

Australian Capital Territory

Cemeteries and Crematoria (Perpetual Care Trust Percentage and Perpetual Care Trust Reserve Percentage) Determination 2017 (No 1)

Disallowable instrument DI2017 - 47

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 perpetual care trust percentage of each operator receipt that is to form the perpetual care trust of the cemetery or crematorium, and the perpetual care trust reserve percentage of each operator receipt that is to form the perpetual care trust reserve 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 perpetual care trust reserve 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 memorialisation. 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 and Guardian 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 and Guardian by the operator of each cemetery and crematorium listed in column 1 of Schedule 1.