

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 29 of 1933.

AN ORDINANCE

Relating to the Establishment, Management and Control of Cemeteries.

BE it ordained by the Governor-General in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act 1909* and the *Seat of Government (Administration) Act 1910-1933*, as follows:—

1. This Ordinance may be cited as the *Cemeteries Ordinance* Short title.
1933.

2. In this Ordinance, unless the contrary intention appears— Definitions.

“burial” includes cremation;

“cemetery” includes a public cemetery and a private burial ground;

“private burial ground” means any land set apart for, or dedicated to, the purpose of a private burial ground under this Ordinance;

“public cemetery” means any land set apart for, or dedicated to, the purposes of a public cemetery under this Ordinance;

“religious denomination” includes a group of religious denominations;

“the recognized head of any religious denomination” means the person for the time being recognized by the Minister as the head in the Territory of any religious denomination for which any portion of a public cemetery has been specifically set apart;

“this Ordinance” includes the Regulations made thereunder.

3. Section twelve of the *Public Health Ordinance 1928-1930* is amended by omitting paragraph (m) thereof.

Repeal of
s. 12 (m) of
*Public Health
Ordinance 1928.*

4.—(1.) The Governor-General may, by Proclamation published in the *Gazette*, set apart for, or dedicate to, the purpose of a public cemetery, or a private burial ground any unleased land belonging to the Commonwealth.

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of cemeteries.

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(2.) Any land so set apart or dedicated shall be used in perpetuity for the burial of the dead and for purposes incidental thereto, and for no other purpose.

Provision of public cemeteries according to religious denominations, &c.

5.—(1.) The Minister may, by notice in the *Gazette*, specially set apart separate portions of the lands comprising a public cemetery—

- (a) for the purpose of a general cemetery;
- (b) for the burial of the dead of any religious denomination when requested to do so by the recognized head of that denomination; and
- (c) for the burial of deceased persons who served in the war which commenced in the year One thousand nine hundred and fourteen, in any Naval or Military Expeditionary Force raised in the Commonwealth, the United Kingdom or any British Dominion.

(2.) In the setting apart of portions of a public cemetery for the use of religious denominations, preference shall be given to the denomination having in the Commonwealth the greatest number of adherents as shown by the latest census.

(3.) In the last preceding sub-section the expression “religious denominations” shall not include groups of religious denominations.

Trustees of public cemeteries.

6.—(1.) The Minister may, by notice in the *Gazette*, appoint to be trustees of any public cemetery or private burial ground not less than three nor more than twelve persons, as he thinks fit, and may appoint one of the trustees to be the Chairman of the trustees.

(2.) The Minister may remove any trustee from office.

(3.) The persons for the time being holding office as trustees shall be a body corporate.

(4.) All bodies corporate constituted in pursuance of this section shall under their respective corporate names, as determined by the Minister, have perpetual succession and a common seal and shall be capable of suing and being sued.

(5.) If any trustee appointed under this Ordinance dies or resigns or is removed from office, the Minister may appoint a new trustee in his place.

(6.) Where any portion of a cemetery is set apart for the burial of the dead of a religious denomination, that denomination may nominate a person for appointment as trustee of that cemetery.

(7.) Where any portion of a cemetery is set apart for the burial of the dead of a group of religious denominations, the group may nominate one member of each denomination in the group for appointment as trustee of the cemetery.

(8.) Where any portion of a cemetery is set apart under paragraph (c) of sub-section (1.) of section five of this Ordinance, the body known as the Federal Capital Territory Branch of the Returned Sailors and Soldiers' Imperial League of Australia may nominate a person for appointment as trustee of that cemetery.

7.—(1.) The trustees of any public cemetery may, subject to the approval of the Minister, erect and maintain in the cemetery a crematory for the burning of the dead. Establishment of crematory.

(2.) The erection and maintenance of any crematory and all matters in connexion with the burning of the dead shall be subject to such conditions as are prescribed.

(3.) Any person who cremates or is party or privy to the cremation of any human body elsewhere than in a crematory erected and maintained under this section shall be guilty of an offence.

Penalty: Fifty pounds.

8.—(1.) Any person authorized in writing by the Minister may enter at any time any cemetery and inspect the land and any buildings, fittings, works and apparatus thereon. Inspection of crematories by authorized persons.

(2.) Any person who obstructs or intimidates any person so authorized in the performance of his duty under this Ordinance shall be guilty of an offence.

Penalty: Ten pounds.

9. The trustees of any public cemetery shall not interfere, directly or indirectly, with the performance of any religious ceremony in the burial of the dead according to the usage of the religious denomination to which the deceased belonged. Trustees not to interfere with burial ceremonies, &c.

10.—(1.) The recognized head of any religious denomination may, by notice in writing to the trustees, prohibit the performance or holding of any religious or other service within that portion of any public cemetery specifically set apart for his denomination. Right of head of religious denomination to prohibit holding of services, &c.

(2.) On receipt of any such notice, the trustees shall prevent the performance or holding within that portion of the religious or other service objected to.

11. The trustees of any public cemetery may set apart and grant, subject to such conditions as are prescribed, the exclusive right of burial in any grave, vault or place of burial in any specified allotment in such cemetery to any person on payment of the prescribed fee. Burial allotments.

