

|  |
| --- |
| Cemeteries and Crematoria Regulations 2025 |
| Key updates made following a review of the Cemeteries and Crematoria Regulations 2015 |
|  |

The Cemeteries and Crematoria Regulations 2025 (2025 Regulations) have been made under section 180 of the *Cemeteries and Crematoria Act 2003* (Act).

The 2025 Regulations replace the Cemeteries and Crematoria Regulations 2015 Regulations (2015 Regulations).

The 2015 Regulations were due to sunset on 16 June 2025 in accordance with the *Subordinate Legislation Act 1994*. To inform updated replacement regulations, the department conducted a review of the 2015 Regulations and consulted broadly with the sector and the public.

Consultation occurred over two stages:

* In December 2023, the department consulted with Class A cemetery trusts and the sector peak body, the Cemeteries and Crematoria Association of Victoria (CCAV), to identify key areas for potential reform and further consultation.
* In January 2025, the department released a discussion paper to seek further feedback across the sector and the public. Thirty-six submissions were received from Class A and B cemetery trusts, CCAV, funeral directors, peak bodies, government agencies, community groups and other interested parties.

The department considered all feedback and suggestions from stakeholders and sought further information through webinars, meetings and targeted enquiries. Many of the thoughtful and practical suggestions for reform provided by stakeholders have been incorporated into the 2025 Regulations. The department also made a range of amendments to modernise, clarify and restructure the Regulations to improve their useability and reflect community needs and industry best practice.

The table below sets out the key updates made in the 2025 Regulations, including the rationale for change, relevant stakeholder views expressed during the review of the 2015 Regulations, and implementation considerations.

