



Southern Metropolitan  
Cemeteries NSW

# Transfer Interment Right Fact Sheet

## As required by CCNSW Legislation, Southern Metropolitan Cemeteries NSW keeps a Cemetery Register which records the license holder(s) for allotments within our cemetery.

The register can record up to two joint holders per allotment; however, under special circumstances an applicant may request for more than two joint holders to be registered on one allotment.

Only a registered and living holder(s) have authority of the allotment.

If the registered holder(s) is/are deceased, all rights of the allotment cease until the allotment is transferred.

## Why Transfer?

- To allow an interment into an allotment (e.g. grave/crypt/vault/niche/gardens)
- Erect or alter a memorial or inscription
- Transfer their Right of Interment to another person
- Add another person as a joint holder

## Who Can Transfer?

- **Current License Holder(s)**: as indicated in our Cemetery Register
- **Descendent**: as recorded on a Registered Death Certificate issued by the Registry of Births Deaths and Marriages
- **Executor(s)**: as recorded on a Probated Will (with Supreme Court Seal) issued by the Supreme Court
- **Administrator**: as recorded on a Letter of Administration (with Supreme Court Seal) issued by the Supreme Court

## What Documents may be Required to Transfer?

- **Registered Death Certificate**: to establish who the next of kin is/are
- **Probated Will with Supreme Court Seal**: to establish who the executor is/are
- **Letters of Administration**: to establish who the administrator(s) is/are
- **100 Points of ID**

Note: Please be aware that other paperwork maybe required from time to time. Our Customer Support team will provide further detail in these situations.

## When to Transfer?

- If a holder is deceased, the cemetery will waiver the Transfer Fee in instances where the Transfer Application is **received within 3 months** of a registered holder's passing.

## Understanding Title by Descent on Registered Death Certificate

Title by descent is the title by which a person, upon the death of another, acquires the assets of the latter as an heir(s) at law when the deceased died without a Will.

If the next of kin is a **spouse**, that is the deceased was **married or separated (but not divorced), or de-facto** at the time of death, then the spouse is permitted to Transfer a Perpetual Interment Right.

If the next of kin is an **only child**, because the deceased



was **never married, divorced or was a widow / widower** at the time of death, then the only child is permitted to Transfer a Perpetual Interment Right.

If the next of kin are children, because the deceased was never married, divorced or was a widow / widower at the time of death, then up to two of these children need to establish which of them are to become the new holder(s). The children who become the new holder(s) are permitted to Transfer a Perpetual Interment Right. The remainder of the children who do not become new holders will need to relinquish their interment rights in writing.

If the next of kin is a **parent**, because the deceased was **never married and had no children** at the time of death, then the parent(s) is/are permitted to apply for Transfer a Perpetual Interment Right.

## Rank of Surviving Next of Kin

- |                |                        |
|----------------|------------------------|
| • 1st Spouses  | • 5th Grandparents     |
| • 2nd Children | • 6th Aunts and Uncles |
| • 3rd Parents  | • 7th Cousins          |
| • 4th Siblings |                        |

## Understanding Probate

A grant of probate is a legal document that authorises an executor(s) to manage the estate of a deceased person in accordance with the provisions of the deceased's will. The executor can transfer the assets to the executor (or to such other persons as the executor may nominate in accordance with the will).

If a Probated Will with Supreme Court Seal has been granted, then the executor(s) are permitted to complete the Application to Update or Transfer a Perpetual Interment Right.

## Understanding Letters of Administration

A grant of Letters of Administration is a legal document issued by the Supreme Court, which allows the administrator(s) to manage and distribute the deceased's assets.

There are two distinct types of applications for Letters of Administration:

- 1) Letters of Administration** – the deceased passed away without leaving a will (for example, intestate)
- 2) Letters of Administration with the Will annexed** – the deceased left a Will, but there is no executor available to apply for a grant of probate. For example, if the Will did not name an executor or the sole executor has passed away or is otherwise unwilling or unable to act.

If a **Letter(s) of Administration with Supreme Court Seal** has been granted, then the **administrators(s)** are permitted to complete the Application to Update or Transfer a Perpetual Interment Right.

## Why would I need to transfer an Interment Right into my name?

In compliance with the *Cemeteries and Crematoria Act 2013*, and *Crown Lands Act*, a "living" Grantee can only make necessary changes to the monument, or sign for further interments.

## What information do I need to supply for a transfer?

We require a copy of **Deceased Grantee's Certified Death Certificate** from the **Registry of Births, Deaths and Marriages** and **Probated Will** (if Probate applied and granted).

## Who can have an Interment Right transferred to them?

The beneficiaries of the Probated Will or a family member noted on the Certified Death Certificate with the written approval of other family members are eligible. We recommend only one named beneficiary for a license.

## Why is it important to keep the Grantee's details for an Interment Right current?

It is important to keep the Grantee's details current as that person's written permission is needed to make any changes necessary to the monument or to request approval for interments.

## What happens if it is not transferred?

Without an up-to-date Grantee, no interment or monument work can be completed and the cemetery will not be able to keep interested members of a family up to date with the most current requirements for interments, maintenance, memorials, etc.

## Can an interment right to an allotment be sold?

There are currently 2 options:

- 1) An application can be made to transfer the interment right to another person with signed proof that profit will not be made from the requested transfer
- 2) SMCNSW can consider a buyback request