

Cemeteries & Crematoria NSW

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2024 Industry Roadshow Report

June 2024





Acknowledgement of Country

The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Roadshow Report

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Objective

The purpose of this document is to provide cemetery and crematoria operators, as well as funeral directors in NSW, a summary of feedback gathered during the consultation conducted by Cemeteries & Crematoria NSW (CCNSW) in April and May 2024.

Strategic context

On 28 March 2024 the NSW government released a document outlining the strategic direction for the state's cemeteries and crematoria in [Delivering stronger consumer outcomes for Cemeteries and Crematoria in NSW](#) (the strategic statement).

The government's aim is to ensure every person in NSW has access to sustainable and affordable burial and cremation services. These services should be respectful of culture and faith and be provided in a consistent, transparent, and accountable way.

To achieve this vision, the strategic statement focuses action on 3 priority areas:

1. Delivering strong consumer protection for customers and communities.
2. Supporting sustainable practices to promote new supply.
3. Providing certainty for our Crown operators.

Two important initiatives are underway which underpin the strategic statement.

- The Interment Industry Scheme (the IIS) licences cemetery and crematorium operators and establishes consistent standards and consumer protections through licence conditions. Three new licence conditions were due to commence on 1 July 2024 and are now commencing on 1 October 2024. These conditions relate to consumer contracts, cemetery maintenance, and pricing transparency. The additional time supports industry adjustment and implementation and responds to the feedback we received during the consultation.
- The Interment Services Levy (the levy) funds CCNSW, the industry regulator, to promote compliance with the IIS and ensure strong consumer protections are upheld. As part of the strategic statement the government announced a proposal to expand the levy to all operators of active cemeteries and sought industry feedback on that proposal.

About the roadshows

CCNSW hosted a series of stakeholder engagement functions as part of its industry roadshows in April and May 2024. The purpose was to engage directly with industry and hear feedback on:

- the priorities set out in the strategic statement;
- the implementation of the IIS; and,
- the proposed expansion of the levy.

The roadshows included 7 face-to-face events across NSW (Armidale, Coffs Harbour, Dubbo, Maitland, Nowra, Sydney, Wagga Wagga) and 4 online webinars. In addition, CCNSW visited 15 cemeteries in regional areas and spoke with operators of the cemeteries.

All cemetery and crematorium operators and funeral directors were invited to attend these events. Over 250 individuals representing 200 organisations participated, making it a robust platform for collaborative dialogue, issue-raising, and problem-solving. Overwhelmingly, operators, funeral directors and others were focused on continually improving service standards and doing the right things by customers.

CCNSW thanks the cemeteries and crematoria operators, funeral directors, industry associations and others who took time to participate and share their experiences and suggestions.

The Interment Industry Scheme

The Interment Industry Scheme (IIS) licences all cemetery and crematorium operators and sets clear and consistent standards and consumer protections in key areas. Under the IIS, people buying interment rights, their families and communities will know what to expect from operators and can make informed choices.

Licence conditions relating to D: Customer Service and E: Religious Cultural and Spiritual Principles commenced on 1 October 2023 and 1 February 2024, respectively. Licence conditions in relation to A; Consumer Contracts, B: Maintenance, and C: Pricing Transparency were due to commence on 1 July 2024¹.

The roadshows provided an opportunity to hear from operators on their experience to date and identify any remaining challenges and implementation issues.

There was broad support for the benefits of improving operator practices and setting consistent industry standards.

¹ The start date for these 3 licence conditions has since been delayed until 1 October 2024 to give operators more time to prepare.

Industry representatives acknowledged that standards vary across the industry and that a clear and consistent approach would benefit customers and the industry.

Themes from the consultation are summarised below:

Table 1

| What we heard | CCNSW response |
|--|---|
| <p>Circumstances and practices vary widely across different operators and in different regions. There are a lot of specific circumstances to consider in supporting operators to comply with IIS requirements.</p> | <p>Update industry guides and fact sheets to clarify requirements and share common questions and answers.</p> <p>Provide continuing engagement opportunities through regular webinars and drop-in sessions for operators and funeral directors to ask and answer questions in real time.</p> |
| <p>Operators are not consistently aware of existing requirements under the <i>Cemeteries and Crematoria Act</i>, particularly Part 4 relating to interment rights.</p> | <p>Update and refresh all current Part 4 guidance and forms.</p> <p>Provide information, process maps and short training videos as well as written advice and guidance.</p> <p>Educate operators on existing requirements alongside the new requirements, and how they work together.</p> <p>Ideas for future engagement and education include:</p> <ul style="list-style-type: none"> • Regular webinars or drop-in sessions for operators and funeral directors to answer questions in real time. • Offering “clinics” for small groups of operators and funeral directors to review and provide advice on documents and work through specific processes relevant to the attendees. |

