

Cemeteries and Crematoria (Perpetual Care Trust Percentage and Perpetual Care Trust Reserve Percentage) Determination 2015 (No 2)

Disallowable instrument DI2015 - 298

made under the

Cemeteries and Crematoria Act 2003, section 11 (Determination of trust percentages)

EXPLANATORY STATEMENT

Section 11 of the *Cemeteries and Crematoria Act 2003* (the Act) requires the Minister to determine, for each cemetery or crematorium, the percentage (the perpetual care trust percentage) of each operator receipt that is to form part of the perpetual care trust of the cemetery or crematorium, and the percentage of the perpetual care trust reserve (the perpetual care trust reserve percentage) that is to form part of the reserve of the perpetual care trust of the cemetery or crematorium.

Section 11(2) of the Act provides that the percentages must be those that the Minister considers necessary to ensure that there are sufficient funds in the perpetual care trust and the reserve of the perpetual care trust so that the cemetery or crematorium will be adequately maintained in both the short-term and the long-term.

The Act defines both short-term and long-term maintenance. Long-term maintenance means maintenance of the cemetery after it is closed for new burials, interment of ashes or memorialisations. All other maintenance is defined as short-term. Operator receipt is defined as an amount received by the operator of the cemetery or crematorium for a burial, interment of ashes or memorialisation (including, for example, for purchase and maintenance of a burial place or any service related to the burial, interment or memorialisation) at the cemetery or crematorium.

Section 11(4) of the Act provides that the Minister must, at least once in each planning period for the cemetery or the crematorium, review the percentages determined for the cemetery or crematorium.

Section 9(5) of the Act provides that the Public Trustee is the trustee of the perpetual care trust. Therefore, the percentages determined by the Minister in columns 2 and 3 of Schedule 1 are to be paid to the Public Trustee by the operator of each cemetery and crematorium listed in column 1 of Schedule 1.