

# INSTRUMENT OF DELEGATION

## INSTRUMENT OF DELEGATION UNDER THE BURIAL AND CREMATION ACT 2013

29 NOVEMBER 2023

## Delegation Sources

- Burial and Cremation Act 2013

### Positions

Abbreviation	Position	Name
CEO	Chief Executive Officer	Kelly Westell
MDRS	Manager Development & Regulatory Services	Gabby Swearse
MIO	Manager Infrastructure & Operations	
N/A	Not Applicable	
Not Delegated to CEO	Not Delegated to CEO	
Not Sub Delegated	Not Sub-Delegated	

## Instrument of Delegation under the Burial and Cremation Act 2013

Burial and Cremation Act 2013				
Provision	Power and Functions Delegated	Delegate	Conditions and Limitations	Capacity of Council
section 8(2)	Approve the interment of bodily remains	CEO, Not Sub Delegated		council
section 13(4)	Inter additional bodily remains	N/A		relevant authority for cemetery or crematorium
section 13(6)	Be consulted by the Attorney-General regarding the opening of an interment site, exhumation or removal of bodily remains or re-interment of bodily remains	CEO, Not Sub Delegated		relevant authority for cemetery or crematorium
section 18(1)	Ensure that cremated remains are only released to an authorised person	N/A		relevant authority for cemetery or crematorium
section 18(2)	Dispose of cremated remains	N/A		relevant authority for cemetery or crematorium

**Burial and Cremation Act 2013**

<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>	<b>Capacity of Council</b>
section 19	Establish a cemetery, natural burial ground or crematorium	CEO, Not Sub Delegated		council
section 20	Establish and manage a public mortuary	CEO, Not Sub Delegated		council
section 21	Establish a mausoleum	CEO, Not Sub Delegated		relevant authority for cemetery or crematorium
section 22	Provide part of a cemetery as a natural burial ground	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 23	Set apart part of a cemetery or natural burial ground for a particular religion	CEO, MDRS, MIO		relevant authority for cemetery or crematorium

**Burial and Cremation Act 2013**

<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>	<b>Capacity of Council</b>
section 24(1)	Close a cemetery or natural burial ground	CEO, Not Sub Delegated		relevant authority for cemetery or crematorium
section 24(2)	Provide notice of proposed closure of a cemetery or natural burial ground	CEO, Not Sub Delegated		relevant authority for cemetery or crematorium
section 24(5)	Provide details of representations or submissions to the Minister regarding the proposed closure of a cemetery or natural burial ground	CEO, Not Sub Delegated		relevant authority for cemetery or crematorium
section 24(8)(a)	Discharge unexercised interment rights and provide a refund by agreement with the interment holder on closure of a cemetery or natural burial ground	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 24(8)(b)	Discharge unexercised interment rights and issue a new interment right by agreement with the interment holder on closure of a cemetery or natural burial ground	CEO, MDRS, MIO		relevant authority for cemetery or crematorium

**Burial and Cremation Act 2013**

<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>	<b>Capacity of Council</b>
section 24(9)(a)	Discharge interment rights and issue a new interment right with the interment holder on closure of a cemetery or natural burial ground	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 24(9)(b)	Remove and re-inter human remains by agreement with the interment holder on closure of a cemetery or natural burial ground	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 24(9)(c)	Remove and reposition a memorial by agreement with the interment holder on closure of a cemetery or natural burial ground	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 24(10)	Referral of matter for mediation if agreement cannot be reached on the discharge of an interment right on closure of a cemetery or natural burial ground	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 24(11)	Pay for mediation with respect to the discharge of an interment right on closure of a cemetery or natural burial ground	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 24(12)(a)	Offer land as a gift on closure of a cemetery or natural burial ground	CEO, Not Sub Delegated		relevant authority for cemetery or crematorium

**Burial and Cremation Act 2013**

<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>	<b>Capacity of Council</b>
section 24(12)(b)	Demolish, remove, relocate or replace a grave on closure of a cemetery or natural burial ground	CEO, Not Sub Delegated		relevant authority for cemetery or crematorium
section 24(14)	Prepare an inventory prior to closure of a cemetery or natural burial ground identifying all graves and memorial, a record of all inscriptions and other particulars on memorials and a photograph of each memorial	CEO, Not Sub Delegated		relevant authority for cemetery or crematorium
section 24(15)	Make the inventory of graves and memorials available to the public	CEO, Not Sub Delegated		relevant authority for cemetery or crematorium
section 25(1)	Petition the Minister to have trust on which land is held by council which was formerly a cemetery or natural burial ground determined and the land dedicated as park lands	Not Delegated to CEO		council
section 25(5)	Pay costs of advertising or inquiry related to the determination of a trust and dedication of land as park lands	CEO, Not Sub Delegated		council

