

A guide to using the model consumer contract for sale of a perpetual interment right

This guide is intended to support operators, and funeral directors acting as authorised agents, to use the model consumer contract.

Background

The model consumer contract for a perpetual interment right, as published by CCNSW, is non-mandatory but is designed to be compliant with the requirements of Licence Conditions A.

It is a contract for a single interment right, for a single interment site. An individual interment site may allow multiple interments.

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 (such as memorials, chapel services, etc)
- **Part C** brings A and B together to clarify the price, and payment terms
- Declarations and signatures
- Relevant annexures:
 - Annexure A: Terms and conditions (as required by the licence conditions) – mandatory for all licence categories
 - Annexure B: Price breakdown – mandatory for Category 1 and 2.

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

Using the contract pre-need and at-need

The model contract can be used both pre-need and at-need, through the structure of Part A (relating to the interment right) and Part B (relating to the interment itself and any related services).

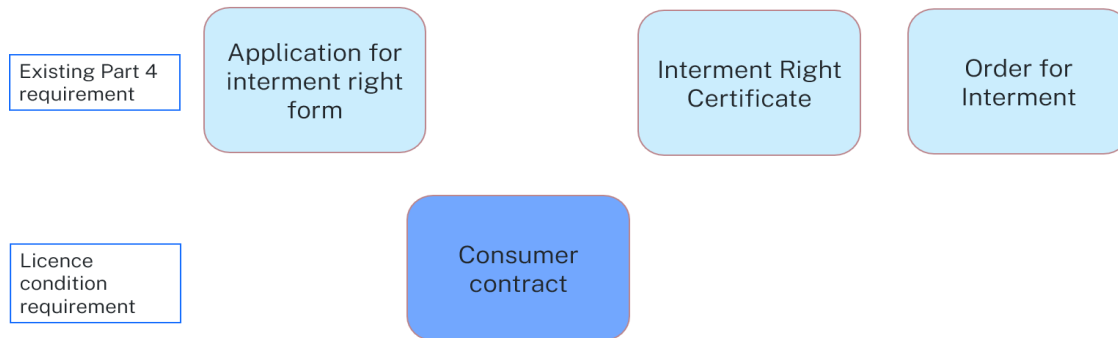
The contract can be used in three ways:

1. At-need	Complete both Part A and B Pay for items in Part A and B now
2. Pre-need: Fully pre-paid	Complete both Part A and B Pay for items in Part A and B now for future use
3. Pre- need: Partly pre-paid	Complete both Part A and B. Pay for only Part A now. <i>Note in relation to future payment of Part B:</i> <ul style="list-style-type: none">• Section 7: the interment service must be paid for in the future at the relevant price;• Section 8: related services can be nominated now but reconfirmed and paid for in the future at the price at that time.

Part C of the contract covers the total price for the items included in Part A and B, and payment terms.

Streamlined process: using model contract as the interment right application and certificate under Part 4 of the Cemeteries and Crematoria Act 2013

The consumer contract licence conditions (Conditions A) and the model contract are linked to a series of required forms for the sale of an interment right, under Part 4 of the Cemeteries and Crematoria Act 2013 (the Act).



For operators that choose to use the model contract, there is an overlap between the required content of the application for interment right and the interment right certificate. The Act requires these two forms to be ‘in the form approved by the Cemeteries Agency’, if an approved format exists. The forms are currently being updated for formal approval, as standalone forms and with the model contract to be approved as an alternative approved form under certain conditions.

This will be further clarified, and operators can continue to use their existing forms alongside the consumer contract until approved forms are published by CCNSW.

However, if operators are starting to use the model contract now and want to move towards this streamlined approach, there are certain things that should be adopted now in the contract itself and in the processes around the use of the contract.

For the model contract to be used as the application for interment right:

1. Do not substantively amend the model contract from the version published by CCNSW – all sections and applicable terms and conditions must be included (minor changes are OK).
2. Document any discussions about services that cannot be provided so there is a record. You could do this as “excluded services” in the contract or somewhere in your own records. This is to ensure that if a customer has used the model contract to apply for or request services which cannot be provided, there are clear records to show that this was communicated to the customer and that the model contract was amended to remove these services before being finalised and entered into.
3. Include a privacy declaration on the contract relating to the collection of information from the customer (applying the relevant legislative regime which applies to the operator).

