetery;

- (b) the date the suspension takes effect.
- (3) The responsible entity for a suspended cemetery must ensure that the following information is displayed at the cemetery:
  - (a) a statement that the cemetery is a suspended cemetery;
  - (b) the information contained in the declaration under subsection (2).
- (4) The Minister must table a copy of the notice in the Legislative Assembly within 6 sitting days after the notice has been published in the *Gazette*.

### **132 Burial in a suspended cemetery**

- (1) Subject to any conditions stated in the suspension notice under section 131(2), the burial of human remains may occur in a suspended cemetery.
- (2) A burial mentioned in subsection (1) is a burial at a location outside a cemetery and must be done in accordance with Part 3, Division 4.

### **133 Requirement to forward records**

- (1) The Minister may direct the responsible entity for the suspended cemetery to forward all its registers and records prescribed by regulation to the archives service within 9 months of suspension.
- (2) A responsible entity commits an offence if the responsible entity contravenes the requirement under subsection (1).

Maximum penalty: 100 penalty units.

- (3) An offence against subsection (2) is an offence of strict liability.

## **Division 3 Remedy of contraventions of cemetery**

### **134 Revocation of suspension**

- (1) If the Minister determines that the responsible entity for a suspended cemetery has remedied the contraventions or irregularities specified in the enforcement order, the Minister may, by *Gazette* notice, revoke the suspension.
- (2) The Minister must table a copy of the notice in the Legislative Assembly within 6 sitting days after the notice has been published in the *Gazette*.

## **Part 12 Enforcement for facilities**

### **Division 1 Enforcement order and suspension of facility**

#### **135 Minister may issue an enforcement order**

If the Minister believes on reasonable grounds that there have been repeated contraventions of this Act or another Act, or irregularities in the operation or administration of a facility, the Minister may issue an enforcement order to the responsible entity for that facility:

- (a) requiring action to be taken; and
- (b) specify any variation of conditions of the licence granted to operate the facility.

#### **136 Content of enforcement order**

An enforcement order under this Division must be in writing and must:

- (a) state the grounds on which it was issued; and
- (b) state the actions or measures that the responsible entity for the facility is required to take in order:
  - (i) to comply with each provision being contravened; and
  - (ii) to remedy any contravention or the matters or activities causing any contravention; and
  - (iii) to remedy any irregularity or the matters or activities causing any irregularity; and
- (c) specify a date by which the responsible entity for the facility is required to comply with the order; and
- (d) state any variation of conditions of the licence granted to operate the facility; and
- (e) state the maximum penalty for contravening the order; and
- (f) state that the responsible entity for the facility may seek a review by NTCAT of the decision to issue the order or any of its terms.

### **137 Contravention of enforcement order**

- (1) A responsible entity commits an offence if:
- (a) the responsible entity for a facility was issued an enforcement order under section 135; and
  - (b) the responsible entity intentionally engages in conduct; and
  - (c) the conduct results in a contravention of the enforcement order and the responsible entity is reckless in relation to that result.

Maximum penalty: 300 penalty units or imprisonment for 3 years.

- (2) Strict liability applies to subsection (1)(a).
- (3) An offence against this section is a summary offence.

### **138 Minister may suspend operation of facility**

- (1) If the Minister believes on reasonable grounds that there have been repeated contraventions of this Act or another Act, or irregularities in the operation or administration of a facility, the Minister may issue a suspension notice to the responsible entity for that facility requiring it to suspend operation of that facility.
- (2) If the Minister issues a suspension notice to a responsible entity for a facility, the Minister must give notice in the *Gazette* that the Minister has suspended the operation of the facility.

### **139 Content of suspension notice**

A suspension notice must be in writing and must:

- (a) state the grounds on which it is issued; and
- (b) state the date the suspension takes effect; and
- (c) state the actions or measures that the responsible entity is required to take in order:
  - (i) to comply with each provision being contravened; and
  - (ii) to remedy any contravention or the matters or activities causing any contravention; and
  - (iii) to remedy any irregularity or the matters or activities causing any irregularity; and

- (d) specify a date by which the responsible entity is required to comply with the notice; and
- (e) state the maximum penalty for contravening the suspension notice; and
- (f) state that the responsible entity may seek a review by NTCAT of the decision to issue the suspension notice or any of its terms.

