



Regulatory Impact Statement

Funeral Funds Regulation – June 2016



Fair
Trading

Published by

NSW Fair Trading
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Executive summary

The Funeral Funds Regulation 2016 (the Regulation) will support the *Funeral Funds Act 1979* (the Act).

The Act ensures that pre-payments made by consumers for funeral services are properly managed in the long term. This is in order to provide agreed benefits to the consumer and the appropriate and timely payment to the supplier of the funeral services.

The Act:

- protects pre-payments made by consumers for funeral services through the registration of funeral funds
- ensures that funeral services to be supplied under a pre-paid contract are supplied as agreed
- achieves accountability for money paid by the purchaser of funeral services that have an indefinite delivery date
- aims to properly manage money paid for funeral services in the long term to provide agreed benefits to the purchaser and the anticipated payment to the supplier of funeral services.

The proposed Regulation seeks to ensure the Act's objectives are met by:

- prescribing the registration requirements for contributory and pre-paid funeral funds
- prescribing the information to be kept in a funds register of contributors
- outlining information to be provided to a consumer before they enter into a pre-paid or contributory contract
- prescribing fees for the purposes of the Act.

This Regulation Impact Statement (RIS) sets out the rationale and objectives of the proposed Regulation and various options for achieving those objectives. The RIS also provides an assessment of the costs and benefits of each of the alternative options. The proposed Regulation is the alternative which provides the greatest net public benefit.

The RIS also provides a discussion on important aspects of the proposed Regulation and seeks feedback from stakeholders and the community. Submissions are invited on any of the matters raised in the discussion or anything else relevant to the proposed Regulation. All submissions will be considered and evaluated and any necessary changes will be made to address the issues identified before the final Regulation is published.

Consultation process

Making a submission

Interested organisations and individuals are invited to provide a submission on any matter relevant to the proposed Regulation, whether or not it is addressed in this RIS. Matters covered by the Act are not the subject of the consultation process.

NSW Fair Trading would prefer to receive submissions by email and request that any documents provided are produced in an 'accessible' format. Accessibility is about making documents more easily available to those members of the public who have some form of impairment (visual, physical, cognitive). Further information on how you can make your submission accessible is contained at <http://webaim.org/techniques/word/>.

NSW Fair Trading invites you to read this paper and provide comments. Additional copies of the RIS and the proposed Regulation can be downloaded from www.fairtrading.nsw.gov.au. Printed copies can be requested from NSW Fair Trading by phone on (02) 9895 0791.

You can make submissions by:

- email to: policy@finance.nsw.gov.au
- post submissions to the following address:

Funeral Funds Regulation 2016
Policy & Legislation Branch
NSW Fair Trading
PO Box 972
PARRAMATTA NSW 2124

The closing date for submissions is COB Friday, 1 July 2016.

Important note: release of submissions

All submissions will be made publicly available. If you do not want your personal details or any part of your submission published, please indicate this clearly in your submission together with reasons. Automatically generated confidentiality statements in emails are not sufficient. You should also be aware that, even if you state that you do not wish certain information to be published, there may be circumstances in which the Government is required by law to release that information (for example, in accordance with the requirements of the *Government Information (Public Access) Act 2009*). It is also a statutory requirement that all submissions are provided to the Legislation Review Committee of Parliament.

Identified key stakeholders

The RIS has been provided directly to identified key stakeholders. A list of these stakeholders is provided at Appendix 3.

Evaluation of submissions

All submissions will be considered and assessed and the proposed Regulation may be amended, if necessary, to address issues identified in the consultation process. If further information is required, targeted consultation will be held before the Regulation is finalised.

Commencement of the Regulation

After the Minister for Innovation and Better Regulation has agreed with the final Regulation, it will be submitted to the Governor for approval.

Once approved by the Governor, the Regulation will be published on the official NSW Government website for online publication of legislation at www.legislation.nsw.gov.au and in the NSW Government Gazette. Information on how to access the Gazette is available on the NSW Parliamentary Counsel's website.

The new Regulation will commence on 1 September 2016.

Objective and rationale of the Regulation

Rationale

It is necessary to remake the Regulation at this time because:

- under the sun-setting provisions contained in the Subordinate Legislation Act 1989, the current Regulation will be automatically repealed on 1 September 2016
- it provides the administrative detail necessary for the continued effective functioning of the Act.

