



New South Wales

Fair Trading Amendment (Funeral Goods and Services) Regulation 2008

under the

Fair Trading Act 1987

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Fair Trading Act 1987*.

VIRGINIA JUDGE, M.P.,
Minister for Fair Trading

Explanatory note

The object of this Regulation is to prescribe an information standard for funeral goods and services. The standard requires suppliers of certain funeral goods and services to give information about:

- (a) the cost of a basic funeral to a prospective consumer, and
- (b) the cost of goods and services, and the estimated amounts of disbursements, to a consumer before entering into an agreement to supply funeral goods and services to the consumer, and
- (c) the actual amounts of disbursements made in relation to the supply of funeral goods and services to a consumer after the goods and services have been supplied to the consumer.

A **basic funeral** will be defined as the supply of specified goods and services, including the arrangement and conduct of a funeral service to be held during ordinary business hours, limited transport of a body, storage and preparation of a body, and supply of the least expensive coffin that a supplier of funeral goods and services has available.

Section 60ZA of the *Fair Trading Act 1987* makes it an offence for a person who supplies funeral goods or services to a consumer to fail to comply with the requirements of any prescribed information standard. This Regulation will enable penalty notices to be issued for offences under that section.

This Regulation also makes a minor change to the structure of Part 4 of the *Fair Trading Regulation 2007* to accommodate the new information standard.

This Regulation is made under the *Fair Trading Act 1987*, including sections 60Z and 92 (the general regulation-making power) and clause 12 of Schedule 5.

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Clause 1 Fair Trading Amendment (Funeral Goods and Services) Regulation 2008

Fair Trading Amendment (Funeral Goods and Services) Regulation 2008

under the

Fair Trading Act 1987

1 Name of Regulation

This Regulation is the *Fair Trading Amendment (Funeral Goods and Services) Regulation 2008*.

2 Commencement

This Regulation commences on 1 February 2009.

3 Amendment of Fair Trading Regulation 2007

The *Fair Trading Regulation 2007* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Clause 3)

[1] **Part 4, heading**

Omit the heading. Insert instead:

Part 4 Other information standards

Division 1 Employment placement services

[2] **Part 4, Division 2**

Insert after clause 101:

Division 2 Funeral goods and services

101A Information standard for funeral goods and services

For the purposes of section 60Z of the Act, the requirements of this Division are prescribed as an information standard for funeral goods and services.

101B Application of Division

This Division applies to the supply of funeral goods and services for the arrangement and conduct of a funeral service, including:

- (a) the supply of goods to a consumer in connection with the burial or cremation of a body, and
- (b) the care, transport and preparation of the body prior to burial or cremation.

101C Definitions

In this Division:

basic funeral means a funeral comprising only the following funeral goods and services:

- (a) the arrangement and conduct of a funeral service, at either the premises of the supplier or at the place of burial or cremation of a body, to take place between the hours of 8 am and 5 pm on a weekday,

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Schedule 1 Amendments

- (b) the transport of the body to any of the following places as required where no individual journey is further than 30 kilometres:
 - (i) the premises of a supplier of funeral goods and services,
 - (ii) a mortuary,
 - (iii) the place at which the body is to be buried or cremated,
- (c) the storage of the body at a mortuary or holding room,
- (d) the preparation at a mortuary for burial or cremation of the body, not including preparation for the viewing or embalming of the body,
- (e) the supply of the least expensive coffin that the supplier of funeral goods or services has available,
- (f) the collection of certificates or permits provided by a medical practitioner in relation to the body,
- (g) the burial or cremation of the body.

basic funeral notice means a written statement listing the following:

- (a) each of the funeral goods and services that comprise the basic funeral and the cost of each,
- (b) each of the necessary disbursements and a reasonable estimate of the amount of each.

body means the body of a dead person.

mortuary means premises that are used, or intended to be used, for the preparation or storage of bodies as part of the arrangements for their burial or cremation, but does not include any premises (such as a hospital) in which bodies may be temporarily stored pending their transfer to a mortuary.

necessary disbursements means disbursements in relation to:

- (a) any fees charged by a medical practitioner in respect of certificates or permits provided by the practitioner, and
 - (b) any fees charged by a cemetery or crematorium,
- in relation to a burial or cremation.

prospective consumer means a person who indicates to a supplier of funeral goods and services that he or she is, or might be, interested in purchasing funeral goods and services from the supplier.

101D Information to prospective consumers

- (1) Before entering into an agreement for the supply of funeral goods and services, a supplier of funeral goods and services that ordinarily offers a basic funeral to consumers must give a basic funeral notice to each prospective consumer and to any other person that requests a copy of the notice.
- (2) Before entering into an agreement for the supply of funeral goods and services to a consumer (other than an agreement for the provision of a basic funeral) the supplier of the funeral goods and services must give to the consumer a written statement listing the following:
 - (a) each of the funeral goods and services that are to be supplied to the consumer under the agreement and the cost of each,
 - (b) each of the necessary disbursements and a reasonable estimate of the amount of each,
 - (c) any other disbursements that are likely to be made by the supplier and a reasonable estimate of the amount of each.

101E Information on final account

Before accepting final payment under an agreement for the supply of funeral goods and services to a consumer, the supplier of the funeral goods and services must give to the consumer a written statement listing the following:

- (a) each of the funeral goods and services supplied to the consumer under the agreement and the cost of each,
- (b) each of the necessary disbursements and the amount of each,
- (c) any other disbursements made by the supplier and the amount of each,
- (d) the total amount payable for the supply of the funeral goods and services under the agreement.

101F Transitional provision

Clause 101E applies only in relation to contracts entered into after the commencement of this Division.

[3] Schedule 1 Penalty notice offences

Insert at the end of the Schedule in Columns 1 and 2, respectively:

Section 60ZA (1)	\$550
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BY AUTHORITY