**Burial and Cremation Act 2013**

<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>	<b>Capacity of Council</b>
section 25(4)(a)	Remove memorials if a closed cemetery is dedicated as park lands	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 25(4)(b)	Relocate memorials if a closed cemetery is dedicated as park lands	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 25(4)(c)	Replace memorials if a closed cemetery is dedicated as park lands	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 26(2)	Convert a closed cemetery which is not on land held on trust by the council or that includes land under the care, control and management of a council into a public park or garden	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 26(3)	Give notice of intention to convert a cemetery into a public park where the cemetery is not on land held on trust by the council or that includes land under the care, control and management of a council	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 26(6)(a)	Remove memorials from a closed cemetery which is not on land held on trust by the council or that includes land under the care, control and management of a council	CEO, MDRS, MIO		relevant authority for cemetery or crematorium



**Burial and Cremation Act 2013**

<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>	<b>Capacity of Council</b>
section 26(6)(b)	Relocate memorials from a closed cemetery which is not on land held on trust by the council or that includes land under the care, control and management of a council	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 26(6)(c)	Replace memorials a closed cemetery which is not on land held on trust by the council or that includes land under the care, control and management of a council	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 27(1)(a)	Construct roads and pathways for purpose of converting closed cemetery into a public park or garden	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 27(1)(b)	Erect or construct buildings for purpose of converting closed cemetery into a public park or garden	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 27(1)(c)	Construct a vault or other repository for human remains for purpose of converting closed cemetery into a public park or garden	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 27(1)(d)	Erect lighting, seating or other infrastructure or public amenity for purpose of converting closed cemetery into a public park or garden	CEO, MDRS, MIO		relevant authority for cemetery or crematorium

**Burial and Cremation Act 2013**

<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>	<b>Capacity of Council</b>
section 27(1)(e)	Take such other action for laying out land as parklands or a public place or garden for purpose of converting closed cemetery into a public park or garden	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 28(1)	Provide notice of cemetery or natural burial ground closure to the Registrar	CEO, MIO		relevant authority for cemetery or crematorium
section 28(2)	Provide notice of crematorium closure to the Registrar or the Environment Protection Authority	CEO, MIO		relevant authority for cemetery or crematorium
section 28(3)	Forward records of closed cemetery, natural burial ground or crematorium to the Libraries Board of South Australia	CEO, MIO		relevant authority for cemetery or crematorium
section 30(1)	Agree to the interment of human remains	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 30(1)	Issue an interment right	CEO, MDRS, MIO		relevant authority for cemetery or crematorium

**Burial and Cremation Act 2013**

<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>	<b>Capacity of Council</b>
section 30(2)	Provide statement in plain English setting out rights and responsibilities in regard to an interment right to person applying for an interment right	CEO, MIO		relevant authority for cemetery or crematorium
section 30(3)	Determine capacity of interment site	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 30(5)	Carry out a lift and deepen procedure	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 32(1)	Renew interment right	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 32(1)	Fix renewal fee	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 32(2)	Provide notice of interment right expiry	CEO, MDRS, MIO		relevant authority for cemetery or crematorium

**Burial and Cremation Act 2013**

<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>	<b>Capacity of Council</b>
section 32(3)	Provide statement in plain English setting out rights and responsibilities in regard to an interment right to person renewing interment right	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 33(1)	Transfer an interment right	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 33(1)(a)	Determine consideration for transfer of interment right	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 33(3)	Record interment right transfer in register	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 34(1)	Receive surrendered interment right	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 34(2)	Provide a refund on the surrender of an unexercised interment right	CEO, MDRS, MIO		relevant authority for cemetery or crematorium

**Burial and Cremation Act 2013**

<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>	<b>Capacity of Council</b>
Section 35(4)	Comply with obligations under an interment right	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 37(1)	Keep a register of interment rights	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 37(2)	Record information in the interment rights register	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 38(1)(a)	Reuse an interment site on expiry of an interment right	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 38(1)(b)	Remove a memorial on expiry of an interment right	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 38(2)(a)	Give notice of intention to reuse an interment site by public advertisement	CEO, MDRS, MIO		relevant authority for cemetery or crematorium

**Burial and Cremation Act 2013**

<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>	<b>Capacity of Council</b>
section 38(2)(b)	Give notice of intention to reuse an interment site by notice to the personal representative of the deceased	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 39(2)	Deal with and dispose of a memorial in accordance with the Burial and Cremation Act	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 40	Enter into an agreement with an interment right holder to maintain memorial	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 41(1)	Provide notice requiring repair, removal or reinstatement of memorial	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 41(2)	Carry out repair, removal or reinstatement work	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 41(2)	Recover costs of work repairing, removing or reinstating a memorial	CEO, MDRS, MIO		relevant authority for cemetery or crematorium

**Burial and Cremation Act 2013**

<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>	<b>Capacity of Council</b>
section 41(3)	Carry out repair, removal or reinstatement work	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 41(3)	Recover costs of work repairing, removing or reinstating a memorial	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 42(1)	Remove and dispose of memorial where interment right has expired	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 42(1)(c)	Give notice of intention to remove and dispose of a memorial on expired interment site by public advertisement and notice affixed to the memorial	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 42(1)(d)	Give notice of intention to remove and dispose of a memorial on expired interment site by public notice to owner of memorial	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 42(2)	Keep prescribed records of disposed memorials	CEO, MDRS, MIO		relevant authority for cemetery or crematorium

