

Summary of Information Sheet

Draft Burial and Cremation Bill

Compliance framework

Disclaimer

This information sheet is not legal advice and does not cover all of the requirements proposed under the draft Burial and Cremation Bill. It is intended only as a quick reference for some main provisions. The full Bill should be read for a complete picture.

General approach

The Department of Housing and Community Development will assist councils/organisations, cemetery managers and crematoria managers to be, or to become, compliant with the new legislation.

Compliance reviews

The department will have a program of compliance reviews for councils/organisations with cemeteries and crematoria.

The purpose of a compliance review is to make sure the legislation is understood and being complied with.

The department must report to the council/organisation on the results of the review and may require them to make administrative or operational changes to comply with the legislation.

Inspectors

Inspectors will be appointed by the CEO of the Department of Housing and Community Development. An inspector must show their identity card before exercising any powers, and if asked to do so.

The functions of an inspector include to:

- assess whether or not persons are complying with this Act
- carry out compliance reviews
- investigate and gather evidence of suspected offences.

Inspectors have powers to perform their functions such as the power:

- to request information
- of entry to a cemetery/crematorium (they must advise that they are an inspector and give reasonable opportunity to allow entry)
- to examine and take copies of documents.

The council/organisation must respond to the requests of an inspector.

Investigations

If there are reasonable grounds to suspect an irregularity in relation to the control or operation of a cemetery or crematorium, the department may direct that an investigation is undertaken. An investigation may be conducted by one or more inspectors.

If an inspector finds evidence of an irregularity in the operations of a cemetery or crematorium, the inspector must report the matter to the CEO of the Department of Housing and Community Development and the responsible entity for the cemetery or crematorium.

If the irregularity appears to involve serious illegality or non-compliance, the CEO must report the matter to the minister.

Ministerial action

If the minister believes, on reasonable grounds, that there have been repeated contraventions of legislation, or operational or administrative irregularities, the minister may issue:

- an enforcement order
- a suspension notice (only applicable to crematoria).

Enforcement order

An enforcement order will provide information such as the grounds on which it is issued, the actions that the council/organisation must take, the date by which compliance is required, the maximum penalty for contravening the notice and how to have the order reviewed.

The order may also vary the conditions of licence for a crematorium.

The council/organisation must report to the minister about what action has been taken, by the date given in the order.

Suspension notice

A suspension notice for a crematorium may be issued by the minister if the minister believes, on reasonable grounds, that there have been repeated contraventions of legislation or operational or administrative irregularities.

A suspension notice will provide information such as the grounds on which it is issued, the actions that the council/organisation must take, the date by which compliance is required, the maximum penalty for contravening the notice and how to have the notice reviewed.

Failure to remedy contraventions

For a cemetery, if the contraventions in an enforcement order or suspension notice are not remedied, the minister may:

- revoke the establishment of the cemetery
- declare the cemetery to be a semi-closed cemetery
- declare the cemetery to be a closed cemetery.

For a crematorium, if the contraventions in an enforcement order or suspension notice are not remedied, the minister may revoke the licence of the crematorium.

The minister can revoke the semi-closed or closed declaration for a cemetery and the suspension notice for a crematorium.