
Cemeteries & Crematoria NSW

Department of Planning, Housing and Infrastructure

www.cemeteries.nsw.gov.au



Guide to Licence Conditions A: Consumer Contracts

May 2024



Acknowledgement of Country

Cemeteries & Crematoria NSW acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and we show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally, and economically.

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Introduction

The Interment Industry Scheme

The Interment Industry Scheme was established under the Cemeteries and Crematoria Regulation 2022 (NSW). The scheme was developed in response to recommendations from two 2020 reviews:

- a statutory review of the Cemeteries and Crematoria Act 2013 (the C&C Act)
- the Independent Pricing and Regulatory Tribunal (IPART) review of interment costs and pricing in NSW.

Recommendation 4 of the IPART review stated that: ‘CCNSW [should] develop a code of practice for interment right contracts, including standard terms and conditions, and a requirement for cemetery operators to provide a plain English statement of terms and conditions’.

Rather than develop a code of practice, we have included these requirements in the scheme’s licensing framework. Under this framework, NSW cemetery and crematoria operators must hold a licence to perform interment services, including burials, cremations, ash interments and caretaker services.

There are 4 licence categories, each with different conditions that operators must meet. For more information on the licence categories see [Licence conditions for operators of cemeteries and crematoria](#).

This guide

The aim of this guide is to help operators understand how to meet licence conditions A.1 to A.3 which relate to consumer contracts. Operators should read this guide alongside the licence conditions.

The guide has 4 sections:

1. Introducing the conditions – describes what the conditions cover, the model contracts and the role of operators and funeral directors.
2. Understanding the conditions – explains what operators can do to meet conditions A.1–A.3.
3. Showing compliance – describes how operators can show they comply with the conditions, and how we monitor compliance.
4. Resources – includes information about how the model contract is constructed, and templates of the available model contracts.

Note on terms

In this guide, these words have the following meaning:

- 'we' and 'ours' mean CCNSW (Cemeteries & Crematoria NSW)
- 'you' and 'yours' mean operators
- 'consumer' and 'customer' are used interchangeably
- 'interment right holder' means the person signing the interment right contract and who can make decisions about the interment right. They are recorded in the cemetery operator's register. The interment right holder may or may not be the same person as the person interred or to be interred.

Introducing the conditions

Licence conditions for consumer contracts

There are 3 conditions relating to consumer contracts, commencing on 1 July 2024. These are known as conditions A:

- A.1 – Operators must comply with pre-contract requirements and ensure consumer contracts are transparent and clear.
- A.2 – Operators must not enter a consumer contract unless the consumer contract includes key details relating to the interment right.
- A.3 – Operators must address certain matters in all consumer contracts.

The table below shows which of these conditions apply to each licence category. Even if a condition does not apply, we consider compliance with all conditions as best practice (where applicable).

Licence Condition		Category 1	Category 2	Category 3	Category 4 (Caretaker)
A. Consumer Contracts	A.1	Yes	Yes	Yes	No
	A.2	Yes	Yes	Yes	No
	A.3	Yes	Yes	No	No

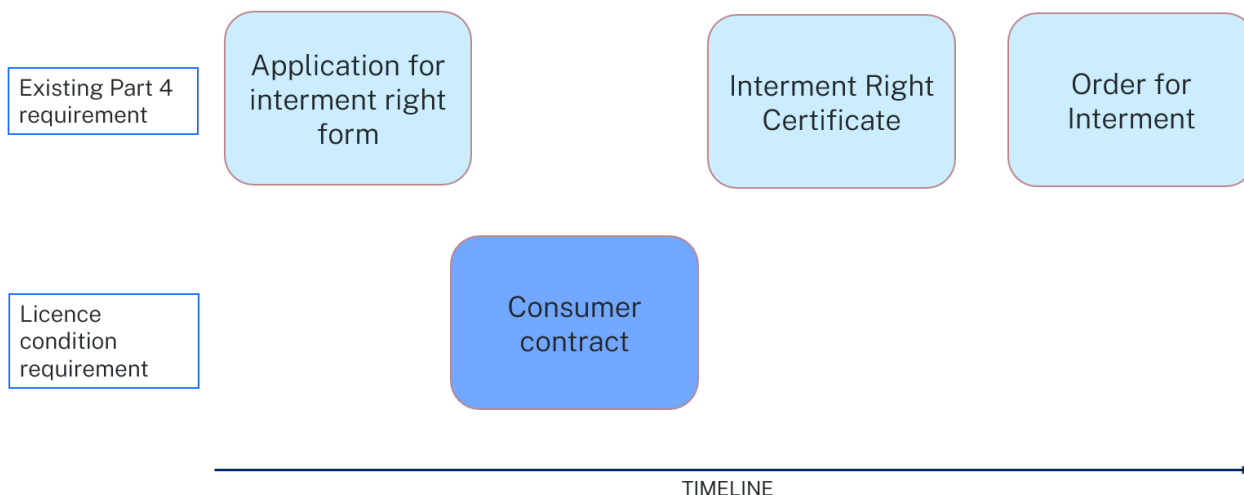
Interaction between Conditions A and existing Part 4 requirements

The contract is intended to complement the existing forms required under Part 4 of the C&C Act, which commenced in 2018. Part 4 introduced the interment rights system, replacing the previous systems of burial licences and reservations. Operators are required to comply with these Part 4 requirements as well as the Conditions of their operator licence.

