

GUIDE | CEMETERIES & CREMATORIA NSW

Records: template certificates and forms

For cemetery operators

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Records: template certificates and forms

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More information

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Introduction

The *Cemeteries and Crematoria Act 2013* (the C&C Act) requires cemetery operators to issue certificates and use applications to grant, transfer and record interment rights. To assist operators, Cemeteries & Crematoria NSW (CCNSW) has developed basic template certificates and forms.

Cemetery operators are not required to use the attached templates where they have existing forms which provide a similar function. However they must ensure that the required information collected is compliant with the C&C Act and matches the content shown on the template. Alternatively, the templates can be customised by cemetery operators to meet their particular business needs and activities. Given the range of cemetery operators (church/community, local government, Crown and private operated cemeteries) the templates deliver a level of consistency across the industry.

CCNSW has developed the templates in accordance with the C&C Act and Cemeteries and Crematoria Regulation 2014 (the C&C Regulation). Cemetery operators will need to consider how to comply with other legislative requirements. For example, operators will need to include a privacy statement and possibly a disclaimer and/or proof of identity requirements. In these instances, you should seek independent legal advice to formulate suitable text to meet these requirements. Examples of such text are given in the templates for guidance purposes.

The templates cover:

- granting interment rights
- transferring interment rights
- renewing renewable interment rights
- revoking perpetual interment rights
- seeking information from cemetery operator's registers.

Non-compliance penalties

The C&C Act imposes a number of penalties for non-compliance with the requirements set out in Part 4 of the C&C Act. Operators should be aware of these penalties —

Section 64 (1) not keeping all applications, certificates, permits and other documents relating to any cremation carried out by it and marking them with a number corresponding to the number allocated to the cremation in the cemetery operator's register: maximum civil penalty \$2,200

Section 64 (3) when the crematorium is closed, not sending all registers and documents relating to cremations that have taken place at the crematorium to CCNSW or otherwise disposing of them as CCNSW directs: maximum civil penalty \$2,200

Granting interment rights

Templates relevant to granting interment rights

- A—Application for a perpetual interment right
- B—Application for a renewable interment right
- D—Order for interment
- E—Certificate of a perpetual interment right
- F—Certificate of a renewable interment right

There are two types of interment rights that can be granted; perpetual or renewable. A cemetery operator can grant an interment right after receiving an application from a consumer (Template A or B).

Applications for interment rights can be completed by a consumer upon the death of a person (referred to as 'at-need') or in advance (pre-planning for their own or another person's death). Interment rights can be held by one person, or jointly by two or more persons. The templates accommodate this by providing space for two applicants. If more than two persons wish to apply for a right, additional pages can be added to the template form.

Where there is reference to a 'class of person' stated in some of the templates, this should be interpreted to have a broad application. Class of person can mean family members or relatives, or such other persons as agreed between the interment right holder and grantor. There is no explicit definition under the statute.

Separate application form templates are provided for perpetual (Template A) and renewable (Template B) interment rights—to increase transparency about which type of right the consumer is applying for.

After a cemetery operator receives the application, to prove the grant of the right, it must issue a certificate (Template E or F).

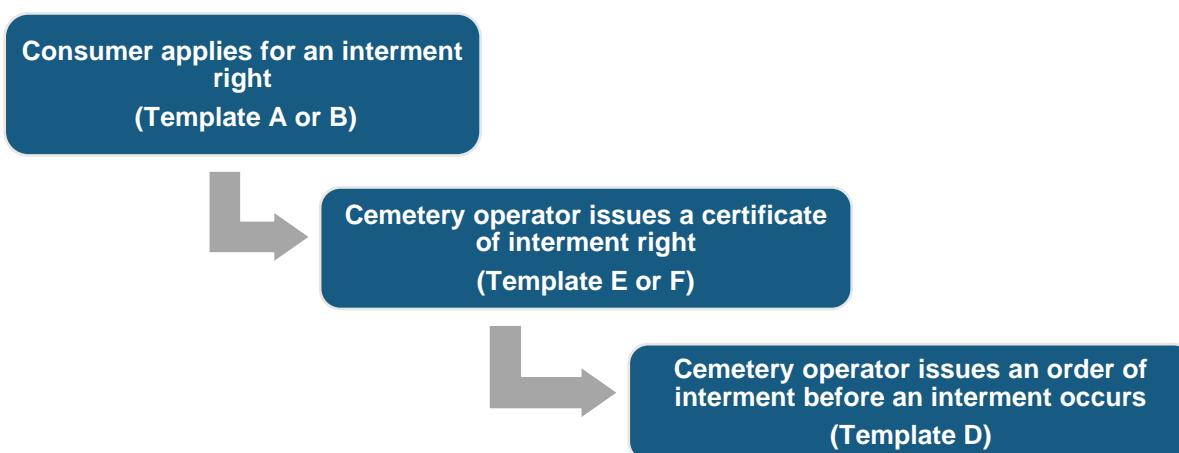
The certificate for a renewable interment right (Template F) must detail the duration of the right. Renewable rights have an initial period:

- between 25 and 99 years for non-cremated remains
- any period up to 99 years for cremated remains.

