

## Frequently Asked Questions

This document provides answers to common questions about the expansion of the Interment Services Levy.

### Why an interment services levy?

The interment services levy (the levy) is a levy on interment services to fund the cost of Cemeteries and Crematoria NSW (CCNSW; the regulator) to deliver better outcomes for customers and the community, and to support industry to meet the new licensing standards.

The government has set out its strategic directions for the State's cemeteries and crematoria in [Delivering strong consumer and community outcomes for Cemeteries and Crematoria in NSW](#). The aim is to ensure every person in NSW has accessible, sustainable, and affordable burial and cremation services into the future.

An effective, properly resourced regulator is essential to achieving these aims. The existing industry levy – in place since 2014 and applying to the 2 Crown operators only – is insufficient to fund an effective regulator. It is also inequitable as only 2 operators pay for the regulation of the whole sector.

To ensure CCNSW can be the active and sustainable regulator we need, the government will expand the interment services levy from just 2 Crown cemeteries to all active industry operators. This reflects a recommendation from the Independent Pricing Regulatory Tribunal and the Statutory Review of the Cemeteries and Crematoria Act (the *11<sup>th</sup> Hour Report*). In addition to achieving better outcomes for customers, this will drive equity and level the playing field in the sector. The levy represents a less than 1.6 per cent cost of a \$10,000 burial.

### Answers to frequently asked questions

In April and May 2024 CCNSW consulted with industry on the proposal to expand the interment services levy.

After considering all the feedback, the government has decided to delay the commencement of the change for one year for operators who reported providing 50 or fewer interment services in 2022/23. This is to give operators with lower administrative capacity more time to prepare for the levy.

For operators that reported providing more than 50 interment services in 2022/23, the levy will commence from 1 July 2024.

Additionally, a hardship policy has been developed to address cases of particular hardship. The policy is available on our website.

This document provides answers to many of the operational/implementation questions operators and funeral directors asked during the consultation.

### Who pays the levy?

The interment services levy is a levy on cemetery and crematorium operators. Operators pay the levy to CCNSW. The levy is not paid directly by customers. Operators may choose to pass this onto the customer and reflect the levy in the price of their services.

Operators need to ensure funeral directors are provided with up-to-date prices, so the funeral director knows what to charge the customer. Funeral directors do not make payments directly to CCNSW.

### Do crematoria only operators pay the levy?

Yes. If they perform cremations in a financial year they will be charged a levy based on the number of those cremations. The levy is calculated on the number of “interment services” which includes cremations (as well as burials and ash interments).

Like any operator, if they reported providing 50 or fewer interment services in 2022/23 the levy does not apply and will be delayed until 1 July 2025.

### When does the levy begin?

For operators that provided 50 or more interment services in 2022/23, the levy will apply from 1 July 2024. For operators that provided fewer than 50 interment services in 2022/23, the levy will apply from 1 July 2025. This is to give operators with lower administrative capacity more time to prepare for the levy.

### How is the levy calculated?

The total levy payable is calculated according to how many burials, cremations and/or ash interments an operator performs. The amounts for each type of service are:

- \$41 per cremation
- \$63 per ash interment
- \$156 per burial

These rates have been calculated as the minimum needed to fund the regulator to deliver the outcomes and consumer protections needed. The different rates reflect the different costs of regulating each type of interment service.

### When does a service attract the levy?

The levy applies at the time the interment service (burial, ash interment or cremation) is rendered, regardless of when it is purchased. Attachment A lists three common scenarios to illustrate when the levy is triggered.

### Will the rate of the levy change over time?

The rates of the levy may increase by amounts equal to or less than changes to the consumer price index (CPI).

### Are there any exemptions?

Yes, some services are exempt from the levy. They are:

- Interment services for children under 12, stillborn children and miscarriages
- Interment services for destitute people

Inactive operators (i.e., holders of a Cemetery Operator (Caretaker) Licence (known as Category 4) are also exempt.

### What is a destitute person?

For the purposes of the levy, a destitute person is a person with no money or assets, and whose relatives and friends are unable to pay the costs of cremation or burial. Either the police or a public health facility (like a hospital) will determine whether a deceased person is destitute. Further information is available from NSW Health [here](#).

### Do scattering of ashes and/or memorialisation without a burial, cremation or ash interment attract the levy?

No. Scattering of ashes above ground is not considered an interment service under the Act and does not attract the levy. Similarly, erecting a monument or plaque without interring bodily or cremated remains is not considered an interment service and does not attract the levy.

### Does placing ashes in a coffin to be buried attract the levy?

Yes. This is considered an ash interment and will attract the levy.

### What about services purchased before 1 July 2024?

The levy applies at the time the interment service occurs, regardless of when it was purchased. This means that the levy applies to services purchased before 1 July 2024 if the burial, cremation, or ash interment happens on or after 1 July 2024.

### Do I pay/report quarterly or annually?

Operators that performed an average of more than 1,000 services per year for the preceding three years will be required to report their activity and pay the levy quarterly.

Other operators will report and pay annually by default. If you perform fewer than 1,000 services a year but would like to report and pay quarterly, please contact CCNSW by 30 July 2024.

### What is the invoicing process?

At the end of each quarter or financial year, operators will receive an email from CCNSW telling you it is time to report that period's activity. This e-mail will come from a new operator portal to be launched in July 2024 and used for activity reporting.