As a reminder, Part 4 introduced a series of obligations regarding the sale of an interment right, including:

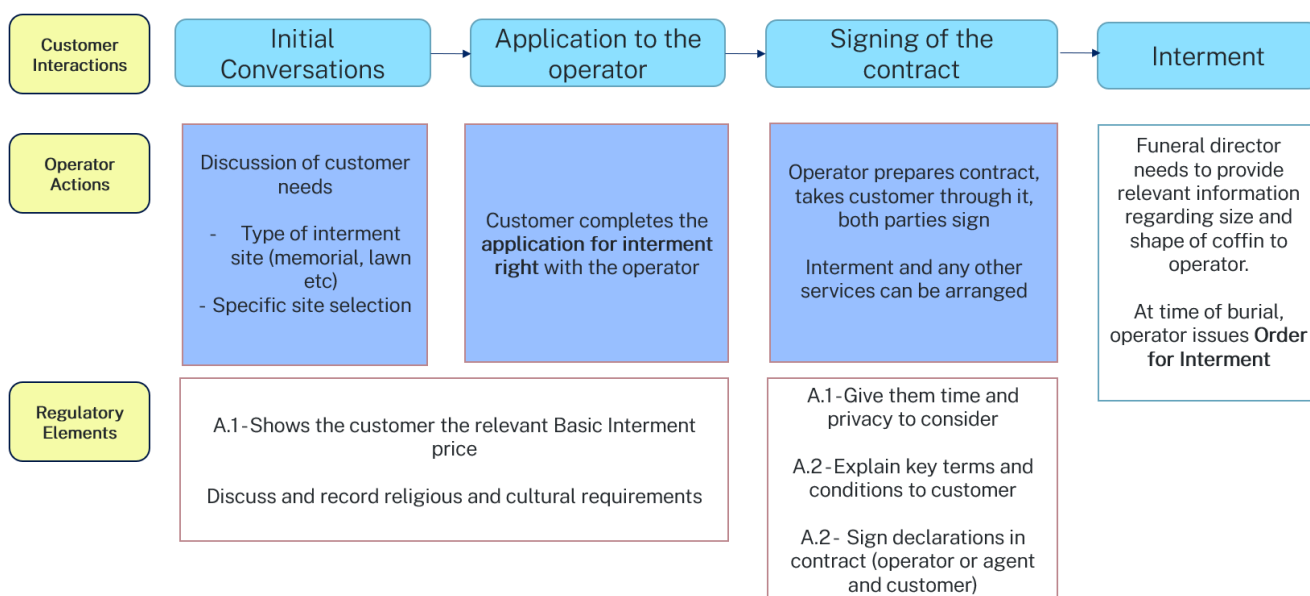
Act section	Requirement
56(2)	An application for an interment right must be in the form approved by the Cemeteries Agency and accompanied by the appropriate fee
57	<p>Lists the elements that must be included in an interment right granted by an operator, including:</p> <ul style="list-style-type: none"> - the identity of the interment right holder - the number of persons who may be interred - the identity of those persons or how they will be nominated in the future - whether the right is perpetual or renewable
63	An operator must keep a register of interment rights granted, memorials erected, interments and cremations conducted
65	An operator must issue a certificate to an interment right holder when a right is granted, renewed or transferred. The certificate must state that the person holds a right in relation to an interment site, and specify the details of the right as per Section 57.
67	An operator must issue an order for interment before an interment can take place in a cemetery.

The consumer contract, required by Licence Conditions A from 1 July 2024, aligns with the existing forms.



We will be updating the existing Part 4 forms on our website shortly to align with the language used in the licence conditions and the model contract and to streamline the forms required.

The process for the sale of an at-need interment is envisaged as follows (noting that there are many variations):



Any additional information required by the operator to complete the Order for Interment at time of burial can be provided in whatever format is suitable for the operator.

If these additional operational details have an impact on the fees and charges (for example, where a larger coffin may require a larger plot), this should be specified in the contract and, if using the model contract, could form part of Annexure C.

More information on Part 4 can be found [here](#) on our website.

Other legal requirements to consider

As part of your legal responsibilities when preparing and signing a contract, there are other important things to consider, such as:

- **Confirming the identity of the interment right holder:**

You can decide how you do this. There is no prescribed process for it.

Note: Section 57 of the C&C Act requires an operator to 'identify the person or persons to whom the right is granted'. Section 63 also says that the operator's register must 'identify (as far as possible) the holder of an interment right. There is no specification as to how identity should be verified, and this can be determined by an operator.

- **Confirming that the purchaser is legally able to enter into a contract:**

Except in certain specific circumstances, this means ensuring that the purchaser is over 18.

- **Checking whether the proposed interment right holder already holds any interment rights for the same cemetery**

Section 56(4) of the C&C Act prohibits operators from granting or transferring a right to a person without approval from CCNSW if this would result in them holding (or jointly holding) more than 2 interment rights in that cemetery. For more information about this please read our Guide to holding multiple interment rights on our website. A 56(4) application form is also available to simplify applications to us.

- **Making sure that appropriate delegations are in place within your organisation relating to who is able to sign interment right contracts.**

This should align with existing delegations policies.

Note : For councils, a delegation to enter into an interment contract is a matter for each Council to determine through its own delegation framework, in compliance with Chapter 11, Part 3 of the Local Government Act 1993, which sets out arrangements for delegation of functions.

Operators should seek their own legal advice in relation to these matters if required.

Model consumer contracts

To support you, we have developed a model contract for the sale of a perpetual interment right, which is available as a downloadable Word document [on our website](#), in the Understanding your licence conditions section for Licence Conditions A . This version is for sale of perpetual interment rights, for Category 1 and 2 operators.

