

Applying to carry on a regulated business

Information Sheet

December 2019

Introduction

If a person intends to carry on a regulated business, they must apply for and receive approval from the Regulator.

A person carrying on a regulated business has a range of important legal obligations and duties. For example, they are responsible for the correct handling of human remains, record keeping and meeting public health and public safety standards.

The role should not be taken on lightly. Failure by a person carrying on a regulated business to meet its obligations and duties can result in fines under the *Burial and Cremation Act 2019*.

For more detail on the legislative and regulatory obligations for carrying on a regulated business, please see the *Burial and Cremation Act 2019* and the *Burial and Cremation Regulations 2015* available at www.legislation.tas.gov.au

Application for approval to carry on a regulated business

Anyone intending to carry on a regulated business is required by law to apply in writing to the Regulator for approval (section 26). This must be done at least one month in advance of the person becoming responsible for the business.

In making a decision, the Regulator will consider whether the applicant:

- has been convicted of any relevant offences (for example, under the *Burial and Cremation Act 2019*); and
- meets the 'fit and proper person' test detailed under section 5 of the Act.

If approval is provided by the Regulator, this approval only applies to the management of the regulated business detailed in the application. If the applicant intends to manage another regulated business, a new application would need be lodged.

The Regulator requires certain evidence to inform the decision whether or not to approve a person to carry on a regulated business. In general terms, the Regulator needs to be satisfied that the applicant:

1. has not been convicted of any offence that would make the applicant unsuitable for the role (such as an offence of dishonesty or fraud), or if there have been allegations of misconduct relevant to carrying on a regulated business;
2. has capacity, including financial capacity to maintain the business and comply with the Act; and
3. has previous experience relevant to carrying on a regulated business.

What do I need to provide to the Regulator?

If you intend to carry on a regulated business, you must provide the Regulator with a completed [Application to carry on a regulated business](#). The application must include:

- a completed Regulated Business Management Program;
- National Police Check; and
- payment of the application fee.

Due Diligence

A person intending to carry on a regulated business needs to be confident that it is in a position to meet all of its statutory obligations.

The application process requests applicants to confirm that they have read the Act and Regulations and understand the obligations associated with carrying on a regulated business.

It is also recommended that an applicant seek legal advice that there are no impediments to them carrying on a regulated business.

Preparing a Regulated Business Management Program

A Regulated Business Management Program sets out in detail how the applicant will meet their duties and obligations under the *Burial and Cremation Act 2019* and the *Burial and Cremation Regulations 2019*.

Submission of the Program to the Regulator allows the Regulator to make an informed assessment as to whether or not the applicant meets the 'fit and proper person' test.

An outline of the minimum information requirements that need to be included as part of a Regulated Business Management Program is included in the application form.

The Regulator's Assessment

The Regulator will provide a response to the application within 21 days of receiving all the required information. If the Regulator is not able to make a decision within 21 days, the Regulator will provide the applicant with notice of the extended timeframe.

If the application is refused, the applicant may apply for a review of the decision in accordance with the *Magistrates Court (Administrative Appeals Division) Act 2001*.