#### **140 Contravention of suspension notice**

- (1) A responsible entity commits an offence if:
  - (a) the responsible entity for a facility was issued with a suspension notice under section 138(1); and
  - (b) the responsible entity intentionally operates or uses the facility that is the subject of the notice.

Maximum penalty: 300 penalty units or imprisonment for 3 years.

- (2) Strict liability applies to subsection (1)(a).
- (3) An offence against this section is a summary offence.

#### **141 Requirements after issue of enforcement order or suspension notice**

The responsible entity for a facility to which an enforcement order or suspension notice is issued must, by the end of the period specified in the order or notice, report, in writing, to the Minister:

- (a) the steps taken by the responsible entity to address the matters raised in the order or notice; or
- (b) if no steps have been taken – the reasons why no steps have been taken.

### **Division 2 Enforcement action for facility**

#### **142 Revocation of facility licence**

- (1) If, after the issue of an enforcement order or suspension notice in respect of a facility, the specified contraventions or irregularities are not remedied, the Minister may revoke the licence to operate the facility.

- (2) If the Minister revokes the licence to operate a facility, the Minister must give notice in the *Gazette* that the licence to operate a facility has been revoked.
- (3) The Minister must table a copy of the notice in the Legislative Assembly within 6 sitting days after the notice has been published in the *Gazette*.

#### **143 Requirement to forward records**

- (1) If the Minister revokes a licence to operate a facility under section 142, the responsible entity for that facility must forward all its registers and records prescribed by regulation to the archives service within 9 months of revocation.
- (2) A responsible entity commits an offence if the responsible entity contravenes the requirement under subsection (1).

Maximum penalty: 100 penalty units.

- (3) An offence against subsection (2) is an offence of strict liability.

### **Division 3 Remedy of contraventions of facility**

#### **144 Revocation of suspension notice**

- (1) If the Minister determines that the responsible entity for a facility that has been required to suspend operation under section 138 has remedied the contraventions or irregularities specified in the suspension notice, the Minister may revoke the suspension notice.
- (2) If the Minister revokes a suspension notice that applied to a facility, the Minister must give notice in the *Gazette* that the suspension notice has been revoked.

## **Part 13 Review by NTCAT**

### **145 Review by NTCAT**

- (1) NTCAT has jurisdiction to review a decision (a **reviewable decision**) specified in Schedule 1.
- (2) An **affected person**, for a reviewable decision, is a person specified in Schedule 1 for the decision.

- (3) An affected person for a reviewable decision may apply to NTCAT for review of the decision.

*Note for section 145*

*The Northern Territory Civil and Administrative Tribunal Act 2014 sets out the procedure for applying to NTCAT for review and other relevant matters in relation to reviews.*

## **Part 14**                    **Miscellaneous matters**

### **146**                    **Disposal of human remains by unauthorised means**

- (1) A person commits an offence if:
- (a) the person intentionally disposes of human remains; and
  - (b) the process used to dispose of human remains is not provided for under this Act or another Act.

Maximum penalty:        300 penalty units or imprisonment for 3 years.

- (2) Strict liability applies to subsection (1)(b).
- (3) An offence against this section is a summary offence.

### **147**                    **Vehicle used for transportation of human remains**

- (1) A person must not transport human remains in a vehicle unless the human remains:
- (a) are contained in a coffin, receptacle, container or wrapping that does not allow any bodily discharge, contaminants or infectious substances to escape; or
  - (b) are covered and placed in a part of the vehicle that:
    - (i) is physically separate from the part of the vehicle designed for the carriage of the driver and passengers; and
    - (ii) is capable of being easily cleaned and disinfected.

Maximum penalty:        20 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

(3) In this section:

**vehicle** include the following:

- (a) an aircraft;
- (b) a motor vehicle;
- (c) a vessel as defined in the *Marine Act 1981*.

**148 Decision-making powers concerning human remains**

- (1) The executor or administrator of the estate of a deceased person has the power to make any decision under this Act regarding human remains of the deceased person in accordance with this Act.
- (2) If there is no executor or administrator of the estate of the deceased person, any next of kin has the power to make any decision under this Act regarding human remains of the deceased person in accordance with this Act.
- (3) If there is a dispute regarding human remains under this Act and there is no executor or administrator of the estate of the deceased person, the senior next of kin has the power to decide the outcome of the dispute.

