

The Cemeteries and Crematoria Act 2013 is changing

A Bill to amend the *Cemeteries and Crematoria Act 2013* (NSW) (the Act) has been passed by both Houses of Parliament. This document sets out what these changes mean for operators and consumers.

The NSW Government recently passed the *Cemeteries and Crematoria Bill 2025* (Bill) to amend the Act. The changes implement many suggestions made by operators since the Act commenced in 2013. Thank you to those who shared your opinions, including in consultation last year.

What do these changes mean for operators?

The changes are intended to make it easier for operators to provide great service to your customers, families and communities. The changes:

- fix challenges with section 46(1)(e) of the Act, by allowing people who are not the interment right holder to repair a monument and undertake minor works if the right holder is unavailable and if the operator consents (without needing to transfer the right)
- fix challenges with section 61 of the Act, by replacing the outdated and expensive notification requirements and providing better guidance to operators about transferring interment rights when there is doubt or dispute
- fix the notification requirements when a cemetery is revoking an unused interment right under section 55, moving to a standard of reasonable notification efforts instead of outdated rules
- clarify how joint interment rights work, including how decisions must be made
- in parts of a cemetery set aside for religious and cultural groups, require cemetery operators to take all reasonable steps to ensure the interment is carried out in accordance with the applicable religious and cultural practices.

The changes that affect operators will come into effect on **1 September 2025**.

Cemeteries and Crematoria NSW (CCNSW) will be providing information and training sessions and publishing guidance materials ahead of 1 September 2025 to provide a deeper understanding of what will change for operators, including opportunities to ask questions.

Modernising notification requirements [new section 68B]

Several parts of the Act require operators to attempt to notify right holders before acting in relation to an interment right. In most cases, the requirements for notification are prescriptive, expensive and unlikely to be brought to the attention of the right people (eg. use of newspapers and the Gazette).

The amendments replace these requirements with a risk-based, common-sense approach. It will allow operators to take into consideration what is reasonable in the individual circumstances. CCNSW will publish Reasonable Notification Guidelines that will apply to things like transferring the interment right in complex cases, approving repairs to monuments, and revoking unused rights.

Making it simpler to repair monuments [new Division 2A, sections 70A-70I and section 68A]

Non-right holders will be able to repair a monument and undertake minor works if the right holder is unavailable and if the operator consents. A transfer of the right will not be required which will make the process easier and less expensive in most cases. CCNSW will publish guidance on when a right holder is unavailable.

Applicants will be able to apply to:

- Repair or remediate a monument (actions aimed at restoring its original state)
- Carry out minor works to realise the right holder's original intentions, such as adding a name, dates of birth and death, or portrait
- Erect a monument at an unmarked grave, if more than 5 years have passed since the last interment.

Operators will be able to impose conditions necessary on an approval. Operators will be protected from certain liability for an approval made in good faith and in accordance with the Act.

Improving the process for determining right holders [new section 60A, section 61 and section 68A]

The amendments provide additional guidance on when applications for a determination of the right holder should be approved. These include where an entitlement would have

passed to the applicant if their antecedents had updated the register, or to correct a prior error.

Operators will be empowered to decline to make a determination if there are ongoing family disputes and instead require the applicant to resolve disputes.

Before making a decision, the operator will need to be satisfied that the applicant has complied with the Reasonable Notification Guidelines. Operators will be protected from certain liability in connection with a determination made in good faith and in accordance with the Act.

Clarifying how joint interment rights work [various sections]

The amendments clarify that rights held jointly must be exercised jointly (i.e. with the consent of all joint right holders). The Act will make specific exceptions relating to urgent interments (with protections for the operator) and for renewal of renewable interment rights.

Clarifying limitations on how many interment rights can be held in one cemetery [section 56(4)]

A person will be able to hold rights for up to two unused sites in a cemetery and up to ten sites total (i.e. an additional eight where an interment has taken place).