| What we heard | CCNSW response |
|---|--|
| <p>There is some duplication between the new requirement for a consumer contract/ the model contract, and existing requirements relating to interment rights (the application for interment right and the interment right certificate). Streamlined processes would assist operators and funeral directors.</p> | <p>Clearly communicate the alignment between the consumer contract and the existing interment right forms and certificates.</p> <p>Develop two pathways for operators:</p> <ul style="list-style-type: none"> • A streamlined pathway where operators adopt the model contract, allowing the model contract to also be the application for the interment right and the interment right certificate (in certain circumstances). • Update and refresh existing forms and certificates as new mandatory forms for those operators not using the model contract. |
| <p>Funeral directors are critical service partners, although the relationships and respective roles vary widely. Operators need support to engage with funeral directors and explain the new requirements, particularly if funeral directors are selling interment rights as authorised agents.</p> | <p>Encourage operators to reach out to their funeral directors.</p> <p>Publish a checklist for operators to use to engage with their funeral directors, outlining key documents that must be shared and key areas to discuss.</p> <p>Publish a user guide to the model contract (highlighting key aspects to both operators and agents)</p> <p>Expand engagement with funeral directors through their industry associations and directly.</p> |

| What we heard | CCNSW response |
|---|---|
| <p>There is currently a substantial amount of change and new information within the industry. Some operators are not fully aware of the new and existing requirements. Some operators report feeling overwhelmed.</p> <p>This is particularly the case for smaller operators and church-based volunteers.</p> | <p>Simplify our communications and provide information in a range of formats (for example videos, charts, slides, as well as written materials).</p> <p>Offer opportunities to operators to engage directly via webinars, drop-in sessions, clinics, or site visits.</p> <p>Promote ways in which operators can support each other, such as regional networks.</p> <p>Engage at a more senior level in organisations (particularly local councils) to raise awareness of the new requirements and advocate for appropriate support for operational staff.</p> |
| <p>There are concerns about the cemetery maintenance licence conditions, especially those relating to monument safety.</p> <p>These relate to the costs of compliance and a lack of agreed best practice and/or specialised skills in some areas (e.g., availability of qualified stonemasons able to conduct monument safety inspections).</p> | <p>Provide more detailed information on certain aspects of the maintenance licence conditions.</p> <p>Work with Cemeteries and Crematoria Association of NSW and the Monumental Masons Association NSW to develop guidance and consider training options.</p> <p>Delay the commencement of the maintenance licence conditions until 1 October 2024.</p> |
| <p>Some aspects of the pricing transparency requirements require clarification. Some operators do not understand that the published formats for Basic Prices are mandatory, or how to use them.</p> | <p>Update the Guide to Pricing Transparency Licence Conditions to give more clarity on questions asked during the roadshow.</p> <p>Rename the price breakdown templates to clarify that they are mandatory formats for operators to use.</p> <p>Consider additional engagement and education opportunities.</p> <p>Delay the commencement of the pricing transparency licence conditions until 1 October 2024.</p> |

Operators and funeral directors at each roadshow sought clarification on requirements and raised operational concerns and suggestions. Answers to those questions which we were not able to answer during the sessions are at **Attachment A**.

Expansion of the Interment Services Levy

The roadshow also included a focus on the proposal to expand the existing Interment Services Levy to all operators. In addition to hearing feedback through the Roadshow, written submissions were encouraged. Written submissions were provided by 34 organisations.

On 31 May 2024, the government announced its decision on the final levy design after considering the feedback, which was to:

- delay the commencement of the change for one year (to 1 July 2025) for operators who reported providing fewer than 50 interments in 2022/23. This is to give operators who may have lower administrative capacity more time to prepare for the levy;
- commence the levy on 1 July 2024 for operators that reported providing more than 50 interment services in 2022/23; and
- develop a hardship policy prior to the start of the levy for the smaller operators to address cases of hardship.

A summary of the feedback received, and the announcement of the decision is available at **Attachment B**.

