

Regulations for burial grounds and columbaria

under Part 3 of Chapter 5 of the Schedules to the
Parish Administration Ordinance 2008

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Interpretation

1. In these regulations –

columbarium means the columbarium wall in which the niche is situated.

grantee means the person or persons granted a right by the trustees and includes –

- (a) the legal successors of the grantee, and
- (b) any person to whom the grantee transfers the right under Regulation 11.

initial term means the period commencing on the placement date and ending on the 50th anniversary of the placement date.

niche means the niche in the columbarium reserved for the use of the grantee, being the niche identified in the Notice of Reservation given by the trustees to the grantee.

placement date means the date on which ashes and a memorial plaque are placed in and over the niche.

renewed term means the period commencing on the last day of the initial term, or the last day of a prior renewed term, and ending on the 50th anniversary of that day on which the renewed term commences.

right means the right referred to in Regulation 3(1).

trustees means the trustees from time to time of the columbarium [being the minister and churchwardens from time to time of # Anglican Church, and any other persons appointed by the minister and churchwardens to be trustees of the columbarium].

insert name of church

Records to be maintained

2. The trustees are to keep a record or records of –

- (a) the name of each grantee to whom a right has been granted and the address of the grantee last advised by the grantee to the trustees, and

- (b) the nature of the right and the date on which a right was granted, and
- (c) the amount or amounts paid by the grantee for the grant of a right and the date or dates on which such amount or amounts were received by the trustees, and
- (d) the niche or position in the columbarium to which a right relates, and
- (e) the placement date, and
- (f) the date on which a renewed term commences.

Right of grantee

3. (1) Subject to these regulations and to the full payment of the costs referred to in Regulation 3(2), the grantee has an exclusive right –

- (a) to place ashes and a memorial plaque in and over the niche, and
- (b) to leave the ashes and the memorial plaque in place for the initial term or, subject to Regulation 9, the renewed term.

(2) The placement of ashes and a memorial plaque in and over the niche will be done by the trustees on behalf of the grantee and at the request of the grantee. The costs incurred by the trustees will be paid by the grantee and are in addition to any amount paid by the grantee for the grant of the right.

(3) The memorial plaque is to be approved by the trustees.

(4) The grantee acknowledges that it may not be possible to place all the ashes in the niche. After consultation with the grantee, any ashes which cannot be placed will be –

- (a) scattered in the grounds near the niche, or
- (b) made available for collection by the grantee.

Damage, loss or theft

4. (1) The grantee is the owner of all ashes and the memorial plaque placed in and over the niche. The trustees are not responsible for any, damage to, or deterioration, loss or theft of, the ashes or memorial plaque.

(2) If the columbarium is damaged or destroyed the trustees are to rebuild the columbarium in its original position or in any other position in the grounds in which it is presently erected and place the ashes and memorial plaque in and over a niche in the new columbarium for the remainder of the initial term, or renewed term, as the case may be.

Moving ashes and memorial plaques – discretion of trustees

5. (1) During the initial term and any renewed term the trustees, at their cost and in their absolute discretion, may relocate the ashes and memorial plaque placed in or over the niche (the “original niche”) to another niche (the “substituted niche”) in a columbarium (whether situated in the same grounds as the columbarium or another Anglican Church property in or near the locality of the columbarium) which, in the opinion of the trustee, is comparable to the original niche.

(2) Regulations 7(1) to 7(4) inclusive apply.

Moving ashes and memorial plaques – request of the grantee

6. (1) During the initial term and any renewed term the grantee may, upon lodging payment with the trustees the amounts referred to in Regulation 6(2), request that the ashes and memorial plaque placed in or over the niche (the “original niche”) be relocated to another niche (the “substituted niche”) in the columbarium.

