

No. , 1912.

A BILL

To amend the law relating to cemeteries, and to the burial of the dead.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Application of Act.

1. (1) Except as provided in subsection three hereof this Act shall apply to every cemetery in New South Wales. Cemeteries to which this Act applies.

(2) Every statute, deed of grant, conveyance, declaration of trust, or other document inconsistent with the provisions of this Act shall, to the extent of that inconsistency, be void and inoperative.

(3) In any case where a cemetery has been or may hereafter be established or provided other than by the Crown the provisions of this Act in regard to the appointment, removal, powers, and liabilities of trustees shall not apply unless and until such cemetery has been declared to be subject to this Act as hereinafter provided.

Trustees of cemeteries.

2. All trustees heretofore appointed by the Governor under the authority of any statute or otherwise and holding office at the commencement of this Act shall be deemed to be appointed hereunder. Notification of trustees.

3. (1) The Governor may by notice in the Gazette appoint trustees (being not less than three in number) of any cemetery or portion thereof, and may by notice as aforesaid appoint additional trustees. Appointment and removal of trustees.

(2) The Governor may by notice as aforesaid appoint a corporate body as trustees of a cemetery or portion thereof, and may in like manner appoint the council for the time being of a municipality or shire as such trustees whether the cemetery be within or without the boundaries of the municipality or shire, but the council of a municipality or shire shall not be appointed trustees of a cemetery situated wholly or in part within the boundaries of another municipality or shire without the consent in writing of such other council or shire.

(3) The Governor may by notice in the Gazette remove any trustees appointed under this Act who desire to be discharged from, or neglect or refuse, or become unfit or incapable to act in the trusts, or who shall reside out of the State; and may fill any vacancies which may occur by reason of such removal or by death or resignation. The removal of any trustee shall divest the trustee so removed of any estate in the land the subject of the trust.

Powers and duties of trustees.

- 4.** The trustees of a cemetery shall—
- (a) have, for all purposes of this Act, entire control and management of the portions of land for which they are appointed;
 - (b) receive all fees, charges, and sums of money payable under this Act;
 - (c) make all payments authorised by them as such trustees; and
 - (d) keep full and particular accounts of all moneys received and disbursed and of all liabilities incurred by them as such trustees.

5. Unless otherwise lawfully required by the Minister, all moneys received in connection with the cemetery shall be paid into some bank to the credit of an account in the name of the trustees of the cemetery, and cheques drawn upon the account shall be signed by at least two trustees.

6.

6. (1) The trustees shall meet at least once in every three Meetings of trustees. months at the office of the secretary or some other convenient place according to rule adopted by them for that purpose.

(2) Every such meeting shall be presided over by a chairman to be chosen at the meeting.

(3) All questions, matters, and things, which are considered at any such meeting shall be determined by the majority in number of the trustees then present.

(4) It shall not be competent for the said trustees to proceed to business unless there be at least three of them present.

(5) A book shall be opened and kept in which there shall be entered a minute of the proceedings of the trustees at every such meeting.

(6) Such minute shall be read and confirmed at the next subsequent meeting and shall be signed by the chairman of such meeting.

(7) Any two of the same body of trustees may, by writing under their hands, summon, with at least forty-eight hours' notice, a meeting of such body for any special purpose mentioned in such writing and to meet at such time as shall be appointed therein.

7. The trustees may appoint a secretary, a chaplain, a sexton, and such officers and servants as may be necessary, and may fix the respective amounts of salary, stipend, fees, or wages to be paid to them.

The trustees may appoint an officer in charge who shall receive moneys, and regulate, manage, and decide all matters of detail arising in connection with the cemetery. The officer in charge may be one of the trustees, or the secretary, or such officer or person as the trustees may appoint.

8. (1) The trustees of a cemetery shall, subject to the approval Trustees to lay out grounds. of the Governor, lay out the portion of land vested in them or under their control in such manner as may be most convenient for the burial of the dead, and may embellish the same with such walks, avenues, roads, trees, and shrubs as to them seem fitting, and may enclose the same with proper and sufficient palisades, gates, and entrances, and preserve in a cleanly and orderly state the said land, palisades, gates, and entrances, and all monuments, tombstones, enclosures, buildings, erections, and shrubberies thereon and belonging thereto.

The trustees shall divide the cemetery into sections, and shall allot portions within those sections, and shall cause a plan to be made showing the sections and portions of the cemetery, and shall sign and certify the plan when made. The plan, or a copy thereof, shall be kept for reference in the office of the officer in charge.

(2) The trustees of a cemetery may, subject to the approval Trustees may make roads and drains. of the Governor, set apart and dedicate as a road or for the purpose of drainage

drainage either permanently or temporarily, and subject to such conditions and restrictions as may be convenient, any portion of the land vested in them.