In response to many of the clarifications, operational concerns and suggestions made, CCNSW has put together a FAQs sheet. This was shared with operators on 31 May 2024 and is also included here at **Attachment C**.

CCNSW has also prepared a customer-facing pamphlet explaining the levy and its rationale that operators and funeral directors can use to communicate to customers. A PDF of the pamphlet in English is available [here](#). Printed copies, and other languages, will be available shortly.

Ongoing support

CCNSW has been working in partnership with the industry on the development and implementation of the Interment Industry Scheme since 2021. We would like to thank all of you and, the members of the Industry Consultation Group and Local Council Working Group, for their advice and help during this time.

We acknowledge that implementing these new requirements is a change for the industry and that transition to full compliance may take longer for some operators. We will continue to provide advice and guidance to assist the industry to comply with the new requirements of the Interment Industry Scheme, the expansion of the levy, and compliance with existing requirements.

There is an extensive amount of material available on the CCNSW website:

- Information about the Interment Industry Scheme is [here](#). This page includes details to support licensing as well as key information for each licence condition including a fact sheet, a detailed guide, and various supporting materials.
- Information about existing interment right requirements is [here](#). This page includes guides and templates for required forms. Note that this page is being updated.
- Information about the Interment Services Levy is [here](#). This page includes answers to frequently asked questions and a customer-facing pamphlet that explains the levy.

We regularly communicate with operators and a growing list of other key stakeholders via our operator newsletter. As licensing progresses, this newsletter will go to the primary contact nominated on your licence application so please ensure that you keep your contact details up to date with us.

If you have any questions, please have a look at the relevant material on the website and if your question isn't answered there please contact us at ccnswregulatoryreform@cemeteries.nsw.gov.au.

CCNSW thanks all operators, funeral directors, and others for engaging with us through the roadshow. Your contributions help us improve our work and we look forward to working together into the future.

Frequently Asked Questions

This document provides answers to questions taken on notice at the Roadshows regarding the Interment Industry Scheme.

This document is provided as a summary and overview of matters raised and should not be relied on as legal advice. CCNSW has prepared these responses to assist operators with compliance but operators should seek their own legal advice. Reliance on these responses will not prevent a claim being made against the operator by a third party, and CCNSW will not be held responsible for any loss incurred by the Operator for reliance on these responses.

If you have doubts about what to do in a particular situation, you can call us to check what we think too.

Questions about interment rights

| Question | Answer |
|--|---|
| Is a scattering an interment? | <p>An interment is the placement of human remains into a structure, or their burial in the earth. Scattering (where the ashes are not covered over by earth) is not covered by this definition.</p> <p>Section 62 of the Cemeteries and Crematoria Act 2013 also states that the scattering of cremated remains does not require an interment right.</p> |
| What happens if you sell an interment right and there is never an interment because the ashes are scattered but the person buys the space for memorialisation only? | <p>In this case there is no interment so</p> <ol style="list-style-type: none"> While the interment right will need to be in the operator's register, there is no interment that needs to be entered No further paperwork needs to be completed No activity needs to be reported to CCNSW No levy would be liable. <p>We heard that many families like to have scatterings recorded on the register for memorialisation purposes. We will examine this as part of our forthcoming Act review.</p> |
| What about if you are putting ashes into a coffin during a burial? Is this an additional ash interment? | <p>An interment is the placement of human remains into a structure, or their burial in the earth – this would include the placement of ashes into a coffin which is then buried.</p> <p>Therefore any ashes that are included in a coffin for a burial need to be reported as a separate ash interment,</p> |

recorded on the register and reported through activity reporting. These interments are also subject to the levy.

What if an interment right holder nominates the person to be interred in the contract, then dies before the person is buried? Does the nomination of the person to be interred still hold? The death of the person who signed the contract does not invalidate the contract.

If the holder has nominated a person to be interred, that remains valid.

A new right holder may make decisions about any of the remaining interments.

We will give more clarity on this in the updated Part 4 material we are working on now.

Can you nominate the person to be interred in the contract and then change to a different person? The interment right holder, who signs the contract, nominates the person to be interred. They (or a future holder if they are deceased) would subsequently have the right to change this nomination if they wanted to, prior to the interment.

If the interment right holder who signs the contract changes their mind about the person to be interred that is specified in the contract (prior to the person being interred), that would need to be done as a variation to the contract.

