

Burial and Cremation Amendment Bill 2018

SUMMARY OF PROPOSED AMENDMENTS

In response to significant community concern surrounding the prospective sale of properties containing cemeteries, the Tasmanian Government has committed to considering legislative changes that will preserve, protect, and, where appropriate, strengthen both the rights of community members and the obligations on cemetery managers. A review of the legislation relating to cemeteries is underway, and has identified priority amendments to the *Burial and Cremation Act 2002* (the Act) as outlined below.

Regulator role

The amendments establish a regulator role for cemeteries, which will continue to be the Director of Local Government at this time. The regulator will be responsible for overseeing the appropriate regulation and management of cemeteries, including assessing the proposed establishment, transfer and closure of cemeteries.

Cemetery manager role

New cemetery managers must be a body corporate with perpetual succession, and approved by the regulator. The objective of this change is to ensure that management of cemeteries is not reliant on a single private individual. The amendments will allow, for example, community members to form a group to take on management of a cemetery. The regulator will consider whether the new cemetery manager is capable of meeting their obligations under the Act.

Sale process

The new sale process will require sellers to notify the public of an intention to sell and obtain a certificate of compliance from the regulator before proceeding with the sale of a cemetery. This is to ensure records are up to date and the cemetery manager is meeting their obligations.

Purchasers will need to apply to the regulator for approval to become a cemetery manager, and notify the public when they become the new cemetery manager.

Compliance and enforcement

The regulator will be able to issue directives to cemetery managers and issue infringement notices in relation to non-compliance.

Increased penalties will apply for failing to meet cemetery management responsibilities, including requirements around maintenance, record keeping, allowing access and honouring exclusive rights of burial.

Cemetery managers will need to undertake a compliance audit every five years to ensure the cemetery, cemetery records and cemetery manager are all compliant with the Act.

Closure of cemeteries

The length of time from the last burial before a cemetery can be closed will increase from 30 to 100 years. Cemetery managers will be required to obtain approval from the regulator to close a cemetery; and the regulator will be able to impose conditions on the closure (for example, requiring certain graves, such as war veteran graves, be protected).