While Category 3 operators are not required to include certain clauses, we would encourage you to use the standard model contract for consistency. We will be publishing a Category 3 version, which will be extremely similar in form with certain clauses excluded.

We will also be publishing a contract for sale of renewable interment rights, and a cremation only contract (which does not include an interment right), and we will advise operators when these are available.

The model contracts prepared by CCNSW can be adopted to use your operator branding. The yellow highlighted sections in the model contract indicate places where your specific information can be inserted.

These contracts are an optional resource. It is **not** mandatory to use them. If you do use the model contract, you will be compliant with licence conditions A. You may adjust the wording of the contract to suit your circumstances as long as any changes or additions remain consistent with the conditions.

More information about the model contract and how to use it – including how to use it for an at-need interment vs a pre-need interment - is contained in the Resources section at the end of this document.

Funeral directors and other third parties

When funeral directors or other third parties act as an intermediary between customers and operators, they need to fulfil certain scheme requirements.

For example, if a funeral director meets with the purchaser buying an interment right and engages with them to execute the contract, the funeral director is acting as your authorised agent. In this situation, they will need to comply with the pre-contract requirements of Conditions A on your behalf. They will also need to use your contract, which complies with Conditions A.2 and A.3.

Alternatively, operators may arrange to meet with customers directly to explain contract terms and conditions if they chose to do so.

Under condition A.2, the agreement statement of the consumer contract must include a declaration by the authorised agent that they have complied with the operator's pre-contract obligations (as referred to in condition A.1). See the section on conditions A.1 and A.2 below for further information.

A funeral director acting as authorised agent should not be included as a secondary contact in the contract. The purpose of the secondary contact is to make it easier to identify correct interment right holders in the future. A funeral director is not an appropriate contact for this purpose.

Further information for funeral directors is available at this page [Information for funeral directors](#).

NSW funeral information standard

The consumer contract requirements of conditions A are consistent with the NSW funeral information standard. The standard requires NSW funeral directors to give customers information about prices, goods and services, and itemised quotes in a clear and simple way.

Information on the Funeral Information Standard is available on the NSW Fair Trading website:

<https://www.fairtrading.nsw.gov.au/resource-library/publications/funeral-information-standard>

Where a funeral director is selling a package which includes a burial or ash interment of a cemetery, the price can be included as part of the package in the funeral director price list (required under the Fair Trading Regulation 2019). The funeral director would also need to show the customer the Basic Price Breakdown of that burial or ash interment and use a separate operator contract (such as the model contract), to sell the interment to the customer on behalf of the operator as their authorised agent.

In circumstances where the funeral director is also the operator, for example where the funeral director owns a crematorium with a niche wall, all of the services could be contained in the one contract as long as that contract complies with conditions A.

Understanding the conditions

A.1 – Pre-contract requirements and transparency

A.1 Operator must comply with pre-contract requirements and ensure consumer contracts are transparent and clear

What condition A.1 means

Condition A.1 is about giving consumers an easy-to-understand plain English set of terms and conditions within the consumer contract. It sets out:

- pre-contract requirements that operators must meet before entering into a consumer contract
- the language requirements of a consumer contract.

Condition A.1 applies to Category 1, 2 and 3 operators.

You should read condition A.1 together with conditions A.2 and A.3 as these also cover contract requirements.

How you can comply with condition A.1

Pre-contract requirements

Include information on basic services

Condition A.1 states that: 'Before offering, negotiating or entering into a consumer contract, the Operator must ensure that the prospective purchaser is provided with information about the basic adult burial, basic ash interment and/or basic cremation offered by the operator, including the price of the service and the inclusions of that package.'

Giving purchasers information about these basic services helps them to:

- understand the costs of the services
- make an informed choice.

If you are a Category 1 or 2 operator, the price in your contract will need to be broken down into the same components as those used in the relevant price breakdown template. More information on the standardised price breakdown is available in our [Guide to Licence Conditions C: Pricing Transparency](#).

The conditions C do not apply to Category 3 or Category 4 operators.

Allow reasonable time and privacy

Condition A.1 states that: 'The operator must ensure that consumer contracts are transparent, clear and expressed in reasonably plain language likely to be understood by the average customer.'

We do not prescribe what length of time is 'reasonable'. Rather, reasonable time and privacy for each purchaser depends on their circumstances, such as how soon they would like the interment to take place and how you engage with them (e.g., over the phone, email or face to face). In circumstances where a burial is required urgently, this is likely to be a very short period of time. You should document how you will determine what amount of time may be reasonable. This could be as simple as letting each customer know that you need to give them time, and asking them how much time they would like.

Consumer contract requirements

Follow Australian consumer law

Guidance on good practice and Australian consumer law requirements for consumer contracts is available on the Australian Competition and Consumer Commission (ACCC) and NSW Fair Trading websites:

- accg.gov.au
- fairtrading.nsw.gov.au

Define your contract terms

Condition A.1 states that: 'Words or phrases used in the consumer contract that have a particular meaning when used in connection with the interment industry should be defined in the consumer contract.'

For examples of definitions, see the definitions section of the model consumer contract on our website.

Give the customer a signed copy of the contract

Condition A.1 requires the operator to provide the customer (interment right holder) with a signed copy of the contract as soon as reasonably practicable after the parties have signed the contract.

Signatures can be electronically or on paper, following the Electronic Transactions Act 2000 (NSW). You can use a platform such as DocuSign or AdobeSign, or as otherwise agreed in writing with the purchaser.

You do not need a witness to sign the consumer contract.

