



THE UNIVERSITY
of ADELAIDE

Legal Compliance Education and Awareness



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Burial and Cremation Act 2013 & Transplantation and Anatomy Act 1983

(South Australian)

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What does the Burial and Cremation Act do?

The purpose of the [Burial and Cremation Act 2013](#) (SA) is to ensure that human remains are treated with dignity and respect at all times.

The Act prescribes the manner in which human remains are to be:

- Identified, handled, stored and transported
- Disposed of - either by burial or cremation
- Identified and the manner of death confirmed before disposal authorisations and permits are issued.

The Act also set out requirements for the

- Establishment, management and closure of cemeteries, natural burial grounds and crematoria
- Issue, duration and renewal of interment rights
- Ownership, maintenance and removal of memorials.

The [Burial and Cremation Regulations 2014](#) are issued under the Act.

Why is this Act important to the University?

The Adelaide Medical School operates a “school of anatomy” for the purposes of teaching and studying the anatomy of the human body.

The School teaches human anatomy to health and medical students and provides advanced surgical training.

To support this activity, the School operates a mortuary facility where donor bodies can be received and stored.

- The University’s [Ray Last Laboratories](#) receives, embalms & stores bodies donated to the University’s [Body Donation Program \(BDP\)](#)
- The BDP manages the use of cadavers and anatomical specimens within the Medical School and other licensed schools of anatomy within the State and Australia
- The BDP arranges for the ethical disposal of human remains post-research or teaching activities.

Donations are made under the *Transplantation and Anatomy Act 1983 (SA)*.

What is the Transplantation and Anatomy Act?

Under conditions set out in the [Transplantation and Anatomy Act 1983](#), people can make known their wish to leave their body to further medical science.

The key condition is donor **consent**.

Part 5 of the Transplantation and Anatomy Act states that a body can be donated to a school of anatomy for the following purposes:

- *anatomical examination; or*
- *the study and teaching of the anatomy of the human body.*

A “school of anatomy” was first declared at the University of Adelaide in 1885 under the *Anatomy Act 1884* (SA).

The University has maintained this status to the present day under subsequent legislation – currently, *Part 6 of the Transplantation and Anatomy Act*.

The [Transplantation and Anatomy Regulations 2018](#) are issued under this Act. The Regulations require that a School of Anatomy to comply with the [Standard](#) issued by SA Health (2017).

More details are available from the [Body Donation Program](#).

What legal obligations does the University have?

Both Acts have significance to the ongoing learning and teaching objectives of the Adelaide Medical School.

To comply with both Acts, the University:

- Must not accept any human remains into the Body Donation Program unless the body donor has given consent – usually in writing, and/or confirmed in writing by the next of kin or other authorised person after death
- Must maintain *prescribed institution* status as a “school of anatomy”
- Must not “trade” in human tissue, such as by offering donors inducements
- Must keep detailed records about the provenance of all human remains
- Must, on the basis of these records, ensure that donors’ remains coming into the Laboratories are accounted for when they are going out.
- Must not arrange for the ethical disposal of human remains without proper permits
- Must comply with any instruction by the Coroner.

How does the University meet these obligations?

The University contracts a South Australian funeral service provider to:

- Confirm the identity of the deceased before transfer to the Laboratories
- Transport donated bodies to and from the University Laboratories
 - *From the place of death*
 - *To other medical science research institutions and return*
- Organise the cremation of remains
 - *Once appropriate permits have been obtained*
- Relocate cremated donor remains to a final resting place (Type 1 donation*)
 - *Usually at a special site at Drumminor Gardens*
- Make arrangements for return of donor's remains to next of kin when requested (Type 2 donation*)
- Assist with any special circumstances effecting the Program.

*See [Body Donation Program](#) guide for details

Releasing remains

Donor remains are usually kept for a finite period of time.

In general, human remains can only be “disposed” of by burial or cremation.

- *Ministerial permission is required for any alternative methods*

Most donor’s remains are cremated.

Under the *Burial and Cremation Act*, the University must ensure

- *Consent of the deceased person*

or

- *Consent of the donor’s family*

Human remains cannot be cremated if a family member objects unless the donor has provided written consent prior to death (Section 9).

Releasing remains (cont.)

Cremation Permits

A permit for the cremation of human remains must be issued by the Registrar of Births, Deaths and Marriages (Section 10).

A permit cannot be issued unless the following records are provided:

- A certificate issued by a medical practitioner showing that the deceased died from natural causes,
- and
- A second medical certificate by another doctor;
- or
- A certificate from a doctor who has conducted a post mortem investigation;
- or
- A disposal authorisation issued under Section 32 of the [Coroners Act 2003](#) SA

Regulation 4A allows an application to be made to the Registrar to permit cremation of de-identified remains imported from outside the State.

Releasing remains (cont.)

Prior to cremation

- The Department of Health must be notified in writing of the intended release of human remains.
- Physical inspection of the remains must be carried out by staff from the Department of Health and a “Release Register” signed
 - *this process requires multiple information checks by various Departmental and University Officers*

The University uses a numbered identification management system to register and keep track of human remains in the Laboratories.

Offences

Under the *Burial and Cremation Act* there are penalties for:

- Unauthorised cremation of human remains (Section 9)
- Unauthorised or incorrect release of ashes (Section 18)
- Removal, marking, altering or interfering with a tag attached to or mark placed on a body (Regulation 7)
- Inappropriate administration of the necessary forms & permits, including making false statements (Section 6)
- Improper handling, storage or transportation of human remains (Section 15)

Penalties up to \$10k or 2 years imprisonment may apply.

Additional Resources

- [Jim Manavis](#), Manager, Ray Last Laboratory
 - 8313 5905
- [Sandra Lilburn](#), Manager Compliance, Legal and Risk Branch
- [Body Donation Program](#) website

Legislation links

- [Burial and Cremation Act 2013 \(SA\)](#)
 - [Burial and Cremation Regulations 2014 \(SA\)](#)
- [Coroners Act 2003 \(SA\)](#)
- [Transplantation and Anatomy Act 1983](#)
 - [Transplantation and Anatomy Regulations 2018 \(SA\)](#)
 - [SA Health Standard for the Operation, Management and Oversight of Schools of Anatomy in South Australia \(2017\)](#)



Disclaimer

The content of this material is intended only to provide a summary & general overview of the *Cremation Act* as it applies to the University of Adelaide.

It is not intended to be comprehensive nor does it constitute legal advice.

Please contact *Jim Manavis, Manager, Ray Last Laboratory* or Legal & Risk if you are unsure of your compliance obligations under the Act.