9. (1) The trustees of a cemetery may fix, in respect of the portions of land vested in them or under their control, fees and charges for and in connection with the following matters—

Trustees may fix fees and charges.

- (a) the interment of bodies ; and
- (b) the exclusive right of burial either in perpetuity or for a limited period ; and
- (c) the right of constructing any vault or place of burial, with the exclusive right of burial therein in perpetuity or for a limited period ; and
- (d) the right of erecting or placing any monument, gravestone, tablet, or monumental inscription.

(2) All such fees and charges shall be approved by the Governor and notified in the Gazette.

Notification of fees and charges.

(3) A table showing such fees and charges shall be affixed and at all times continue in a conspicuous part of that portion of the cemetery to which the same are applicable.

Table of fees and charges to be exhibited.

(4) The trustees of any cemetery or portion of a cemetery shall allow the interment of the dead body of any poor person in such portion free of any charge whatsoever.

No fee for burial of body of poor person.

10. The trustees of a cemetery shall, subject to the provisions of the section, apply the fees, charges, and other income arising from the portion of the cemetery vested in them or under their control in and towards—

Trustees to apply fees and charges for certain purposes.

- (firstly) defraying their expenses as trustees under this Act ;
- (secondly) maintaining the portion of the cemetery vested in them, or under their control, and so fenced and laid out as hereinbefore mentioned, and all erections thereon, in complete repair ;
- (thirdly) paying the stipend of their chaplain, if any, or the fees of any minister officiating at the burial service in respect of any interment within the portions of the cemetery vested in them, or under their control, and in paying the salary of the secretary, manager, and other officers appointed by them ; and
- (lastly) laying out and embellishing the portion of the cemetery vested in them, or under their control.

11. (1) The trustees of a cemetery may sell and grant in the manner and subject to the conditions and restrictions prescribed—

Trustees may sell and grant exclusive right of burial.

- (a) the exclusive right of burial in any specified portion of the cemetery, either in perpetuity or for a limited period ;
 - (b) the right of constructing a vault or place of burial in any specified portion of the cemetery ;
 - (c) the right of erecting and placing a monument, gravestone, tablet, or monumental inscription in any specified portion of the cemetery ;
- and

and any right sold or granted as aforesaid may be transferred in the manner and subject to the conditions and restrictions prescribed, or may be disposed of by will.

(2) No body shall be buried in any portion of a cemetery in respect of which an exclusive right of burial has been sold or granted as aforesaid unless the trustees of the cemetery or some officer appointed by them in that behalf are satisfied that the person then having the said right of burial has consented or would not object to the burial of the body aforesaid.

12. Any person having the exclusive right of burial or the right of constructing a vault or place of burial or of placing or erecting a monument or gravestone in a portion of a cemetery may, in the manner prescribed, surrender the said right to the trustees of the cemetery.

Person having an exclusive right may surrender the same.

13. The trustees shall cause all graves in the cemetery to be dug, and may charge such fees as may be prescribed for the same.

Trustees to cause graves to be dug.

14. The trustees of a cemetery may, in the portion of the cemetery vested in them, or under them, take down and remove any monument, gravestone, tablet, or monumental inscription erected or placed contrary to the rules and conditions upon which permission to erect or place the same was granted, or in case such rules or conditions or the regulations of that portion of the cemetery have not been complied with.

Trustees may remove monuments, &c.

15. (1) The trustees of a cemetery may in respect of the portion of the cemetery vested in them, or under their control, make such rules and regulations, and do and cause to be done all such acts, matters, and things as may be necessary for—

Trustees may make rules and regulations.

- (a) carrying out the purposes of this Act ;
- (b) determining and directing the formation, order, and position of all graves and vaults to be made in such portion of the cemetery ;
- (c) for protecting the buildings, monuments, shrubberies, plantations, and enclosures in the same from destruction or damage ;
- (d) defining and providing for the performance of the duties of their secretary, manager, chaplain, and other officers ;
- (e) the regulation of all persons employed in the cemetery ;
- (f) the general good order and government of the cemetery ;
- (g) the enforcement of any rule or regulation made under any of the Acts hereby repealed or this Act, by the infliction of penalties not exceeding ten pounds nor less than ten shillings in any case, to be recovered in manner directed by such rules or regulations, or in default of any such direction to be recovered as by this Act provided ; and
- (h) fixing the time and place for holding meetings of trustees.

(2) All such rules and regulations shall previously to their coming into force be approved of by the Governor.

Rules to be approved of by the Governor.

(3)

(3) Notwithstanding anything in this section contained no body of trustees may by any rule or regulation or any other act, matter, or thing, at any time interfere, directly or indirectly, with the performance of any religious ceremony in the burial of the dead according to the rites of the denomination for which the land is vested in them, or under their control. Rules may not interfere with religious ceremonies.