**Burial and Cremation Act 2013**

<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>	<b>Capacity of Council</b>
section 43(a)	Enlarge a cemetery, natural burial ground or crematorium	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 43(b)	Improve or embellish a cemetery, natural burial ground or crematorium	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 43(c)	Restrict interments in any part of a cemetery or natural burial ground	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 43(d)	Take action for proper management and maintenance of a cemetery, natural burial ground or crematorium	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 45	Restrict interments in any part of a cemetery or natural burial ground	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 46(1)	Issue notice that cemetery or natural burial ground is in a neglected condition or fails to comply with the Burial and Cremation Act	CEO, MDRS, MIO		council



**Burial and Cremation Act 2013**

<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>	<b>Capacity of Council</b>
section 46(1)	Respond to notice from the Minister that cemetery or natural burial ground is in a neglected condition or fails to comply with the Burial and Cremation Act	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 46(3)	Cause work to be undertaken to satisfy notice that cemetery or natural burial ground is in a neglected condition or fails to comply with the Burial and Cremation Act	CEO, MDRS, MIO		council
section 46(4)	Cause work to be undertaken to satisfy notice that cemetery or natural burial ground is in a neglected condition or fails to comply with the Burial and Cremation Act	CEO, MDRS, MIO		council
section 46(5)	Recover costs of work to be undertaken to satisfy notice that cemetery or natural burial ground is in a neglected condition or fails to comply with the Burial and Cremation Act	CEO, MDRS, MIO		council
section 47(1)	Apply for review of decision requiring work to be undertaken to satisfy notice that cemetery or natural burial ground is in a neglected condition or fails to comply with the Burial and Cremation Act	CEO, MDRS, MIO		relevant authority for cemetery or crematorium

**Burial and Cremation Act 2013**

<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>	<b>Capacity of Council</b>
section 47(1)	Make submissions on a review of decision requiring work to be undertaken to satisfy notice that cemetery or natural burial ground is in a neglected condition	CEO, MDRS, MIO		council
section 48(1)	Receive land used as a cemetery or natural burial ground on trust	CEO, Not Sub Delegated		council
section 49(1)	Assume administration of cemetery or natural burial ground	CEO, Not Sub Delegated		council
section 49(1)(c)	Agree to transfer administration of cemetery or natural burial ground	CEO, Not Sub Delegated		council
section 50(1)	Allow access to of cemetery, natural burial ground or crematorium	CEO, MDRS, MIO		relevant authority for cemetery or crematorium

**Burial and Cremation Act 2013**

<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>	<b>Capacity of Council</b>
section 50(2)	Require person to leave cemetery, natural burial ground or crematorium	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 51(1)	Deal with land used as a cemetery or natural burial ground in ordinary course of commerce	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 51(2)	Discharge interment rights prior to dealing with land used as a cemetery or natural burial ground in ordinary course of commerce	CEO, Not Sub Delegated		relevant authority for cemetery or crematorium
section 51(2)(a)	Provide refund to holder of an interment right on the discharge of that right in order to deal with land used as a cemetery or natural burial ground in ordinary course of commerce	CEO, Not Sub Delegated		relevant authority for cemetery or crematorium
section 51(2)(b)	Issue new interment right to holder of an interment right on the discharge of that right in order to deal with land used as a cemetery or natural burial ground in ordinary course of commerce	CEO, Not Sub Delegated		relevant authority for cemetery or crematorium

**Burial and Cremation Act 2013**

<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>	<b>Capacity of Council</b>
section 52	Deal with land which was a cemetery or natural burial ground closed in accordance with the Burial and Cremation Act in ordinary course of commerce	CEO, Not Sub Delegated		council
section 53(1)	Keep registers and plan prescribed by Burial and Cremation Act	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 53(3)	Keep records prescribed by Burial and Cremation Act	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 53(4)	Make registers prescribed by Burial and Cremation Act publicly available	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 53(5)	Produce a register prescribed by Burial and Cremation Act for inspection	CEO, MDRS, MIO		relevant authority for cemetery or crematorium
section 56(1)	Request Public Trustee to act for interment right holder	CEO, MDRS, MIO		relevant authority for cemetery or crematorium

**Burial and Cremation Act 2013**

<b>Provision</b>	<b>Power and Functions Delegated</b>	<b>Delegate</b>	<b>Conditions and Limitations</b>	<b>Capacity of Council</b>
section 58(2)	Appoint authorised officers	CEO, Not Sub Delegated		council
section 58(3)	Impose conditions on appointment of an authorised officer	CEO, Not Sub Delegated		council
section 58(4)	Issue identity card to an authorised officer	CEO, MDRS, MIO		council
section 58(7)	Vary or revoke appointment or impose further conditions on an authorised officer	CEO, Not Sub Delegated		council