

# Interment Industry Scheme – licensing and categorisation

The proposed Interment Industry Scheme introduces a licensing framework with 4 categories of licence conditions for cemetery and crematorium operators. The category of licence conditions will determine the conditions an operator must comply with to operate in NSW.

Introducing licences for cemetery operators which obliges them to comply with certain requirements, was a recommendation of both the recent statutory review of the *Cemeteries and Crematoria Act 2013* and the Independent Pricing and Regulatory Tribunal Review of the costs and pricing of interment in NSW.

The *Cemeteries and Crematoria Amendment Regulation 2022* will create an Interment Industry Scheme and require an operator to hold a licence to perform interment services (burials and ash interments). The regulations will be able to impose licence conditions on operators, as outlined in the Licence Conditions for Operators of Cemeteries and Crematoria. These conditions can be updated by the CCNSW Board as needed.

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## Who needs a licence?

All NSW cemetery and crematorium operators will need to apply for a licence, including stand-alone crematoria. Recognising the diversity of the industry, there are 4 categories of licence conditions with different levels of requirements.

CCNSW can consider the following matters to determine the category of licence conditions which apply to an operator:

- the volume of interments (bodily and ash) likely to be carried out during the term of the licence
- the total number of existing interments and future interments possible across all the operator's cemeteries
- the compliance history of the operator
- the heritage value of the operator's site(s)
- whether the operator intends to operate a cemetery and/or a crematorium
- any other relevant information.

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## What are the licence categories?

The following table provides an overview of the proposed licence categories. While each operator will be individually assessed using the criteria above this table gives an indication of how operators are likely to be assessed and categorised by CCNSW. Operators could be categorised differently if other factors are identified such as a specific operating risk. For new (not yet operational) cemeteries, categorisation would be based on the expected volume of future interments.

Larger operators or those where a higher level of risk is identified, will be issued a licence with Category 1 licence conditions. This will impose the full suite of licence conditions on those operators.

Medium sized operators, or those where a medium level of risk is identified, will be issued a licence with Category 2 licence conditions. This will impose all licence conditions, but with lower compliance reporting requirements.

Small operators, or those where a low level of risk is identified, will be issued a licence with Category 3 licence conditions. This will impose a smaller subset of licence conditions.

If an operator does not wish to pursue any interments in the future they can apply for a Category 4 caretaker licence.

	<b>CATEGORY 1 (Larger and/or higher risk)</b>	<b>CATEGORY 2 (Medium and/or medium risk)</b>		<b>CATEGORY 3 (Small and/or low risk)</b>	<b>CATEGORY 4 (Inactive)</b>
<b>Operator group description</b>	<b>Large operators</b>	<b>Medium operators</b>	<b>Crematoria only</b>	<b>Small operators</b>	<b>'Caretaker' operators</b>
<b>Volume/type of services</b>	≥50 interments annually and/or ≥40,000 total interments	≥50 interments annually and <40,000 total interments	Does not undertake any interments, only provides cremation services	<50 interments annually	Inactive with no further interment permitted*.
<b>Compliance history</b>	Based on individual operator				

\*Exemptions for interment may be available in limited circumstances

### Category 1 – Large sized and/or high-risk operators

If you are an operator that is undertaking 50 or more interments annually and have 40,000 or more current interments in your cemeteries, then you are likely to be classified as a large operator.

### Category 2 – Medium sized and/or medium risk operators

If you are an operator that is undertaking 50 or more interments annually and have less than 40,000 current interments in your cemeteries, then you are likely to be classified as a medium operator.

Crematoria only operators will also be subject to Category 2 conditions.

### Category 3 – Small sized and/or low risk operators

An operator that is undertaking fewer than 50 (49 and under) interments annually is likely to be subject to Category 3 conditions.

### Category 4 – Inactive (caretaker) licence

Operators with only inactive cemeteries will be able to self-identify in their licence application. An inactive cemetery is one that is at capacity or at which no further interments are intended to be carried out. For operators of only inactive cemeteries, with no plans to conduct any more interments, Category 4 licence conditions may apply.

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## How will licence applications be made and assessed?

To apply for an operator licence, the relevant person or entity will need to complete the licence application form which will be available on the CCNSW website. Information will be requested about the operator, the cemeteries and/or crematoria that are operated, and the information required to make a category assessment.

CCNSW will assess applications and assign a category of licence conditions using the self-reported information provided, along with previously reported activity data. This category will be provided on licence documents when granted along with any standard conditions for this category.