A.2 – Key details about interment rights

A.2 Operator must not enter a consumer contract unless the consumer contract includes key details relating to the interment right

What condition A.2 means

Under condition A.2, all consumer contracts offered by operators must include certain key details. These are the basic or minimum terms and conditions set out below.

Condition A.2 applies to Category 1, 2 and 3 operators.

How you can comply with condition A.2

A.2.1 Include an agreement statement

The contract must include an overview of the contract that purchasers can easily understand. The purpose of the statement is to confirm that both parties (the operator and purchaser) agree to the terms and conditions.

A.2.2 Include details about the interment right

The contract must include details about the interment right so interment right holders understand what they have bought and the associated roles and responsibilities.

Most of the requirements in Condition A.2.2 are also requirements in Part 4 of the Cemeteries and Crematoria Act 2013 and the Cemeteries and Crematoria Regulation 2022.

This condition does not apply to cremation-only consumer contracts as the information is not relevant (there is no interment right involved in a cremation).

Where a contract is for an interment right which can take multiple interments, e.g., 2 burials and 5 ash interments, and the interment right holder is not seeking to use all spaces at once, they can specify a person to be interred now and advise the operator about additional interments/persons to be interred at a later date.

When the interment right holder requests a future interment into an existing right, the operator will need to prepare a new Order for Interment and charge the holder for the interment service and any related services at that point. A new contract is not required, as it is covered by the existing interment right.

An interment **may not** go ahead without an order for interment. There is no mandatory format for this order, but there is a suggested form on our website [here](#) which will be updated shortly.

A.2.3 Include fees and charges

The contract must include all relevant details about fees and charges. For Category 3 operators, this means that you must give as much detail as you can about your pricing and any key components.

Category 1 and 2 operators must provide a detailed breakdown of fees and charges, in a specific format aligned with the pricing transparency format. See [condition A.3](#) in this guide for further information.

A.2.4 Include payment terms

The contract must include the payment method, due date and any interest payable. You can include multiple payment methods if you have these options for the purchaser.

Including interest on payments is optional. Only include this in your contract if you charge interest.

A.3 – Certain matters contracts must address

A.3 Operator must address certain matters in all consumer contracts

What condition A.3 means

This condition covers the extra information that must be included in consumer contracts by Category 1 and 2 operators.

Consumer contracts offered by Category 1 and 2 operators must include the details set out below.

How you can comply with condition A.3

A.3.1 Include breakdown of fees and charges

The requirement to break down your fees and charges in A.2.3 above is specified in more detail for Category 1 and 2 operators. Prices must be broken down in accordance with the approved format for Licence Condition C.1 (the relevant Price Breakdown template).

Three price breakdown templates are currently approved and published by CCNSW:

- Basic Adult Burial
- Basic Ash Interment
- Basic Cremation

The [price breakdown templates](#) are available on our website, and information about how to use them is included in our [Guide to Licence Conditions C: Pricing Transparency](#). These are mandatory formats to use for your basic prices, as per Conditions C.

In your contract, the price should be broken down in the same way as in the relevant price breakdown template. The exact format does not need to be the same. Using the same components and language (for example, the subheadings of the template) is important, so that when a customer is shown the Basic Product alongside their contract (as required by Condition A.1) they can clearly see where and why the prices are different and understand what they are purchasing.

A.3.2 Describe who is responsible for maintenance and associated costs

This condition relates to the individual interment site and any memorial on that site.

It does not mean any specific maintenance arrangements are required. Rather, the consumer contract must be clear about whether maintenance services are included or not, and who is responsible.

The default responsibilities are that the operator is responsible for maintenance of the premises and the interment site, with the exception of any memorial on the site which is the responsibility of the interment right holder unless otherwise agreed.

You should explain to interment right holders that if there is any public safety concern around a memorial or monument, you can make it safe. In those circumstances you would try to contact the interment right holder, but would still be able to take action if required to make a memorial safe.

When you acknowledge that maintenance responsibilities for cemeteries extends after interment services at the site have stopped as required by this condition, this simply affirms that cemeteries need ongoing maintenance, even after the cemetery stops taking interments.

You do not need to acknowledge that the maintenance will be consistent with religious and cultural requirements unless specific requirements are included in the consumer contract. This is covered by clause A.2(i) in the model contract terms and conditions.

You are also able to remove any unsafe materials from the interment site or memorial, such as broken glass or vases. You may wish to provide a list of examples of materials or items that can cause a safety concern. This is covered by clause A.2(e) in the model contract terms and conditions.

This condition does not apply to cremation-only consumer contracts as the information is not relevant.

A.3.3 Provide start and end dates

The contract must include when the obligations under the contract start and end. Also include termination and notice periods (if any). Note that you can choose your own termination period, such as 28 days, and there is space in the model contracts where you can add the notice periods.

The model contract states that the agreement starts on the dates that all parties sign this contract. The terms and conditions state that the agreement automatically ends once all fees are paid and all interments are completed, or when an unused perpetual interment right is cancelled in line with Section 52 of the Act. The terms and conditions clarify that though the agreement ends at this point, certain rights and duties continue – including those in relation to memorials and maintenance which continue in perpetuity (in the case of a perpetual interment right).

The circumstances for when a consumer contract may be terminated depend on the contract. Examples include:

- where a renewable interment right has expired
- where a consumer wishes to buy an interment right elsewhere before the interment right has been exercised.

Examples of where an interment right may no longer be available to the purchaser include:

- where there is a deadline to exercise the interment right that depends on payment
- where there is only a reservation in place, which is not legally binding.

A.3.4 Include standard information collection disclosure

The contract must contain a provision that sets out the requirement to collect information under the Cemeteries and Crematoria Act 2013 NSW.

