

THE PUBLIC CEMETERY MANAGEMENT AND
REGULATION ACT

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PUBLIC CEMETERY MANAGEMENT AND REGULATION

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THE PUBLIC CEMETERY MANAGEMENT AND REGULATION ACT

[8th May, 1894.]

Cap. 318.
Acts
42 of 1969
3rd Sch.,
3 of 1975,
27 of 1993,
40 of 1995.
S. 3.

1. This Act may be cited as the Public Cemetery Management and Regulation Act.

Short title.

2. In this Act—

“cemetery” means the lands mentioned or described in sections 3, 4 and 5;

Interpretation.

“the Council” means the Parish Council of the parish in which such cemetery is situated.

3. The provisions of this Act shall apply to all lands now vested in any Parish Council (other than the Kingston Cemetery referred to in the Kingston and St. Andrew (Cemeteries) Act, or any public cemetery in the parishes of Kingston and St. Andrew) for the purposes of a place of burial as to which the Minister shall, on the request of the Parish Council, by notice to be published in the *Gazette* direct that they shall be applicable, and to all lands that any Parish Council may hereafter acquire as to which the Minister shall by notice as aforesaid direct that they shall be applicable.

Lands to which the Act applies.

3/1975
S. 2.

4. Every such notice shall fix a date from and after which this Act shall be applicable to the lands mentioned as described herein.

Notice.

5. Any lands to which this Act is made applicable shall be a place where all persons have, subject to the provisions of this Act, a right to bury their dead.

Right of burial.

Duties and powers of the Council generally.

6. The Council—

- (a) shall enclose the cemetery by a suitable wall, railing or other fence, and 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;
- (b) may provide fit and proper places in which bodies may be received and taken care of prior to interment, and make arrangements for the reception and care of the bodies to be deposited therein;
- (c) may lay out and embellish the ground of the cemetery in such manner as it thinks fit;
- (d) may build on any portion of the cemetery, not especially set apart as herein provided, a dwelling-house and offices for the keeper thereof;
- (e) shall keep the cemetery and buildings and fences thereof in proper repair and in good order and condition.

Appoint-ment of officers.

7. The Council 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 it may think fit, and may remove them or any of them at pleasure.

The general management.

8. The general management, regulation and control of the cemetery is hereby, subject to this Act and to any regulations and orders as hereinafter provided, vested in the Council.

Power to make rules.

9. It shall be lawful for the Council 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, and in and by such rules to declare, fix and settle the fees and sums of money to be paid for, upon

or in respect of interments in the cemetery, and 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, gravestone, tablet or monumental inscription, in the said cemetery :

Provided that the provisions of section 124 of the Parish Councils Act shall apply in relation to rules under this section. 40/1995
S. 3.

10. The Minister may from time to time make such regulations in relation to all cemeteries and to places for the reception of bodies previous to interment to be provided under this Act, as to him 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 as he may think fit to be done by the Council or 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; and the Council and all persons having the care of the cemetery, and such places for the reception of bodies, and 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 the expenses incurred and in doing thereof shall be paid out of the Parish General Rates. Power to
make regu-
lations.

11. All regulations and orders made by the Minister pursuant to section 10 shall be published in the *Gazette*. Regulations
to be pub-
lished in
Gazette.
40/1995
S. 3.

12. The Council on the application of any church or congregation within the parish made by a Minister duly authorized to officiate in such church or congregation, or recognized as such by the religious community or society Assignment
of portion
of the
cemeteries
to churches
or con-
gregations.

40/1995
S. 3.

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 rites 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.

Boundary
marks to
portions
assigned.

13. The Council shall define, by suitable boundary marks, 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.

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

14. It shall be lawful for the members of any such church or congregation to build, on the portion of the cemetery assigned to it 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, or of the churches or congregations building the same :

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

Who may
perform
burial
services on
the portions
assigned.

15. Any duly qualified person being a minister of any such 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 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 service 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.

16. The Council 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 interment as to the Council may seem fit.

Allotment
of other
portions.