Private cemeteries may be brought under this Act.

16. Where before or after the commencement of this Act a cemetery has been established or provided other than by the Crown, and the land comprised in such cemetery is held in trust for cemetery purposes, or as a place for the burial of the dead, the Governor may, with the consent in writing of the surviving trustees, or a majority of them, or if there be no trustees surviving, without any consent, declare by notice in the Gazette that such cemetery shall be subject to the provisions of this Act, and thereupon the trustees or survivors of them (if any) shall be deemed to be appointed under this Act, and the provisions hereof in regard to the appointment, removal, powers, and liabilities of trustees shall in every respect apply to the trust.

Closing of cemeteries and establishment of new cemeteries.

17. It shall be lawful for the Governor by notification in the Gazette to declare that any cemetery, or any specified part of a cemetery shall, after the expiration of a period to be therein mentioned, from the publication of the notification as aforesaid, be closed to burials. Governor may close a cemetery or any part thereof.

And the Governor may by notification as aforesaid amend, alter, or revoke any notification made under this section.

On and after the expiration of the said period no body shall be buried in the said cemetery, or in the said part of the cemetery, unless under the authority and in accordance with a license given as hereinafter mentioned. And any person burying or attempting to bury, or assisting to bury a body in contravention of this section, shall be liable to a penalty not exceeding *twenty* pounds:

Provided that where any person within six months after the expiration of the period mentioned in the notification proves to the satisfaction of the Department of Public Health that he has an exclusive right of burial in some part of the cemetery, purchased or acquired before the publication of the notification, the said department may at any time grant a license for the exercise of the said right of burial during such time and subject to such conditions and restrictions as may be thought fit, if the said board is satisfied that the exercise of the right will not be injurious to health.

Every license granted as aforesaid shall be entered into a register to be kept by some officer of the said department. *Trustees*

Trustees of original cemeteries to be trustees of additions.

18. The trustees appointed for any cemetery shall also be trustees of any areas dedicated, reserved, or set apart for addition to such cemetery.

Plan of distribution of land within a cemetery.

19. In any case where a cemetery has been or shall hereafter be provided by the Crown, the portions thereof, if any, set apart for the separate use of the various sects or divisions of the people, or for unsectarian burials, or for roads or paths, plantation, extension, or for sites for caretaker's residence, or mortuary churches or chapels, shall be as indicated on the plan of the cemetery catalogued in the Department of Lands, and such plan may, with the approval of the Minister, but not otherwise, be amended from time to time, whether a deed of grant has issued or trustees have been appointed for any of the portions affected or not.

Control of roads, &c., within general cemetery.

20. (1) Where land dedicated, reserved, or used for the burial of the dead consists of separate areas under the management of separate bodies of trustees, or of such areas and other areas set apart for roads, paths, drains, extension, plantation, sites for mortuary churches, or other purposes, but not under the management of any particular body of trustees, it shall be lawful for the separate bodies of trustees, either jointly or severally to expend out of their separate funds such moneys as may be necessary for the erection and keeping in repair of a ring fence to enclose the whole of such land, or such portion thereof as may be required for use, or for the construction or maintenance of the roads, paths, and drains, or improvement or adornment of the areas set apart for extension, plantation, sites for mortuary churches or other purposes as aforesaid, or for any other work necessary for the proper or more effective management of the whole of the land so dedicated, reserved or used.

(2) The several bodies of trustees may appoint a committee of their members to direct and control any expenditure as aforesaid, and to have the care and management of such roads, paths, drains, extension, plantation, and other areas, in respect of which such committee shall be deemed to have the powers by this Act conferred on trustees of cemeteries so far as the same are applicable.

(3) Such committee shall make an estimate each year of the amount required during the current year for the construction and maintenance of such roads, paths, drains, extension, and plantation and other areas.

(4)

(4) The committee is empowered to levy an assessment on each body of trustees calculated to produce the amount required for the construction and maintenance of the aforesaid roads, paths, drains, extensions, plantations, and other areas; but such assessment shall not exceed ten per centum of the income of any body of trustees for the preceding year. The amount of such assessment shall be paid to the committee within sixty days after notice shall have been given to the trustees of the assessment having been made.

21. No cemetery shall be established except with the approval of the Governor, and subject to the following conditions:—

- (a) The cemetery at the time of its establishment shall not at any point be within the distance of one mile from the boundary of any city or town containing, according to the then last census, four thousand or more inhabitants, unless the Department of Public Health certifies that burials in the cemetery within the said distance will not be injurious to public health.
- (b) The approval of the Public Health Department shall be first given as to the suitability of the site for the cemetery.