Can I continue to take reservation payments from customers prior to issuing an interment right? The concept of a 'reservation' has previously created confusion at the time of need, where it isn't clear what if anything the customer has actually paid for.

For clarity, our preference is that the term reservation is replaced with a pre-need sale of an interment right.

We will provide further advice on the status of reservations.

Questions about the contract

| Question | Answer |
|--|---|
| How do we know at the point of preparing the contract who should be the interment right holder? | As you do now, work with the family to determine who would like to make the decisions and become the interment right holder. |
| Where someone holds an existing interment right, does this need to be reflected with a new contract? | No – the contract requirement will not be retrospective. If an existing interment right holder wishes to authorise an additional interment into that existing right, that can be done via an application for interment (rather than requiring a contract). |
| How does the model contract work if an operator doesn't sell a specific site but just 'next available' in a section (with specific site confirmed via order for interment at time of burial)? | If this is your operating practice, the model contract can be amended to describe the site as for example 'next available site in Section A, to be confirmed at time of burial' but only if the customer understands that they are not able to choose a specific site and are comfortable with this. A clause should ideally be added to the model contract to clarify that this will occur. |
| What delegations are required within councils to sell an interment right? | You should seek advice from the relevant governance teams within your organisation to confirm appropriate delegations are in place. |
| Could we have a signature box on every page of the model contract for clarity? | This is not required for a contract to be valid – if an operator did want to ask the customer to initial each page, they could do that as part of their procedures. |
| Will the model contract integrate with IT systems? | Yes. if there are technical issues let us know. |
| This contract will mean that funeral directors now need to have two conversations with the customer rather than one, which will be more distressing for them. What is the purpose of that? | The contract itself shouldn't change the number of conversations required to finalise the details of an interment. |
| The concept of the authorised agent is new to the industry, can you explain it in more detail? | The authorised agent relationship is not a new one, but we are using this term to clarify a relationship that already exists. Where a funeral director is selling the products of an operator to a customer, they are acting as an agent. |

If this is not written down, this is an implied agency relationship. If there is a written agreement, this is an express agency relationship.

More information on this is on page 10 of the [Guide to Contract Licence Conditions](#).

How much can you change the model contract before it isn't considered to be the model contract?

The model contract is not mandatory and some operator customisation and minor changes are anticipated and would not change the status as a model contract which will be taken as compliant with the contract licence conditions.

There is a table in the [Guide to Contract Licence Conditions](#) which outlines which clauses are mandatory and which are recommended best practice.

How will payments and invoicing work?

The introduction of the contract does not require any specific method of payment or invoicing.

The contract can be customised to reflect your preferred payment arrangements.

Do we need a cooling off period?

A cooling off period is not required for the sale of a perpetual interment right. It is required for the sale of a renewable interment right and will be included in that model contract when it is published.

How does the contract work for a cremation only operator? Who is the interment right holder? What documentation is required – is it the Application for Cremation under the NSW Health regulations?

The contract will also apply to a cremation only operator. A new version of the model contract is under development for cremation only.

This contract will reflect the fact that no interment right is required for a cremation, but there will be other requirements included such as arrangements for the disposition of ashes.

Many cremation-only operators do not deal directly with customers, but only with funeral directors as their 'customer'.

We understand that many cremation only operators deal with funeral directors rather than customers – in this case, the funeral director will be acting as an authorised agent for the cremation only operator in the same way as they do when acting for a cemetery operator to sell interment rights.

While the cremation only operator may not meet the customer directly, they are caring for the body of the family member/loved one of that customer and ultimately are responsible to that customer for the services they provide.

Questions about maintenance

| Question | Answer |
|--|--|
| <p>What is the appropriate training for contractors working on site eg maintenance crew? They may come into contact with bereaved family members so should have some relevant training.</p> | <p>Your maintenance licence conditions, if you are Category 1, specifically require you (under Condition B.6.3) to offer training for interacting with the bereaved for front counter and field maintenance staff. We do not specify any particular training, but industry associations such as CCANSW and ACCA regularly offer training on understanding bereavement and grief.</p> <p>If a contractor is only attending a cemetery on a one off or ad hoc basis, training may not be necessary, but this will be up to an operator to determine in different circumstances.</p> <p>Category 1 operators are also required to provide certain training as part of Condition D.2 to support good customer service.</p> <p>For Category 2 and 3 operators, bereavement training would also be useful to support good customer service outcomes.</p> |
| <p>What does ‘in good repair’ mean for monuments?</p> | <p>Section 46 of the <i>Cemeteries and Crematoria Act 2013</i> requires that memorials must be left undisturbed by the cemetery operator, as long as they are kept in good repair or the interment right holder authorises any disturbance.</p> <p>We have interpreted this to mean that the memorial can be disturbed where it poses a risk to safety, in line with WHS requirements. See our fact sheet on the maintenance and repair of memorials.</p> <p>We will consider whether other circumstances could be included as not in ‘good repair,’ and provide further guidance as part of the updated guidance on interment rights that we are currently working on.</p> |