Operators will have six weeks after the end of the quarter/year to enter their activity data. At this stage, CCNSW might get in touch if we have any questions about your submission. Once everything is finalised, operators will receive an email with your invoice and details on how to pay. The standard terms of payment are 30 days from the date of invoicing.

### Can I pre-pay the levy?

No. Levies are due either annually or quarterly depending on your reporting schedule (see above). It is not possible to pre-pay the levy because it is based on your actual activity. (You may collect the levy as part of a pre-paid package, but you would not pay the levy to CCNSW until the interment).

### Does the levy attract GST if it is included on operator or funeral director invoices?

It is important to note the interment services levy is a levy on operators. It is not a levy on consumers that operators are administering on behalf of the State government.

CCNSW has obtained a written briefing from the Australian Taxation Office (the ATO) to this effect:

1. When CCNSW charges cemetery and crematorium operators the levy, and operators pay that levy to CCNSW (annually or quarterly), this does not attract GST. It is a regulatory government fee/charge that is excluded from the GST.
2. If operators increase their prices in response to the levy (i.e. pass it on to customers) then this does attract GST. In this case the nature of that levy changes. It is no longer the supply of a levy but an increase in the consideration paid by the customer for the supply of the interment services.

3. GST also applies where a funeral director is acting as an authorised agent for an operator and the operator has increased their prices as per (2) above. The funeral director will collect the GST included in the operator's prices and send that total amount to the operator. In this case funeral directors are not independently liable for GST.

In sharing this advice CCNSW is not providing taxation advice. Operators should satisfy themselves of their GST obligations given their own unique circumstances.

### **What happens if too much / too little revenue is raised by the levy?**

The levy applies to each service delivered, so the total amount collected will change each year depending on how many services are undertaken (burials, cremations or ash interments). It is likely that in some years levy revenue will exceed CCNSW's needs, while in other years there will be a shortfall.

CCNSW is an independent regulatory agency and has its own bank accounts. Money collected from the levy will only ever be used to fund regulatory activities. Excess amounts in one year will be used to cover shortfalls in future years. If the levy consistently raises too much or too little revenue, rates may be revised during a review scheduled for 2029. CCNSW can also increase the levy by an amount in line with CPI growth or less each year.

### **What about large purchases of interment rights?**

If a person wants to hold more than 2 interment rights in a cemetery, this needs to be approved by CCNSW. In some cases, large numbers of rights are sold to an intermediary organisation with the approval of CCNSW.

In these cases, the cemetery operator is still liable for the levy at the applicable rate at the time the interment happens. The cemetery operator is responsible for developing an arrangement that works for them and the customer.

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## Attachment A: Illustrative scenarios of how the levy works.

<b>Scenario 1: an at-need interment service sold by a funeral director.</b>	<b>When is the levy incurred?</b>	<b>Who pays the levy?</b>
The family of the deceased chooses a funeral director to handle all the arrangements for their loved one’s funeral. The funeral director has an arrangement with a local crematorium and offers a package to the family which includes the cremation and a funeral service. The family accepts the package and the cremation and funeral service take place.	When the person is cremated.	The crematorium operator pays the levy to CCNSW, not the funeral director.

Comment: The crematorium has many costs and sets its prices to create a sustainable business model. Like all their other costs, the levy is built into the price they communicate to the funeral director. The funeral director is then able to explain the total costs to the family at the time they are offered the contract.

# Cemeteries & Crematoria NSW

## Fact sheet

<b>Scenario 2: an interment service purchased pre-need for a fixed price before 1 July 2024.</b>	<b>When is the levy incurred?</b>	<b>Who pays the levy?</b>
<p>A customer purchased an ash interment site from a cemetery pre-need. They purchased an all-inclusive package that stated no further charges would apply at the time of interment. Ten years later the customer passed. They were cremated and their ashes were interred by the cemetery.</p>	<p>When the person is cremated and when their ashes are interred.</p>	<p>The cemetery operator pays the levy for the cremation and for the ash interment to CCNSW irrespective of whether it is passed on to the customer or not.</p>
<p>Alternatively, the cemetery might offer a package that states that the customer will be charged any applicable levies at the time of interment. They explain this arrangement to the customer, and it is clearly outlined in the contract.</p>	<p>As above</p>	<p>The cemetery operator pays the levy for the cremation and for the ash interment to CCNSW and is able to pass it on to the customer.</p>

Comment: Operators need to consider the risks that any costs emerge or go up and down when making fixed price contracts.

<b>Scenario 3: dual burial plot</b>	<b>When is the levy incurred?</b>	<b>Who pays the levy?</b>
<p>Following the death of their partner, a person decides to purchase a site with capacity for two burials at the local cemetery. The first burial occurs immediately.</p> <p>Ten years later, the person who purchased the site passes and is buried alongside their partner.</p>	<p>The operator pays the levy in each of the years someone is buried (i.e., one at need and one ten years later)</p>	<p>The cemetery pays the levies for the burials to CCNSW.</p>

Comment: As in Scenario 2, the cemetery is responsible for developing an arrangement that works for them and the customer. The cemetery may choose to accept full payment for both burials upfront. Alternatively, the cemetery might take payment for the interment right up front, and charge for the grave opening and other services at need. In either case the cemetery should be clear with the customer what is included in the contract and be able to pay the levy to CCNSW after the interment service happens.