**Table 1: Summary of changes**

| Changes | Rationale | Stakeholder views and implementation |
| --- | --- | --- |
| Administrative/clarifying amendments | | |
| * Language in the 2025 Regulations has been updated to be:   + Gender inclusive – for example, in the definitions for nearest surviving relative, ‘son or daughter’ is changed to ‘child’; in the forms, a binary ‘male/female’ tick box is changed to a free text field for ‘sex of the deceased’.   + Modernised – for example, ‘geographical locator’ is a new option for interment location.   + Aligned with accepted industry terms – for example, ‘container reference number’ in relation to containment of bodily remains and body parts with an identifier. * Amending definitions to assist interpretation and ensure provisions operate as intended:   + Clarifying appropriate materials for sealed caps and concrete-lined graves.   + Amending terminology in provisions that restrict vehicles and animals in cemeteries, to ensure that mobility aids and assistance animals are allowed. * Structural changes to ensure clarity regarding types of human remains:   + Separating prescribed information provisions for bodily remains, body parts (that are not foetal remains) and foetal remains, and ensure information collected is aligned.   + Additional scheduled forms for each type of human remains. * Structural changes to ensure appropriate placement of content in the Regulations or Model Rules, so that   + The following are in the Regulations: * Powers, functions and compliance obligations of the cemetery trusts. * Restrictions related to core activities that take place in cemeteries (e.g. interments, cremations, funerals and other memorial services). * Restrictions that are non-negotiable due to the level of risk.   + The following are in the Model Rules: * Restrictions related to extra-curricular activities that may occur in some cemeteries. * Restrictions that could be varied according to the specific circumstances of a cemetery trust. * Correcting a reference to a section of the Act. | The amendments will ensure the 2025 Regulations reflect community expectations about inclusive language and access to cemeteries, and that they will be easier to understand and apply for both cemetery trusts and the public.  Several changes will ensure that the Regulations account for a broad range of cultural practices carried out in cemeteries, and that they do not unintentionally restrict access for Victorians who rely on mobility aids or assistance animals.  Some changes allow for more streamlined drafting throughout the Regulations, making them clearer.  Some changes are designed to resolve ambiguities, particularly lack of clarity about compliance requirements or scope – for example, changes to better distinguish requirements for different types of human remains, including human remains with an identifier.  Changes to move content from the Model Rules to the Regulations or vice versa will ensure that substantive powers of cemetery trusts and Statewide non-negotiable requirements or restrictions are clearly included in the Regulations and matters that are more nuanced or discretionary are in the Model Rules. This is intended to provide clarity and efficiency for cemetery trusts, improve transparency, and avoid potential confusion for the public. | Stakeholders broadly support the changes.  Consultation revealed poor understanding and significant confusion within the cemetery sector and the public about key terms, such as human remains, bodily remains, body parts, foetal remains and cremated human remains. Similarly, stakeholders have expressed confusion about how human remains of unknown name or with an identifier are dealt with in the Regulations.  As the changes do not substantively alter the effect of the relevant provisions of the Regulations, it is not anticipated the changes will require significant implementation activity on the part of cemetery trusts. Cemetery trusts are encouraged to review their operational and public facing documents so that those documents accurately reflect the wording and structure of the new Regulations.  Where required, the department will update its resources and guidance materials on the website, such as the [Manual for Victorian Cemetery Trusts](https://www.health.vic.gov.au/public-health/cemeteries-and-crematoria). |
| Rationalising prescribed information and prescribed forms | | |
| Amendments have been made to the prescribed information for cemetery records – that is, the information that cemetery trusts are required to keep in their records under section 59 of the Act, and required to make available to the public for the purposes of historical and genealogical research under section 60.  For example:   * Amendments have been made to the information required to be kept under section 59 including:   + Prescribing ‘suburb, town or city’ rather than ‘last permanent address’ of the deceased.   + Addressing gaps in prescribed information collected by trusts – for example, regarding body parts and where they have been interred or cremated.   + Adding prescribed information in relation to variation or forced surrender of a right of interment under Division 2A of Part 6 of the Act, including a copy of the notification of the Secretary provided under section 84F(2)(d) of the Act. * Amendments have been made to harmonise and rationalise the information collected in the prescribed forms, to align with prescribed information, align with information privacy principles, meet cemetery trusts’ operational needs, and improve usability by:   + Deleting unrelated information – for example, details of embalming in applications for exhumation.   + Adding operational information – for example, coffin dimensions in applications to cremate.   + Using consistent language.   + Clarifying certain fields – for example, regarding the removal of pacemakers prior to cremation.   Creating additional forms where gaps exist – for example, applications to inter body parts or foetal remains. | Changes will ensure that the required collection and disclosure of the information under section 59 and 60 of the Act is consistent with information privacy principles and that the records kept and disclosed appropriately support genealogical and historical research as intended. The changes have also been designed to assist cemetery trusts to appropriately manage operational and public facing records in parallel.  