

THE KINGSTON AND SAINT ANDREW
(CEMETERIES) ACT

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THE KINGSTON AND SAINT ANDREW
(CEMETERIES) ACT

Cap. 196,
Cap. 190.
Acts
42 of 1969
3rd Sch.,
26 of 1993,
39 of 1995
S. 3.

[16th September, 1874.]

1. This Act may be cited as the Kingston and Saint Andrew (Cemeteries) Act. Short title.

2. In this Act—

“Corporation” means the Kingston and St. Andrew Corporation, created by the Kingston and St. Andrew Corporation Act;

Interpre-
tation.

“Corporate Area” means the Corporate Area as defined by the Kingston and St. Andrew Corporation Act.

PART I

Cemeteries in Kingston and St. Andrew

3. In this Part—

“cemetery” means the cemetery or burial ground, and the works connected therewith by this Part authorized to be constructed.

Interpre-
tation.

4. The lands and hereditaments called May Pen, formerly situated in the parish of Saint Andrew and containing one hundred and eighteen acres two roods and thirty-three perches, and of the shape delineated and abutting as shown in the diagram thereof, annexed to a certain deed of conveyance in trust, recorded in the Record Office, libro 903 folio 132, are hereby vested in the Corporation, to be held and used as a cemetery for the parish of Kingston, and all existing estates, interests, rights, uses, and trusts in any way affecting the same are hereby determined.

May Pen,
vested in the
Corporation
to be held
as a
cemetery.

Duties and power of the Corporation generally.

5.—(1) The Corporation shall enclose the cemetery by a wall or railing or other fence of such material and dimensions as shall be approved by the Minister and they shall make all necessary and proper sewers and drains in and about the cemetery for draining and keeping the same dry, and may from time to time, as occasion requires, alter any such sewer or drain, or open out any existing sewer.

(2) The Corporation may—

- (a) provide fit and proper places in which bodies may be received and taken care of previously to interment, and make arrangements for the reception and care of the bodies to be deposited therein;
- (b) subject to the approval of the Minister, lay out and embellish the ground of the cemetery in such manner as they think fit;
- (c) build on any portion of the cemetery, not specially set apart as herein provided, a dwelling-house and offices for the keeper thereof. And they shall keep the cemetery and buildings and fences thereof in proper repair and in good order and condition out of the money to be received by them under this Act.

Assignment of portions of the cemetery to churches or congregations.

6. Subject to the approval of the Minister, the Corporation on the application of any church or congregation, made by a minister duly authorized to officiate in such church or congregation, or recognized as such by the religious community or society to which he belongs, or by any body of trustees or other persons who may be authorized to represent such church or congregation, shall set apart a portion of the cemetery to be used as a burial ground for purposes of interment according to the rites of such church or congregation; and any portion so set apart may be consecrated or dedicated according to the rights of the church or congregation to which it shall be

assigned, and shall be used only for burials according to the rites of such church or congregation :

Provided that the portion of the ground which shall be shown to the satisfaction of the Corporation to have been consecrated by the Bishop of Jamaica in the year 1854, shall be deemed to have been already set apart for burials according to the rites of the Church in Jamaica in the Province of the West Indies.

7. The Corporation may from time to time allot such portion or portions of the cemetery as shall not be set apart as aforesaid in such manner and in such portions and for such purposes of interments as may be sanctioned by the Minister.

Power to
allot
residue

8. The Corporation shall define, by suitable boundary marks, to be approved by the Minister, every portion of the cemetery set apart for any particular church or congregation, and shall from time to time repair and renew such boundary marks.

Boundary
marks to
portions
assigned.

9. It shall be lawful for the members of any church or congregation to build, on the portion of the cemetery assigned to such church or congregation, a chapel for the performance of burial service according to the rites of such church or congregation; or for the members of any two or more churches or congregations to join in building on a part of the cemetery, being within the portions or one of the portions assigned to such churches or congregations respectively, a chapel for the common use of the members of such churches or congregations in the performance of burial service according to the respective rites of such churches or congregations; and any chapel which may be so built for the performance of burial service may be consecrated or otherwise dedicated according to the rites of the church or congregation, or of the churches or congregations building the same :

Power to
churches to
build chapels
on portions
assigned to
them.

