

CEMETERIES.

No. 13 of 1961.

An Ordinance to amend the *Cemeteries Ordinance* 1933-1959.

1.—(1.) This Ordinance may be cited as the *Cemeteries Ordinance* 1961.* Short title
and citation.

(2.) The *Cemeteries Ordinance* 1933-1959† is in this Ordinance referred to as the Principal Ordinance.

(3.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Cemeteries Ordinance* 1933-1961.

2. Section two of the Principal Ordinance is amended by adding at the end thereof the following definition:— Definitions.

“‘trustee’ means a person appointed under this Ordinance to be a trustee of a cemetery.”.

3. Section six of the Principal Ordinance is amended— Trustees
of public
cemeteries.

(a) by omitting sub-section (2.); and

(b) by omitting sub-section (5.) and inserting in its stead the following sub-section:—

“(5.) If a trustee ceases to hold office, the Minister may appoint a new trustee in his place.”.

4. After section six of the Principal Ordinance, the following sections are inserted:—

“6A. At a meeting of the trustees of a cemetery, a majority of the trustees present may grant leave of absence to a trustee of that cemetery for such period and upon such terms and conditions as they determine. Leave of
absence.

“6B. The Minister may terminate the appointment of a trustee for inability, inefficiency or misbehaviour. Dismissal
of trustee.

“6C. A trustee may resign his office by writing under his hand addressed to the Minister. Resignation
of trustee.

* Made on 10th July, 1961; notified in the *Commonwealth Gazette* and commenced on 20th July, 1961.

† Ordinance No. 29, 1933, as amended by No. 25, 1938; No. 18, 1942; and No. 21, 1959.

Vacation of
office.

“ 6D.—(1.) If a trustee—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his creditors;
- (b) is absent, except on leave granted under section six A of this Ordinance, from three consecutive meetings of the trustees; or
- (c) fails to comply with his obligations under the next two succeeding sub-sections,

the Minister shall, by notice published in the *Gazette*, declare that the office of the trustee is vacant, and, upon the publication of the notice, the office shall be deemed to be vacant.

“ (2.) A trustee of a cemetery who is directly or indirectly interested in a contract made or proposed to be made by the trustees of that cemetery, otherwise than as a member, and in common with the other members, of an incorporated company consisting of not less than twenty-five persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the trustees.

“ (3.) A disclosure under the last preceding sub-section shall be recorded in the minutes of the trustees, and the trustee—

- (a) shall not take part after the disclosure in any deliberation or decision of the trustees with respect to that contract; and
- (b) shall be disregarded for the purpose of constituting a quorum of the trustees for any such deliberation or decision.”

Inspection of
cemeteries by
authorized
persons.

5. Section eight of the Principal Ordinance is amended by omitting from sub-section (1.) the words “ Any person authorized in writing by the Minister may enter at any time any cemetery ” and inserting in their stead the words “ A person authorized in writing by the trustees of a cemetery may, at any time, enter the cemetery ”.

6. Sections twenty and twenty-one of the Principal Ordinance are repealed and the following sections inserted in their stead:—

Revenue of
trustees.

“ 20. The revenue of the trustees of a cemetery shall consist of—

- (a) such amounts as are paid to the trustees by the Treasurer out of moneys appropriated by the Parliament for the purposes of the cemetery; and
- (b) such amounts as are received by the trustees under this Ordinance.

“ 21.—(1.) The trustees of a cemetery shall open and maintain an account or accounts with the Reserve Bank of Australia and may open and maintain an account or accounts with such other bank or banks as the Treasurer approves.

Bank accounts.

“ (2.) The trustees shall pay all moneys received by them into an account referred to in this section.

“ 21A.—(1.) Subject to this section, the moneys of the trustees of a cemetery shall be applied only in payment or discharge of the expenses, charges and obligations incurred or undertaken by the trustees in the performance of their functions under this Ordinance, including expenses, charges and obligations incurred or undertaken in laying out and ornamenting the cemetery in such manner as is most convenient and suitable for the burial of the dead and in preserving, maintaining and keeping the cemetery in a clean and orderly condition.

Application of moneys by trustees.

“ (2.) Moneys of the trustees not immediately required for the purposes of the trustees may be invested on fixed deposit with the Reserve Bank of Australia or with any other bank approved by the Treasurer, or in securities of the Commonwealth.

“ 21B. The trustees of a cemetery shall, not later than the thirty-first day of March in each year, submit to the Minister a statement in such form as the Minister approves of any new works, repairs and alterations proposed to be carried out during the financial year commencing on the following first day of July, together with an estimate of the expense that would be incurred in carrying out the works, repairs and alterations.

Estimates of expenditure.

“ 21C. The trustees of a cemetery shall keep proper accounts and records and shall do all things necessary to ensure that all payments out of moneys of the trustees are correctly made and properly authorized and that adequate control is maintained over the assets of the trustees and the incurring of liabilities by the trustees.

Accounts.

“ 21D.—(1.) The Auditor-General shall inspect and audit the accounts and records of financial transactions of the trustees of a cemetery, and shall forthwith draw the Minister's attention to any irregularity disclosed by the inspection and audit that, in the opinion of the Auditor-General, is of sufficient importance to justify his so doing.

Audit.

“ (2.) The Auditor-General shall, at least once in each year, report to the Minister the result of an inspection and audit carried out under the last preceding sub-section.

“ (3.) The Auditor-General or an officer authorized by him is entitled at all reasonable times to full and free access to

all accounts, records, documents and papers of the trustees relating directly or indirectly to the receipt or payment of moneys by the trustees or to the acquisition, receipt, custody or disposal of assets of the trustees.

“(4.) The Auditor-General or an officer authorized by him may make copies of or take extracts from any such accounts, records, documents or papers.

“(5.) The Auditor-General or an officer authorized by him may require a trustee or person appointed or employed by the trustees to furnish him with such information in the possession of the trustee or person or to which the trustee or person has access as the Auditor-General or authorized officer considers necessary for the purposes of an inspection or audit under this Ordinance, and the trustee or person shall comply with the requirement.

Annual report
of trustees.

“21E.—(1.) The trustees of a cemetery shall, as soon as practicable after each thirtieth day of June, prepare and furnish to the Minister a report of their operations during the year ended on that date, together with financial statements in respect of that year in such form as the Minister approves.

“(2.) Before furnishing the financial statements to the Minister, the trustees shall submit them to the Auditor-General, who shall report to the Minister—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records and show fairly the financial operations and the state of the affairs of the trustees;
- (c) whether the receipt, expenditure and investment of moneys, and the acquisition and disposal of assets, by the trustees during the year have been in accordance with this Ordinance; and
- (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the Minister.

Delegation.

“21F.—(1.) The trustees of a cemetery may, either generally or in relation to a matter or class of matters, by writing under the seal of the trustees, delegate all or any of their powers under this Ordinance (except this power of delegation).

“(2.) A power so delegated may be exercised by the delegate in accordance with the instrument of delegation.

“(3.) A delegation under this section is revocable at will and does not prevent the exercise of a power by the trustees.”.