

A new interment rights system in NSW

In 2012 the NSW Government commenced a program of reforms to bring a coordinated, strategic approach to the management of interment rights in NSW.

The *Cemeteries and Crematoria Act 2013 (the Act)* was passed by the NSW Parliament and commenced on 24 October 2014. Part 4 of the Act is about to come into force, which introduces a new interment rights system in NSW. This fact sheet answers some common questions about interment rights and the new system.

Questions and answers

What is an interment right?

An interment right is a contract with a cemetery operator that allows the right holder to undertake burials in a particular grave or other allotment in the cemetery. The holder of the interment right can determine who can be buried in the grave or other allotment. An interment right is an 'interest' in land but the right holder does not become the owner of the land. Interment rights apply to burials in the earth and to burials in mausoleums, crypts and vaults. They also apply to burials of cremated remains in the earth, columbarium or niche wall.

What is a perpetual interment right?

A perpetual interment right allows the right holder to bury human remains in a particular grave or other allotment in a cemetery and for those remains to be left undisturbed forever (in perpetuity). Additional interments may be added depending on the type of plot which has been purchased.

What is a renewable interment right?

A renewable interment right allows the right holder to bury human remains in a particular grave or other allotment in a cemetery and for those remains to be left undisturbed for an initial set period of 25 years. The renewable interment right can be renewed for additional periods up to a maximum of 99 years. Any human remains in the grave must remain undisturbed until the additional period expires. If a renewable interment right is not renewed, the grave may be re-used subject to a range of procedures as set out in the Act which must be followed by cemetery operators. The initial interment period for cremated remains may be up to 99 years.

Does the Act make renewable interment rights mandatory in NSW?

Renewable interment rights are optional, not mandatory. The Act provides a regulatory framework to ensure that, where offered, renewable interment rights are offered consistently and with adequate consumer safeguards.

Some important things to note about optional renewable interment rights:

- Renewable interment rights are a choice. No community or individual will be required to take up renewable interment rights.
- Renewable interment rights will not operate retrospectively—all existing graves and rights continue exactly as they were prior to the commencement of Part 4 of the Act.
- Perpetual interment rights will continue to be available and there will be no impact on existing perpetual graves or rights.
- New rules and conditions will ensure that holders of renewable interment rights are protected at each stage in the lifecycle of their interment right.
- Graves of local heritage significance and those listed by the Office of Australian War Graves cannot be re-used under any circumstances.

What consumer protection exists under the Act?

There are a range of measures provided in the Act to protect consumers at each stage of the interment right process. When granting an interment right to a person, the operator must provide a range of information, a certificate of interment rights and record the information in a public register. Access to information rights (such as the information recorded in the cemetery register) are retained and a process for compensation is established where an interment right is withdrawn by a cemetery operator. There are robust notification processes outlined in the Act before a renewable interment right expires or where a cemetery operator must revoke an interment right.

What if a renewable interment right expires before it is needed?

Purchase at need may be appropriate when considering whether a renewable interment right is the preferred option.

What assistance will Cemeteries and Crematoria NSW be providing to cemetery operators and the public?

Cemeteries and Crematoria NSW will be providing guidelines, information sheets and other communications material to assist cemetery operators to comply with and adjust to the new interment rights system. A consumer guide and information sheets in different languages will also be available to assist the general public in understanding the changes to interment rights.