17. The Council, under such restrictions and conditions as it may 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, gravestone, tablet, or monumental inscription in the cemetery.

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

18. No body shall be buried in any place wherein the exclusive right of burial shall have been acquired under this Act 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 Act 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 rights and usage of such church or congregation, or to place any monument, gravestone, tablet or monumental inscription respecting any such body within such portion of the cemetery.

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

19. The Council 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

Plan of the
cemetery.

Book to be kept showing assigned and special rights.

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. And a book shall be kept in which shall be entered the names and descriptions of the churches or congregations for which such portion 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 Council, and every place of burial, with exclusive right of burial therein, shall be marked out in 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 Council.

Registry of burials.

20. All burials within the cemetery shall be registered in register books to be provided by the Government at the cost of the Council, and to be kept in such manner and subject to such directions as the Council may from time to time require, by some officer appointed by the Council to that duty, and in such register book shall be distinguished in what parts of the cemetery 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, purporting to be certified under the hand of the officer appointed as aforesaid shall be received in all courts as evidence of the burials entered therein.

Copies of, extracts from register, evidence.

Removal or disinterment of bodies.

27/1993
S. 2 (a).
27/1993
S. 2 (b).

21. It shall not be lawful to disinter or remove any body which shall have been interred in the cemetery, except by licence under the hand of the Chairman of a Local Board of Health, and with such precautions as a 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 be liable to pay for such offence a fine not exceeding ten thousand dollars, or to be imprisoned with or without hard labour for a term not exceeding six months :

40/1995
S. 3.

Provided that nothing herein shall be deemed to affect or abridge any right conferred by the common law or otherwise on the Coroner of the parish to cause any body buried in a cemetery to be disinterred in any case in which he considers such disinterment necessary for the purpose of an inquest.

22. 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 Act, 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 of or extract from 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 a term not exceeding ten years, with or without hard labour.

Offences in
connection
with register
book.

42/1969
3rd Sch.

23. The fees and all other moneys which shall be paid under the provisions of this Act to the keeper, or such other person as the Council shall authorize by writing to receive the same, and all fees and moneys collected, shall be accounted for and paid over to the Council in such manner and at such times as the Council shall prescribe, and every keeper or other collector of fees omitting so to account for

Fees, etc.,
how to be
dealt with.

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, irrespectively of and without prejudice to other prosecution to which he may have exposed himself in the premises.

40/1995
S. 3.

Expenses.

24. The expenses incurred by the Council in carrying this Act into execution shall be chargeable upon and paid out of the Parish General Rates of parish.

Advances
from
Treasury
to Council
for the
purposes of
this Act.

25. The Minister may, upon application by the Council, order that the whole or any part of the moneys required to be expended in the construction and maintenance of any works by this Act authorized to be constructed, shall be advanced to the Council 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 Council of the sums advanced, and of interest thereon, and payments or credits in respect thereof, and the Parish General Rate of the parish shall be liable to the repayment of all such advances with interest thereon respectively at the rate of four dollars *per centum* per annum, which shall be written up at the close of each financial year.

Account
and credit
of sums
received
under this
Act.

26. The Council shall keep a distinct account of all sums of moneys received and paid for the purposes of this Act, and such account shall be audited in the same manner as other accounts of the receipts and expenditure of the Council; and any surplus of the moneys received under this Act and of the income of the cemetery which may remain after payment of the expenses and moneys to be defrayed or paid under this Act, and after the payment of interest and contribution to sinking fund in respect of any moneys borrowed under this Act, shall be placed to the credit of the parish.

27. Any person contravening any of the provisions of this Act in respect whereof no penalty has been prescribed, or any regulation or rule made under this Act, or refusing or neglecting to comply with any requirements under the authority of this Act, or obstructing any person in the lawful exercise of any powers given by or under this Act, shall be liable to a penalty not exceeding ten thousand dollars, and all penalties under this Act shall be recoverable in a summary manner in the parish in which the same are incurred.

Penalties.

^{40/1995}
S. 3.