

Cemeteries and Crematoria Act 2003

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The *Cemeteries and Crematoria Act 2003* bulletin is provided to update you regularly on the implementation of the new *Cemeteries and Crematoria Act* that was passed by the Parliament on 30 October 2003.

Introduction

From 1 July 2005 new laws will apply to Victorian cemeteries and crematoria in the form of the *Cemeteries and Crematoria Act*. The new Act will make some changes to the way cemeteries and crematoria are managed and operated. Some aspects of the current system will continue after 1 July 2005.

The department is currently developing a detailed implementation plan in relation to the new laws. In the meantime cemetery trusts should continue to operate as usual, consistent with the provisions of the *Cemeteries Act 1958*.

Where to from here?

The Department of Human Services has established a *Cemeteries Implementation Team* to assist you and consult with you on the introduction of the new laws. Over the next 18 months the department will provide regular information about progress in implementing the laws. The department will also consult stakeholders on a range of important issues including the development of:

- regulations to support the legislation - these include the development of 'model rules' for the care, protection and management of cemeteries
- industry and departmental guidelines and codes of practice to promote a clear and consistent framework for implementing the new laws
- new arrangements for fees charged by cemetery trusts.

During this time the Department of Human Services will undertake a comprehensive education campaign to inform you about the new laws and what they mean for you.

Why are new laws necessary?

Laws applying to cemeteries and crematoria date from 1958 and incorporate aspects of much older laws. The Victorian community is very different from 45 years ago. The laws starting from 1 July 2005 will mean cemeteries will be more responsive to changing community needs and expectations.

The new laws will provide a clearer regulatory framework for the cemeteries and crematoria sector, and important reforms to the management and operation of cemetery trusts.

Please note this is a brief overview of the new laws. For a more detailed understanding of the legislation you are encouraged to read the *Cemeteries and Crematoria Act 2003* that is available at: www.dms.dpc.vic.gov.au/sb/2003_Act/index.html Copies of the Act may also be purchased from Information Victoria on 1300 366 356.

What are the main changes?

Key changes affecting the administration and operation of trusts include that:

- the Secretary of the Department of Human Services:
 - will approve all fees charged by cemetery trusts. Currently the Governor in Council approves these fees
 - may direct trusts on matters including the management of cemeteries, record keeping and the use of trust funds
 - must approve any new cremation or mausoleum facilities that cemetery trusts wish to establish.
- fees charged by cemetery trusts that are greater than \$50 will be automatically increased in line with inflation each year
- a requirement that trusts respond to the cultural and religious diversity of their communities. When undertaking normal operations cemetery trusts must also give consideration to any heritage values of the cemetery.
- cemetery trusts must offer the option to commemorate cremated remains for 25 years or forever. If a cemetery trust agrees to commemorate cremated remains for 25 years the cemetery trust must provide notice at least 12 months before the 25 year period elapses. The cemetery trust must then offer to commemorate the remains forever as well as for a further period of 25 years.
- more respectful treatment and commemoration of poor and destitute persons who die. For these people magistrates may direct cemetery trusts to provide free of charge:
 - cremations
 - memorial plaques for those who prefer to be buried.
- to assist local councils in managing cemeteries, councils will be able to manage cemeteries directly rather than having to be appointed members of cemetery trusts.

Which current arrangements will continue to apply after 1 July 2005?

The cemeteries and crematoria system will continue to be publicly owned and administered. Some other general arrangements that will continue include:

- Cemeteries and crematoria will continue to be managed by trusts appointed under the Act.
- Burials will continue to be in perpetuity.
- Cremated remains need not be held in a cemetery.

This information is also available online:

www.dhs.vic.gov.au/phd/cemeteries

For further information contact the Cemeteries Implementation Team on (03) 9637 4824.