

CEMETERIES.

6° Elizabeth II., No. XXVI.

No. 26 of 1957.

AN ACT to amend the Cemeteries Act, 1897-1956, and where necessary for the purpose of Reprinting that Act, to Revise and amend certain of the Acts amending the Cemeteries Act 1897 (Act 61 Victoriae No. 23, 1897).

[Assented to 26th October, 1957.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Cemeteries Act Amendment Act, 1957.* Short title

Interpreta-
tion.

(2) In this Act, unless the context requires otherwise, the expression—

“amending Acts” means Acts 62 *Victoriae* No. 25, 1898; 63 *Victoriae* No. 38, 1899; 2 *Edwardi VII.* No. 42, 1902 (as amended by Act No. 73 of 1956); and No. 22 of 1911;

“principal Act” means the *Cemeteries Act, 1897-1956*—

Act 61 *Victoriae* No. 23, 1897, as amended by Acts 62 *Victoriae* No. 25, 1898; 63 *Victoriae* No. 38, 1899; 2 *Edwardi VII.* No. 42, 1902; No. 22 of 1911, No. 28 of 1946, No. 14 of 1955 and No. 73 of 1956.

Citation of
principal
Act as
amended by
this Act.

(3) The principal Act as amended by this Act may be cited as the *Cemeteries Act, 1897-1957*.

S. 3 am.
(*Cf.* 2
Edw. VII.
No. 42,
ss 9, 10
and 11.)

2. Section three of the principal Act is amended by substituting for the word, “NOTHING” in line one, the passage, “Except to the extent mentioned in sections forty-one A, forty-one B and forty-one C of this Act, nothing”.

S. 17 am.

3. Section seventeen of the principal Act is amended by adding after the word, “by” in line one, the words, “or pursuant to”.

S. 44 am.

4. Section forty-four of the principal Act is amended by substituting for the passage, “Schedule to the Shortening Ordinance, 1853,” in lines one and two, the passage, “Second Schedule to the Interpretation Act, 1918,”

Revision
and
amendment
of amending
Acts.
Schedule.

5. (1) By way of revision, for the purpose of reprinting the principal Act, the provisions of the amending Acts are amended to the extent specified in the Schedule to this Act.

(2) The provisions of subsection (1) of this section shall not be construed as affecting the provisions of the Amendments Incorporation Act, 1938.

SCHEDULE.

S. 5.

Amending Act.		Item No.	Amendment.
No. of Act.	Short Title.		
62 Vict. No. 26.	Cemeteries Act, 1897, Amendment Act, 1898.	1.	<p>Section one is amended—</p> <p>(a) by adding after the section number "1", the following passage—</p> <p style="padding-left: 40px;">The Cemeteries Act, 1897, is amended by adding after section eleven as section eleven A, the following:—;</p> <p>(b) by substituting for the passage, "the Cemeteries Act, 1897," in lines four and five, the words, "this Act".</p>
63 Vict. No. 38.	Cemeteries Act, 1899.	2.	<p>The long title is amended by adding after the word "ACT", the passage, "to amend the Cemeteries Act, 1897, and".</p>
		3.	<p>Section two is amended—</p> <p>(a) by adding after the section number, "2" the following passage—</p> <p style="padding-left: 40px;">The Cemeteries Act, 1897, is amended by adding after section ten as follows:—;</p> <p style="padding-left: 40px;">section ten A, the following—</p> <p>(b) by substituting for the passage, "the Cemeteries Act, 1897," in line two, the words, "this Act".</p>