- (2) The amounts to be paid by the grantee are –
 - (a) an amount equal to the difference, if any, between the amount which would be charged as at the date of payment by the trustees for the grant of a right for a niche equivalent to the substituted niche, and the amount last paid by the grantees for the grant of the right in respect of the original niche, and
 - (b) an amount equal to the costs to be incurred by the trustees in relocating the ashes and the memorial plaque.
- (3) Upon receipt of a request under regulation 6(1) the trustees are to determine whether, in their absolute discretion, they will agree to the request. If they agree to the request the trustees will notify the grantee –
 - (a) if the request is approved - will relocate the ashes and the memorial plaque to the substituted niche as soon as possible thereafter, or
 - (b) if the request is not approved - repay the amounts referred to in Regulation 6(2).
- (4) Regulations 7(1) and 7(4) apply.

Moving ashes and memorial plaques – further provisions

7. (1) Upon the relocation of the ashes and memorial plaque to a substituted niche, these Regulations continue to apply as if –

- (a) all references to the niche are taken to be references to the substituted niche and all references to the columbarium are taken to be references to the columbarium in which the substituted niche is situated, and
- (b) the period during which the ashes and memorial plaque may remain in and over the substituted niche is, subject to Regulations 8(2) and 7, the balance of the initial term or the renewed term as applied to the placement of the ashes and the memorial plaque in and over the original niche, and
- (c) if the trustees of the original niche are not the trustees of the substituted niche, all references to the trustees are taken to be references to the trustees of the substituted niche.

(2) If the trustees of the original niche will not be the trustees of the substituted niche, the trustees of the original niche may not relocate the ashes and memorial plaque to a substituted niche unless, prior to such relocation, the trustees of such substituted niche agree in writing to assume the obligations of the trustees of the original niche arising under these Regulations on and from the date of relocation.

(3) Upon the relocation of the ashes and memorial plaque, the trustees of the original niche are released from all obligations of the trustees to the grantee arising under these Regulations arising on and from the date of relocation.

(4) The trustees are to send notice of any relocation of the ashes and the memorial plaque to the address of the grantee last advised by the grantee to the trustees.

Expiration of term

8. (1) Unless Regulation 9 applies, upon the expiration of the initial term or a renewed term the grantee is to remove the ashes and the memorial plaque from the columbarium and from the grounds in which the columbarium is erected. The grantee will be responsible for any damage to the columbarium or other property of the trustees arising from the removal of the ashes and the memorial plaque.

(2) If Regulation 8(1) is not complied with, the trustees, in their absolute discretion at any time after the expiration of the initial term or the renewed term as the case may be, may send notice to the last address of the grantee advised by the grantee to the trustees and publish a notice in a newspaper circulating in the area in which the columbarium is located advising that if the grantee fails to remove the ashes and the plaque within 12 months from the date of the notice, the trustees will exercise their rights under Regulation 8(3).

(3) If the ashes and memorial plaque are not removed after the period stated in Regulation 8(2), the trustees, in their absolute discretion, at any time thereafter, may, remove the ashes and the memorial plaque and dispose of them in such manner as the trustees think fit.

Renewed term

9. If, within 12 months from the date of a notice referred to in Regulation 8(2), the grantee pays to the trustees an amount equal to the amount which would be charged as at the last day of that initial term or the renewed term by the trustees for the grant of a niche equivalent to the niche in which the ashes and memorial plaque are then situated, the grantee has an exclusive right to leave the ashes and memorial plaque in place for the renewed term.

Application of legislation

10. The placement of ashes and a memorial plaque in and over the niche is subject to the provisions from time to time of –

- (a) any applicable act or regulation, and
- (b) the ordinances of the Synod or the Standing Committee of the Synod of the Anglican Church Diocese of Sydney.

Transfer of the rights of the grantee

11. (1) With the consent of trustees (which is not to be unreasonably withheld) the grantee may transfer their rights to any other person upon giving written notice to the trustees of the name and address of the transferee.

(2) The executors or administrators of a deceased grantee will be the only persons recognised by the trustees as being the holders of the grantee's rights, provided that executors or administrators may transfer their rights in accordance with Regulation 11(1).

Application

12. These Regulations apply to any right granted or agreed to be granted on or after 1 July 2002.