**149 Chief Health Officer may make guidelines**

- (1) The Chief Health Officer may, from time to time, make guidelines relating to any public health matter under this Act.
- (2) The Agency administering the *Public and Environmental Health Act 2011* must publish a guideline made under subsection (1) on the Agency's website as soon as practicable after the guideline is made.

**150 Agency may make guidelines**

- (1) The Agency may, from time to time, make guidelines relating to any matter under this Act.
- (2) The Agency must publish a guideline made under subsection (1) on the Agency's website as soon as practicable after the guideline is made.

**151 Registers and records to be kept as permanent records**

- (1) The Regulations may prescribe any register or record that must be kept as a permanent record.



- (2) If the responsible entity for a cemetery or facility changes, the previous responsible entity must forward all its registers and records prescribed by regulation to the following within 9 months of the change of responsible entity:

- (a) the archives service;
- (b) the new responsible entity for the cemetery or facility.

- (3) A responsible entity commits an offence if the responsible entity contravenes the requirement under subsection (2).

Maximum penalty: 100 penalty units.

- (4) An offence against subsection (2) is an offence of strict liability.

- (5) The Regulations may prescribe the requirements of keeping records under this Act.

- (6) In this section:

***permanent record***, see section 4 of the *Information Act 2002*.

## **152 Failure to keep registers or records**

A person commits an offence if:

- (a) the person intentionally engages in conduct; and
- (b) the conduct results in a contravention of a requirement on the person to keep a register or record under this Act for a cemetery or facility and the person is reckless in relation to that result.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

## **153 Misleading information**

- (1) A person commits an offence if:

- (a) the person intentionally gives information to another person; and
- (b) the information is misleading and the person has knowledge of that circumstance; and

- (c) the other person is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) A person commits an offence if:

- (a) the person intentionally gives a document to another person; and
- (b) the document contains misleading information and the person has knowledge of that circumstance; and
- (c) the other person is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (3) It is a defence to a prosecution for an offence against subsection (2) if the person, when giving the document:

- (a) draws the misleading aspect of the document to the other person's attention; and
- (b) to the extent to which the person can reasonably do so – gives the other person the information necessary to remedy the misleading aspect of the document.

- (4) In this section:

***acting in an official capacity***, in relation to a person, means the person is performing functions under, or otherwise related to the administration of, this Act.

***misleading information*** means information that is misleading in a material particular or because of the omission of a material particular.

#### **154 Unauthorised disclosure of confidential information**

- (1) A person commits an offence if:

- (a) the person obtains information in the course of performing functions connected with the administration of this Act; and
- (b) the person intentionally engages in conduct; and

- (c) the conduct results in the disclosure of the information and the person is reckless in relation to the result.

Maximum penalty      200 penalty units or imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(a).
- (3) Subsection (1) does not apply if:
  - (a) the person discloses the information:
    - (i) for the administration of this Act; or
    - (ii) with the consent of the person to whom the information relates; or
    - (iii) for legal proceedings arising out of the operation of this Act; or
  - (b) the information is otherwise available to the public.

*Note for subsection (3)*

*In addition to the circumstances mentioned in subsection (3), a person who discloses confidential information will not be criminally responsible for an offence if the disclosure is justified or excused by or under a law (see section 43BE of the Criminal Code).*

## **155 Delegations**

- (1) The Minister may delegate any of the Minister's powers and functions under this Act to a public sector employee.
- (2) The CEO may delegate any of the CEO's powers and functions under this Act to a public sector employee.

## **156 Regulations**

- (1) The Administrator may make regulations under this Act.
- (2) Without limiting subsection (1), a regulation may provide for the following:
  - (a) other processes for the disposal of human remains;
  - (b) other types of facilities for the disposal of human remains;
  - (c) matters to be included in a cemetery plan;
  - (d) matters to be provided for in a cemetery or facility policy;

- (e) details to be included in any register in this Act;
- (f) requirements for a suspended cemetery;
- (g) the public consultation process for a proposed transformation of a closed cemetery into a public park;
- (h) provide for an offence against a regulation to be an offence of strict or absolute liability;
- (i) matters to be taken into account when making a decision under this Act.