12. The recognized head of any religious denomination may object to the grant of any exclusive right in respect of, or to the burial of any dead body in, any allotment in the portion of any public cemetery set apart for his denomination and the trustees, on receiving notice of such objection and on good cause being shown, shall refuse to grant any such exclusive right or prohibit any such burial in that portion, as the case may be. Rights of head of religious denomination as to portion of cemetery set apart for that denomination.

Ministers to have full access to cemeteries.

13. Any Minister of any religious denomination for which any portion of a public cemetery has been specifically set apart shall have full access and admission to such portion and also to the general portion thereof as he thinks fit, and may freely exercise his spiritual functions in connexion with the burial of the dead therein without any hindrance or disturbance by the trustees or any person whomsoever.

Monumental designs or inscriptions may be objected to.

14. The recognized head of any religious denomination may object to the placing of any monumental design or inscription within the portion of a public cemetery specifically set apart for his denomination and the trustees shall, on receiving notice of such objection, prevent the placing of the design or inscription objected to.

Times for burying the dead.

15. Any person who buries any dead body after sunset or before sunrise on any day throughout the year shall be guilty of an offence.

Penalty: Fifty pounds.

Exhumation of bodies.

16.—(1.) Except in pursuance of a warrant to exhume a body for the purposes of an inquest, no person shall remove any body or the remains of any body buried in any cemetery without the permission in writing of the Director-General of Health.

(2.) Any person who acts in contravention of the provisions of this section shall be guilty of an offence.

Penalty: Fifty pounds.

Burials not to take place elsewhere than in cemetery.

17. Any person who, except with the consent in writing of the Minister, buries a dead body elsewhere than in a cemetery shall be guilty of an offence.

Penalty: Fifty pounds.

Closing of cemeteries.

18. The Minister may, by notice in the *Gazette*, order that, after a time specified in the notice not being less than three months from the date thereof, burials in any cemetery shall be wholly discontinued or discontinued subject to such exceptions and qualifications as the Minister thinks fit.

Appointment of officers.

19.—(1.) The trustees may appoint such caretakers, sextons and other officers in respect of a cemetery as are necessary for carrying out the provisions of this Ordinance.

(2.) Any caretaker, sexton or other officer so appointed shall be paid such remuneration and be subject to such conditions as the trustees think fit.

Maintenance of public cemeteries.

20.—(1.) There shall be paid to the trustees for the maintenance of any cemetery such sums of money as are from time to time appropriated by the Parliament for the purpose.

(2.) The trustees shall, subject to the control of the Minister, expend any moneys received by them under this Ordinance or any other law in laying out and ornamenting the cemetery in such a manner as is most convenient and suitable for the burial of the dead and in preserving, maintaining and keeping in a clean and orderly state and condition the whole of such cemetery.

21.—(1.) The trustees shall keep full and particular accounts of all moneys received and expended by them. Trustees to keep accounts.

(2.) Such accounts shall be subject to audit by the Auditor-General for the Commonwealth.

(3.) The trustees shall, in the month of April in each year, submit to the Minister a statement of accounts and a report on the condition of the cemetery as to works, repairs, order and ornament and shall submit any proposals as to any proposed new works, repairs or alterations thereof during the ensuing financial year together with an estimate of the expense which would be incurred in carrying out such alterations.

22.—(1.) The Governor-General may, by Proclamation published in the *Gazette*, set apart for or dedicate to the purpose of a private burial ground that piece of land containing not more than nine-tenths of a perch containing the place of burial of the late Dr. Walter Geoffrey Duffield. Place of burial of Dr. Duffield.

(2.) The Minister may appoint two trustees for the purposes of this section.

(3.) The first two trustees shall be Mrs. Doris Tennant Duffield, widow of the late Dr. Walter Geoffrey Duffield or a person nominated by her and a representative of the lands administration of the Territory.

(4.) In the event of a vacancy occurring in the office of trustee held by Mrs. Doris Tennant Duffield or the person nominated by her, the Minister may appoint such person as is nominated by Mrs. Doris Tennant Duffield or her heirs, executors and assigns or, in default of nomination, such person as he thinks fit.

(5.) In the event of a vacancy occurring in the office of trustee held by a representative of the lands administration of the Territory, the Minister shall appoint such person as he thinks fit.

(6.) The trustees shall not permit any person other than the widow of the said Walter Geoffrey Duffield to be buried in the land set apart or dedicated under sub-section (1.) of this section unless the consent in writing of the Minister has first been obtained.

(7.) This section shall be deemed to have commenced on the first day of August, One thousand nine hundred and twenty-nine.

Power to make
Regulations.

23. The Minister may make regulations not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for the purpose of carrying out or giving effect to this Ordinance and in particular prescribing matters providing for and in relation to—

- (a) the management, control and protection of public cemeteries and private burial grounds;
- (b) the powers and duties of trustees of cemeteries;
- (c) the licensing and control of funeral undertakers, and the vehicles supplied by funeral undertakers for the use of mourners at funerals, and the charges to be made for such licences;
- (d) the receipt and control of moneys contributed or donated by any person for the maintenance in perpetuity or otherwise of any grave or vault or portion of a cemetery;
- (e) the maintenance of order and good conduct in cemeteries;
- (f) the fees and charges payable in respect of any service provided under this Ordinance, and the recovery and remission thereof; and
- (g) the imposition of penalties not exceeding Ten pounds for any breach of the Regulations.

Dated this twenty-second day of November, 1933.

ISAAC A. ISAACS
Governor-General.

By His Excellency's Command,
J. A. PERKINS
Minister of State for the Interior.