Objectives

The Act ensures that pre-payments made by consumers for funeral services are properly managed in the long term. This is in order to provide agreed benefits to the consumer and the appropriate and timely payment to the supplier of the funeral services.

The Act:

- protects pre-payments made by consumers for funeral services through the registration of funeral funds
- ensures that funeral services agreed to be supplied under a pre-paid contract are supplied as agreed
- achieves accountability for money paid by the purchaser of funeral services that have an indefinite delivery date
- aims to properly manage money paid for funeral services in the long term to provide agreed benefits to the purchaser and the anticipated payment to the supplier of funeral services.

The primary objective of the Regulation is to provide the legislative support and administrative details to allow for the effective operation of The Act. The Regulation will support the aims of protecting consumer pre-payments and ensuring consumers are provided with up-front information about pre-paid contracts, by prescribing:

- (a) documents to accompany applications for registration to carry on a funeral fund business
- (b) documents to accompany applications for approval to alter or add to the rules of a funeral contribution fund
- (c) registration requirements for both contributory and pre-paid funeral funds
- (d) information to be contained in the register of contributors to be kept by funeral contribution funds and in annual reports to contributors
- (e) information to be contained in the register of contributors to be kept by funeral contribution funds
- (f) contents to be included in the abstract of an actuary's report on a funeral contribution fund
- (g) accounts and registers that a funeral fund must keep
- (h) information to be provided to a consumer before entering into a pre-paid funeral contract
- (i) timeframe for forwarding of monies received by the funeral director or agent to a registered funeral fund
- (j) cooling off period for a prepaid contract
- (k) particulars of the proposed funeral service to be provided in a prepaid contract
- (l) information which must be provided with a prepaid contract.

Options for achieving objectives

The objective of the proposed Regulation is to provide operational and administrative detail to support the Act. Options for achieving those objectives are:

Option 1

Maintain the status quo – do not make the proposed Regulation, and instead remake the Regulation to be identical to the existing Regulation.

Option 2

No action – allow the existing Regulation to lapse under the sunset provisions of the *Subordinate Legislation Act 1989* and do not make any replacement Regulation.

Option 3

Make the proposed Regulation – the provisions of the Regulation will provide updated legislative support and administrative detail for the Act.

Impact assessment of options

Assessment of option 1

Maintain the status quo – do not make the proposed Regulation and instead remake the Regulation to be identical to the existing Regulation.

Option 1 - Costs

The costs imposed by this option will remain the same as they are in the existing regulation. These are:

- licensing fees incurred by applicants wishing to carry on a contributory funeral business
- the administrative burden of complying with record keeping and disclosure requirements as prescribed by the Regulation
- the administrative costs incurred by NSW Fair Trading in administering the Act and Regulation.

The fee structure and amounts set out under the existing Regulation would continue unchanged under this option.

Option 1 - Benefits

This option would continue the current regulatory framework that has been in place since 2006. The existing requirements are well established and operate effectively to:

- protect pre-payments made by consumers into contributory funeral funds
- ensure financial viability and stability of funeral funds through licensing and compliance
- provide the adequate level of enforcement provisions for NSW Fair Trading to ensure compliance.

A continuance of the regulatory framework would have the benefit of providing an effective, familiar framework in which the industry is able to operate. This certainty would allow the industry to operate unchanged and unaffected by any legislative changes.

Option 1 - Conclusion

A continuance of the current regulatory framework would impose the least amount of change upon consumers and the industry as a whole, while ensuring NSW Fair Trading continued in its capacity as regulator with little adaption or change required. However, the fee structure set out under the provisions of the existing regulation no longer accurately represents the true cost of administering the Act and Regulation. Consequently, remaking the Regulation as is would achieve the objectives of the Act, but not in the most effective and efficient way.

Assessment of Option 2

No action – allow the existing Regulation to lapse under the sunset provisions of the *Subordinate Legislation Act 1989* and do not make any replacement Regulation.

