



New South Wales

# Cemeteries and Crematoria Amendment Bill 2025

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to amend the *Cemeteries and Crematoria Act 2013* (*the Act*) to make provision for the following matters—

- (a) the dissolution of the Board of the Cemeteries Agency and other matters concerning the governance and functions of the Cemeteries Agency,
- (b) the establishment of a scheme to exempt cemetery operators from the Act, Part 4 in relation to increasing the number of interment sites in parts of cemeteries with existing interment sites,
- (c) the permission for cemetery operators, and approval of other persons by cemetery operators, to carry out works in relation to memorials at interment sites,
- (d) the administration of interment rights and other matters concerning interment rights jointly held,
- (e) the making of guidelines by the Cemeteries Agency in relation to notification requirements and other matters under the Act,
- (f) matters concerning the land at Rookwood Cemetery,
- (g) other consequential and miscellaneous matters.

Certain amendments proposed by this Bill include Henry VIII provisions in the Act. The proposed amendments permit the Minister to grant an exemption to cemetery operators from provisions of the Act, Part 4 to enable the increase in the number of interment sites in parts of cemeteries with existing interment sites.

## Outline of provisions

**Clause 1** sets out the name, also called the short title, of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act.

## **Schedule 1      Amendment of Cemeteries and Crematoria Act 2013 No 105**

**Schedule 1[1]** amends an object of the Act.

**Schedule 1[2]** provides for the appointment of the Chief Executive Officer by the Governor on recommendation of the Minister.

**Schedule 1[7]** provides that the Cemeteries Agency must not be directed by the Minister in relation to activities about whether to carry out investigative, compliance or enforcement activities that may involve a contravention.

**Schedule 1[9]** extends the functions of the Cemeteries Agency to include the resolution of complaints made about cemetery operators that may involve contraventions in relation to the Act or other matters specified.

**Schedule 1[10]** provides for the dissolution of the Board of the Cemeteries Agency. The functions of the Board are transferred to the Chief Executive Officer. **Schedule 1[3]–[6], [8], [46], [47], [49]–[52] and [55]** make consequential amendments.

**Schedule 1[11]** clarifies that the Cemeteries Agency Fund is administered by the Chief Executive Officer.

**Schedule 1[12] and [44]** update references to the Director-General with references to the Secretary.

**Schedule 1[13]** removes the requirement for the Cemeteries Agency to make mandatory codes of practice for the interment industry within 5 years from the assent to the Act and provides that mandatory codes of practice may be made at any time.

**Schedule 1[14]** inserts Part 3, proposed Division 8. The proposed division establishes a scheme for the Minister to grant cemetery operators an exemption from specified provisions of the Act, Part 4 in relation to increasing interment sites within parts of cemeteries with existing interment sites.

Proposed section 43D creates a civil penalty for a cemetery operator who holds a renewal exemption and fails to act in accordance with the exemption.

Proposed section 43E provides regulations may be made about renewal exemptions and renewal works and including other matters specified.

**Schedule 1[15]** provides cemetery operators must take all reasonable steps to ensure an interment is carried out in accordance with relevant cultural or religious practices.

**Schedule 1[16]** clarifies cemetery operators may, on the application of the holder, approve memorials to be erected at interment sites with or without conditions. **Schedule 1[18]** makes a consequential amendment permitting a fee to be charged by the cemetery operator for the application.

**Schedule 1[19] and [20]** clarify that only the last surviving joint holder of an interment right jointly held may bequeath the right and the rules of intestacy will apply if the right is not bequeathed.

**Schedule 1[21]** amends the notification requirements and other matters in relation to the revocation of a perpetual interment right.

**Schedule 1[22]** clarifies the entitlement to compensation under section 53 only applies in relation to the revocation of a perpetual interment right under section 52.

**Schedule 1[23]** specifies the consequences for joint holders of a perpetual interment right when the perpetual interment right is revoked by a cemetery operator under section 52. **Schedule 1[24]** makes a consequential amendment.