Provided that the plan and site of every such chapel shall be subject to the approval of the Minister.

Who may perform burial services on the portions assigned.

10. Any duly qualified person, being a minister of any church or congregation, duly authorized to officiate in such church or congregation or recognized as such by the religious community or society to which he belongs, and being either elected to officiate in the cemetery by the members of such church, or congregation attending any church, chapel, or place for the performance of divine worship within the parish of Kingston, or otherwise duly appointed thereto according to the usages of such church or congregation, may either himself, or by such duly qualified person as he may authorize, perform burial services according to the rites of the church or congregation to which he belongs in the portion of the cemetery assigned to such church or congregation.

Formation of a fund to pay parties officiating under previous section.

11. The Corporation may appropriate a portion of the moneys to be received under this Part to form a fund for the payment of such stipends, fees, or other remuneration as the Minister shall approve of, to any person or persons who may from time to time, under section 10 be authorized to officiate in the performance of burial services in any part or parts of the cemetery.

Burial ground for Kingston.

12. The cemetery shall be the burial ground of the parish of Kingston, and the parishioners and inhabitants of the said parish shall have the same rights of sepulchre in the cemetery as they have heretofore had in the burial ground of the said parish.

Power to appoint a keeper and other officers and servants.

13. The Corporation may appoint a keeper of the cemetery and other officers and servants necessary for the care and use of the cemetery, and may pay them such salaries, wages and allowances as they may think fit, out of the

moneys to be received under this Part and may remove them or any of them at pleasure.

14. The Corporation, under such restrictions and conditions as they think proper, may sell the exclusive right of burial either in perpetuity or for a limited period in any part of the cemetery, and also 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 also the right of erecting and placing any monument, grave-stone, tablet or monumental inscription in the cemetery.

Power to sell rights of burial and rights to build vaults, monuments, tablets, etc.

15. The Corporation may fix, settle, and receive such fees and payments in respect of interments in the cemetery as they shall think fit, and also the sums to be paid for the exclusive right of burial either in perpetuity or for a limited period in the cemetery, and also for 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 also for the right of erecting or placing any monument, grave-stone, tablet, or monumental inscription in the said cemetery, and may from time to time revise or alter such fees, payments, or sums as aforesaid, and a table of such fees, payments, and sums, and all other fees and payments in respect of interments in the cemetery, together with the name or names of the person or persons authorized to receive the same on behalf of the Corporation, shall be printed and at all times kept conspicuously exhibited at or near each gate of the cemetery.

Power to fix and receive, and revise fees for burial and special rights.

16. The fees and all other moneys which shall be paid to the keeper or such other person or persons as the Corporation shall authorize by writing to receive the same, and all fees and moneys collected shall be accounted for

How fees and other moneys to be accounted for.

and paid over to the Corporation in such manner and at such times as the Corporation shall prescribe, and every keeper or other collector of fees omitting so to account or pay over such fees and moneys shall, for each day during which such neglect shall continue, forfeit a sum not exceeding one thousand dollars.

39/1995
S. 3.

Plan of the
cemetery,
what it
shall show.

17. The Corporation shall cause a plan of the cemetery to be made upon a scale sufficiently large to show the situation of every portion of the cemetery set apart for any particular church or congregation, and also the situation of every burial place in which an exclusive right of burial has been granted, and all such portions, so set apart, shall be clearly delineated on the said plan, and all such burial places shall be numbered. A book shall be kept in which shall be entered the names and descriptions of the churches or congregations for which such portions shall be set apart respectively, and the names and descriptions of the several persons to whom the exclusive right of burial in any such place of burial has been granted by the Corporation, and every place of burial with exclusive right of burial therein, shall be marked out on such plan, and a corresponding entry made in the said book, and the said plan and book shall be kept in the office of the Corporation.

Book to be
kept
showing
portions
assigned,
and special
rights.