## **Part 15 Repeals and transitional matters**

### **Division 1 Repeals**

#### **157 Acts repealed**

The Acts specified in Schedule 2 are repealed.

### **Division 2 Transitional matters for Burial and Cremation Act 2019**

#### **158 Definitions**

In this Division:

**commencement** means the commencement of section 157 of the *Burial and Cremation Act 2019*.

**repealed Act** means the *Cemeteries Act 1952* as in force immediately before the commencement.

**repealed Regulations** means the *Cemeteries Regulations 1967* as in force immediately before the commencement.

#### **159 Public cemeteries**

On the commencement, a cemetery that was a public cemetery declared under section 6(1) of the repealed Act is taken to be a public cemetery under section 11 of this Act.

#### **160 Closed cemeteries and semi-closed cemeteries**

- (1) On the commencement, a cemetery that was declared to be a closed cemetery under section 36(1) of the repealed Act is taken to be a closed cemetery under section 96 of this Act.

- (2) On the commencement, each of the following cemeteries is taken to be a semi-closed cemetery under section 93 of this Act:
  - (a) Alice Springs General Cemetery;
  - (b) Darwin General Cemetery.

**161 Exclusive rights of burial in cemetery**

- (1) On the commencement, an exclusive right of burial granted under section 29 of the repealed Act is taken to be an exclusive right of burial under section 46 of this Act.
- (2) An exclusive right of burial mentioned in subsection (1) expires 60 years after the commencement.
- (3) At least 12 months before the period in subsection (2) expires, the responsible entity for the cemetery that granted the exclusive right of burial must, in accordance with section 55 of this Act, notify the persons mentioned in section 55(1) of this Act that the right will expire at the end of the period.
- (4) An exclusive right of burial that is about to expire under this section may be renewed under section 56 of this Act.

**162 Transfer of exclusive right of burial in cemetery**

- (1) Despite section 52 of this Act, on the commencement, an exclusive right of burial granted under section 29 of the repealed Act, may be transferred in accordance with regulation 18(2) of the repealed Regulations as in force immediately before the commencement.
- (2) A transfer of an exclusive right of burial must occur within 60 years after the commencement.
- (3) After the commencement, an exclusive right of burial may only be transferred once.

**163 Private burial grounds**

- (1) On the commencement, a private burial ground established under section 6(1) of the repealed Act continues to be called a private burial ground.
- (2) Part 3, Division 4 of this Act applies to a private burial ground mentioned in subsection (1) after the commencement.

**164 Permit for burial**

An application for a permit for the burial of the body of a deceased person that, on the commencement, had not been obtained under regulation 15 of the repealed Regulations, continues to be dealt with under the repealed Regulations as in force immediately before the commencement.

**165 Crematoria**

- (1) On the commencement, a crematorium approved under section 14 of the repealed Act is taken to be a facility under this Act.
- (2) On the commencement, a person who was approved to erect a crematorium under section 14(2) of the repealed Act is taken to be a person who holds a licence to operate a facility under section 65(1) of this Act.

**166 Permit for cremation**

An application for a permit for cremation of the body of a deceased person that, on the commencement, had not been granted under section 16 of the repealed Act continues to be dealt with under the repealed Act as it was in force immediately before commencement.

**Part 16 Consequential and related matters**

**Division 1 Amendment of Local Government Act 2008**

**167 Act amended**

This Division amends the *Local Government Act 2008*.

**168 Section 3 amended (Definitions)**

Section 3

*insert*

**community cemetery**, see section 5 of the *Burial and Cremation Act 2019*.

**facility**, see section 5 of the *Burial and Cremation Act 2019*.

**public cemetery**, see section 5 of the *Burial and Cremation Act 2019*.

**responsible entity**, for a community cemetery or a public cemetery, see section 5 of the *Burial and Cremation Act 2019*.

**169 Section 32 amended (Delegation)**

After section 32(3)

*insert*

- (4) A council, as the responsible entity of a public cemetery or a community cemetery, may only delegate the powers and functions of the responsible entity under the *Burial and Cremation Act 2019* to a local government subsidiary.