Any person who establishes a cemetery as to which the above-mentioned conditions have not been fulfilled, or as to which the approval of the Governor has not been given, shall be liable to a penalty not exceeding *twenty* pounds. And any person who buries a body or causes a body to be buried in a cemetery established in contravention of this section shall be liable to a penalty not exceeding *five* pounds for every body so buried:

Provided that a body may be buried in any land if no authorized cemetery be situated within ten miles of the place of burial and the provisions of this Act in other respects be complied with.

Regulation of cemeteries and of the burial of the dead.

22. No body shall be buried within any place of public worship, or within ten yards from any place of public worship or any building which has been, is, or may be occupied by man.

No body shall be buried in any land not placed in trust for the burial of the dead within twenty-five yards from any dwelling house, lake, river, creek, water-course, pond, well, or tank, nor within ten yards of any public road or thoroughfare.

23. Every grave, where possible, shall be at least six feet six inches deep; not more than two bodies of adults shall be buried in the same grave, and for the purposes of this section, the bodies of two children under the age of ten years shall be equivalent to the body of one adult.

No

No coffin shall be placed in a grave if the upper part of the coffin would be within four feet of the natural surface of the soil at its lowest point adjoining the grave. No coffin to be within four feet of the surface of the ground.

For any burial in contravention of this section the officer in charge of the cemetery shall be liable to a penalty not exceeding *ten* pounds.

24. In any cemetery to be hereafter established the space of ten yards within and adjoining the boundaries of the cemetery, other than the boundaries adjoining some other cemetery shall be set apart as a plantation for trees and shrubs, and no body shall be buried within the said space. A space of ten yards round a cemetery shall be planted.

25. Persons desiring to construct a vault or erect a monument or gravestone within a cemetery must first submit to the trustees a plan of the vault, monument, or gravestone showing the place where it is proposed to construct or erect it, and obtain the approval of the trustees and pay the fees prescribed. And the trustees may before granting their approval direct that alterations be made in the plan submitted to them. Persons desiring to erect a monument or tombstone must first obtain the permission of the trustees.

Any person who constructs or attempts to construct a vault, or who erects or attempts to erect a monument or gravestone which is not in accordance with the plan approved by the trustees, or without having obtained the approval of the trustees, or without having paid the fees as aforesaid, shall be liable to a penalty not exceeding *twenty* pounds.

And any vault constructed, or monument, or gravestone erected without the approval of the trustees as aforesaid, or which is not in accordance with the plan approved as aforesaid may be filled in or taken down by the trustees, and the material may be removed by them from the cemetery.

26. (1) Every grave now or hereafter lined with brick or stone, and every brick or stone vault now or hereafter constructed within a cemetery shall be made and kept watertight by the person having the exclusive right of burial therein. Provisions with regard to graves and vaults constructed of brick or stone.

(2) Every coffin now or hereafter deposited within a cemetery in a grave lined with brick or stone, or in a brick or stone vault, shall be built in and covered in a substantial way as prescribed, and the place containing the coffin shall be made and kept air-tight and water-tight, and any space surrounding the coffin shall be filled with charcoal or dry earth by the person having the exclusive right of burial in the grave or vault.

(3) If the said person fails for seven days after the receipt by him of a notice in that behalf from the trustees of the cemetery to comply with any of the requirements of this section, he shall be liable to a penalty not exceeding *twenty* pounds.

27.

27. When the trustees of a cemetery have reasonable grounds for believing that noxious exhalations or vapours escape from any grave or vault in the cemetery, they may by notice in writing require the person having the exclusive right of burial in the grave or vault to open it for examination on some day named in the notice.

Provisions in case of the escape of noxious exhalations or vapours from graves or vaults.

If the said person duly opens the grave or vault, then the trustees after inspection by themselves or their servants may by notice in writing direct the said person within seven days after receipt of the notice to effect such repairs or alterations in the grave or vault as the trustees may think necessary, and if the said person fails to effect the said repairs or alterations within the said time, the trustees may take such steps as they may think necessary to prevent the escape of the said exhalations or vapours, and may recover from the said person the expenses thereby incurred.

If the said person fails to open the grave or vault within the time limited as aforesaid, the trustees may open it and take such steps as they may think necessary to prevent the escape of the said exhalations or vapours, and recover from the said persons the expenses thereby incurred.

28. The person having the exclusive right of burial in any portion of a cemetery shall maintain and keep in thorough repair any grave, vault, monument, gravestone, or other erection therein or thereon; and if he fails for seven days after the receipt by him of a notice in that behalf from the trustees of the cemetery to comply with any of the requirements of this section, the trustees may make such repairs and alterations to the grave, vault, monument, gravestone, or other erection as they may think proper, and may recover from the said person the expenses thereby incurred.

Persons having exclusive right of burial shall maintain grave, vault, monument, or tombstone.

