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## LawTalk Blog



# Do I use my Will to express how I want my body dealt with after death?

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When a person dies they usually leave behind a Will that specifies what is to happen to their assets upon their death.

A Will also describes who are to be executors; that is, those whose role it will be to manage the estate's assets and ensure the terms of the Will are carried out lawfully.

The role of executor is an important one. They are required to notify banks, the ATO and other organisations of the death. They are also required to take "possession" or control of the body of the deceased – this "possession" only extends to being the person responsible for particular decisions, such as those required for burial arrangements.

When you're drafting your Will, you should utilise the opportunity to let your executors know how you want your body dealt with after your death.

You may simply use your Will as a tool to confirm what everyone in your family already knows but you might also wish to add some specific details for your executors to follow.

For example, you may wish to be buried in a particular cemetery or have your ashes scattered at a special location.

A death is often hard on those left behind. However, the wishes expressed in your Will might be used to assist resolving (or avoiding) disputes that might occur between family members about how your body is dealt with.

Family members may not wish to have your body cremated whilst others demand that "*it was what you wanted*". A cremation permit is required from the South Australian Registrar of Births Deaths and Marriages before a person's body is cremated. The following is

an excerpt from the *South Australian Burial and Cremation Act 2013*:

*A person must not dispose of bodily remains by cremation or cause, suffer or permit bodily remains to be disposed of by cremation, if the person knows or is aware that a personal representative or a parent or child of the deceased objects to this method of disposal (unless the deceased directed, by a will or some other attested instrument, that his or her remains be disposed of by cremation).*

*Maximum penalty: \$10 000.*

Of particular note is that relatives etc may object to cremation in cases where cremation was not clearly directed by a deceased person.

As most would understand, the alternative to cremation is burial. However, a burial does not necessarily have to be conducted in the way which most people are accustomed. Natural burials are now recognised in South Australia.

A natural burial can involve the use of a biodegradable coffin or wrapping remains in a shroud and buried at particular, specific, sites.

With so many important factors to consider when completing your Will it is recommended that you always seek advice and assistance from a lawyer experienced in drafting Wills.

You might find this link on terminology in Wills and Estate Planning useful:

•[Estate Planning Terminology](#)

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