**170 Section 53D amended (Functions of local authority)**

After section 53D(f)

*insert*

- (fa) to approve the cemetery plan for each public cemetery and community cemetery located within the authority's area; and

**171 Section 102 replaced**

Section 102

*omit, insert*

**102 Delegation by CEO**

- (1) The CEO may delegate a power or function under this Act to an individual or a committee.
- (2) The CEO may delegate a power or function under the *Burial and Cremation Act 2019* to an individual.

**172 Section 184 replaced**

Section 184

*repeal, insert*

**184 Public and community cemeteries**

- (1) A council is the responsible entity for a public cemetery or a community cemetery that is located in the council's area.
- (2) If a council is the responsible entity for a public cemetery or a community cemetery, the council may make by-laws for the management and control of that cemetery.
- (3) A council is the responsible entity for a facility that is located in a public cemetery in the council's area.

**Division 2 Other laws amended**

**173 Other laws amended**

Schedule 3 amends the laws mentioned in it.

**Division 3 Repeal of Part**

**174 Repeal of Part**

This Part is repealed on the day after it commences.



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**Schedule 1 Reviewable decisions and affected persons**

section 145

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Reviewable decision	Affected person
A decision of the manager of a cemetery under section 23(7) to refuse to give a burial approval	The applicant mentioned in section 23(3)
A decision of the manager of a cemetery under section 24(5) to not approve a request to vary or remove any condition on a burial approval	The applicant mentioned in section 24(2)
A decision of the responsible entity for a cemetery under section 37(1) to require a person to repair, remove or reinstate a memorial	The applicant mentioned in section 36(1)
A decision of the CEO under section 39(5) to refuse to approve a burial at a location outside a cemetery	The applicant mentioned in section 39(3)
A decision of the manager of a cemetery under section 56(5) to refuse to renew an exclusive right of burial	The grantee of the exclusive right of burial
A decision of the CEO under section 59(6) to refuse to approve the exhumation and relocation of human remains	The person mentioned in section 59(1)
A decision of the manager of a facility under section 80(9) to refuse to give a disposal approval	The applicant mentioned in section 80(2)
A decision of an officer under section 89(1) to prohibit the burial of human remains	The executor or administrator of the estate of the deceased person or any next of kin of the deceased person that the prohibition relates
A decision of an officer under section 89(1) to prohibit the disposal of human remains	The executor or administrator of the estate of the deceased person or any next of kin of the deceased person that the prohibition relates

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<b>Reviewable decision</b>	<b>Affected person</b>
A decision of the Minister under section 127 to issue an enforcement order to the responsible entity for a cemetery	The responsible entity for the cemetery
A decision of the Minister under section 135 to issue an enforcement order to the responsible entity for a facility	The responsible entity for the facility
A decision of the Minister under section 138 to suspend the operation of a facility	The responsible entity for the facility

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## **Schedule 2 Repealed Acts**

section 157

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<i>Cemeteries Ordinance 1952</i>	Act No. 18 of 1952
<i>Cemeteries Ordinance 1955</i>	Act No. 7 of 1955
<i>Cemeteries Ordinance 1963</i>	Act No. 47 of 1963
<i>Cemeteries Ordinance 1964</i>	Act No. 36 of 1964
<i>Cemeteries Ordinance 1966</i>	Act No. 46 of 1966
<i>Cemeteries Ordinance 1971</i>	Act No. 4 of 1971
<i>Cemeteries Ordinance 1977</i>	Act No. 47 of 1977
<i>Cemeteries Ordinance 1978</i>	Act No. 109 of 1978
<i>Cemeteries Act 1979</i>	Act No. 92 of 1979
<i>Cemeteries Amendment Act 1999</i>	Act No. 57 of 1999
<i>Cemeteries Amendment Act 2000</i>	Act No. 68 of 2000
<i>Cemeteries Amendment Act 2005</i>	Act No. 35 of 2005