This is a standard disclosure to ensure the consumer is aware of the information you are collecting.

As part of your information collection processes, you should verify the identity of the purchaser. You can decide how you do this. There is no specification in the C&C Act as to how identity should be verified, and this can be determined by an operator.

A.3.5 Include a privacy statement

The contract must contain a statement setting out the purchaser's privacy rights and your obligations with respect to the purchaser's privacy under applicable privacy legislation.

Privacy obligations may vary between different operators. You are responsible for determining the privacy laws that apply to your circumstances.

For information on NSW privacy laws, see the Information and Privacy Commission NSW website: <https://www.ipc.nsw.gov.au/privacy>.

For information on Australian privacy laws, see the Office of the Australian Information Commissioner website: <https://www.oaic.gov.au/privacy/privacy-legislation>.

A.3.6 Provide information about complaints and dispute resolution

The contract must make provision for complaints and dispute resolution. Under licensing condition D.4, you must establish a dispute resolution process. See our [Guide to Licence Conditions D: Customer Service](#).

In the contract, you must include information about:

- how to find and access the complaints resolution process
- consumer rights under Australian consumer law.
- This requirement follows licensing condition D.5 which includes a requirement to make complaints and dispute resolution information available to purchasers.

Further information about Australian consumer law can be found on the Australian Consumer Law website: <https://consumer.gov.au/australian-consumer-law>. Further information on consumer rights is available on the NSW Fair Trading website: <https://www.fairtrading.nsw.gov.au/buying-products-and-services/buying-products/consumer-rights-myths-and-facts>

Compliance

Our compliance approach

CCNSW will monitor operators' compliance with conditions A1 to A3. For more information on our compliance approach see our [Regulatory Framework](#).

We believe in working with you to help you understand your compliance obligations and improve industry practices. If we identify non-compliance, we may take regulatory action to enforce compliance where appropriate.

When preparing to engage with us to show compliance with conditions A, we will ask to see examples of the contract you are using : the template used as well as examples of completed contracts (with personal information deleted to comply with privacy legislation).

Compliance strategies

In this section, we share some tips about how you can show compliance with conditions A.1 to A.3.

Consider using the model consumer contract

Remember the model consumer contract – used in full, with no changes – is compliant with condition A.1 (that requires contracts to be transparent and clear) and conditions A.2 and A.3.

While it is not mandatory, would encourage operators to use the model contract where possible, to promote consistent practice across the industry.

If you create your own consumer contract or use the model contract with additions and changes, we will look at whether it is consistent with the A.1 requirement to be clear and transparent as part of our monitoring and compliance responsibilities as well as the specific requirements of A.2 and A.3 regarding the terms and conditions.

Include the pre-contract requirements in your internal procedures for entering into contracts.

Document your time and privacy policies

To help you and your authorised agents comply with the requirement to give a customer reasonable time and privacy, you could document your process for how you will determine in each case what is a reasonable amount of time. This could be as simple as letting each customer know that you need to give them time, and asking them how much time they would like.

If the interment right application is 'at-need' you will need to allow as much time as possible for the purchaser to review the documents, even though time is very limited.

You may need to give the purchaser time and privacy at your office or the purchaser's home.

The period of time that is reasonable may vary where there are religious and cultural requirements for a rapid burial. In circumstances where a burial is urgent, it may be reasonable for this time to be shorter.

Specific details relating to the time and privacy provided to each customer do not need to be recorded, as the fact that this has occurred in each case is confirmed as part of the delegations in the contract.

Always consider how best to provide 'reasonable time and privacy' in the circumstances.

Ensure funeral directors and third parties comply

If you use a funeral director or other third party as your authorised agent and you are not using the model contract, ensure that your consumer contract includes an agent's declaration that they have complied with your pre-contract obligations.

It is also good practice to have procedures that make it clear what your authorised agents' roles and responsibilities are. These procedures should cover how your agents deal with:

- you
- the purchaser
- purchaser information
- payments
- conflicts of interest.

You may wish to clarify these things in a written agreement with any funeral directors that you are using as authorised agents. You should also ensure that funeral directors have all the information they need about the available areas of your cemetery (pricing, information about the area, any restrictions, etc) so that they can ensure they are giving the customer all relevant information.

Use incorporated documents

All terms and conditions that form part of the consumer contract should be included in the contract.

To help support your purchasers to understand your services over the term of the interment, you can incorporate documents into the contract with further details about what is being agreed. This can help reduce misunderstandings and disputes.

You can include your incorporated documents as annexures to the contract and/or reflect them in the terms and conditions as needed.

Examples of incorporated documents could include:

- fees and charges including a breakdown of fees and charges (see condition A.2.3 for Category 3 operators and condition A.3.1 for Category 1 & 2 operators) – these are already incorporated into the model contract as Annexure B
- your complaints and dispute resolution policy (see condition A.3.6)
- your privacy policy (see condition A.3.5)
- a memorialisation policy that covers keepsakes and plantings (to reduce common complaints about these matters)
- a maintenance policy or guidelines (to reduce common complaints about these matters).
- payment documents such as a quote supplied with a contract or an invoice.

Incorporated documents can be attached to the contract as physical or electronic copies, or by using a hyperlink to an online document. The risk of hyperlinks is that the linked document may change after the time the contract is made. If you use hyperlinks it is your responsibility to ensure that:

- it is clear which version of an online document was in force when the contract was made
- purchasers can always access this version of an online document
- the way you choose to include annexures complies with Australian Consumer Law.