The revised prescribed information should be sufficient for historical/research purposes with alternate pathways to accessing information. For example, if researchers/genealogists need to access the full address of a deceased person, they can obtain this information from Births, Deaths and Marriages (BDM) via the death certificate 30 years after the date of death. This approach protects the privacy of living persons associated with the address (for at least 30 years).  Trusts will still collect necessary operational information (for example, full address of the deceased) via the forms but cannot disclose this information under section 60 of the Act. | Stakeholders broadly support these changes.  Close consultation with trusts indicates that these changes reflect how operational and historical/genealogical records are managed in parallel by large trusts, and will assist smaller trusts to work towards best practice records management. The changes also reflect advice and feedback from privacy and record management stakeholders such as the Office of the Victorian Information Commissioner (OVIC), the Public Record Office Victoria (PROV) and BDM about best practice records management.  The department will support implementation by making fillable forms available for download on the website upon commencement of the new Regulations, and by providing guidance and education where needed. The department understands that trusts may need time to migrate to the new forms, particularly if their internal systems require updates to accommodate changes to data fields. Trusts are encouraged to contact the department if they have questions about the new forms or to discuss their implementation timeframes.  The department notes that the differences between the old and new forms are not substantive, meaning section 53 ‘Strict compliance with prescribed forms not necessary’[[1]](#footnote-2) of the *Interpretation of Legislation Act 1984* is likely to apply so that the forms prescribed under the 2015 Regulations can continue to be validly used as a transitional practice while forms are updated to reflect the 2025 Regulations. |
| Adding prescribed persons for the purposes of making certain applications | | |
| Amendments have been made to add prescribed persons, for the purposes of making an application for interment or cremation of body parts (including foetal remains):   * The person who was pregnant with the foetus * An authorised representative of a tissue bank * Victorian Institute of Forensic Medicine (VIFM). | For some interment and cremation applications required under the Act, the 2015 Regulations did not clearly allow applications by potentially interested parties. The changes will allow families affected by pregnancy loss to be involved in relevant applications, rather than requiring a registered medical practitioner to make the application on their behalf. The changes made in the 2025 Regulations will also allow effective operational management of applications for cremation of body parts arising from tissue banks and the VIFM. | Stakeholders broadly support allowing families affected by pregnancy loss to directly apply to inter or cremate the foetal remains to minimise their distress and administrative burden during this difficult time.  Adding authorised representatives of a tissue bank and VIFM is supported by these entities as it will streamline their processes.  It is not anticipated that trusts or other stakeholders will need to invest significant time or resources in updating operational processes to reflect these changes.  The department is supporting implementation by creating downloadable forms for applications to inter or cremate foetal remains (new forms 4 and 8). These include ‘category of prescribed person’ reflecting the amendments.  New forms 9 and 10, which replace old forms 3A and 3B, include the additional prescribed persons from tissue banks and VIFM, and are available for download. |
| Technical or operational amendments | | |
| Amendments have been made to   * Require labelling of coffins, containers or receptacles with name, identifier or container reference number when conveying bodily remains or body parts within a cemetery, interring bodily remains in a mausoleum or transporting for cremation. * Reduce the minimum depth of soil required between a sealed cap over buried human remains and ground level from 500mm to 400mm. The required burial depth for unsealed graves remains 750mm. | The requirement for labelling is intended to support operational arrangements by cemetery trusts for easy identification of human remains.  The change to soil depths between a sealed cap over buried human remains and ground level reflect current operational considerations, namely: the size of coffins; the risk of incursion by weather or vermin; the accommodation of multiple interments in one plot. | Trusts provided clear feedback that requirements for labelling will enable clear identification by trust staff, and will formalise what is already current industry practice for operational purposes. Costs analysis predicts minimal impact from the new requirements due to their existing widespread use and the low costs of labelling.  Trusts provided varying feedback on the primary operational issues they seek to manage in relation to burial depth. For example, the larger metropolitan cemeteries that are experiencing greater land capacity challenges, support reduced soil depths to accommodate subsequent interments in older family plots that are not deep enough for the larger coffin sizes that are used today. The sector confirms that sealed caps (defined so as to exclude crushed rock) will prevent noxious emissions and entry by vermin. Class B and regional cemeteries support maintaining 750mm depths for unsealed graves as they experience more issues with vermin and weather (for example, flooding and erosion).  It is not expected that the sector will need to invest significant time or resources to implement the proposed updates.  The department will support implementation through updated guidance materials, such as the [Manual for Victorian Cemetery Trusts](https://www.health.vic.gov.au/public-health/cemeteries-and-crematoria). |
| Conduct or activities within cemeteries | | |