Option 2 - Costs

The direct costs of taking no action would be nil. However, allowing the Act to operate without the Regulation would ultimately be unworkable and the objectives of the Act could not be achieved. If the requirements of the Regulation were included in the Act instead it would reduce the capacity to amend such requirements quickly in order to address changes in industry practices or respond to emerging issues which may affect consumers.

The administrative costs imposed on the industry through this option would be reduced as there would be fewer requirements to lodge documents with, or pay fees to, NSW Fair Trading. Without the Regulation, government oversight of the financial viability of funds would be limited. If this results in instances of fund failure or financial loss, this would represent significant costs to consumers. Consumer confidence in the industry as a whole could also be reduced.

Consumers would be negatively impacted by this option. Without the Regulation in place many of the consumer protection provisions within the Act would not operate effectively. Financial assessment and reporting arrangements could not be appropriately enforced and consumer pre-payments would, effectively, be afforded less protection.

Option 2 - Benefits

This option has very little merit and can be characterised as having negative benefits. There would be less compliance burden on industry and the lack of the Regulation would also reduce the oversight responsibilities of NSW Fair Trading. Both of these outcomes would be to the detriment of consumers and stability of the industry.

Option 2 - Conclusion

This option would reduce some of the administrative burden for government and compliance costs for industry. However, without the benefits of the administrative detail provided by the regulation, the government's ability to meet its obligations under the Act would be significantly reduced. Protections for consumers would also be significantly weakened. Given this, the overall benefit of this option would be negative.

Assessment of Option 3

Make the proposed Regulation.

Option 3 - Costs

The costs imposed under this option will be similar to those already in place. The fee structure will only be altered to reflect changes to the Consumer Price Index (CPI). The costs incurred through compliance and record keeping would not be affected to any tangible degree by these changes.

Option 3 - Benefits

Under the changes proposed, the pre-contract process will be streamlined by requiring a fund to provide information about a contract only once before the contract is entered into. The previous Regulation required funds to provide this information to customers on two occasions.

The proposed Regulation simplifies the timeframe for payment of money to be made under a pre-paid contract from seven business days to seven days only and eases the financial burden on consumers by removing the \$50 penalty for cancelling a contract during the cooling off period.

Fund Directors will no longer be excluded from liability for offences by corporation under Section 90 of the Act as it is an expectation that directors and fund managers should have appropriate oversight over the Fund's operation and activities.

The fees structure imposed as part of the Regulations will be brought into line with changes to the CPI. This accurately reflects the most suitable costs to be incurred by funeral funds through compliance, in line with the objects of the Act and represents the most appropriate fee amount necessary to cover the administrative costs incurred by NSW Fair Trading in properly administering the Act.

Option 3 - Conclusion

This option represents the most appropriate changes to the Regulation to ensure the reduction of red tape for business, while ensuring strong protections are still in place for consumers. This option proposes an appropriate fee structure in order to provide for the costs incurred through effective and efficient administration of the Act whilst ensuring that businesses and consumers are not negatively impacted through an inappropriate fee structure.

Summary of costs and benefits for each option

Option	Likely costs	Likely benefits	Overall benefit
Option 1	Low	Medium-high	Positive
Option 2	Low	Negative	Negative
Option 3	Low	High	Positive

Figure 1.0: Summary of costs and benefits for each option

Preferred option

Option 3, making the proposed Regulation is the preferred option. This option streamlines the pre-contract process, reduces some onerous requirements for funds whilst strengthening some consumer protections through the removal of exemption from liability for offences by corporations. The fee structure has been brought into line with changes to the CPI to reflect the most appropriate costs to industry.

Regulation-making Powers

The proposed Regulation will provide the administrative detail to enable the intent of the Act to be realised.

The scope of the Regulation is limited by the regulation making powers provided under the Act. These powers and the scope of the proposed Regulation are summarised below.