In addition to issuing a certificate of the interment right, cemetery operators must also ensure that all relevant information is recorded in their register.

Before an interment can take place in accordance with the interment right, the operator must ensure an order for interment (Template D) is completed and issued.

Figure 1. The process of granting an interment right



Transferring interment rights

Templates relevant to transferring interment rights

- D—Order for interment
- E—Certificate of a perpetual interment right
- F—Certificate of a renewable interment right
- G—Application for transfer of an interment right (by holder)
- H—Application for transfer of an interment right as a bequest
- I—Application for transfer of an interment right as a result of intestacy

Both types of interment rights (perpetual and renewable) can be transferred. A cemetery operator can transfer an interment right after receiving an application from either:

- the right holder/s (Template G)
- a beneficiary, where the right holder/s has died and bequeathed the right (Template H)
- an executor, other person with authority or a beneficiary, where the right holder/s has died without bequeathing the right (Template I).

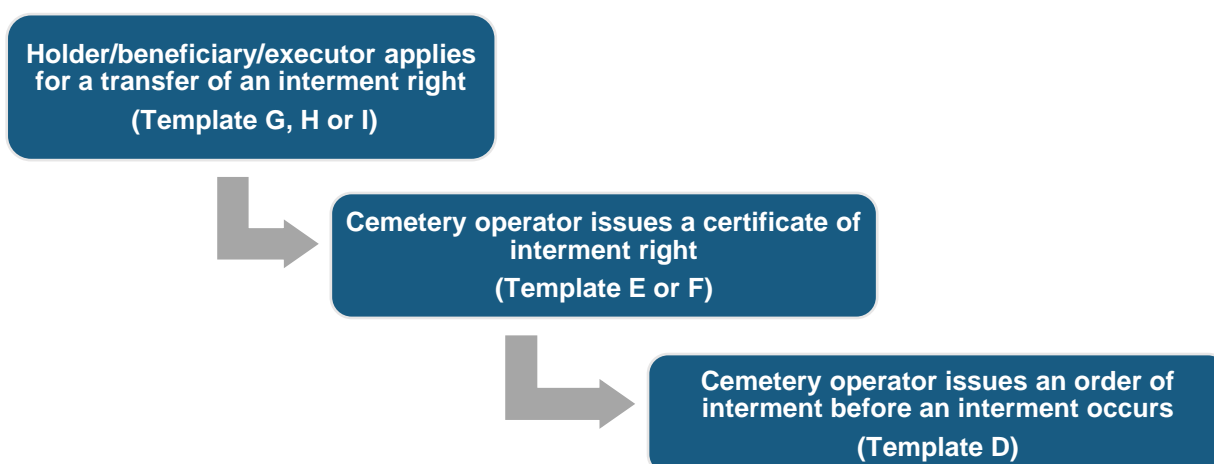
If the right is held by joint holders, the right continues to be held by the living holders if one holder dies. The remaining holders do not need to apply for a transfer of the right, but they should contact the cemetery operator to ensure the register is updated.

Interment rights can be transferred to one person, or jointly to two or more persons. The templates accommodate this by providing space for two new rights holders. If more than two persons are to be the new joint holders, additional pages can be added to the template form.

After a cemetery operator receives the application, to prove the transfer of the right, the operator must issue a certificate to the new holder (Template E or F). In addition to issuing a certificate of the interment right, cemetery operators are also required to ensure that all relevant information is recorded in the cemetery operator's register.

Before an interment can take place in accordance with the interment right, the operator must ensure an order for interment (Template D) is completed and issued.

Figure 2. The process of transferring an interment right



Renewing interment rights

Templates relevant to renewing interment rights

- C—Application for renewal of a renewable interment right
- D—Order for interment
- F—Certificate of a renewable interment right

Only renewable interment rights can be renewed (because perpetual rights do not expire—although they can be revoked in certain circumstances as described in the next section).

At the end of the initial term, the right holder/s can apply to have the right renewed (Template C). If the right is jointly held, both holders must apply for the renewal. The template accommodates this by providing space for two rights holders. If more than two persons hold the right, additional pages can be added to the template form.