| Parts of the Regulations and the Model Rules relate to conduct and activities that are restricted unless a person seeks prior trust approval. Amendments have been made so that, in addition to giving approvals on a case-by-case basis to an individual, trusts can establish general approvals or conditions via published trust policies or signage.  Updates have been made to the provisions to allow trusts to:   * Remove mementos placed on or around interment sites where the mementos pose a safety risk – for example, alcohol, vaping products, electronics. This provision has been moved from the Model Rules into the Regulations. * Use their discretion to manage items outside the boundaries on a memorial or place of interment through published policies. * Broaden the list of animals that may be brought into a cemetery without prior trust approval to include assistance animals. * Require dogs to be on a lead and under effective control at all times, and all other animals brought in with trust approval to be on a leash or in a suitable container. * Manage risk of fire (whilst allowing trusts to permit, via their policies, ceremonial use of fire, flame or smoke where appropriate). * Prevent the planting, pruning or decorating of any plant, flower, shrub or tree (previous restrictions only applied to removing, picking or damaging plants). * Restrict building and digging whether permanent or temporary (previous restrictions did not specifically mention temporary structures or holes). * Permit the use of wheelchairs and mobility aids in a cemetery without needing prior trust approval (previously required for all vehicles, which could include wheelchairs and mobility aids under the previous definition). * Restrict swimming or bathing in ‘a body of water’ in a cemetery to allow ceremonial practices that use water to occur without trust approval. | These changes seek to balance community and individual access to cemeteries, and associated activities, with the safe and orderly operation of the cemeteries in keeping with the purpose for which the Crown Land has been reserved.  The amendments are designed to provide greater clarity about permitted and prohibited behaviours, and about powers cemetery trusts may exercise to take action to reduce risk to safety of cemetery staff and visitors, or risk of damage to land, property or vegetation.  The new option for trusts to permit activities in full or with conditions via general polices published on their websites or in signage will streamline existing processes that require trusts to give permission to individuals upon request.  Via general policies, trusts will have flexibility to restrict or permit certain activities or behaviours as may be appropriate for that cemetery. For example, a cemetery trust could permit fishing in a dam or specified sporting activities if they can be conducted in that cemetery without causing undue disturbance or safety risks.  Published policies about restricted behaviours and activities will provide certainty for families and visitors about what is permitted and reduce the likelihood that distressing situations will arise if cemetery trusts have to enforce restrictions after the behaviour has occurred. | There are varying stakeholder views on some of these regulations, especially powers for cemetery trusts to remove mementos placed on graves.  Cemetery trusts provided feedback about circumstances where they are required to manage and reduce risks to safety and damage to the land, property and vegetation at a cemetery, and instances in which the previous Regulations and Model Rules were not effective in allowing them to do so.  The department also considered community expectations about being able to access cemeteries, including to engage in activities or practices that memorialise loved ones in a culturally and personally meaningful way.  Cemetery trusts gave many examples of how they effectively manage memorialisation by setting expectations through policies, visitors guides and signage, or by providing information directly to families when interments are arranged.  Trusts also gave many examples of how they deal with breaches of the Regulations, Model Rules or trust policies – for example, by disposing of dangerous items immediately; by contacting right of interment holders and giving timeframes for removal of items; by temporarily removing items to conduct maintenance activities and then replacing them; by removing and storing items for certain periods of time before disposing of them; by keeping registers of removed items; or by publishing notices in local newspapers calling for the removal of mementos by a specified date. Some trusts also have established relationships with community groups (for example, local Aboriginal communities) where adornment, temporary constructions and other memorialisation practices are permitted for periods of time or removed in direct consultation and discussion with community.  Due to the variety of methods used and other practical limitations, stakeholders do not support prescriptive requirements for the management of mementos in the Regulations. For example, mandating that trusts notify right of interment holders may be impractical as trust records may be incomplete or out-of-date (especially where the deceased was the right of interment holder) and Class B trusts in particular do not have the resources to locate new contacts. Many trusts have no facilities to store removed items, so making this a requirement would be a significant burden.  The department will support implementation of the new Regulations through updates to its resources and guidance materials on the website, such as the [Manual for Victorian Cemetery Trusts](https://www.health.vic.gov.au/public-health/cemeteries-and-crematoria).  With flexibility and discretion to permit or put conditions around activities to suit their individual circumstances, trusts are encouraged to do this in a broad and transparent way by publishing policies or putting up signage in cemetery grounds.  Noting that memorialisation and adornment of interment sites is a particularly sensitive issue, cemetery trusts are encouraged to develop clear policies about memorialisation that balance community needs and expectations, trust operations, public safety and local environmental factors.  The department will explore options for developing additional education materials or model policies to support the smaller cemeteries and Class B trusts. |

1. *Interpretation of Legislation Act 1984,* section 53 ‘Strict compliance with prescribed forms not necessary’ states: Where a form is prescribed by an Act or subordinate instrument for any purpose, any form in or to the like effect of the prescribed form shall, unless the contrary intention appears, be sufficient in law. [↑](#footnote-ref-2)