Licence applications must be assessed within 60 business days, though this time period will be paused if the regulator needs to go back to the operator to request additional information.

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## When will the Scheme and licencing conditions take effect?

The Scheme will commence following consultation and finalisation. The regulations include transition provisions which will outline when operators will be required to apply for a licence, over a 12 month period following commencement. The details are under development, but tranches will be outlined based on the number of interments conducted by an operator in the previous financial year. CCNSW will inform operators of the period within which they must submit an application for a licence. Larger operators will be required to obtain a licence first, to give smaller operators more time to work towards becoming compliant with requirements.

The Introduction of licence conditions will be phased to give operators time to understand and meet each set of requirements.

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## Relevant FAQs

### Who will need to be licensed? Who does the Scheme apply to?

The Scheme applies to operators of cemeteries and crematoria, and all operators will be licensed.

The Scheme does not apply to funeral directors or celebrants unless they are acting as agents of cemetery operators. Funeral pricing is regulated by NSW Fair Trading under the Funeral Information

Standard. NSW Health also regulates certain aspects of the burial process through the *Public Health Regulation 2012*.

### How much does a licence cost?

Fee structures are currently being determined, with the regulations capping licence fees at \$800. This reflects the cost to CCNSW of assessing and issuing licenses.

The fee can be waived or discounted in cases of financial hardship, or other circumstances as determined by the CCNSW Board. CCNSW is currently developing a proposed fee structure, taking into account the size and complexity of each operator.

There will be no fee for operators with Category 4 “caretaker” conditions.

### How long does a licence last before it must be renewed?

A licence may be granted for up to 5 years, at the discretion of CCNSW.

Licences granted with category 4 conditions are without time limit.

### Are you including private family cemeteries in the Scheme?

No. The Scheme does not cover a private family cemetery that is exempted under the *Public Health Regulation 2012*.

### Are licences granted per operator or per cemetery?

Licences are proposed for cemetery and crematorium operators, not for individual cemeteries. A licence holder may manage multiple cemeteries under the licence if they are listed in the licence application. If an operator buys or sells a cemetery, they must notify the regulator and have that cemetery added to or removed from their licence. There will be no cost for this amendment.

If an operator has several cemeteries, some of which are inactive, the maintenance licence conditions will permit different standards of maintenance for those identified inactive cemeteries.

### Will categorisation be done on a case-by-case basis?

Yes, each operator will be considered individually and assessed on their individual size, activity and risk profile. Initial assessments will be based largely on size and activity, but this assessment will become more sophisticated over time as the regulator gathers more data and intelligence about the potential risk of operators.

### Will heritage listing impact on the categorisation?

A small cemetery operator with a state heritage listing would be subject to Category 3 conditions but would retain any state heritage obligations as these are subject to the *Heritage Act 1997*.

### When will operators know their category so they can start planning to implement the licence requirements?

CCNSW will begin initial analysis of operators in Q3 2022, when all activity data for 2020/2021 has been received, to assess likely categorisation in preparation for licensing. Operators will be supported through the application process, and will be informed of their allocated category when granted a licence.

### What licensing rules apply to leased cemeteries?

Leasing arrangements vary and matters regarding licensing will be determined on a case-by-case basis by CCNSW. Where the care, control and management of a cemetery has been leased and the lessee sells interment rights, allocates burials sites, and maintains the cemetery, the lessee will most likely be required to hold the licence.

However, as a cemetery is a permanent use of land, at the termination of any lease or other arrangement, the land owner would be left with some responsibility for interment sites. The extent of ongoing responsibilities would depend on the arrangements entered into between the land owner and operator. Whoever issued the interment rights would have ongoing contractual obligations.

### We rely on volunteers to manage or maintain the cemetery, what support is available for us to meet licensing requirements?

Many cemeteries which are run by volunteers are small cemeteries which are likely to be subject to Category 3 conditions. CCNSW will provide support through templates, model contracts and charters that can be adopted along with detailed guidance and explanatory materials on how to comply with licence conditions. CCNSW are also intending to have staff available to provide advice to volunteers.

### Are crematorium operators regulated as part of the Scheme? What licence conditions will apply to crematorium operators?

Yes, all crematorium operators will be required to be licensed. Given the current and projected significance of cremation to the NSW interment industry, the statutory review recommended that all crematorium owners and operators should be required to hold an NSW interment industry licence.

For crematorium with memorial gardens, the full set of Category 2 licence conditions will apply.

For crematoria only operators who do not also provide interment, they will only be required to comply with a reduced set of relevant licence conditions recognising the services that they are actually delivering.