Resources

Funeral directors

Information about working as a funeral director and meeting the funeral information standard is available on the NSW Fair Trading website:

<https://www.fairtrading.nsw.gov.au/resource-library/publications/funeral-information-standard>.

Further information on funeral directors and the Interment Industry Scheme is available on the CCNSW website: [Guide to the Interment Industry Scheme for Funeral Directors](#).

Australian consumer law

Information on unfair contract terms is available on the ACCC and NSW Fair Trading websites:

- accc.gov.au
- fairtrading.nsw.gov.au

Under Australian consumer law, consumers are protected from unfair terms in standard form contracts. It is illegal to propose, use or rely on unfair contract terms in standard form contracts, and there are penalties for breaches of the law.

NSW Fair Trading is responsible for enforcing Australian consumer law in NSW.

The ACCC promotes market competition to benefit consumers, businesses and the community. The ACCC is responsible for making sure that individuals and businesses comply with Australian competition and consumer protection laws, in particular the Competition and Consumer Act 2010.

These 2 resources may be useful for operators:

[A guide to the unfair contract terms law](#)

This guide helps businesses, legal practitioners and consumer advocates understand the laws by explaining the unfair contract terms laws as simply as possible. The guide was jointly developed by the ACCC, the Australian Securities and Investments Commission and the consumer protection agencies in each state and territory.

[Unfair contract terms in consumer contracts](#)

This report highlights the outcomes of the ACCC's unfair contract terms reviews and gives an overview of the key results. It also identifies problematic contract terms and related practices that cause concern to the ACCC.

Using the model contract

The model consumer contracts contain all the mandatory items required to comply with Conditions A.2 (and A.3 for Category 1 and 2 operators). This section refers to the model contract for a perpetual interment right. This is a contract for a single interment right, for a single interment site. This site may allow multiple interments, and the contract includes this at Section 3.

The contract could be amended to include more than 1 interment right, or this could be done via multiple contracts – noting that where the grant or transfer of an interment right would result in a person holding 2 or more rights in a cemetery, Section 56(4) of the Act requires that operators must apply to CCNSW for approval. More information about this can be found in the [Guide to holding multiple interment rights](#), and there is an [application form](#) for seeking approval.

Structure of the contract

The structure is made up of 7 key parts.

- **The agreement statement** which summarises the things that make up the contract
- **Part A** which relates to the interment right
- **Part B** which is for the interment service (the burial or ash interment) and any related services
- **Part C** brings A and B together to clarify the price, and payment terms
- **Declarations and signatures**
- **Two mandatory annexures :**
 - o Annexure A : Terms and conditions (as required by the licence conditions)
 - o Annexure B : Price breakdown

These parts cover all of the requirements of Licence Conditions A. Details of any related services can be included in an additional annexure, along with any other things an operator may wish to include.

Using the contract pre-need and at-need

Through consultation, operators told us they wanted a single contract that could be adapted for both pre-need and at-need use. The model contract allows this through the structure of Part A (relating to the interment right) and Part B (relating to the interment itself and any related services).

The contract can be used in three ways:

1. **At-need** : both Part A and Part B can be completed and paid for now
2. **Pre-need and fully pre-paid** : both Part A and Part B can be completed and paid for now

3. **Pre-need, with the right paid for now and services paid for later:** Part A is completed and paid for now, and Part B is completed but not yet paid for. The contract notes that the interment service (in Section 7) must be paid for in the future at the relevant price, but any related services (in Section 8) can be nominated now but reconfirmed and paid for in the future, again at the price at that time.

Part C of the contract then brings together Part A and Part B, along with any other fees, to confirm the total price and any payment terms.

Alignment between contract and licence conditions

The tables below indicates which items in the perpetual interment right contract are mandatory for Category 1 and 2 and how they align with the Act or licence conditions.

As additional model contracts are published by CCNSW, this section will be updated to include additional guidance on using those specific contracts.

In the Perpetual Interment Right Contract

Section	Mandatory?	Relevant Act clause or condition	Tips for completion
Agreement statement	Yes	A.2.1.a	Include your operator name here as indicated by the yellow highlight. Operator contact details should be in your header, footer and/or in the Definitions section of the terms and conditions under 'operator'.
Part A – Interment Right			
1. Premises	Yes	Required under Sections 56 and 57 of Act – Content of interment right	This section relates to the facility details (name and address). If you hold an operator licence, we recommend you include your Licence Number. This is not mandatory, as not all operators are yet licenced.

Section	Mandatory?	Relevant Act clause or condition	Tips for completion
2. Interment site	Yes	Required under Sections 56 and 57 of Act – Content of interment right	<p>The way in which the site is identified may vary between operators. The rows in this table may be altered to reflect this, as long as the information allows the site to be clearly identifiable.</p> <p>If you currently sell an interment right in relation to a specific section but not a specific site at time of purchase (with the site confirmed at time of interment), you can amend the model contract (see below).</p> <p>The ‘other detail’ row here could specify things like single or double depth, it could also specify any additional conditions or restrictions that apply to the site.</p>
3. Type and maximum number of interments included in the interment right	Yes	Required under Sections 56 and 57 of Act – Content of interment right and by Licence Condition A.2.2(a)	

