

# Guide to the Interment Industry Scheme for funeral directors

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## What does Cemeteries & Crematoria NSW do?

Cemeteries & Crematoria NSW (CCNSW) is a NSW Government agency which:

- supports and regulates the interment industry (cemeteries and crematoria) in NSW and
- provides information on burial and cremation options to the public.

As the regulator of the interment industry in NSW, CCNSW's powers include monitoring, compliance, and enforcement in relation to operators of cemeteries and crematoria across the state.

CCNSW does NOT regulate funeral directors, they are regulated by Fair Trading, and body disposal is regulated by NSW Health. This fact sheet is intended to help funeral directors to understand the implications of the Interment Industry Scheme (**Scheme**), which may impact them where they are delivering services on behalf of cemetery or crematoria operators.

If you are a funeral director who also owns/operates a crematorium, you will be required to hold a licence under the Scheme and you can find out more information about this in our fact sheet for crematorium operators, available on [our website](#).

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## What is the Interment Industry Scheme?

The Scheme is a licensing framework for cemetery and crematorium operators.

Two recent reviews –the [statutory review of the \*Cemeteries and Crematoria Act 2013\*](#) and the [Independent Pricing and Regulatory Tribunal \*Review of the costs and pricing of interment in NSW\*](#)– made significant recommendations to strengthen the interment sector and implement consumer protections.

CCNSW has developed the Scheme in response to these reviews. The Scheme requires operators to be licenced and introduces the Licence Conditions for Operators of Cemeteries and Crematoria (**Conditions**) with which operators must comply.

By creating industry standards and supporting compliance through education and advice, the Scheme will improve how operators meet the interment needs of customers and communities in NSW. The Scheme will benefit customers, operators and the regulation of the sector.

Customers will:

- know the operator they engage is licensed and must abide by certain requirements
- have increased clarity, transparency and detail about contracts, pricing and service
- get a high level of customer service from operators and know their personal choices will be respected and specific cultural and linguistic needs supported.

Cemetery and crematoria operators will benefit by:

- having certainty around achievable requirements and standards they must meet
- lifting the standard and perception of the cemetery and crematoria industry
- attracting and retaining high-quality staff through professionalisation of the industry
- progressing towards meeting community expectations and building positive interactions.

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## Details of the scheme

The Scheme will licence all cemetery and crematoria operators in NSW for the first time, and introduce requirements (via the Conditions) for operators in 5 key areas:

- **Consumer Contracts:** standard terms and conditions explained clearly so customers can understand what they are paying for
- **Cemetery Maintenance:** to make sure there are clear minimum maintenance standards for every cemetery
- **Pricing Transparency:** so that customers know what they are purchasing and can easily compare prices
- **Customer Service:** to ensure operators are consistently providing quality service
- **Religious, Cultural and Spiritual Principles:** ensuring respect for religious and cultural requirements, and promoting understanding of the unique importance of Sorry Business to Aboriginal people

For more information on the Scheme including fact sheets on each of the above licence conditions visit [our website](#).

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## How will the new scheme affect funeral directors?

When funeral directors act as an intermediary between customers and cemetery operators, such as when they are signing interment right contracts with a customer on behalf of an operator, they will need to fulfil certain requirements of the Scheme.

In those interactions, the funeral director is acting as an agent for the relevant cemetery operator, in relation to the arrangements for the purchasing of an interment right. This 'agency' relationship arises when the funeral director has the operator's authority to formalise a contract with a family on behalf of the operator. There may also be other types of authorised agent, who would also have these responsibilities.

Where funeral directors are acting as the agent of the operator, the Scheme will require funeral directors to comply with certain requirements. However, much of this is expected to formalise existing practice for many funeral directors and the pricing conditions are consistent with the approach taken in the Funeral Information Standard that applies to funeral directors already.

These requirements relate to two main areas of interaction with the customer. The steps for funeral directors operating as agents are outlined below. These are based on our current understanding of

the relationship between operators and funeral directors, but will be updated as we consult further with the funeral director industry.