Questions about pricing

| Question | Answer |
|--|--|
| <p>How can we provide a basic price if prices within our cemetery aren't comparable?</p> | <p>The mandatory format for the basic adult burial price should be completed for the cheapest burial in a cemetery.</p> |
| <p>Example provided of a single cemetery which has a lawn section with gravedigging included in the price and a monumental section where the gravedigging is provided by the funeral director. In this case the monumental price from the operator would be cheaper, but the total price would be more expensive once the gravedigging was included.</p> | <p>In the example provided, those two prices are not directly comparable – the best approach here may be to treat the two different sections of the cemetery as though they are different sites, and offer a basic adult burial price for each section.</p> <p>When completing the basic adult burial format, if certain services are excluded from your price but will be charged elsewhere – such as the gravedigging – this should be made clear in the operator specific information column.</p> |
| <p>How do we explain the fact that basic adult burial prices vary between operators to the customer?</p> | <p>CCNSW intends to produce a customer facing fact sheet (as part of a series of customer facing communications about the Interment Industry Scheme) explaining the key concepts of pricing transparency, what the different price components mean and why prices may differ between operators for valid reasons. For example the cost of a burial may be higher in areas with very solid soil as digging is likely to take longer / be more challenging.</p> |
| <p>Cremation providers often have dynamic pricing, where prices may vary depending on the volume of cremations performed for a particular client (funeral director). How can this be reflected in the Basic Cremation price?</p> | <p>This would depend on whether the dynamic price is applicable to the funeral director or the customer.</p> <p>If the dynamic/discounted price applies to the funeral director, the Basic Cremation price for the customer would not be impacted.</p> <p>If the price applies to the customer, the Basic Cremation price would be the non discounted price, with any dynamic pricing discounts specified as a discount in the actual price charged in the contract.</p> <p>The operator specific information column in the price format should clarify that the Basic Cremation price excludes discounts that may be applied in certain cases (or similar wording).</p> |

If interment fees are not being charged up front, do they still need to be listed in the price breakdown?

The price breakdown should cover the total costs that you charge for the basic product.

For the Basic Adult Burial, that price would include the interment right and the interment service/interment fees for the interments specified in the contract (usually the first interment). The price breakdown should reflect all of these fees at that point in time, even where some of those may be charged at a pre-need point and the others paid at time of need.

Where fees vary over time, for example councils who amend and publish fees and charges annually, the price breakdown should include a date.

If the model contract is used for a pre-need purchase of an interment right, but the interment service is paid for at time of need, the model contract allows this to be identified and will state that the price of the interment will be confirmed at time of need.

Fees for any subsequent interments do not need to be listed in the price breakdown, though Section 14 of the model contract does require disclosure of the interment service price, which would apply to any future interment services.

How should pricing/the price breakdown reflect an interment right which includes multiple burials and ash interments? Should the price be the maximum that could be charged if the full capacity of the right/site is used?

As above, the contract should cover the interment right (with the maximum capacity of that right clearly listed), and any interment services being purchased at that time. This would usually cover the first interment if an at-need purchase.

Additional interments into that interment right would be charged at time of need, via an application for interment (and additional charges).

