

Information Paper: Exclusive Right of Burial

Disclaimer

This information paper is not legal advice, and does not cover all the requirements for an exclusive right of burial under the *Burial and Cremation Act 2022* (the Act) and the *Burial and Cremation Regulations 2022* (the Regulations). It is intended as a reference guide only.

What is an exclusive right of burial?

An exclusive right of burial entitles the holder to the exclusive right to bury human remains at a specific plot in a public cemetery or an independent cemetery. The entity that manages a public or independent cemetery can decide whether it permits exclusive rights of burial at the cemetery.

Who can hold an exclusive right of burial?

Only one person can hold an exclusive right of burial for a plot. However, the holder of the exclusive right of burial can propose more than one burial in the plot. One person can hold more than one exclusive right of burial. For example, an elderly parent may purchase three exclusive rights of burial so that parents and children in a family can all be buried close to each other.

What conditions can be applied to an exclusive right of burial?

A cemetery manager may include conditions when an exclusive right of burial is granted to ensure that all burials conform to requirements in the Act and Regulations.

The holder of the exclusive right of burial may also apply to the cemetery manager to have conditions placed upon the exclusive right of burial. These may be in relation to the burial or gravesite, or may clarify the wishes of the person who holds the right, or the wishes of persons to be buried under the right.

Is an exclusive right of burial transferable?

An exclusive right of burial issued under the Act cannot be transferred or sold. If the holder of an exclusive right of burial does not want it anymore, and the plot has not been used, they can surrender the right back to the entity responsible for managing the cemetery. The holder will have no further entitlements under the exclusive right of burial.

In such circumstances, the holder may be entitled to a refund of some of the fee paid for the exclusive right of burial. This will depend on the refund policy of the entity responsible for the management of the cemetery.

What is the duration of an exclusive right of burial?

An exclusive right of burial may be granted for a maximum of 50 years. Depending on its policy, an entity that manages a public or independent cemetery may issue an exclusive right of burial for a shorter period of time.

Existing exclusive rights of burial which were granted under the repealed *Cemeteries Act 1952* will continue for a maximum of 60 years from the day of the commencement of the Act.

Can an exclusive right of burial be renewed?

An exclusive right of burial granted under the Act can be renewed for a period not exceeding 50 years from the day it was issued.

The responsible entity for a public or independent cemetery must take reasonable steps to notify the holder of an exclusive right of burial of the option to renew, between 12 months and 28 days before it is due to expire.

The notice must advise of the date that the right will expire, whether it can be renewed, the cost of renewal and how long it can be renewed for. An application for the renewal of an exclusive right of burial must be in writing and accompanied by the renewal fee.

More questions regarding an exclusive right of burial

Questions about exclusive rights of burial should be directed to the cemetery manager of the relevant public or independent cemetery.

Questions about provisions in the Act and the Regulations, or any other general enquiries regarding burials, can be directed to burials.CMC@nt.gov.au.