### Requirements relating to understanding the burial or cremation requirements of the deceased

**Step 1:** The Scheme requires operators to inform themselves, and record, any religious or cultural requirements in relation to a burial or cremation (Condition E.2). Where a funeral director is acting as the agent, they will be required to do this to satisfy the operators obligations in this Condition.

This should be in line with what is already standard practice with funeral directors, who would be required to talk to their customers about any specific requirements that are required for the burial or cremation of the deceased. The funeral director would need to then communicate these requirements to the operator.

**Step 2:** Once the funeral director informs the operator of any specific requirements of the customer, the operator would need to record those requirements as part of their booking intake system. Those requirements should also then be included in the Consumer Contract, which is prepared by the operator and sent to the funeral director for signing with the customer.

### Requirements relating to the signing of the contract

The Scheme has both pre-contract and contract requirements.

**Step 3:** The pre-contract requirements (Condition A.1) require the operator, or agent, to comply with the pricing transparency Conditions (Condition C) and show the customer information about the Basic Adult Burial, Basic Ash Interment and/or Basic Cremation as offered by the operator.

**Step 4:** Condition A.1 also requires the operator, or agent as applicable, to give the customer reasonable time and privacy to consider a quote, written statement and terms of the Consumer Contract before signing the Contract. It is understood that in some instances such as at need funerals, 'reasonable time' might be very short.

Cemetery operators should provide funeral directors with the contract and associated documents, such as the basic pricing.

Cemetery operators will need to demonstrate to CCNSW they have fulfilled licence condition A.1 for every contract, including if a funeral director (or other party) has acted as their agent.

**Step 5:** To ensure that contract licence Conditions have been met, each contract (for Category 1, 2 and 3 operators) must contain an 'agreement statement' (Condition A.2) which both the Operator and Customer must sign to indicate that certain things have occurred. Where the funeral director is signing the contract with the Customer, as agent of the operator, they must sign a declaration confirming they have complied with Condition A.2.

The Operator (or funeral director as authorised agent) must declare:

- They have explained the terms and conditions of the Contract to the Customer

- They have given the Customer reasonable time and privacy to consider these terms and conditions before requesting the Customer to sign this Contract.

Additionally, the customer must declare:

- They have had the terms and conditions of the contract explained to them, and been given reasonable time and privacy to consider them.
- They have provided true and correct information.

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## How will compliance be monitored?

The Scheme only regulates cemetery and crematoria operators. While funeral directors will have responsibilities for delivering certain conditions where they are the ones in direct contact with the customer, ultimately the responsibility for ensuring that the requirements are met sits with the operator.

The Operator should satisfy themselves that the funeral director, or other authorised agent, is fulfilling the Scheme Conditions – for example, by ensuring that contract declarations have been signed.

CCNSW may audit contracts issued by an operator, and make sure declarations have been completed. If it becomes evident this is not occurring, or there is an ongoing issue with customers failing to understand their contractual arrangements, CCNSW would raise this issue with the operator.

The onus is on the operator to ensure that the funeral director is sufficiently aware of the Scheme requirements, knows what they need to be do to ensure compliance with the Scheme, and understands the operator's terms and conditions to be able to do so.

CCNSW will support these arrangements, by providing educational material and webinars to funeral directors as part of the implementation of the Scheme. CCNSW is also on hand to answer questions funeral directors may have.

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## When will the Interment Industry Scheme and new requirements begin?

Cemetery operators will need to be fulfilling their consumer contract requirements (including A.1) from 1 February 2024, once they have been granted a licence. *Note that this start date has been postponed from 1 October 2023 to allow more time for operators, and the funeral directors that they work with, to become familiar with the new contract requirements.* Operators will be required to apply for a licence in five tranches, based on their size, between July 2023 and September 2024. See the fact sheet on implementation and transition on [our website](#) for more details.

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## What support is available to help operators and funeral directors transition to the new scheme?

CCNSW is developing explanatory material to support the implementation of the requirements. This will include a template contract with the required declarations, which can be adapted or adopted by operators to meet the licence conditions.

For any enquiries please email us at [ccnsw.regulatoryreform@cemeteries.nsw.gov.au](mailto:ccnsw.regulatoryreform@cemeteries.nsw.gov.au) or phone 02 9842 8473.