Questions about licencing

| Question | Answer |
|---|---|
| If we have inactive facilities on our licence and we conduct a burial, do we need to tell you each time within 5 days and if so how? | <p>Yes you do need to tell us as this would be part of your licence conditions if you have inactive facilities (as Special Conditions). This is because we intend to stop asking for activity reporting every year from inactive facilities, but we do need to track interments – if there are more than expected, we could require this to be converted to an active facility.</p> <p>We will give you more information about the best way to do this – in the future this could be via the operator portal – but in the interim you can just let us know at ccnsw.info@cemeteries.nsw.gov.au.</p> |

Other questions

| Question | Answer |
|---|--|
| Isn't there a conflict between the requirement to make your register available and your privacy obligations? | <p>CCNSW will provide more clarity on privacy and the register in a future fact sheet.</p> |

14 June 2024

Cemeteries & Crematoria NSW

31 May 2024

Dear cemetery and crematorium operators and funeral directors,

Thank you for your engagement in the recent roadshows

I would like to express my gratitude to cemetery and crematoria operators, funeral directors, and others for participating in the recent roadshow and webinars on the Interment Industry Scheme (IIS) and the expansion of the Interment Services Levy (the levy). With participation from over 250 individuals representing 200 organisations, the roadshows were a robust platform for collaborative dialogue, raising issues, and solving problems. Overwhelmingly, operators were keen to improve service standards and do the right thing by customers and are happy to work with us to do so. This was very heartening to hear.

Commencement of the interment services levy on 1 July 2024

I am writing today principally about the expansion of the levy. Through the roadshows, and written submissions, industry raised several issues and suggestions regarding the expansion of the levy. All have been considered.

The key themes raised during consultation were:

- *Timing*: more time to prepare for the levy, for example staff training, system adjustments and time for local councils to alter and exhibit fees and charges.
- *Exemptions*: request for exemptions from smaller organisations, charitable organisations, rural areas, and First Nations service providers.
- *Pre-paid / fixed-price contracts*: operators and funeral directors raised situations where there was a prior agreement to a fixed price service with a customer in advance of the service being provided.
- *Clear communication for customers*: operators and funeral directors sought clear and accessible materials to share with customers.
- *Equal treatment and competition*: some opposed exemptions given the importance of equity and a level playing field across the sector.

Operators and funeral directors also sought clarifications and made specific operational suggestions.

Design refinements

After considering all the feedback, the government has decided to delay the commencement of the change for one year (to 1 July 2025) for operators who reported providing fewer than 50 interments in 2022/23. This is to give operators with lower administrative capacity more time to prepare for the levy. These operators will be notified next week by us.

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

In addition, a hardship policy will be developed prior to the start of the levy for the smaller operators and will address cases of particular hardship.

Payments will be quarterly or annually depending on the number of interments (or your preference)

Operators who have historically undertaken more than 1,000 interment services a year will pay the levy quarterly. Other operators will pay annually but may request quarterly payments where that is preferred (please contact us if that is your preference). CCNSW will write to the larger operators next week to notify them they will be subject to quarterly reporting and payments.

Cemeteries & Crematoria NSW

A pamphlet on the levy is being prepared for customers

CCNSW is preparing a customer facing pamphlet explaining the levy and its rationale. This will help operators and funeral directors communicate to customers who may have questions or concerns. A pdf of the pamphlet in English will be available online the week beginning 3 June. Printed copies, and other languages, will be available shortly.

Delay to the commencement of licensing conditions: Contracts; Pricing and Maintenance to 1 October 2024

The start date for the consumer contract, pricing transparency and maintenance license conditions will now come into effect on 1 October 2024 to allow more time for industry adjustment. We encourage operators who are ready to implement these conditions now to maintain their positive momentum and begin complying from 1 July. For those operators who are not yet ready this extension allows additional time to prepare.

CCNSW has put together a FAQs sheet outlining the main features of the levy including the changes announced here. This can be found [here](#).

Thank you

Thank you for the services you provide to your community and for your participation and contributions to this process.

Please feel free to reach out to me if you have any questions or require further clarification on any of the mentioned updates. Your ongoing collaboration and support are invaluable as we navigate through these changes together.

Yours sincerely

Jennifer Hickey
CEO CCNSW

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 *11th 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 fewer than 50 interments 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.

In addition, a hardship policy will be developed prior to the 25-26 FY when the levy comes in for the smaller operators. It will address cases of particular hardship. 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.

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 body 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.

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.

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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).

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.

| Scenario 1: an at-need interment service sold by a funeral director. | When is the levy incurred? | Who pays the levy? |
|--|-----------------------------------|--|
| 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.

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| Scenario 2: an interment service purchased pre-need for a fixed price before 1 July 2024. | When is the levy incurred? | Who pays the levy? |
|---|---|---|
| <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.

| Scenario 3: dual burial plot | When is the levy incurred? | Who pays the levy? |
|--|--|---|
| <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.