Restrictions
as to
burials, etc.,
in assigned
portions, or
where
exclusive
right of
burial
acquired.

18. No body shall be buried in any place wherein the exclusive right of burial shall have been acquired under this Part, except with the consent of the owner for the time being of such exclusive right of burial, and no right shall be acquired under this Part to bury, within the portion of the cemetery assigned to any particular church or congregation, the body of any person not entitled to be buried in such portion according to the rites and usage of such church or congregation, or to place any monument, grave-stone, tablet, or monumental inscription respecting any such body within such portion of the cemetery.

19. The general management, regulation, and control of the cemetery shall, subject to this Part, be vested in and exercised by the Corporation. Management of cemetery.

20. The Corporation may from time to time make such regulations, in relation to the cemetery, and to places for the reception of bodies previous to interment, which may be provided under this Part as to the Corporation may seem proper for insuring that all burials within the cemetery shall be conducted in a decent and solemn manner, and, for the protection of the public health, and the maintenance of public decency, and may from time to time order all such acts to be done by such persons as may have the care of any vaults or places of burial for preventing them from becoming or continuing dangerous or injurious to the public health, as the Corporation may think fit and all other persons having the care of the cemetery, and of such places for the reception of bodies, such vaults or places of burial, shall conform to and obey such regulations, and do or cause to be done all acts ordered as aforesaid, and any such person who shall violate or wilfully neglect to observe such regulations or to obey such orders, shall, on summary conviction, forfeit and pay any sum not exceeding ten thousand dollars. Power to Corporation to make regulations and to give special orders.
39/1995
S. 3.

39/1995
S. 3.

39/1995
S. 3.

21. It shall not be lawful to remove any body which shall have been interred in the cemetery except by licence under the hand of the Chairman of the Local Board of Health and with such precautions as the Local Board of Health may prescribe as the condition of such licence; and any person who shall remove any body without such licence, or who shall neglect to observe the precautions prescribed as the condition of the licence for removal, shall, on summary conviction of, be liable to pay for such offence a sum not exceeding ten thousand dollars or in default of payment thereof to be imprisoned with or without hard labour for a term not exceeding six months. Restrictions on removal of bodies interred.
26/1993
S. 2 (a).
26/1993
S. 2 (b).

26/1993
S. 2 (c).
39/1995
S. 3.

Registry of
burials.

22. All burials within the cemetery shall be registered in register books to be provided by the Corporation by some officer appointed by the Corporation to that duty, and such register book shall distinguish the part of the cemetery in which the several bodies (the burials of which are entered in such register books) are buried, and in case portions of the cemetery shall be set apart as aforesaid to be the burial grounds of particular churches and congregations respectively, such register shall be so kept and indexed as to facilitate searches for entries in such books in respect of bodies interred in the several portions so set apart, and such register books, or copies or extracts therefrom, shall be received in all courts as evidence of the burials entered therein, and copies of transcripts of such register books, verified and signed by such officer as aforesaid, shall be transmitted to the Registrar-General at such times and in such manner, and shall be by him so kept and recorded as required by law; and the said register books, so far as respects searches to be made therein, and copies and extracts to be taken therefrom, shall be subject to the same regulations as are provided for by law, so far as such regulations relate to register books of burials.

Destroying
or injuring
register, or
falsifying
same, and
analogous
offences,
how
punishable.

23. Every person who shall wilfully destroy or injure, or cause to be destroyed or injured, any register book of burials kept according to the provisions of this Part, or any part or certified copy of any part of any such register, or shall falsely make or counterfeit, or cause to be falsely made or counterfeited any part of any such register, or certified copy thereof, or shall wilfully insert, or cause to be inserted in any register book, or certified copy thereof, any false entry of any burial, or shall wilfully give any false certificate, or shall certify any writing to be a copy or extract of any such register book, knowing the same to be false, or any part thereof, shall be guilty of felony, and, being convicted thereof, shall be liable, to be imprisoned for ten years with or without hard labour.

42/1969
3rd Sch.