Section	Mandatory?	Relevant Act clause or condition	Tips for completion
4. The interment right holder	Yes	Required under Section 57 of the Act – Content of interment right	The model contract includes date of birth of the interment holder, which is not required by the Act, Regulations or licence conditions. We have included it as we heard from you that it was useful at a later date when trying to trace the interment right holder. If you choose to include this information, you will need to factor this into complying with your privacy obligations.
5. The person(s) to be interred	Yes	Required to complete the Interment Right Certificate (Section 65 of the Act) and to update the cemetery register	<p>If this is at-need, the date of birth and date of death can be completed.</p> <p>If this is pre-need, the date of death can be left blank. The person to be interred does not need to be identified at the time of purchase– a class of person can be identified (for example, members of the holders’ family, or the holder can say they will nominate the person later, or they can nominate who is able to decide who is interred at a later date.</p>

Section	Mandatory?	Relevant Act clause or condition	Tips for completion
6. Further contacts	No	Not specifically required via Licence Condition, but where such details are provided they need to be recorded in the operator's register (as per Section 63(4) of the Act)	<p>This information is very important for tracing rights holders when needed. But it is optional to recording it as part of the contract.</p> <p>If you are including details of contacts here, you should ensure you have their consent to do so in line with privacy legislation.</p> <p>You can delete this section from a contract if it does not fit with your processes, or if it would make the contract too long.</p>
Part B – Services			
7. Interment service	Yes	-	This section clarifies that the interment service is a mandatory service – it is either paid for now (if at-need, or pre-need and fully pre-paid), or paid for later (if pre-need with services charged in the future).
8. Related services	Yes	-	This section indicates any other services provided by the operator and included in the contract. As with Section 7, the optional clauses are to indicate whether these services are confirmed and paid for now (if at-need or pre-need and fully prepaid) or at the time of need (if pre-need with services not charged for now).

Section	Mandatory?	Relevant Act clause or condition	Tips for completion
9. Religious and cultural requirements	Yes	<p>Relates to E.1.2, the requirement to inform yourself of and record any religious or cultural requirements and E.1.3, the requirement to satisfy religious and cultural requests where practicable.</p> <p>Also relates to A.3.2(d) of the Licence Conditions which requires maintenance of a grave/memorial/monument to be done in accordance with religious and cultural requirements, and Sections 46, 54 and 55 of the Act which require operator compliance with religious and cultural requirements.</p>	<p>These sections of the contract should reflect the information provided by the customer in their application form. It is a requirement to ask about any such requirements, and record what has been requested. It is also a requirement under E.1.3 and E.2.3 to satisfy any requests for religious requirements where reasonably practicable.</p> <p>Recording them in the contract is the suggested way of demonstrating that these requirements are met.</p>
10. Aboriginal cultural and spiritual requirements	Yes	<p>Relates to E.2.2, the requirement to inform yourself of and record (unless asked not to) any Aboriginal cultural or spiritual requirements.</p> <p>Also relates to Sections 46, 54 and 55 of the Act which require operator compliance with religious and cultural requirements.</p>	
11. Other interment right holder requirements	No	n/a	Additional requirements of the customer can be listed here. If there aren't any, this section can be removed or marked n/a.
12. Maintenance responsibilities	Yes (Cat 1 and 2)	A.3.2	This section clarifies the default maintenance responsibilities.

Section	Mandatory?	Relevant Act clause or condition	Tips for completion
			<p>If specific maintenance arrangements apply, for example it is a heritage site or a War Grave (or other circumstances as listed in Condition A.3.2.e), this should be specified here.</p> <p>Other arrangements can be contractually agreed and included here.</p>
Part C – General Details			
13. Price	Yes	<p>A.2.3 Fees and charges – for all categories</p> <p>A.3.1 Breakdown of fees and charges</p>	<p>This section is a summary of the price (Part A, Part B, Other fees) with detail to be attached in Annexure B.</p> <p>All operators need to provide all relevant details of their fees and charges.</p> <p>For Category 1 and 2 operators, this must be done in the specified format.</p>
14. Interment service price disclosure	No	-	<p>As the interment service is a mandatory service, the contract discloses the current price but notes that if this is a pre-need purchase, and not pre-paid, the price will be determined at the time of need.</p>
15. Payment	Yes	A.2.4 Payment terms	<p>The contract refers to charging of interest – if you do not charge interest, you can remove this sentence.</p>

Section	Mandatory?	Relevant Act clause or condition	Tips for completion
16. Transfer fee disclosure	No	n/a	<p>The model contract includes this fee so that operators and customers are clear and transparent on this fee at the time of the contract.</p> <p>It is not mandatory for a perpetual interment right, but it is mandatory for a renewable interment (see section 10 of Regulation). We recommend it is included for clarity. As noted in the model contract, it is subject to change.</p>
17. End of agreement	Yes (Cat 1 and 2)	A.3.3 Commencement and expiry	<p>See section above re A.3.3 for more information about the start and end of the agreement.</p> <p>You should insert any relevant information about what would happen if the customer/interment right holder wants to end the agreement early (as per the yellow highlighted note).</p>
18. Special conditions	Yes (if you have any)	A.2.1.a	<p>This section covers all special conditions. This means conditions that you (the operator) apply to a right or service.</p> <p>This is different from Section 11 - Other interment right holder requirements, as they are things requested by the purchaser which you have agreed to deliver rather than things that you are</p>

Section	Mandatory?	Relevant Act clause or condition	Tips for completion
			<p>including in the contract as the operator.</p> <p>If there are no special conditions, write 'n/a'.</p> <p>If you do not ever impose special conditions, you do not need to include this section in your contract.</p>
Declarations and Signatures	Yes	<p>A.2.1.b (Operator declaration)</p> <p>A.2.1.e (Authorised agent declaration)</p> <p>A.2.1.c and A.2.1.d (Customer declaration)</p>	<p>The operator declaration has two options, depending on whether the contract is being signed by the operator or by an authorised agent (such as a funeral director). See more information about the role of the funeral director in the relevant sections above.</p>

