Directions to trusts issued by the secretary to the department of human services under s 18(1) of the Cemeteries and Crematoria Act 2003

# Records

Trusts are directed to:

* Ensure that all expenditure is in line with the [Victorian Government Purchasing Board](https://www.buyingfor.vic.gov.au) <https://www.buyingfor.vic.gov.au> requirements and appropriately supported and approved prior to payment.
* Specifically, ensure that:
  + tendering policies and guidelines are put in place within ten working days of the receipt of this direction
  + compliance with such policies and guidelines is enforced
  + where trusts outsource their tender functions to a third party or agent, they must ensure that on each occasion they:
    - enter into a contractual arrangement with the provider of the tender service; and
    - ensure their agent meets the Victorian Government Purchasing Guidelines.
* Implement the new common chart of accounts for use from the commencement of the 2007/08 financial year to enable trusts better to fulfil their obligations under s. 39 in determining the costs of operating and managing the public cemetery, providing their services and providing for the maintenance of the public cemetery in perpetuity.
* Ensure that appropriate procurement policies are in place that provide for:
  + value for money;
  + open and fair competition;
  + accountability;
  + risk management; and
  + probity and transparency

in accordance with the Standing Directions of the Minister for Finance.

# Expenditure

Trusts are directed generally to:

* act in accordance with their obligations under the Act and in particular s. 12, as well as their general fiduciary obligations. To that end, trusts are directed to ensure that trust assets be used, invested or disposed of so as to optimise as far as possible the trust’s financial position.

Trusts are directed specifically:

* Immediately to ensure that expenditure on private motor vehicles is outlaid/reimbursed for business use only.
* To develop and maintain appropriate policies to achieve this as soon as practicable.
* To develop control and monitoring systems to ensure this if they have on-site refuelling facilities as soon as practicable.
* To immediately ensure that all trust employees pay for any trust fuel used for private purposes.
* As soon as practicable review their records for the last financial year and recoup the costs of any fuel from employees that was used for private purposes.
* Immediately to cease the practice of paying commissions for business referrals.
* Not to waive or reduce any fees or charges that would otherwise be payable to them except on grounds of extreme hardship or other special circumstance.
* If in doubt as to whether extreme hardship or other special circumstances apply, trusts must seek guidance from the department.
* Entering into arrangements that provide customers the ability to pay for trust services over an extended period of time are likely to have the effect of waiving or reducing any fees or charges that would otherwise be payable.
* Immediately to cease the practice of providing free cemetery services to cemetery staff, trust members and other industry colleagues.
* Immediately to cease any expenditure practices that deliver private benefits to trust members and staff.
* To ensure that appropriate expenditure policies are developed and maintained which provide for exclusively public benefit from expenditure as soon as practicable.
* Immediately to cease the establishment or maintenance of philanthropic funds.
* Immediately to cease the practice of cashing personal cheques for staff and trust members.
* Immediately to cease the practice of lending public money to staff.
* To ensure that their procurement policies are complied with and enforced, particularly when expenditure involves related parties.
* Ensure that all pecuniary interests are disclosed and appropriately managed by the development, maintenance and enforcement of policies which at a minimum include:
  + requiring all trust members and senior management to complete annual pecuniary interest statements; and
  + the removal of the person with the conflict of interest from any decision to purchase goods and services.
* To ensure that with immediate effect all future employees are employed by means of formal written employment agreements, and that such agreements are entered into with all existing employees as soon as practicable.
* Immediately to cease bonus payments and commissions to staff unless they are explicitly provided for in applicable EBAs for the employee concerned, or their employment contracts.
* Immediately to take steps to ensure that where remuneration arrangements provide for the payment of bonuses, these are performance-based and are paid only in accordance with applicable agreements, policies and procedures.
* Immediately to take steps to establish formal policies and procedures to support the agreement and assessment process for bonus payments to employees.
* To ensure that all overtime worked is:
  + where necessary, provided for in advance in relevant employment agreements, policies and procedures;
  + approved in advance;
  + only approved where the overtime is essential in maintaining the core functions of the cemetery; and
  + adequately supported by appropriate documentation in accordance with the applicable agreements, policies and procedures.
* To ensure that all other private benefits provided to staff such as use of motor vehicles, mobile phones etc are included as part of their remuneration package and appropriately documented and declared to the relevant authorities.
* Before making decisions on payments to terminated employees, to ensure that they are fully and appropriately informed and, as appropriate, seek specialist legal advice in matters concerning staff remuneration and other termination conditions.
* To review executive remuneration to ensure compliance with GSERP requirements. Where remuneration is in excess of GSERP requirements trusts are directed to cease bonus payments or CPI increases in relation to those appointments in accordance with any existing legal obligations.
* To advise the Secretary prior to entering into future contracts with affected employees as to executive remuneration.
* To ensure compliance with all applicable government policies in respect of executive staff remuneration for all future appointments of executive staff.
* As soon as practicable to establish appropriate systems, process and controls to:
  + minimise the scope for unethical practices and potential for waste, fraud and corruption; and
  + maximise the protection of public assets.

# Other functions/powers under this Act

## ss. 36 and 37 (Land)

* Trusts are directed to review all current leasing and licensing arrangements and:
  + to advise the Minister of any arrangements that have not previously been approved; and
  + such advice should include the following details, copied to DHS within 2 weeks of receiving this direction:
    - copies of all relevant lease/licence documents; and
    - copies of all other relevant documents; and
    - written confirmation of the purpose of such use and any other information (e.g. informal permits, permissions, arrangements, agreements or understandings)

relating to any arrangement such that any natural or legal person other than the trust can enter and use cemetery land.

## Act generally

* Cemetery trusts are directed with immediate effect to review all current practices and operational arrangements and ensure that these are fully compliant with the Act and all other applicable legislation and other laws.