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**Schedule 3 Other laws amended**

section 173

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
<b><i>Births, Deaths and Marriages Registration Act 1996</i></b>		
section 4, definition <b><i>disposal</i></b> , paragraph (e)	voyage).	voyage);
section 4, definition <b><i>disposal</i></b> , after paragraph (e)		(f) any other process for the disposal of human remains under the <i>Burial and Cremation Act 2019</i> .
<b><i>Compensation (Fatal Injuries) Act 1974</i></b>		
section 4(1)		<b><i>burial</i></b> , see section 5 of the <i>Burial and Cremation Act 2019</i> .
		<b><i>disposal</i></b> , see section 5 of the <i>Burial and Cremation Act 2019</i> .
section 10(3)(a)	or cremation	or disposal of the remains
<b><i>Coroners Act 1993</i></b>		
section 3, definition <b><i>disposal</i></b>	disposal at sea	any other process for the disposal of human remains under the <i>Burial and Cremation Act 2019</i>
section 24(2)	trustees or owners of the cemetery, burial ground or place of burial	responsible entity for the cemetery or the land owner for the burial ground or place of burial

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 47(2)(d)	burial certificates	certificates relating to the disposal of human remains
<b><i>Coroners Regulations 1994</i></b>		
Schedule 2, Form 4	all words from "I have" to "cremation."	I have authorised disposal of human remains, and I am satisfied that no circumstance exists that can render necessary any further examination of the remains, any analysis of any body part or the making of any toxicological examination. There is no reason why the remains should not be buried, cremated, or disposed of in accordance with the <i>Burial and Cremation Act 2019</i> .
<b><i>Criminal Code Act 1983</i></b>		
section 125(a)	all words from "burial" to "crematorium"	burial or disposal of human remains under the <i>Burial and Cremation Act 2019</i>
<b><i>Geothermal Energy Act 2009</i></b>		
section 49(1)(c)	section 4 of the <i>Cemeteries Act 1952</i>	section 5 of the <i>Burial and Cremation Act 2019</i>
section 49(2), definition <b><i>appropriate person</i></b> , paragraph (c)	Board of Trustees of	responsible entity for

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
<b><i>Medical Services Act 1982</i></b>		
section 14, heading	<b>Burial expenses</b>	<b>Expenses of burial or disposal of remains</b>
section 14(1)	all words from "burial of" to "burial"	burial or disposal of the remains of a person under the <i>Burial and Cremation Act 2019</i> , the Territory may recover the amount of that expense as though the burial or disposal
section 14(2)	all words from "burial of" to "burial"	burial or disposal under the <i>Burial and Cremation Act 2019</i> of the remains of a still-born child, the Territory may recover the amount of that expense as though the burial or disposal
<b><i>Petroleum Act 1984</i></b>		
section 111(a), at the end		or
section 111(b)	within the meaning of the <i>Cemeteries Act 1952</i>	as defined in the <i>Burial and Cremation Act 2019</i>
section 111(c)	obtained,	obtained;
section 111(d), at the end		and

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 111(f)	whole paragraph	(f) in the case of a cemetery as defined in the <i>Burial and Cremation Act 2019</i> – the responsible entity for the cemetery.
<b><i>Place Names Act 1967</i></b>		
section 4A(1)(e)	whole paragraph	(e) a public cemetery as defined in the <i>Burial and Cremation Act 2019</i> ; and
<b><i>Public and Environmental Health Act 2011</i></b>		
section 133(2)(h)	other disposal	any other prescribed process for the disposal of human remains under the <i>Burial and Cremation Act 2019</i>
<b><i>Return to Work Act 1986</i></b>		
section 3(1)		<b><i>burial</i></b> , see section 5 of the <i>Burial and Cremation Act 2019</i> .  <b><i>disposal</i></b> , see section 5 of the <i>Burial and Cremation Act 2019</i> .
section 51(2)(a) to (d), at the end		and
section 51(2)(e)	whole paragraph	(e) if a sailor dies without leaving any dependants, compensation is not payable if the owner or charterer of the ship is liable

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
		under a law in force in the Territory to pay the expenses of the burial or disposal of human remains; and
<b><i>Transplantation and Anatomy Act 1979</i></b>		
section 4		<b><i>burial</i></b> , see section 5 of the <i>Burial and Cremation Act 2019</i> .
		<b><i>disposal</i></b> , see section 5 of the <i>Burial and Cremation Act 2019</i> .
section 26(d)	interment or cremation	burial or disposal