Regulation-making power provided by the Act	Section of Act	Scope of the Regulation	Clause of Regulation
Power to prescribe additional documents which are to accompany and application for registration to carry on a contributory funeral benefit business.	12(2)(b)(iii)	Requires the following documents to accompany an application for registration: <ul style="list-style-type: none"> • a statement of the capital structure of the company • copies of agreements to provide funeral services for the company • copies of agreements for the collection of contributions on behalf of the company • description of the types of funeral services to be provided by the company • a statement of proposed records of membership, accounts and statistics • actuarial assessment of the adequacy of the proposed records • tables of proposed contribution rates • actuarial projections of income and expenditure prepared in accordance with Schedule 1 • a statement of the proposed manner of providing for any financial deficiencies • a statement of the proposed method of offsetting overdue contributions where a benefit becomes payable. 	Clause 4 and Schedule 1
Power to prescribe rules which a company must adopt in order to be registered as a contributory funeral fund.	13(1)(i)	Provides that a contributory funeral fund must have a rule that, on the death of any person: <p>(a) who has contributed to the fund for at least 10 years, and</p> <p>(b) who has ceased to contribute before his or her death,</p> <p>the company will pay an amount equal to the paid-up value of the person's contributions towards the cost of a funeral service.</p> <p>The paid-up contribution is taken to be:</p> <ul style="list-style-type: none"> • the amount certified by an actuary to 	Clause 5

		<p>be the equitable share to which the person is entitled in the fund or</p> <ul style="list-style-type: none"> • the amount calculated in accordance with a formula certified by an actuary to be a formula from which that share can be calculated. 	
Power to prescribe documents which will accompany an application for an approval of an alteration of or addition to the rules of a funeral contribution fund.	15(2)	<p>Documents containing the following must be accompany an application for approval of an alteration or an addition to the rules of a funeral contribution fund:</p> <ul style="list-style-type: none"> • a copy of the alteration or addition and • a statement, signed by an actuary, that the alteration or addition will not prejudice the stability of the fund. 	Clause 6
Power to prescribe other grounds on which the Secretary can cancel the registration of a funeral contribution fund.	16(1)(g)	None prescribed	
Power to prescribe additional ways in which a funeral contribution fund may invest its funds.	22(1)(e)	None prescribed.	
Power to prescribe particulars which must be included in annual returns provided to Fair Trading.	24(2)(e)	<p>Prescribes the following particulars:</p> <ul style="list-style-type: none"> • number of contributors at the beginning of the financial year • number of new contributors • number of funeral benefits provided during the year • number of cash benefits provided during the year • number of persons who ceased contributing otherwise than because of death • number of contributors at the end of the year. 	Clause 7
Power to modify the application of the Commonwealth Corporations (Ancillary Provisions) Act 2001 to the returns lodged by funeral contribution funds.	24(3A)(c)	No modifications prescribed.	
Power to prescribe the particulars which must be included in reports to be provided to contributors by funeral contribution funds, and to prescribe an alternative time interval at which reports are to be provided to contributors (the default is one year).	25A(1)	<p>Requires the following particulars to be contained in reports given to contributors to a funeral contribution fund:</p> <ul style="list-style-type: none"> • contributor's name • date of entry into the fund • opening balance of the contributor's account at the beginning of the year • contributions made during the year • fees and government charges paid from the account during the year • information on any bonuses paid to the account during the year • closing balance of the account at the end of the year • whether the contributor is in arrears 	Clause 8

		<p>or has made advance payments and</p> <ul style="list-style-type: none"> • contact details of the funeral contribution fund. <p>No alternative time interval is prescribed.</p>	
Power to prescribe additional particulars which must be included in the register of contributors of a funeral contribution fund.	26(2)(d)	Provides that if a person stops being a contributor to a funeral contribution fund and the paid-up value of the person's contributions is paid towards the cost of their funeral, the fund must enter a statement of the amount paid in its register of contributors.	Clause 9
Power to require a funeral contribution fund to keep other registers.	26(4)	None prescribed.	
Power to prescribe how often funeral funds are required to be investigated by an actuary. If no period is prescribed, actuarial investigation must occur every three years.	28(1)(a)	No period prescribed. Therefore three years applies.	
Power to prescribe the manner of preparation of and the details to be contained in an abstract of the actuary's report of an investigation of a contribution fund. The abstract is to be lodged with the Secretary.	28(3)(a)	Schedule 2 contains detailed provisions on the manner of preparation of and the details to be included in the abstract of an actuary's report.	Clause 10 and Schedule 2
Power to prescribe guidelines to be used by the Secretary in deciding whether to approve a scheme to transfer or amalgamate one funeral contribution fund with another funeral contribution fund.	31(2)	None prescribed.	
Power to prescribe documents to accompany an application for registration to act as a pre-paid funeral fund.	35(2)(b)	Requires a copy of the bond or other financial arrangement referred to in clause 12 to accompany an application for registration.	Clause 11
Power to prescribe additional qualification required in order to act as a pre-paid funeral fund.	36(1)(c)	Requires that a company or group of individuals who wish to act as a pre-paid funeral fund to enter into a bond (or any other financial arrangement as approved by the Secretary) for an amount that, in the opinion of the Secretary, is sufficient to secure the due administration of the fund.	Clause 12
Power to prescribe additional matters which will render a company unfit to be registered as a pre-paid funeral fund.	37(2)(c)(ii)	None prescribed.	
Power to prescribe additional matters which will render a group of individuals unfit to be registered as a pre-paid funeral fund.	37(2)(d)(ii)	None prescribed.	