For the model contract to be used as an interment right certificate:

1. The interment site must be clearly and uniquely specified in the contract (rather than, for example, 'next available section')
2. Include an additional clause in the terms and conditions stipulating that 'this contract, once executed and payment is made, is an approved format of the interment right certificate under section 65 of the Cemeteries and Crematoria Act 2013'.

Attachment A shows the steps to take to enter into a contract.

Adapting the model contract for Category 3 operators

While Category 3 operators are not required to include certain sections of the model contract (and the related terms and conditions), CCNSW strongly recommends that these sections are still included as they contain important information for the customer.

The table below shows the non-mandatory sections of the model contract (and related terms and conditions), along with the benefit in including those sections.

Non-mandatory element	Benefit to including	Related terms and conditions
Section 12 – Maintenance responsibilities	Clarifies maintenance responsibilities for the premises vs the site Common source of customer complaints later on	A.4 (f) – (h)
Section 17 – End of agreement	Useful to clarify ways in which the agreement can end	A.5
Certain terms and conditions	Good practice to include and/or may be required under other legislation	A.6 – Personal information A.7 – Consumer protections, disputes and complaints
Annexure B: Price breakdown	Clearly outlines the price breakdown for customers	N/A

The other difference with the model contract for Category 3 is that if all relevant details of the price can be included in Section 13 of Part C (shown below), there is no need to include Annexure B. This table shows the key price components of interment right, services (interment service and any related services), and any other fees and discounts.

If there are multiple price components and fees, or if it is preferred to include the price in the form of an invoice or other separate document, Annexure B can be used.

13. Price

Part A: perpetual interment right	[\$ <insert>]
Part B: services	<p>[include one of the following options as relevant]</p> <p>[Option 1: For operators that charge the full cost at the time of contract (at-need and pre-need)]</p> <p>[\$ <insert>]</p> <p>[Option 2: for operators that charge for interment services in the future when selling a pre-need interment right]</p> <p>[<To be Determined>]</p>
Other fees and discounts	[\$ <insert>]
Total price*	[\$ <insert>]

Elements of the Perpetual Interment Right Contract

The table below indicates which items in the perpetual interment right contract are mandatory for each category, how they align with the Act or licence conditions, and key information in relation to each item.

Section	Mandatory?	Relevant Act clause or condition	Key information to note for completion of the contract
Agreement statement	Yes – all categories	A.2.1.a	<p>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’.</p> <p>Once you hold an operator licence, we recommend you include your Licence Number. This is not mandatory, as not all operators are licenced yet.</p>
Part A – Interment Right			
1. Premises	Yes – all categories	Required under Sections 56 and 57 of Act – Content of interment right	This section relates to the facility details (name and address of the cemetery).
2. Interment site	Yes – all categories	Required under Sections 56 and 57 of Act – Content of interment right	The way in which the site is identified may vary between operators. The rows in the contract table may be altered to reflect this, as long as the information allows the site to be clearly identifiable.

Section	Mandatory?	Relevant Act clause or condition	Key information to note for completion of the contract
			<p>If you currently sell an interment right in relation to a specific section but don't identify a specific site at time of purchase (with the site confirmed at time of interment), you can amend the model contract (see below). Ensure you explain why to the customer, e.g., a site may be based on next available in that section at the time of interment for safety or efficiency reasons.</p> <p>Note that if the interment site is not uniquely specified in the contract, it won't be able to be used as the Interment Right Certificate.</p> <p>The 'other detail' row here could specify important things like whether a grave is single or double depth, it could also specify any additional conditions or restrictions that apply to the site.</p>
<p>3. Type and maximum number of interments included in the interment right</p>	<p>Yes – all categories</p>	<p>Required under Sections 56 and 57 of Act – Content of interment right and by Licence Condition A.2.2(a)</p>	<p>This question will vary between operators as the standard right across cemeteries may include a different number of burials and ash interments included in the interment right.</p> <p>If at-need: An interment right holder is using one of these interments now to bury Person A. They have the right to bury/inter an additional X people in the future, based on the number of interments included in the right for the site.</p> <p>If pre-need: The right allows the interment right holder to bury/inter X/Y people in the future.</p> <p>An interment right holder can nominate the person(s) to be interred now, or in the future.</p>

