

CREMATION.

2° Elizabeth II., No. LXXX.

No. 80 of 1953.

AN ACT to amend the Cremation Act, 1929-1935.

[Assented to 18th January, 1954.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Cremation Act Amendment Act, 1953.* Short title and citation.

(2) In this Act the Cremation Act, 1929-1935, Act No. 22 of 1929, reprinted as amended by Act No. 8 of 1935 pursuant to the provisions of the Amendments Incorporation Act, 1938, in Volume 2 of the Reprinted Acts of the Parliament of Western Australia, 1943,

is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Cremation Act, 1929-1953.

Commence-
ment.

2. This Act shall come into operation on a date to be fixed by proclamation.

S. 2
amended.

3. Section two of the principal Act is amended by—

(a) deleting the interpretations “District” and “Registrar”;

(b) adding after the interpretation “Commissioner” the following interpretation:—

“Coroner” means a person appointed to be a Coroner under the Coroners Act, 1920, and includes a deputy Coroner a resident Magistrate, a Justice authorised under section five of that Act to act as a Coroner and a person appointed a Coroner under the law of any State of the Commonwealth;

(c) adding after the interpretation “Licensees” the following interpretation:—

“medical practitioner” means a legally qualified medical practitioner registered under the Medical Act, 1894-1952.

S. 4
amended.

4. Section four of the principal Act is amended by—

(a) substituting for the words “registrar of the district in which the crematorium is erected or proposed to be erected” in lines ten, eleven and twelve of paragraph (iii) of subsection (2) the word “Commissioner”;

(b) substituting for paragraph (iv) of subsection (2) the following:—

(iv) that where an objection to the granting of the license has been lodged with the Commissioner, the Commissioner has over-ruled the objection.

S. 7
amended.

5. Subsection (1) of section seven of the principal Act is amended by substituting for the word “administrator” in lines two and ten the word “person”.

6. Section eight of the principal Act is repealed and re-enacted as follows:—

S. 8
repealed and
re-enacted.

8. (1) The Governor may from time to time—

Appointment
of medical
referees.

(a) appoint for the purposes of this Act, one or more medical practitioners to be a medical referee;

(b) cancel an appointment so made.

(2) Where an application in the prescribed form for a permit for the cremation of a dead human body, is made by a person to a medical referee, if he is satisfied that the applicant is an administrator or other duly authorised person to hold the permit, he shall subject to the provisions of this Act, grant the permit.

(3) (a) An application for a permit may be made by—

(i) an administrator;

(ii) a person acting with the written authority of and on behalf of the administrator; or

(iii) a person who satisfies a medical referee that no application for a permit is to be made by the administrator of the deceased person in respect of whom the application is made, and who shows to the medical referee a satisfactory reason why the application is not made by an administrator, and that he is a proper person to make the application.

(b) Where the application for a permit is not made by an administrator, the person making the application shall—

(i) make a statutory declaration in the prescribed form setting out the grounds upon which he claims authority to make the application, and

(ii) supply such further information with relation to the application as the medical referee may require.

(4) (a) A person who applies for a permit shall pay the prescribed fee to the medical referee issuing the permit.

(b) The medical referee is entitled to retain the prescribed fee for his own use.

(5) Where it appears to a medical referee that the death of the person in respect of whose body the application for the permit is made, whether the cause of death is shown on the death certificate of that person or not, is due to violence or unnatural causes, or if there are in his opinion suspicious circumstances surrounding the death, the medical referee shall refuse the application and report the refusal and the reason for the refusal to the Coroner residing nearest to the place where the body is lying.

(6) Where, except as provided in the last preceding subsection, a medical referee refuses to issue a permit, the applicant may appeal in the prescribed manner to the Commissioner, who may uphold the decision of the medical referee or direct in writing the medical referee to issue the permit to the applicant.

3. 8A
added.

7. A section is added to the principal Act as follows:—

8A. A medical referee shall not issue a permit for the cremation of the body of a deceased person—

(a) unless a certificate in the prescribed form is given by a medical practitioner who was in attendance upon the deceased person at the time of his death and he is satisfied that the medical practitioner has made full enquiries as to the cause of death of the deceased person;

(b) where the deceased person has left a written direction that his body is not to be cremated, except where the

Commissioner orders the body to be cremated, pursuant to powers conferred upon him by the Health Act, 1911-1952;

- (c) unless he is satisfied that the applicant for the permit is entitled or authorised to make the application;
- (d) unless he is satisfied that the fact and cause of death of the deceased person are definitely ascertained;
- (e) where the permit is in the first instance refused by him under the provisions of subsection (5) of section eight of this Act, unless and until he receives from a Coroner a certificate in the prescribed form authorising him to grant the permit;
- (f) where the Coroner has signified his intention of holding an inquest on the body of the deceased person unless and until the Coroner gives a certificate in the prescribed form authorising him to grant the permit;
- (g) where the medical practitioner who gives the certificate referred to in paragraph (a) of this section is—
 - (i) the parent child brother or sister of the deceased person or is the uncle aunt niece or nephew of the deceased person;
 - (ii) in partnership with the medical referee;
 - (iii) the medical referee to whom the application for the permit is made.

8. A section is added to the principal Act as follows:—

8B. Notwithstanding the provisions of section eight A of this Act where an application for a permit for the cremation of the remains of a still-born child is made to the medical referee he may issue the permit if—

- (a) a medical practitioner other than himself who was in attendance at the birth of the child certifies in writing that

S. 8B
added.

- (i) the remains are those of a still-born child;
 - (ii) the remains are not required to be submitted to post-mortem examination in accordance with the provisions of the Health Act, 1911-1952; or
- (b) he is satisfied after making such enquiries as he considers necessary that
- (i) the child, whose remains are the subject of the application, was in fact still-born;
 - (ii) there is in his opinion no reason for further examination and that the remains are not required to be submitted to post-mortem examination in accordance with the provisions of the Health Act, 1911-1952.

S. 10
amended.

9. Section ten of the principal Act is amended by substituting for the word "registrar" in line one the words "medical referee".

S. 11
amended.

10. Section eleven of the principal Act is amended by substituting for the word "registrar" in line four the words "medical referee".

S. 17
amended.

11. Subsection (1) of section seventeen of the principal Act is amended by adding after paragraph (e) a paragraph as follows:—

- (e1) prescribing the duties and obligations of medical referees and the fees to be paid to them for a permit for the cremation of a dead human body; .