**Schedule 1[25]** inserts proposed section 53A to provide that joint holders of an interment right must act jointly in relation to the interment right.

**Schedule 1[26]** permits a joint holder to apply for the renewal of a renewable interment right without acting jointly with all other joint holders of the renewable interment right and requires the cemetery operator to deal with the other holders in a specified way.

**Schedule 1[28]** provides that a renewable interment right expires for a joint holder who does not apply for the right to be renewed and the joint holder is not entitled to apply at a later date for another renewable interment right in its place.

**Schedule 1[29]** amends section 55, heading to state the provision relates to expired renewable interment rights.

**Schedule 1[32]** clarifies that, before an interment site is re-used, any cremated remains may be returned to one of the joint holders if all the other holders approve.

**Schedule 1[33]** amends the prohibition on the grant or transfer of interment rights by cemetery operators concerning persons holding existing rights.

**Schedule 1[34]** amends and inserts proposed provisions about the determination of a holder of an interment right by a cemetery operator.

**Schedule 1[35]** requires a cemetery operator to record, on the cemetery operator's register, whether an interment right is jointly held.

**Schedule 1[36]** amends the type of information that must be kept on a cemetery operator's register and makes it a civil penalty if the cemetery operator does not record the information as soon as reasonably practicable.

**Schedule 1[37]** substitutes section 65 in relation to certificates for interment rights and creates a civil penalty if the cemetery operator does not ensure a certificate for an interment right is consistent with information recorded on the cemetery operator's register before the certificate is issued.

**Schedule 1[38]** permits a cemetery operator to allow an interment in relation to an interment right jointly held if not all the holders have made the request for the interment because the holders are unavailable to act jointly.

**Schedule 1[39] and [40]** make amendments concerning orders for interments and create a civil penalty for a person to carry out an interment without holding an interment order.

**Schedule 1[41]** inserts proposed sections 68A and 68B.

Proposed section 68A provides an exclusion from liability for cemetery operators in certain circumstances.

Proposed section 68B requires the Cemeteries Agency to make guidelines for notification requirements and other matters under the Act. **Schedule 1[27], [30], [31] and [53]** provide for notification requirements in a way consistent with the guidelines.

**Schedule 1[42]** inserts Part 4, proposed Division 2A, setting out the circumstances in which a cemetery operator or a person approved by a cemetery operator may disturb a memorial or erect a memorial in relation to an interment site.

Proposed section 70C makes it an offence if a person who holds an approval to carry out the works does not comply with the approval. Proposed section 70E creates a civil penalty if a cemetery operator grants a person approval to carry out memorial works for which the holder has given notice that the works must not be carried out. Proposed section 70H creates a civil penalty if a cemetery operator does not record, on the cemetery operator's register, the fact that a holder has

given notice that works must not be carried out. **Schedule 1[17]** makes a consequential amendment.

**Schedule 1[43]** removes the requirement for Crown cemetery operators to publish strategic plans in the Gazette.

**Schedule 1[45]** make consequential amendments to permit civil penalty infringements to be given for civil penalties proposed by this proposed Act.

**Schedule 1[48]** inserts proposed sections 139A, 139B and 139C.

Proposed section 139A requires the Registrar-General to record information about land being a cemetery to which the Act applies in the folio of the Register for the land if the landholder makes an application.

Proposed section 139B provides for the establishment of advisory groups to provide advice to the Cemeteries Agency.

Proposed section 139C permits the disclosure of information under the Act in connection with the administration, operation or enforcement of the Act, regulations or interment industry schemes.

**Schedule 1[54]** omits obsolete provisions and provides for the acquisition and vesting of the whole of Rookwood Cemetery in the Crown, to be held as Crown land, without affecting certain interests specified in the proposed section.

**Schedule 1[56]** makes consequential amendments to the Dictionary, including permitting the regulations to prescribe services as interment services.