



Necropolis Amendment (Unused Burial Rights) Regulation 2003

under the

Necropolis Act 1901

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Necropolis Act 1901*.

JOHN AQUILINA, M.P.,

Minister for Land and Water Conservation

Explanatory note

The object of this Regulation is to amend the *Necropolis Regulation 2002* so as to complete the legislative scheme with respect to the revocation of unused burial rights that has been introduced into the *Necropolis Act 1901* by the *Cemeteries Legislation Amendment (Unused Burial Rights) Act 2001*. The amendments made by this Regulation deal with the advertising procedure that must be complied with before unused burial rights may be revoked, the amount of compensation payable when there is no applicable scale of fees by which such an amount may be calculated under the existing provisions of the scheme, the manner and form in which applications under the scheme must be made and the accounting standards to be observed by the various trusts and the Joint Committee under the Act. These amendments parallel amendments that are being made to an identical scheme under the *Crown Lands Act 1989*.

This Regulation is made under the *Necropolis Act 1901*, including section 37 (the general power to make regulations).

2003 No 20

Clause 1 Necropolis Amendment (Unused Burial Rights) Regulation 2003

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1 Name of Regulation

This Regulation is the *Necropolis Amendment (Unused Burial Rights) Regulation 2003*.

2 Commencement

This Regulation commences on 1 February 2003.

3 Amendment of Necropolis Regulation 2002

The *Necropolis Regulation 2002* is amended as set out in Schedule 1.

Schedule 1 Amendment

(Clause 3)

Part 3A

Insert after Part 3:

Part 3A Revocation of unused burial rights

15A Revocation of exclusive rights of burial: section 24 (5)

- (1) For the purposes of section 24 (5) of the Act, notice of the proposed revocation of exclusive rights of burial is to be given in accordance with this clause.
- (2) The trust must cause notice of its intention to revoke the rights of burial to be sent, by registered mail, to the person (if any) shown in the relevant register of burial places as the holder of those rights.
- (3) If no response to the notice is received within 28 days after the date on which it is sent, a second notice of the trust's intention is to be given by means of an advertisement, identifying the burial place and the name of the holder:
 - (a) displayed in a prominent position at the burial place concerned, at each entrance to the relevant portion of the Necropolis and at the offices of the trust, and
 - (b) published in at least one national and one local newspaper.
- (4) If no response to the second notice is received within 6 months after the date on which it is advertised, final notice of the trust's intention:
 - (a) identifying the burial place and the name of the holder, and
 - (b) allowing the holder 28 days from the date of the notice within which to enter into negotiations of the kind referred to in section 24 (6) of the Act,is to be given by means of an advertisement published in at least one national and one local newspaper.
- (5) If no person is shown in the relevant register of burial places as the holder of the exclusive rights of burial to be revoked, or

if trust has insufficient information to properly address the notice referred to in subclause (2), the trust is not required to send that notice but may in that case begin the notification process by means of the notice referred to in subclause (3).

15B Gazettal of revocation of rights

Within 28 days after revoking any exclusive rights of burial, the trust is to cause a notice:

- (a) identifying the burial place and the name of the former holder of those rights, and
- (b) indicating the date on which the rights were revoked, to be published in the Gazette.

15C Amount of compensation where no current scale of fees: section 24A (2)

- (1) For the purposes of section 24A (2) of the Act, the amount of compensation referred to in section 24A (1) (b) of the Act is to be half of the fee payable under the most recent applicable scale of fees, varied in proportion to any variation in the Consumer Price Index (All Groups Index) for Sydney that has occurred between the date on which that scale was established and the date of revocation of the exclusive rights of burial.
- (2) The trust must ensure that any report on its accounts contains an estimate of its contingent liability with respect to any exclusive rights of burial it has revoked.

15D Applications for entitlement: section 24A (5)

An application for an entitlement under section 24A of the Act:

- (a) must be in the form approved by the trust, and
- (b) must be accompanied by the appropriate fee, and
- (c) must be lodged with the trust within 6 years after the date on which the relevant exclusive rights of burial were revoked.