24. The expenses incurred by the Corporation in carrying this Part into execution shall be chargeable upon and paid out of the Corporation Rate.

Expenses of carrying out the Act.
20/1952
Sch.

25. The Minister may, upon application by the Corporation order that the whole or any part of the moneys required to be expended in the construction and maintenance of any works by this Part authorized to be constructed, shall be advanced to the Corporation by the Accountant-General, in such manner, by such instalments, and at such periods as the Minister shall think fit, and the Accountant-General shall open and keep in the Treasury books a separate account with the Corporation of the sums advanced, and of all interest thereon, and payments or credits in respect thereof, and the Corporation Rate fund shall be liable to the repayment of all such advances with interest thereon respectively at the rate of five dollars *per centum* per annum, which shall be written up at the close of each financial year.

Power to advance moneys from Treasury.

Accounts as to same, how to be kept.

20/1952
Sch.

26. The Corporation shall keep a distinct account of all sums of money received and paid for the purposes of this Part, and such account shall be audited in the same manner as other accounts of the receipts and expenditure of the Corporation, and any surplus of the moneys raised under this Part, and of the income of the cemetery provided by means of moneys raised or paid under the provisions of this Part, which may remain after payment of the expenses, and moneys to be defrayed or paid under this Part, shall be applied in aid of the Corporation Rate.

How accounts of cemetery to be kept and audited.

20/1952
Sch.

27.—(1) It shall be lawful for the Corporation from time to time to make, alter, and rescind rules for the general management, regulation, and control of the cemetery, and for the care and protection thereof.

Power to the Corporation to frame rules for certain purposes.

39/1995
S. 3.

(2) The power to make rules pursuant to this section shall be subject to the provisions of section 223 of the Kingston and St. Andrew Corporation Act.

39/1995
S. 3.

(3) Any breach of any rule for the time being in force shall be punishable by a court of summary jurisdiction by a penalty not exceeding ten thousand dollars, or in default of payment thereof, by imprisonment for a period not exceeding two months.

39/1995
S. 3.

(4) If any damage be done by any person in breach of any such rule he shall be liable to pay, in addition to such penalty, the amount of such damage, or, in default of payment forthwith, to imprisonment for a period not exceeding three months.

How penalties,
etc., to be
paid and
applied.
20/1952
Sch.

28. All penalties, damages, and other moneys recovered under this Part, shall be paid to the Accountant-General to the credit of the Corporation Rate.

Other Burial Grounds in Kingston and St. Andrew

Power to
order dis-
continuance
of burials in
any burial
places in
Kingston
and
St. Andrew.

29. In case it shall appear to the Minister, upon representation of the Central Board of Health, that for the protection of the public health, burials in any part or parts of the parishes of Kingston and Saint Andrew or in any burial ground or place of burial in the said parishes should be wholly discontinued, or should be discontinued subject to any exception or qualification, it shall be lawful for the Minister to order that after a time mentioned in the order, burials in such part or parts of the said parishes or in such burial ground or place of burial, shall be discontinued wholly, or subject to any exception or qualifications mentioned in such order, and so from time to time as circumstances may require:

Provided that notice of such representation shall be published in the *Gazette*, and shall be affixed on the doors of the churches and chapels of the said parishes one calendar month before such representation is considered.

30. It shall not be lawful, after the time mentioned in any such order for the discontinuance of burials, to bury the dead in any church, chapel, churchyard or burial place or elsewhere within the part or parts of the parishes of Kingston and Saint Andrew or in any burial ground or place of burial (as the case may be), in which burials have, by any such order, been ordered to be discontinued, except as in such order excepted, and every person who shall, after such time as aforesaid, bury any body, or in any-wise act or assist in the burial of any body, contrary to this Part, shall be guilty of an offence, and shall, upon summary conviction, be liable to pay a sum not exceeding twenty thousand dollars, or in default of payment thereof to be imprisoned with or without hard labour for a term not exceeding one year.

Penalty on burials contrary to such orders

39/1995 S. 3.