In the Perpetual Interment Right Contract Annexure A - Terms and Conditions

Clause	Mandatory?	Related items in contract	Link to licence conditions
A.1 Perpetual interment right	Yes	Part A	<p>Relates to A.2.2.a clarifying a perpetual interment right</p> <p>This information is particularly important to clarify for the customer what they are purchasing.</p>
A.2 Memorials, maintenance and goods and services	Yes (Cat 1 and 2)	<p>8 – Related services</p> <p>9, 10, 11 – Religious, cultural or other requirements (as related to other goods and services purchased)</p>	<p>a) Relates to A.3.2.e</p> <p>b) Relates to A.3.2.f</p> <p>c) Not required but may suit certain operators to include this</p> <p>d) Required by A.3.2.e(iv) and A.3.2.f</p> <p>e) Required by A.3.2.b and A.3.2.c</p>

Clause	Mandatory?	Related items in contract	Link to licence conditions
		12 – Maintenance responsibilities	<p>g) Required by A.3.2.d</p> <p>f) and h) Required by A.3.2a, b and e</p> <p>i) Recommended as way to implement requirements of E.1.3 and E.2.3 re religious and cultural requests. Also relates to Sections 46, 54 and 55 of the Act.</p>
A.3 Price and payment	Yes	13 - Price 15 - Payment	Clauses required to give effect to the items in the contract relating to A.2.3 and A.2.4 (along with Annexure B, containing the required price breakdown)
A.4 Changes and cancellations	Yes	-	<p>A.2.2.b and A.2.2.c – Sets out required information of the grant of the interment right</p> <p>This information is very important to explain to the interment right holder how future transfers will work. This is an area of confusion for both customers and operators, and CCNSW intends to publish an updated transfer of interment rights fact sheet in the near future.</p>
A.5 End of agreement	Yes (Cat 1 and 2 only)	17 – End of agreement	<p>A.3.3.b – Commencement and expiry</p> <p>The clause includes two references to a period of [x] days, allowing the operator to nominate an appropriate period. A standard time period such as 28 days may be appropriate.</p>

Clause	Mandatory?	Related items in contract	Link to licence conditions
A.6 Personal information	Yes (Cat 1 and 2 only)	-	a) Relates to A.3.4 b) and c) relate to A.3.5 d) Relates to A.3.4 e) Not required but relates to importance of d)
A.7 Consumer protections, disputes and complaints	Yes (Cat 1 and 2 only)	-	A.3.6
A.8 Definitions	No	-	If a defined term is used in a mandatory clause it should be defined in a definition

Frequently asked questions regarding the model contract

Based on stakeholder feedback, we include some tips on commonly asked questions about the contract.

Urgent burials

Note that the contract terms and conditions include a clause (3C) which states that an interment must not take place without an order for interment. This is required under Section 67 of the C&C Act.

However, in exceptional circumstances where there is a religious requirement for urgent burial and it is not feasible to complete a contract prior to burial, the operator could issue an order for interment and conduct an interment prior to the finalisation of paperwork (including the contract) regarding the interment right.

In these rare circumstances, the contract is finalised as soon as possible after an interment has occurred, and specify that the interment right holder is the interred person.

Alignment between contract and invoice

Many operators already outline their detailed pricing in an invoice (rather than in a form or contract). If this is the case, you may attach your invoice to the contract as the itemised price breakdown (Annexure B), rather than creating an additional document.

Nominating the person(s) to be interred

The Act (Section 57) requires an interment right to:

- a) Identify the person or person or class of persons whose remains may be interred, or
- b) Provide that a specified person, or specified class of person, can at a future time nominate the person or persons who may be interred

For simplicity, Section 5 of the model contract asks the interment right holder to specify the persons to be interred.

If the interment right holder is purchasing pre-need and isn't yet sure who they would like to be interred, the contract can be amended to align with these other options:

- The holder can nominate a 'class of persons': this is a legal term for any group of people, for example this could be 'members of my family', or 'any of my sisters'.
- The holder can nominate a person who is able to decide who is interred in the future.

Selling a site within a section not a specific site

Some operators do not identify a specific interment site at the time of sale, and instead sell an interment right within a specified area with the specific site determined at time of interment through the Order for Interment.

If this is your practice, you can amend Section 2 of the model contract to describe the interment site as appropriate, for example 'next available site in Section A, with specific site to be confirmed at time of interment' or equivalent. The specific site would then need to be identified in the Order for Interment, and the Interment Right Certificate would need to be updated to reflect this after the interment has occurred.

Legacy interment rights and equivalents

If an interment right was purchased prior to the commencement of licence conditions A on 1 July 2024, it is not required to have a contract or to comply with the contract licence conditions.

For interments sold prior to the commencement of Part 4 of the Act in 2018, the Act (Section 45) deems any burial licence or other similar entitlement to be an interment right.

There is no need to create a contract if selling a second or subsequent interment under an existing right or equivalent. The interment right holder (or person nominated by the interment right holder) can nominate who they want to be interred and advise the operator.

We understand that legacy issues can be complex to resolve, please contact us at CCNSW if you would like advice on how to resolve a specific matter. Enquiries can be made via our online portal [here](#) or to ccnsw.info@cemeteries.nsw.gov.au.

Additional terms and conditions

If there are additional terms and conditions that apply in your cemetery, for example restrictions on size and design of memorials, these should be included as additional terms and conditions in the contract. These can be included as an additional annexure for operator specific conditions, or incorporated into the mandatory terms and conditions in Annexure A.