Power to prescribe additional grounds on which the Secretary may cancel the registration of a pre-paid funeral fund.	39(1)(d)	None prescribed.	
Power to prescribe the guidelines to be used by the Secretary in deciding whether to confirm or refuse to confirm a scheme under this section.	42(8)	None prescribed.	
Power to prescribe any additional manner in which a pre-paid funeral fund may invest funds.	44(b)	None prescribed.	
Power to prescribe an alternative time interval at which a pre-paid funeral fund is to allocate income arising from investment of its common fund proportionately among its trusts. The default is every six months.	45(8)	No alternative time interval prescribed. Therefore six months applies.	
Power to prescribe how often funeral contribution funds are required to be investigated by an actuary. If no period is prescribed, actuarial investigation must occur at least once in each three year period.	49A(1)(a)	No time period prescribed. Therefore three years applies.	
Power to prescribe the manner of preparation of and the details to be contained in an abstract of the actuary's report on a funeral contribution fund. The abstract is to be lodged with the Secretary.	49A(3)(a)	No details prescribed.	
Power to prescribe any additional matters which must be addressed in an auditor's report on a pre-paid funeral fund.	49E(g)	No additional matters are prescribed.	
Power to prescribe the length of the cooling-off period under a pre-paid contract.	49J(1)	Prescribes 30 days as the cooling off period.	Clause 17(1)
Power to prescribe the funeral services that are covered by the requirement that the particulars of the service must be listed in the pre-paid contract.	51(1)	Prescribes burial services and cremation services as the funeral services covered.	Clause 18(a)
Power to prescribe the particulars of the funeral services which must be described in a pre-paid contract.	51(2)	Requires the following particulars to be included in a contract for a burial or cremation service: <ul style="list-style-type: none"> • in relation to the coffin casket; the material it is made of, the type of lid and method of closure, the internal and external trimmings, and the external finish • in relation to the vehicles; the class and number of vehicles 	Clause 18(b) and Schedule 4

<p>contributions from one funeral fund to another such fund;</p> <p>(f) The transfer of a contract from one funeral director to another such fund;</p> <p>(g) The transfer of a contract from one funeral director to another;</p> <p>(h) The requirements for actuarial investigations of pre-paid funeral funds;</p> <p>(i) The information that must be provided to a consumer before a pre-paid contract is entered into;</p> <p>(j) Information that must be provided to a consumer about the funeral services to be provided under a pre-paid contract, including information about the funeral services that are not covered by the contract;</p> <p>(k) The information that must be provided with a pre-paid contract, including information relating to cancellation of the contract.</p>		<ul style="list-style-type: none"> • within seven days of purchasing or realising an investment, or receiving interest on it, enter details of that transaction in the register. <p>Requires information regarding the nature and cost of the funeral service being offered under the contract to be provided to a consumer before entering into the contract.</p> <p>Requires both the funeral director and the consumer to sign the contract.</p> <p>Requires money paid or other valuable consideration given under a pre-paid contract to be paid into a pre-paid funeral fund within seven business days after the pre-paid contract is entered into.</p> <p>Sets out the fees payable for a range of matters.</p> <p>Savings provision – anything that had effect under the Funeral Funds Regulation 2006 immediately before the repeal of that regulation is taken to have effect under the Funeral Funds Regulation 2011.</p>	<p>Clause 15</p> <p>Clause 16</p> <p>Clause 19</p> <p>Clause 20</p>
<p>Power to prescribe the rate of increase of refund instalments paid to contributors by a funeral contribution fund which is ceasing business.</p>	<p>101(4)</p>	<p>No rate prescribed.</p>	
<p>Power to prescribe the date after which a funeral contribution fund which is transferring its business to another fund is to cease to accept contributions.</p>	<p>104</p>	<p>No date prescribed.</p>	
<p>Power to prescribe an interest rate to apply where the transfer of contributions from a funeral contribution fund is paid by instalments.</p>	<p>108(1)</p>	<p>No rate prescribed.</p>	