29. All burials within a cemetery shall be registered in a book to be kept by the trustees of the cemetery in the manner prescribed. And every book purporting to be a register kept under the authority of this section shall be received in all courts as evidence of the burials registered therein.

All burials to be registered.

30. The trustees of a cemetery may, and upon an order signed by a justice of the peace shall permit the body of any poor person to be buried without the payment of any fees or charges in some part of the cemetery set apart for the religious denomination to which that person belonged or was reputed to have belonged, or in the portion set apart as a general cemetery:

Burial of poor persons without charge.

Provided that a justice of the peace, before signing the order aforesaid, shall satisfy himself that the said person was a pauper, or that his relatives and friends are unable to pay the fees or charges.

31. (1) Where a cemetery, or any part of it, has been dedicated or set apart, or is used for the burial of the dead of any religious denomination exclusively, any minister of that religious denomination shall

Rights of ministers of religion to exercise spiritual functions in a cemetery.

shall have free access to the said cemetery or part of the same at all times, and may freely exercise his spiritual functions therein without hindrance from any person whomsoever.

(2) The trustees of a 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 person belonged or was reputed to have belonged, provided the same be decent and not offensive to public feeling: Provided that no such Minister shall be entitled to receive any fee in respect of any service he so performs unless with the sanction of the trustees of that portion of the cemetery within which the same is performed.

32. (1) The trustees of a cemetery may build within such cemetery a suitable mortuary church or chapel for the performance therein of the rites and ceremonies in the burial of the dead which may under the provisions of this Act be performed within such cemetery. Trustees may build mortuaries.

(2) The said trustees may (subject to the Governor's approval of the specifications, elevations, and models of the proposed church or chapel being previously signified) borrow any money for such purpose, and charge the fees and charges payable to and receivable by them under this Act with the repayment of such money with interest thereon. Trustees may borrow money for building mortuaries.

33. Any religious denomination may, with the consent of the trustees of a cemetery, and upon such terms and conditions as the said trustees may deem fit, build a church or mortuary chapel within such part of the cemetery as is set apart for the burial of the dead of that religious denomination. The plans and specifications of the church or chapel proposed to be built shall be submitted to and approved by the trustees. Erection of mortuary church or chapel.

Exhumations.

34. If any person desires to exhume and re-inter the remains of any deceased person application must be made to the Department of Public Health, who, if satisfied that such exhumation and re-interment will not endanger the public health, may sanction the same under such conditions as may to the said board seem fit. Any person who exhumes any such remains, or causes them to be exhumed, without having first obtained the sanction aforesaid, shall be liable to a penalty not exceeding *twenty* pounds.

Payments and accounts.

35. (1) Where money is appropriated out of the Consolidated Revenue Fund for the establishment or maintenance of cemeteries or for any similar purpose, the Minister may, in accordance with the appropriation, Payment to trustees of money appropriated out of Consolidated Revenue Fund.

appropriation, cause such part of the said money as he may think fit to be paid to the trustees of a cemetery for or towards the establishment or maintenance of the cemetery or for carrying out the provisions of this Act, subject to such terms and conditions as he may prescribe.

(2) The said payment may be either made as a loan to be repaid in whole or in part by the trustees out of the fees, charges, and other moneys received by them as trustees of the cemetery, in which case the Minister, before causing the money to be paid to the trustees, may require them to give security (not being their personal security) that the said fees, charges, and moneys or some specified part thereof shall be applied in repayment as aforesaid; or the Minister may, in case he is of opinion that the fees, charges, and other moneys likely to be received by the trustees, ought not to be applied in repayment as aforesaid, cause the payment to be made to the trustees without requiring repayment.

36. (1) The trustees of a cemetery shall keep a full and particular account of all moneys received and expended by them.

(2) They shall whenever called upon by the Minister furnish him with a statement of revenue received and expenditure made during such period as he may specify.

(3) They shall also, where required by the Minister, report as to the condition of the cemetery, and make suggestions as to the repairs and improvements which they may think it desirable to make in the cemetery, and shall furnish an estimate of the probable cost of effecting the same.

(4) If the trustees of a cemetery fail to furnish a statement or report as hereby directed, each of the trustees shall be liable to a penalty not exceeding *fifty* pounds.

37. The Minister, upon receipt of the said statement of revenue received and expenditure made, may direct what part (if any) of the money at credit of the trustees on the thirtieth day of June in the then current year shall be paid by them into the Consolidated Revenue Fund in repayment of money lent from the said fund to the trustees under this Act; and the trustees shall pay the said money into the said fund as directed.

The Minister may also direct the manner in which the residue of money at credit of the trustees on the day aforesaid shall be expended by them. And in default of such direction as aforesaid, or so far as it does not extend, the trustees may expend the said money as they may think fit in accordance with the provisions of this Act or as prescribed.