Section	Mandatory?	Relevant Act clause or condition	Key information to note for completion of the contract
<p>4. The interment right holder</p>	<p>Yes – all categories</p>	<p>Required under Section 57 of the Act – Content of interment right</p>	<p>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.</p> <p>It is important to explain to the person signing the contract that they will become the interment right holder.</p> <p>The interment right holder is the person with key responsibilities including:</p> <ul style="list-style-type: none"> - Authorising the interment of people into the site - Authorising the erection of any memorial on the site - Maintaining any memorial on the site <p>It is possible to have joint holders. The advantages of this are that a second person can make decisions about the interment right, e.g., who is to be interred, particularly if the first right holder dies.</p> <p>If there is no joint holder, once the right holder dies the interment right will pass down through the right holder’s estate, or via the rules of intestacy if they don’t have a will.</p>

Section	Mandatory?	Relevant Act clause or condition	Key information to note for completion of the contract
<p>5. The person(s) to be interred</p>	<p>Yes – all categories</p>	<p>Required to complete the Interment Right Certificate (Section 65 of the Act) and to update the cemetery register</p>	<p>If this is at-need, the date of birth and date of death can be completed. The phone number and email are not required, if the person to be interred is already deceased.</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. Including the phone number and email is optional – these rows can be removed if not required.</p>

Section	Mandatory?	Relevant Act clause or condition	Key information to note for completion of the contract
6. Further contacts (next of kin or other secondary contact)	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 record 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 – all categories	-	<p>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).</p> <p>The model contract language says that 'we will provide you with the interment'. We are aware of some cases where operators do not provide the actual interment (i.e. another provider does the grave digging and this is</p>

Section	Mandatory?	Relevant Act clause or condition	Key information to note for completion of the contract
			organised by them with the customer). We will be providing further advice on how this should be managed directly with those operators.
8. Related services	No	Not specifically required via Licence Condition, but related services (if there are any provided) must be included and be specified in the contract to be clear what is being purchased, and so that it can be reflected in the price.	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	Key information to note for completion of the contract
9. Religious and cultural requirements	Yes – all categories	<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. Recording them in the contract is the suggested way of demonstrating that these requirements are met.</p>

Section	Mandatory?	Relevant Act clause or condition	Key information to note for completion of the contract
10. Aboriginal cultural and spiritual requirements	Yes – all categories	<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.

Section	Mandatory?	Relevant Act clause or condition	Key information to note for completion of the contract
12. Maintenance responsibilities	Yes (Cat 1 and 2) Recommended for Cat 3	A.3.2	This section clarifies the default maintenance responsibilities. 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. Other arrangements can be contractually agreed and included here.

Part C – General Details

13. Price	Yes	A.2.3 Fees and charges – for all categories A.3.1 Breakdown of fees and charges	This section is a summary of the price (Part A, Part B, Other fees) with detail to be attached in Annexure B. All operators need to provide all relevant details of their fees and charges. For Category 1 and 2 operators, Annexure B is mandatory and the price must be provided in the specified format. For Category 3 operators, if all relevant details of the price can be included in the table here than Annexure B is not required (though can be used if preferred).
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Section	Mandatory?	Relevant Act clause or condition	Key information to note for completion of the contract
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> <p>For operators where the interment is performed by a third party, this section should be amended to state that the price for the interment service will be determined and charged by that party.</p>
15. Payment	Yes	A.2.4 Payment terms	The contract refers to charging of interest – if you do not charge interest, you can remove this sentence.
16. Transfer fee disclosure	No	n/a	The model contract includes this fee so that operators and customers are clear and transparent on this fee at the time of the contract.
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). For example, would they receive a refund or partial refund, would there be an option for them to transfer the interment right back to the operator (assuming no interment has occurred), etc.</p>

Section	Mandatory?	Relevant Act clause or condition	Key information to note for completion of the contract
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 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). This declaration is important to monitor compliance with Conditions A.1.</p>

Elements of the Perpetual Interment Right Contract Annexure A - Terms and Conditions

Condition A.2.1 requires the contract to contain a declaration that the terms and conditions have been explained to the customer. This table gives an overview of each of the terms and conditions, how it relates to the contract and the licence conditions, and what is most critical to explain to the customer about each element.

The most important terms and conditions to explain are clause A.1 (what is an interment right), clause A.2 (what are the responsibilities regarding maintenance) and clause A.7 (how can you make a complaint if you are not satisfied, including the option of coming to CCNSW).

