



SIMPLER CREMATIONS

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Control of Disposition of Human Remains

In the Province of British Columbia, a funeral provider must obtain permission for control of disposition under Section 5 of the Cremation, Internment and Funeral Services Act. Section 5 reads the following:

Circle the following that applies:

Section 5 (1) Subject to this section and section 8 (3) (b) (i) [*requirement for authorization before funeral services or disposition*], the right of a person to control the disposition of the human remains or cremated remains vests in, and devolves on, the following persons in order of priority:

- (a) the personal representative named in the will of the deceased;
- (b) the spouse of the deceased;
- (c) an adult child of the deceased;
- (d) an adult grandchild of the deceased;
- (e) if the deceased was a minor, a person who was a guardian who had care and control of the deceased at the date of death;
- (f) a parent of the deceased;
- (g) an adult sibling of the deceased;
- (h) an adult nephew or niece of the deceased;
- (i) an adult next of kin of the deceased, determined on the basis provided by section 23 (5) of the *Wills, Estates and Succession Act*;
- (j) the minister under the *Employment and Assistance Act*, or if the Public Guardian and Trustee is administering the estate of the deceased under the *Wills, Estates and Succession Act*, the Public Guardian and Trustee;
- (k) an adult person having a personal or kinship relationship with the deceased, other than those referred to in paragraphs (b) to (d) and (f) to (i).

(2) If the person at the top of the order of priority set out in subsection (1) is unavailable or unwilling to give instructions, the right to give instructions passes to the person who is next in priority.

(3) If, under subsection (1), the right to control the disposition of human remains or cremated remains passes to persons of equal rank, the order of priority

(a) is determined in accordance with an agreement between or among them,
or

(b) in the absence of an agreement referred to in paragraph (a), begins with the eldest of the persons and descends in order of age.

(4) A person claiming that he or she should be given the sole right to control the disposition of the human remains or cremated remains may apply to the Supreme Court for an order regarding that right.

(5) When hearing an application under subsection (4), the Supreme Court must have regard to the rights of all persons having an interest and, without limitation, give consideration to

(a) the feelings of those related to, or associated with, the deceased, giving particular regard to the spouse of the deceased,

(b) the rules, practice and beliefs respecting disposition of human remains and cremated remains followed or held by people of the religious faith of the deceased,

(c) any reasonable directions given by the deceased respecting the disposition of his or her human remains or cremated remains, and

(d) whether the dispute that is the subject of the application involves family hostility or a capricious change of mind respecting the disposition of the human remains or cremated remains.

(6) Despite subsections (1) to (3), if the Supreme Court makes an order in favour of a person who has applied to it under subsection (4), that person is deemed to be at the top of the order of priority set out in subsection (1).

Requirement for authorization before funeral services or disposition

8 (1) A funeral provider must not provide funeral services unless the funeral provider has received written authorization from the person who, under section 5 [*control of disposition of human remains or cremated remains*], has the right to control the disposition of the human remains.

(2) Despite subsection (1), a funeral provider may accept an authorization by telephone to begin funeral services if the funeral provider does not dispose of the human remains until the funeral provider receives the written authorization required by subsection (1).

(3) An operator of a cemetery, mausoleum and crematorium must not dispose of human remains unless

(a) the operator is authorized to do so under the *Vital Statistics Act*, and

(b) the operator

(i) is ordered to do so by a medical health officer under the *Public Health Act*, or

(ii) has received the authorization from the person who, under section 5 [*control of disposition of human remains or cremated remains*], has the right to control the disposition of the human remains.

Protection from liability

9 If

(a) there is an error or omission in an authorization provided under section 8 [*requirement for authorization before funeral services or disposition*] to an operator or a funeral provider, or

(b) the person who signed an authorization provided under section 8 [*requirement for authorization before funeral services or disposition*] did not have the authority to give the directions set out in the authorization,

the operator or funeral provider is not liable for acting on the authorization unless the operator or funeral provider knew, or ought to have known, that the facts stated in the authorization were not true or the person giving the authorization did not have the authority to do so.

Presenting human remains for cremation:

Section 12 A person must not present human remains for cremation unless the remains are enclosed in a container that

- (a) is of sufficient strength to hold and conveniently transfer the remains,
- (b) prevents the remains from posing a health hazard, and
- (c) meets the requirements set out in the regulations.

Minimum period after death

Section 13. (1) No operator shall cremate human remains within 48 hours after the time of death unless the operator is ordered to do so by a medical health officer under the Health Act.

(2) Subject to section 50, an operator shall cremate human remains as soon as practicable after the expiration of the 48 hours referred to in subsection (1).

(Section 50 states: “No person shall inter or cremate human remains unless the human remains are accompanied by a burial permit” (disposition permit)

Authorization to Control Disposition

I, the undersigned, hereby authorize the disposition of:

Name of Deceased

Person to Control Disposition’s Full Name: _____

Address: _____

Relationship: _____

Email: _____

Phone: _____

Signature Authorizing Legal Right to Make Disposition: _____

Print Name: _____

Date: _____