It shall be lawful for the Minister to direct that any surplus moneys or portion thereof held by or at the credit of any trust shall be paid to the Colonial Treasurer, and placed to the Consolidated Revenue.

Trustees must keep and furnish to the Minister accounts of moneys received and expended by them, and suggestions as to repairs and improvements.

Minister may direct trustees to pay money to Consolidated Revenue Fund.

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In the event of a trust from any cause ceasing to exist, any moneys held by the trustees shall be paid to the Colonial Treasurer, and placed to the Consolidated Revenue.

38. It shall be lawful for the Minister, or any person authorised by him, to enter at any time and inspect a cemetery, or to inspect any books and documents, and to audit any accounts relating to the cemetery or to the trust, and whosoever obstructs any person in the exercise of the powers conferred by this section shall be liable to a penalty not exceeding *fifty* pounds.

Penalties and their recovery.

39. Whosoever maliciously destroys or damages any monument, gravestone, vault, building, erection, railing, fence, shrubbery, tree, or plant in a cemetery shall, on conviction, be liable to a penalty not exceeding *twenty* pounds, or to imprisonment for a period not exceeding *two* years. Penalty for maliciously destroying or damaging buildings and trees in cemetery.

40. If any person, whether maliciously or not, destroys or damages any monument, gravestone, vault, building, erection, railing, fence, shrubbery, tree, or plant in a cemetery, he shall be liable, on being sued in any court of competent jurisdiction, to pay to the trustees of the cemetery or the person whose property is damaged or destroyed reasonable compensation for the same. Penalty for destroying or damaging building or tree in cemetery, whether maliciously or not.

41. If any person contravenes any of the preceding provisions of this Act for the contravention of which no penalty is herein provided, he shall be liable to a penalty not exceeding *twenty* pounds. General penalty for contravention of this Act.

42. All penalties imposed by this Act or by any by-laws, rules, or regulations made by or under the authority of or having force by virtue of this Act may be recovered before, and all offences against this Act may be heard and determined by, a police or stipendiary magistrate or any two justices of the peace in petty sessions. Recovery of penalties and prosecution of offences.

Proceedings for the recovery of penalties or for the punishment of offences may be taken by the trustees of the cemetery in respect of which the penalty has been incurred or offence committed, or by any person appointed by them, but by no other person.

Supplemental and repeal.

43. (1) By-laws, rules, and regulations lawfully made in respect of a cemetery, and published in the Gazette before the day when this Act takes effect shall, subject to the provisions of this Act, continue to have force and effect. Existing rules and regulations.

By-laws, rules, and regulations lawfully made in respect of a cemetery, but not published in the Gazette before the said day, shall, subject to the provisions of this Act, on being approved by the Governor and published in the Gazette within three months after the said day, have force and effect. (2)

(2) Where no by-laws, rules, or regulations regulating the burial of the dead in a cemetery—the trustees of which have been or are deemed to have been appointed under this Act—are in force, the regulations in the Schedule to this Act shall have force in respect of that cemetery. Regulations in Schedule.

44. The trustees of a cemetery may, subject to the provisions of this Act, make regulations altering or repealing any regulations in force in respect of that cemetery, and make other regulations for carrying out the intentions of this Act, and for fixing a list of reasonable fees and charges. And they may in those regulations impose any penalty not exceeding *twenty* pounds for any breach of the same. Power to trustees to make regulations.

All regulations made as aforesaid by trustees of a cemetery shall, on being approved by the Governor and published in the Gazette, but not sooner or otherwise, have the force of law in respect of the said cemetery.

45. On and after the expiration of a period of three months from the day when this Act takes effect, any by-laws, rules, and regulations (other than those made by or under the authority of or having force by virtue of this Act) shall, so far as they relate to a cemetery, be void and inoperative. Operations of by-laws declared void.

46. In this Act and in any regulations made by or under this Act— Definitions.

“ Cemetery ” means land granted, dedicated, reserved, set apart, or used for the burial of the dead ; and shall include any roadways within the external boundaries of such land, and any land dedicated, reserved, or set apart for extension or for plantation, or for site for mortuary, church, or chapel, or for site for caretaker’s residence, or for any other purpose in connection therewith.

Where land dedicated, reserved, or set apart, or used for the burial of the dead consists of separate areas under the management of separate bodies of trustees, each separate area is a cemetery within the meaning of this Act.

“ Governor ” means Governor with the advice of the Executive Council.

“ Minister ” means Minister for Lands.

“ Prescribed ” means prescribed by this Act or by any by-laws, rules, or regulations made by or under the authority of or having force by virtue of this Act.

47. The provisions of the Necropolis Act, 1901, and so much of sections twenty-three and twenty-four of the Act eighth William Fourth number five as relates to cemeteries and the burial of the dead, are hereby repealed : Repeal.