Clause	Mandatory?	Related items in contract	Link to licence conditions	Key information to explain to customer
A.1 Perpetual interment right	Yes	Part A	Relates to A.2.2.a clarifying a perpetual interment right	<p>This information is particularly important to clarify for the customer what they are purchasing. A perpetual interment right is an exclusive right to a permanent burial or ash interment. It does not include any rights or title to the land.</p> <p>The interment right holder has important roles and responsibilities, as</p>

Clause	Mandatory?	Related items in contract	Link to licence conditions	Key information to explain to customer
				highlighted in relation to section 4 of the main contract above.
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>12 – Maintenance responsibilities</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> <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>	<p>Related to A.1, the key information here is that the interment right holder is the person authorised to place a monument or memorial, and maintain it in perpetuity.</p> <p>Any memorial not purchased as part of the contract will require separate written approval from the operator, and may need to comply with operator guidelines about the type of memorial that can be approved.</p> <p>The other important element of this clause is to highlight that hazardous items can be removed from interment sites – for example, broken glass on a grave can be removed.</p>

Clause	Mandatory?	Related items in contract	Link to licence conditions	Key information to explain to customer
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)	This section re-iterates the price implications of at-need or pre-need use of the contract, as well as how payment can be made and whether GST applies.
A.4 Changes and cancellations	Yes	-	A.2.2.b and A.2.2.c – Sets out required information of the grant of the interment right 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.	This clause clarifies how rights can be transferred, or will be transferred on the death of a holder.

Clause	Mandatory?	Related items in contract	Link to licence conditions	Key information to explain to customer
A.5 End of agreement	Yes (Cat 1 and 2 only)	17 – End of agreement	A.3.3.b – Commencement and expiry 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.	The agreement (this contract) will end when all fees are paid and all goods and services are completed (including all interments). The interment right continues in perpetuity, so certain entitlements and duties contained in the terms and conditions will also continue perpetually. An exhumation will end some of these entitlements such as maintaining memorials, but does not end the interment right itself.
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)	Standard acknowledgement of how personal information will be used.

Clause	Mandatory?	Related items in contract	Link to licence conditions	Key information to explain to customer
A.7 Consumer protections, disputes and complaints	Yes (Cat 1 and 2 only)	-	A.3.6	<p>Operators are required to have a dispute resolution process – you must make sure customers know what this process is at a high level and where they can find more information.</p> <p>They need to know who to complain to, and that if they are not satisfied with how a complaint is managed that they can take it to CCNSW as the industry regulator.</p>
Definitions	No	-	If a defined term is used in a mandatory clause it should be defined in a definition	Some key definitions are here for reference if you need to refer back to things.

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.

Attachment A

Steps to Enter into a Contract

Note: This process can be done on the phone or online – it does not have to be in person.

1. Determine whether the person you are speaking with is the most appropriate person to purchase an interment right if at need on behalf of the deceased. The purchaser will become the interment right holder.
2. Confirm their identity – the CC Act (Section 57) requires you to identify the interment right holder, but there is no specification as to how identity should be verified, and you can decide how you do this.
3. Ensure that the person does not already own more than 2 interment rights in your cemetery. If they do, apply to CCNSW for approval (relates to Section 56(4) of the CC Act).
4. Show the customer the contract and talk to them about their needs and the options available. In particular, ask about any religious or cultural requirements.
5. Show them the available areas / sites on a map or in person.
6. Show them your basic price and options.
7. Confirm that you are able to provide the services that the person wants and at what price. If you are not able to provide those services, document that in some way (e.g., note on the file – that it was discussed and explained why you couldn't provide).
8. Explain to the customer the terms and conditions e.g., what an interment right is (and the responsibilities of the interment right holder), what level of maintenance you offer, and how disputes will be managed. Make sure you take them through any special conditions in your contract.
9. Give them some time and privacy to review the contract – this will depend on the circumstances. It could be a day or 5 minutes or a week.
10. Complete the contract, including signing the declarations. This can be done in person, electronically via DocuSign or in the mail.
11. Provide a copy of the signed contract to the customer (in person, email or in the mail) and file your own copy. This will become the interment right certificate – as long as the interment site is uniquely specified and the contract specifies this in the terms and conditions.
12. Update the register accordingly.