Discussion of the proposed Regulation

Submissions are welcome on any aspect of the proposed Regulation or any other relevant issue, whether or not raised in this RIS. However, the following discussion points provide greater context for some provisions in the proposed Regulation and seek feedback on some important aspects.

A comparison of the current Regulation and the proposed Regulation is provided in Appendix 2 of this Regulatory Impact Statement.

Provisions carried forward from the existing Regulation

The proposed Regulation carries forward most of the provisions from the existing Regulation. This includes:

- additional documents that must accompany registration applications
- matters that must be covered in annual reports given to contributors
- a list of information that must be given to consumers about a pre-paid contract
- the period of time for the statutory cooling-off rights
- actuarial projections and abstracts
- particulars of a funeral service to be covered by a pre-paid contract, and
- the fees payable to NSW Fair Trading for services under the Act.

It is considered that these provisions remain necessary for the efficient and effective administration of the Act and to protect consumers. However, if you believe any of the provisions that have been carried forward contain unnecessary red-tape or could be improved or streamlined in some way we would encourage you to make a submission.

Proposed changes to the Regulation

The proposed Regulation makes a number of changes aimed at reducing compliance costs for funds while other amendments are aimed at increasing consumer protections.

The requirements of funeral funds during the pre-contract process have been streamlined to make business easier for funds without negatively impacting on consumers. Various documents will now only need to be provided once rather than twice under the existing Regulation. Minor changes have been made to create consistency across the Regulation and to remove the need for definitions, such as the removal of the need for a definition of a business day.

Consumer protections have been increased by removing the exclusion from liability for fund directors when offences by corporation are committed in relation to account keeping, register maintenance and information to be provided to consumers. This will ensure correct oversight over the operation of funds by directors and will contribute to enhanced consumer protection. The need for consumers to pay a \$50 penalty for exercising their cooling-off rights has also been omitted.

The removal of the mortality table in Schedule 3 has been done to increase the ease in which the government will be able to amend the table format in response to any issues that might emerge in the future. It will also increase the ease of access for any member of the public wishing to use this table.

Fees have been amended to reflect changes in the CPI. The schedule of fees is designed to provide for the most appropriate costs to business while also providing for cost recovery of the administrative functions.

Do you agree with the proposed changes in the draft Regulation?

Is there a need to use any of the other unutilised regulation-making powers in the Act?

Are there any further changes that should be made to the Regulation?

Appendix 1

Background information

Background to the Industry

There are two types of funeral funds in operation in NSW – prepaid and funeral contribution funds.

A pre-paid funeral fund is a fund which holds money paid by consumers under pre-paid funeral contracts. Pre-paid funeral contracts are contracts where a consumer pays in advance for the cost of a specified funeral service. There are currently 17 pre-paid funds in operation in NSW.

A contributory funeral fund is one where the consumer makes small payments to the fund on a regular basis. When the consumer dies, the fund will either contribute directly towards a funeral service or provide a cash benefit towards the cost of the service. The funeral service may or may not be carried out by a funeral director associated with the fund. There are currently ten contributory funeral funds in operation in NSW.

Background to the Act

A 1977 Prices Commission inquiry into the industry found that many funeral businesses were not acting in the best interests of consumers and that there were concerns about the viability of some funeral funds.

The inquiry led to the establishment of the Act which commenced on 1 October 1980. Prior to the existence of this Act, there was no regulation of funeral funds in NSW.