31. In every case when any order by the Minister has been issued for the discontinuance of burials in any churchyard or burial ground of the said parishes, the Corporation shall maintain such churchyard or burial ground in decent order, and also do the necessary repair of the walls and other fences thereof, and the costs of such maintenance and repair shall be paid by the Corporation out of the moneys to be received by them under the provisions of this Part.

The Corporation to keep in order burying places so closed

PART II

Vesting of Abandoned Cemeteries

32. In this Part—

“cemetery” means any cemetery, burial ground or place of burial within the Corporate Area whether or not an order under Part I shall have been made for the discontinuance of burials therein but shall not include any burial ground in which burials are confined to members of a family, nor any Church, Chapel or other place used as a place of worship, nor to the yard or burial ground

Interpretation.

[The inclusion of this page is authorized by L.N. 95/1997]

adjacent or attached to any Church, Chapel or place of worship in actual use as Church, Chapel or place of worship at the date of any application by the Corporation under section 33.

Part to apply to cemeteries disused for 20 years.

33. Whenever burials in any cemetery shall have been wholly discontinued for a period of twenty years it shall be lawful for the Corporation, after giving notice of its intention so to do by publication in the *Gazette* and in at least one daily newspaper circulating within the Corporate Area once a week for not less than three months, to apply to the Minister for an order directing that the provisions of this Part shall apply to the cemetery mentioned and described in the said publication.

Minister to make provisional order.

34. The Minister, after consideration of the application and of any objections or protest which may be made in writing by or on behalf of any person within one month of the appearance of the last of the advertisements directed by section 33 may make an order (hereinafter called "a provisional order") directing that the provisions of this Part shall apply to the said cemetery.

Plan, etc., of cemetery to be prepared and recorded.

35. Within six months after the making of a provisional order the Corporation shall cause a Commissioned Land Surveyor to make an accurate survey of the said cemetery, and to prepare a plan or diagram thereof to a scale of not less than 100 feet to 1 inch showing thereon the correct position of all tombstones or monuments distinguishing the same by numbers or symbols and an accurate copy of all legible inscriptions upon any of such tombstones or monuments identifying the tombstones or monuments upon which the same appear by the same numbers or symbols, and shall cause such plan or diagram and copy of inscriptions to be recorded in the Record Office.

36. After such plan and copy of inscriptions shall have been duly recorded the Corporation may submit for the approval of the Minister a scheme for the use and the management of the cemetery for some public purpose or purposes.

Scheme for use of cemetery to be submitted to Minister.

37. Upon the submission of such scheme the Minister shall fix a date after which the scheme shall be taken into consideration by him, and shall direct notice of such scheme and date to be advertised and published in such manner and served upon such persons as he may think fit, and the Corporation shall cause such notice to be advertised and published and served as directed.

Scheme to be considered.

38. After the date fixed as mentioned in section 37 hereof and upon being satisfied that the notice has been published and served as directed, the Minister may approve of the said scheme with or without modification, or may require the Corporation to submit another scheme, and may, upon the submission of such other scheme and after such notice thereof (if any) as he may consider necessary, approve the same with or without modification.

Approval or modification of scheme.

39. Upon such approval as mentioned in section 38 hereof the Minister may make an order (hereinafter called "a final order") vesting the cemetery mentioned therein in such person or body as he may think fit for the purposes of such scheme as may have been approved as aforesaid.

Final order.

40. The Minister shall have power, from time to time, upon the application of the Corporation, to rescind any existing final order and after such notice or advertisement (if any) as he may deem necessary to make another final order substituting another scheme and vesting the cemetery in such person or body as he may think fit for the purposes of such new scheme.

Power to rescind final order.

Effect of
final order.

41. Every final order shall vest in the person or body mentioned therein the fee simple in possession of and in the lands described therein as the cemetery upon trust for the purposes of the scheme set out therein, and such estate shall not be liable to defeasance except as may be mentioned in the final order or by the making of another final order under this Part.

Evidence of
final order.

42. The publication in the *Gazette* of a final order shall be conclusive evidence that all the provisions of this Part have been complied with and that the scheme is one authorized by this Part.