Operators will still need to seek approval from CCNSW to grant rights above these numbers.

Strengthening respect for religious and cultural requirements [section 46(1)(b)]

The amendments require operators to take all reasonable steps to meet religious and cultural requirements in parts of cemeteries dedicated to religious or cultural groups. This will replace the existing requirement to 'permit' interments in accordance with those requirements (section 46(1)(b)).

Licence conditions relating to cultural and religious considerations continue to apply in all parts of all cemeteries.

Addressing the burial supply shortage by making better use of existing cemetery land [new Part 3, Division 8, sections 43A-43E]

The amendments create a framework for existing cemeteries to be renewed through sensitive redevelopment to allow further interments to take place. Operators will be able

to apply to the Minister for an exemption from some provisions in Part 4 of the Act to allow these projects to progress.

The Minister cannot approve any renewal works that would disturb existing remains.

An exemption provided by the Minister will not be a planning, environmental, heritage or other approval. Operators will still need to go through the ordinary planning process and comply with all environmental and heritage laws before works can commence.

Streamlining the revocation of unused rights [section 52 & 53]

Many cemeteries across NSW have vacant plots that have been reserved for over 50 years. The Act currently provides for the revocation of these rights to make them available for people who need them today, but the process is costly and time-consuming.

The amendments will reduce the length of time required to effect a revocation from over six months to 90 days and will modernise notification requirements through the Reasonable Notification Guidelines.

Changes to improve record-keeping and the register [sections 63(9), 65 & 67]

The Act will now require operators to make changes to the register as soon as practicable after being made aware of relevant information. This is to support numerous sections of the Act that assume the register to always be correct.

Certificates for interment rights will also now need to be issued any time the holder of a right changes. At present, certificates need not be issued when a person demonstrates their entitlement under a will or rules of intestacy.

Orders for interment will be required to be made in writing and, if specified in the regulations, retained for a certain period.

Allowing cemeteries to be listed on land titles [section 139A]

The amendments to the Act will allow registered proprietors of land including a cemetery to record the presence of that cemetery on their land titles.

This is a voluntary measure to give cemetery owners confidence that subsequent purchasers of their land will be made aware of the presence of the cemetery.

Clarifying the rules relating to interment of animal remains [sections 69A & 106]

The Act was previously silent on whether people may have the remains of animals interred with them. The amendments clarify that, to the extent to which it is not inconsistent with another Act or law, the Act permits the placement and burial of animal remains in an interment site.

Operators will be able to set their own policies with respect to the interment of animal remains.

What do these changes mean for customers?

The changes set out above will have a flow on effect to customers, improving their experience when engaging with operators. They simplify onerous processes, improve access for customers to monuments and further interment sites and minimise risks from poor record keeping. They will make it easier for operators continue to provide great service to customers, families, and communities.

Strengthening consumer protections provided by the regulator

The amendments introduce a power for CCNSW to share information about its regulatory activities publicly. This will provide consumers with an important source of information about ongoing and completed regulatory actions, good news stories, and examples of best practice. This will give consumers the information they need to interact with cemetery operators with confidence.

The Act will also clarify CCNSW's role in managing the resolution of complaints as one of its functions, reflecting the work it already does.

What do these changes mean for CCNSW as the regulator?

The Board of CCNSW will be dissolved and its functions transferred to the statutory appointment role of CEO of CCNSW. With the Board's leadership CCNSW has made great strides in recent years and improved its regulatory presence. Given CCNSW maturation, this level of oversight is no longer required.

CCNSW will remain subject to extensive oversight from the Minister for Lands and Property and the NSW Audit Office. To ensure CCNSW's ongoing accountability to the regulated community and the people of NSW, the existing consultative groups that

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represent community and consumer groups, and the industry will be recognised in the Act. CCNSW will also have a power to create new advisory groups if required.

Contact information

Further information can be obtained from:

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