Provided

Provided that such repeal shall not—

- (a) affect the previous operation of any enactment so repealed, or anything duly done, suffered, or commenced to be done under them; or
- (b) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment so repealed; or
- (c) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (d) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid;

and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed and enforced, as if this Act had not been passed.

Saving.

48. Nothing herein shall affect the provisions of the Local Government Act, 1906, or provisions of sections one hundred and five of the Crown Lands Act of 1884, or section forty-one of the Crown Lands Act of 1889, or section seven of the Public Trusts Acts, 1897, as regards the revocation wholly or in part of any dedication or grant made before or after the commencement of this Act.

49. This Act shall take effect on and after the day of _____, one thousand nine hundred and eleven, and may be cited as the "Cemeteries Act, 1912."

Commencement and short title.

SCHEDULE.

Regulations.

1. A register of burials shall be kept and such register shall contain the name, title, occupation, and late address of every person whose body is buried in the cemetery, and the section, portion, and number of the grave in which the burial has been made, and the date of the burial; the entries shall be made immediately after each burial, and the register shall be indexed so as to facilitate searches therein.

2. The fees and charges specified in the list of fees and charges hereto annexed shall, subject to the provisions of the Cemeteries Act, 1912, be payable in advance to the trustees.

3. The trustees shall, on the sale or grant of any right as authorised by this Act and upon payment of the appropriate charge, issue a certificate in the form hereto, but the trustees may and shall refuse to sell or grant an exclusive right of burial in, or issue a certificate for more than one portion to any person if they are satisfied that an attempt is being made to create a monopoly, or to deal in those certificates in the way of business.

4.

Cemeteries.

4. A certificate may be transferred by an endorsement in writing upon the certificate in the form hereto: Provided that no such transfer as aforesaid or disposition by will of any right sold or granted shall bind the trustees unless notice thereof is given to them within a reasonable time thereafter, and the certificate and any necessary evidence of the claimant's title produced for the inspection of the trustees.

5. Within three months from the issue of any such certificate as aforesaid, the holder of the certificate shall enclose the specified portion with a stone kerbing, unless otherwise approved by the trustees, and cut thereon the number of the portion as numbered on the plan of the cemetery.

6. No trees or plants shall be planted in the cemetery, unless the same be of a species approved by the trustees.

7. Masons and other workmen shall clear away all refuse and rubbish caused by them, and shall repair and make good all damage wrought by them or their servants to the satisfaction of the officer in charge. Before commencing any work, every mason and workman shall deposit with the officer in charge the sum of ten shillings, which shall be forfeited if this regulation is not complied with.

8. The trustees or their officer in charge may issue orders for burial, which orders shall authorise the burial of the body mentioned therein; but they or he shall not issue any such order until shown the certificate required by section 30 of the Act No. 17 of 1899, to be issued by the district registrar of births, deaths, and marriages, or by the coroner or magistrate who held the inquest or inquiry on the body, or by a medical officer in compliance with the Children's Protection Act, 1892, as the case may be.

9. Before an order for burial is issued, a proper certificate of death and particulars of the length and breadth of the coffin shall be delivered to the officer in charge, and all fees and charges paid to him.

10. The undertaker or other person taking out the order for burial shall forward the same to the sexton at least eight hours before the time fixed for the burial.

11. In cases of emergency, bodies may be received and buried without an order for burial, if a proper certificate of death, and the receipt of the proper officer for all fees and charges is produced to the sexton.

12. No person other than the person who has paid the fees and charges in respect of any grave or portion shall be permitted to interfere in any way with that grave or portion without the written authority of the officer in charge.

13. Every order and authority issued by the officer in charge shall be delivered to the sexton at the cemetery before any work is begun or material delivered.

14. All work in connection with any monument or grave shall be carried on under the direction and supervision of the officer in charge or, in his absence, of the sexton, and shall be carried to completion without unnecessary delay.

15. All tombs and monuments shall be set on the natural rock, or on stone foundations, 6 feet deep, and all vaults shall be of stone set in cement, or of brick of the best quality, set and cased in the best Portland cement.

16. A copy of any proposed inscription shall be submitted to the trustees before the work is proceeded with. The trustees shall not disapprove of any inscription so proposed, on the ground that the same contains any statement, or embodies any religious or other belief or aspiration, if the same be decent and not offensive to the public feeling.

17. The kerbing for graves and vaults shall (unless otherwise approved by the trustees) be of stone, clean cut and rounded on the top, and set on brick or stone foundations, and shall be of the following dimensions:—For graves, 6 x 14 inches, for vaults, 9 x 15 inches.

18. The areas of portions for graves shall be from 3 x 8 feet to 12 x 8 feet, the areas of portions for vaults shall be from 6 x 12 feet to 12 x 24 feet.

