

Impact Analysis Statement

Summary IAS

Details

Lead department	Department of Justice
Name of the proposal	Remake of the <i>Cremations Regulation 2014</i>
Submission type	Summary Impact Analysis Statement (IAS)
Title of related legislative or regulatory instrument	<i>Cremations Act 2003</i>
Date of issue	August 2025

What is the nature, size and scope of the problem? What are the objectives of government action?

Sunset Review of the *Cremations Regulation 2014*

Background and objective

The main objective of the *Cremations Act 2003* (Act) is to ensure that the body of a person whose death is suspicious or should otherwise be reported to a coroner is not cremated without discovery. The secondary objective is to ensure, as much as possible, that bodies which still contain cremation risks (for example pacemakers) are not cremated.

The purpose of the *Cremations Regulation 2014* (the Regulation) is to place obligations on crematoriums with respect to the labelling and record keeping requirements under the Act.

Section 3 of the Regulation prescribes, for section 11(1)(a) of the Act, the labelling requirements for ashes, such as where and how the label should be placed on a container in which ashes are stored and what information must be included on the label, including the cremation date and the name and address of the crematorium.

Section 4 of the Regulation prescribes, for section 14(1)(a) of the Act, required particulars for a record of cremation such as the deceased person name, the deceased person's age at the date of death, the deceased person's last known place of residence and details about how the ashes were dealt with.

The Regulation was automatically set to expire on 1 September 2024. However, the *Statutory Instruments Regulation 2022* prescribes the 2014 Regulation as exempt from expiry until 31 August 2025 on grounds that it is being replaced under the *Statutory Instruments Act 1992* (SIA).

The Regulation is now due to expire at the end of 31 August 2025. A sunset review has been undertaken to consider the continuing need, effectiveness and efficiency of the Regulation.

What options were considered?

Two broad options were considered:

- **Option 1 status quo (no action)** – this involves making no changes to the Regulation and allowing it to expire in accordance with the SIA
- **Option 2 (preferred option)** – remake the Regulation with minor changes: this involves remaking the Regulation with minimal changes

Option 1 – status quo (no action)

Option 1 is maintaining the status quo (no action) and involves a non-legislative response. If the Regulation is not remade, then it will expire. Without the Regulation there would be no specific obligation about labelling of ashes or record keeping, resulting in a lack of safeguards relating to the proper identification and handling of remains. Without the Regulation, there may be heightened costs to crematoriums on the basis that they would need to create their own policies and procedures for handling ashes and keeping adequate records.

Without the labelling requirements, a person in charge of a crematorium would be able to label ashes in any way they want (or not at all), which may result in ashes not being accurately recorded or mixed up. Without record keeping requirements, a person may keep insufficient or no records about a cremation, including significant information about the disposal and burial of ashes. In addition, record keeping between crematoriums would likely not be uniform. This would make auditing records or any enquiries about records or deaths difficult due to inconsistencies in records between crematoriums.

Option 2 (preferred option) – remake the Regulation with minor changes

Option 2 is remaking the Regulation with minor changes to ensure it remains current and continues to support the effective operation of the Act in relation to labelling and record keeping requirements.

What are the impacts?

Remaking the Regulation, with minor changes, supports the effective operation of the Act. The proposed changes are minor drafting changes and are expected to have nil Government impact and minimal impact on crematoriums as they reflect existing longstanding practice.

Owners of crematoriums are dealing with deceased persons and their remains and running a commercial enterprise, where they offer an emotionally charged service to consumers. In operating their business, they are undertaking some form of record keeping and labelling of ashes to ensure they are delivering a high standard of service to consumers. On this basis, the impacts of the Regulation will only be material where the owner of a crematorium would not have labelled ashes or kept a record of the cremation in the absence of regulation.

An estimate of costs arising from the Regulation has been prepared on a general assumption the minimum recordkeeping and labelling requirements for each cremation would take a Cemetery Officer (Class 6) approximately 45 minutes to complete. Calculating the minimum wage of the Cemetery Officer, including superannuation and other employee costs, the estimated costs of the requirements in the Regulation equates to approximately \$40 per cremation or less than 0.5% of the average cost of a cremation (estimate of \$8,045, as outlined above).

These costs of record keeping and labelling of ashes form part of and are factored into the cremation services charged to consumers. As a result, crematorium owners are recouping the entirety of the costs spent on complying with the obligations under the Regulation. As these costs are passed on, remaking the Regulation should not increase the prices consumers are already faced with.

Who was consulted?

The sunset review of the Regulation involved a targeted consultation process with industry and legal stakeholders. They were invited to comment on the relevance, effectiveness and efficiency of the existing Regulation.

Overall, feedback received confirmed that the Regulation is relevant and necessary.

What is the recommended option and why?

Option 2 (to remake the Regulation with minor changes) is the recommended option.

Overall, the Regulation is essential to ensure that the industry maintains responsible and consistent labelling and record keeping. The Regulation mitigates the risk of error by standardising labelling and record keeping requirements, which reduces any potential of social harm associated with ad hoc or no processes. This option ensures transparency and accountability of a person in charge of a crematorium throughout a highly sensitive process and encourages public trust in the funeral industry.

Impact assessment

All proposals – complete

	First full year	First 10 years
Direct costs – <i>Compliance costs</i>	Approximately \$40 per cremation	N/A
Direct costs – <i>Government costs</i>	Nil	N/A

Signed



Sarah Cruickshank
Director-General
Department of Justice

Date: 4/8/25



Deb Frecklington MP
Attorney-General and Minister for Justice and
Minister for Integrity

Date: 11/8/25