

Burial and Cremation Amendment Bill 2018

FREQUENTLY ASKED QUESTIONS - CEMETERY MANAGERS

Will the cost of managing a cemetery increase?

Outside of the sale and transfer process, the only additional regulator burden on cemetery managers will be to conduct an audit once every five years.

Other changes, particularly increased penalties, may prompt cemetery managers to review their obligations and undertake additional work to meet their responsibilities under the Act. However this will only result in an increased cost for cemetery managers that are not currently meeting their obligations.

Can I buy a church if there is a cemetery attached?

The changes will mean that a cemetery (or any land containing a cemetery) can only be purchased by a person if they are a body corporate with perpetual succession, and are approved by the Regulator to become the cemetery manager. This means that community groups interested in taking on management of a cemetery will be able to apply to become a cemetery manager (but will need to be incorporated). However, private individuals who are simply seeking to acquire church property (with a cemetery attached) for use as a residential dwelling will not be eligible to become a cemetery manager.

This approach is consistent with legislation in other states and territories, where cemeteries are managed by groups such as a body corporate, cemetery trust or cemetery authority.

I already own a cemetery – will I need to become a body corporate or be approved as a cemetery manager?

No. The changes to the sale and transfer process will not apply retrospectively. Existing cemetery managers can continue to carry on their business.

What new obligations will I need to meet?

There will be no changes to day to day cemetery management obligations.

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

A new sale and purchase process will apply. Sellers will need to obtain a certificate of compliance before selling the cemetery. This verifies the cemetery is being managed in accordance with the Act. Purchasers will need to be approved as a cemetery manager.

The Regulator will be able to issue directions to cemetery managers to ensure compliance with the Act. This will only be an issue if a cemetery manager is not meeting their obligations under the Act.

Will I be able to close the cemetery?

Cemetery managers will be able to close a cemetery if it has been at least 100 years since the last interment and the closure has been approved by the Regulator. This approach is more in line with community expectations that the right to honour deceased persons is intergenerational.

The Regulator will be able to impose conditions on the closure of the cemetery, for example that certain graves (such as those of war veterans or persons of historical or cultural interest to the community) are not disturbed.