19.

19. No person shall be entitled to have a portion reopened for the purpose of a second burial therein unless a certificate of exclusive right of burial has been issued in respect of that portion within two months after the first burial.

20. The trustees, when, in their opinion, any tomb, monument, or other erection is, or is likely to become, dangerous, shall, when practicable, give notice in writing to the owner or person responsible to repair. If within a reasonable time such repair is not so effected, the trustees may take down and remove such tomb, monument, or other erection, and sell or otherwise dispose of the materials of which the same was composed. The trustees shall not be required to account for the proceeds of such sale or for such disposal of the materials.

21. No heavy materials shall be drawn over the roads or paths of the cemetery whilst they are wet, nor shall any hand-cart be used of which the wheel-tires are less than 6 inches in width.

22. No person shall bury any body in the cemetery except in accordance with these regulations ; and any person burying a body in violation of these regulations, or procuring the same to be so buried, shall be liable to a penalty not exceeding *twenty* pounds.

23. No person shall ride or drive any animal or vehicle over the roads or paths of the cemetery unless with the permission of the trustees.

24. No person shall—

- (a) sell or buy within the cemetery any article or thing ;
- (b) distribute any handbill, card, circular, or other advertisement within the cemetery ;
- (c) Put any animal or animals in the cemetery for the purpose of grazing therein, except with the consent in writing of the trustees ;
- (d) take part in any meeting other than of a religious or commemorative character within the cemetery ;
- (e) disturb any funeral service at any grave, whether by working in the neighbourhood of it or otherwise ;
- (f) discharge any firearms except at a military funeral ;
- (g) wantonly damage or disturb any flowers or other tokens placed upon any grave ;
- (h) commit any riot, breach of the peace, or nuisance, or otherwise offend against decency or decorum within the cemetery.

Any person committing any act which is a breach of this regulation shall be liable to a penalty not exceeding *twenty* pounds.

25. Any person committing or omitting any act in violation of these regulations, for which no other penalty is thereby expressly provided, shall be liable to a penalty not exceeding *ten* pounds.

26. The trustees or their officer-in-charge shall, in the months of April, July, October, and January in each year, transmit to the local district registrar a return giving a list of all burials during the previous quarter, with the name and late address of the deceased, date of burial, and name of undertaker in each case.

27. It shall be the duty of the trustees or other persons authorised by the Cemeteries Act, 1912, to prosecute offenders against these regulations.

Cemeteries.

List of fees and charges.

	£	s.	d.
Fee for digging grave	0	10	0
Burial fee... ..	0	10	0
Burial fee for Government gaol, hospital, or asylum	0	5	0
Reception of corpse from any other cemetery and interment... ..	1	10	0
Removal of corpse from one part of the cemetery to another... ..	2	0	0
Burial, stillborn child	0	5	0
Reopening grave under exclusive right... ..	1	0	0
Reopening and closing a vault	1	10	0
Land for graves, 3 x 8 feet, under exclusive right	1	0	0
Land for graves, 6 x 8 feet, under exclusive right	1	15	0
Land for graves, 9 x 8 feet, under exclusive right	2	10	0
Land for graves, 12 x 8 feet, under exclusive right	3	5	0
Land for vault, 6 x 12 feet, under exclusive right	4	10	0
Land for vault, 12 x 12 feet, under exclusive right	9	0	0
Land for vault, 12 x 24 feet, under exclusive right	18	0	0
Permission to erect stone kerbing	0	10	0
Permission to erect head or foot stone	0	5	0
Permission to erect slab over grave	0	10	0
Permission to erect tomb or monument... ..	2	0	0
Soiling and planting grave	0	3	0
Turfing grave	0	10	0
Soiling and planting vault, small	0	5	0
Soiling and planting vault, large	0	10	0
Soiling and planting vault, double	1	0	0
Keeping in order single grave, per annum	0	5	0
Keeping in order each additional grave, per annum	0	2	6
Keeping in order small vault, per annum	0	10	0
Keeping in order large vault, per annum	1	0	0
Keeping in order double vault, per annum	1	10	0
Certified copy of entry in register	0	2	6

Form of certificate.

This is to certify that _____, of _____, has paid to the trustees of the _____ cemetery the sum of _____ pounds, and in consideration of such payment the said trustees do hereby grant to the said _____ the [exclusive right] of _____ in portion No _____, section No. _____, _____ feet by _____ feet in the said cemetery, subject to the conditions prescribed by the rules and regulations for the time being in force relating to the said cemetery.

Dated this _____ day of _____, 19 _____.

} Trustees.

Transfer (to be endorsed).

I, the within named _____, do hereby transfer to _____, of _____, all my right, title, and interest in and under the within certificate.

Dated this _____ day of _____, 19 _____.

Witness,—