The Act sets out the regulatory framework for funeral funds in NSW and contains accountability mechanisms for funeral funds to ensure that money paid in advance for the provision of a funeral service is protected. Pre-payments are protected through the registration of funeral funds and the provision of rules governing how funeral funds are to invest and manage these pre-payments.

The Act also contains provisions to ensure that consumers receive sufficient up-front information regarding pre-paid funeral contracts. These provisions protect consumers from high pressure sales tactics and ensure that funeral services are delivered as per the contract.

Appendix 2

Summary of Proposed Amendments

Funeral Funds Regulation 2011	Funeral Funds Regulation 2016
<p>Under Clause 6(a) a copy of a record of the alteration or addition to the rules of the fund must be provided, signed by a Director and by the Secretary.</p>	<p>The requirement that this be signed by the Director and Secretary has been removed as the Director and Secretary will have oversight over the application as a whole and they will have signed the application document.</p>
<p>Under clause 15(1), a funeral service supplier must not enter into a contract unless documents containing information about the contract have been provided to the consumer and been signed by both parties. This is given to the consumer to keep. Under Clause 15(2), when the consumer enters into the contract they must again be provided with the same set of signed documents a second time.</p>	<p>Clause 15(2) has been removed from the proposed Regulation as it has been deemed unnecessary duplication. Consumers need only to be provided with a signed copy of the details of the contract to keep once.</p>
<p>Clause 15(3)(d) specifies that the costs of each component of the funeral service including any applicable goods and services tax (GST) must be supplied to the consumer.</p>	<p>It is now common practice for the costs of GST to be included in any quote given. In instances where this is not the case, it is normally specified as such. Removing the legal requirement to outline separately the cost of the GST would ease the requirements on funeral funds. If funds wish to outline the cost of GST separately they are still able to do so.</p>
<p>Money to be paid to a funeral fund after a contract has been entered into must be paid to the fund within seven business days. Clause 16(2) defines business day.</p>	<p>Business day has been changed to day in order to remove any confusion as to what constitutes a business day. Clause 16(2), which defines business day, has been removed from the proposed Regulation.</p>

<p>Under clause 17(2) if a consumer decides to cancel a contract during the cooling off period they are required to pay \$50.</p>	<p>The \$50 penalty for a person exercising their cooling-off rights has been removed. This will lift a financial barrier for those who wish to change their mind, particularly those on low incomes. It will make the funeral fund laws consistent with other Fair Trading legislation where consumers are able to cancel a contract during a cooling-off period without any financial penalty.</p>
<p>Clauses 13, 14 and 15 are declared to be excluded provisions for the purposes of Section 90 of the Act, which specifies the liability of Directors for offences by corporation.</p>	<p>Clause 19 is removed from the proposed Regulation meaning that Clauses 13, 14 and 15 are no longer excluded provisions for the purposes of Section 90 of the Act. Fund directors and managers are expected to exercise appropriate oversight over the operation of the Fund and information to be included on accounts and registers.</p>
<p>If unpublished tables of mortality were used in the valuation of a fund's position in an actuarial abstract the matters set out in the form in Schedule 3 must be provided as part of the abstract.</p>	<p>Under the proposed Regulation, the form to be used will not be in Schedule 3, but instead will be provided as an approved form on the NSW Fair Trading website. This is to ease the process of amending the form in response to any emerging issues by removing the need to go through a legislative process.</p>
<p>Schedule 5 outlines the fees for the purposes of the Act.</p>	<p>Due to the removal of Schedule 3, the fees table will now be in Schedule 4. There are minor changes to the format of the table and the fee amounts have been increased to reflect changes to the CPI over the past 12 months.</p>

Appendix 3

List of key stakeholders

Key stakeholders

The following key stakeholders have been provided with a copy of the proposed Regulation and this Regulatory Impact Statement:

- all funeral funds currently registered with NSW Fair Trading
- Australian Funeral Directors Association
- Funeral Directors' Association of NSW
- InvoCare
- NSW Council of Social Services (NCOSS)
- Combined Pensioners and Superannuants Association of NSW Inc.
- T.J. Andrews Funeral Services
- Gregory & Carr Funerals.



NSW Fair Trading - a division of the
NSW Department of Finance, Services and Innovation

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