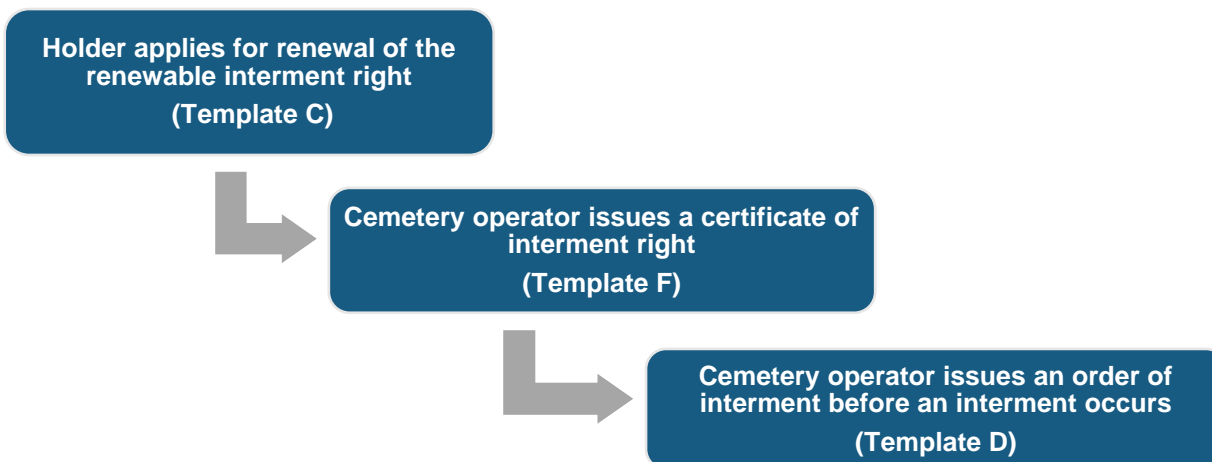
The cemetery operator must renew the right if the application is made:

- in the twelve months before the interment right is due to expire
- within six months after the day interment of remains occurs at the site.

After a cemetery operator receives the application, to prove the renewal of the right, the operator must issue a new certificate to the holder/s (Template F). The certificate must detail the duration of the right, noting that no renewal can be for less than five years and the total duration of the right cannot exceed 99 years. In addition to issuing a certificate of the interment right, cemetery operators must ensure that all relevant information is recorded in the cemetery operator's register.

Before an interment can take place in accordance with the interment right, the operator must ensure an order for interment (Template D) is completed and issued.

Figure 3. The process of renewing an interment right



Revoking interment rights

Templates relevant to revoking interment rights

- J—Application for compensation after revocation of a perpetual interment right

Only perpetual rights can be revoked by a cemetery operator (because renewable rights have an expiry date). However, cemetery operators can only revoke a perpetual right if the holder of the right has not used it within 50 years of being granted. There are strict notification provisions before an operator can revoke the right. The C&C Act provides for compensation of the rights holder if a perpetual right is revoked.

The rights holder can apply for compensation (Template J).

Seeking a copy of an entry in the cemetery operator's register

Templates relevant to seeking information from cemetery operator's register

- K—Application for copy of entry from cemetery operator's register

Any person can apply to a cemetery operator for a copy of any entry made in the cemetery operator's register in relation to an interment right or memorial (Template K).

When considering such applications cemetery operators should be aware of any privacy considerations relevant to the request (for example, whether the information should be de-identified or not). Refer to the *Guide on cemetery operator's register* document available from the Cemeteries & Crematoria website (industry.nsw.gov.au/ccnsw).

List of templates

There are eleven templates provided. The table below sets out the title of each template, intended use and the applicable provision of the C&C Act.

Table 1. List of templates

Title of template	Uses	Relevant provision of the C&C Act
A—Application for a perpetual interment right	Granting a right A consumer completes this application before the cemetery operator grants a perpetual interment right.	Subsection 56(2)
B—Application for a renewable interment right	Granting a right A consumer completes this application before the cemetery operator grants a renewable interment right.	Subsections 54(1) and 56(2)
C—Application for renewal of a renewable interment right	Renewing a right Holder/s of a renewable right completes this application before the cemetery operator renews a renewable interment right.	Subsection 54(3)
D—An order for interment (optional form only)	Granting, transferring, renewing a right Cemetery operators must complete this order before conducting an interment.	Section 67
E—Certificate of perpetual interment right	Granting, transferring, renewing a right Cemetery operators must issue this certificate after receiving application for perpetual interment right (A1a) and granting that right.	Sections 57 and 65
F—Certificate of renewable interment right	Granting, transferring, renewing a right Cemetery operators must issue this certificate after receiving application for renewable interment right (A1b) and granting that right.	Sections 57 and 65
G—Application for transfer of an interment right (by holder)	Transferring a right Holder/s of an interment right completes this application before the cemetery operator transfers an interment right from a living rights holder to a new holder.	Subsections 58(1) and 58(3)
H—Application for transfer of an interment right as a bequest	Transferring a right The beneficiary of an interment right completes this application before the cemetery operator transfers an interment right from a deceased rights holder to the beneficiary.	Subsections 49(3) and 49(4)
I—Application for transfer of an interment right as a result of intestacy	Transferring a right The Executor/s completes this application before the cemetery operator transfers an interment right from a deceased rights holder to new holder.	Subsections 50(3) and 50(4)
J—Application for compensation after revocation of an interment right	Revoking a right Holder/s of a perpetual interment right completes this application to seek compensation where a cemetery operator has revoked the perpetual interment right.	Subsection 53(6)
K—Application for copy of an entry made in the cemetery operator's register	Seeking information A person completes this application before a cemetery operator provides information from the cemetery operator's register.	Subsections 63(10) and 63(11)

More information

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