SCHEDULE—*continued.*

Amending Act.		Item No.	Amendment.
No. of Act.	Short title.		
63 Vict. No 38 (<i>contd.</i>).	Cemeteries Act, 1899 (<i>contd.</i>).	4.	<p>Section three is amended—</p> <p>(a) by adding after the section number, "3" the following passage—</p> <p style="padding-left: 40px;">The Cemeteries Act, 1897, is amended by adding after section fourteen as section fourteen A, the following—;</p> <p>(b) by substituting for the passage, "the said Cemeteries Act, 1897," in lines one and two, the words, "this Act";</p> <p>(c) by substituting for the words, "the said Act" in line three, the words, "this Act".</p>
2 Edw. VII. No. 42 (as amended by No. 73 of 1956).	Cemeteries Act Amendment Act, 1902.	5.	<p>Section two is amended—</p> <p>(a) by adding after the section number, "2" the following passage—</p> <p style="padding-left: 40px;">The principal Act is amended by adding after section fifteen as section fifteen A, the following—;</p> <p>(b) by adding before the word, "Schedule" in line five, the word, "Third".</p>
		6.	<p>Section six is amended—</p> <p>(a) by adding after the section number, "6" the following passage—</p> <p style="padding-left: 40px;">The principal Act is amended by adding after section thirty as section thirty A, the following—;</p> <p>(b) by substituting for the words, "the principal" in the last line, the word, "this".</p>
		7.	<p>Section seven is amended by adding after the section number, "7" the following passage—</p> <p style="padding-left: 40px;">The principal Act is amended by adding after section forty as section forty A the following—.</p>

SCHEDULE—*continued.*

Amending Act.		Item No.	Amendment.
No. of Act.	Short title.		
2 Edw. VII. No. 42 (as amended by No. 73 of 1956) (<i>contd.</i>).	Cemeteries Act Amendment Act, 1902 (<i>contd.</i>).	8.	<p>Section eight is amended—</p> <p>(a) by adding after the section number "8" the following passage—</p> <p style="padding-left: 40px;">The principal Act is amended by adding as section forty B the following—;</p> <p>(b) by adding after the word, "form" in line three, the passage, "of warrant to exhume a body for the purpose of an inquest,";</p> <p>(c) by substituting for the passage, "an Ordinance to facilitate inquiries in the nature of Coroner's Inquests, passed in the nineteenth year of Her late Majesty and numbered ten" in lines three, four and five, the passage, "the Coroners Act, 1920".</p> <p>9. Section nine is amended—</p> <p>(a) by adding after the section number, "9" the following passage—</p> <p style="padding-left: 40px;">The principal Act is amended by adding after section forty-one as section forty-one A, the following—;</p> <p>(b) by substituting for the words, "the principal" where they occur in lines one and two and in the last line, the word, "this".</p> <p>10. Section ten is amended—</p> <p>(a) by adding after the section number, "10" the following passage—</p> <p style="padding-left: 40px;">The principal Act is amended by adding as section forty-one B, the following—;</p>

SCHEDULE—continued.

Amending Act.		Item No.	Amendment.
No. of Act.	Short title.		
2 Edw. VII. No. 42 (as amended by No. 73 of 1956) (contd.).	Cemeteries Act Amendment Act, 1902 (contd.).	10. (contd.)	(b) by adding after the word, “under” in line one the passage, “the provisions of section forty-one A of”; (c) by substituting for the words, “the principal” in line two the word, this”.
		11. Section eleven is amended—	(a) by adding after the section number, “11” the following passage— The principal Act is amended by adding as section forty-one C, the following—; (b) by adding after the word, “under” in the last line, the passage, “the provisions of section forty-one A of”.
		12. A section is added after sec- tion eleven as follows—	
		Schedule III. added.	12. The principal Act is amended by adding after the Second Schedule a Third Schedule as fol- lows:—
		Sec. 15A.	SCHEDULE III. <i>Form of Instrument Setting apart portion of Ceme- tery for Burial of Per- sons of same Religious Denomination.</i> THIS INDENTURE, made the day of 19 between (e.g. the Trustees of the Karrakatta Cemetery) in- corporated under the Ceme- teries Act, 1897, as amended (hereinafter called “the Trustees”), of the one part, and (e.g. The Perth Diocesan Trustees, incorporated by Act 52 Victoriae No. 2 as

SCHEDULE—*continued.*

Amending Act.		Item No.	Amendment.
No. of Act.	Short title.		
2 Edw. VII. No. 42 (as amended by No. 73 of 1956) (<i>contd.</i>).	Cemeteries Act Amendment Act, 1902 (<i>contd.</i>).	12. (<i>contd.</i>)	<p>amended by Act No. 34 of 1918) hereinafter called _____ of the other part:</p> <p>WHEREAS the Trustees are trustees of the public cemetery at _____ and as such have vested in them _____ Location</p> <p>AND WHEREAS (the parties of the other part) have applied to the Trustees to specially set apart a portion of the said cemetery for the burial of persons who belong to and are members of (e.g. the Church of England in Western Australia) which the Trustees have agreed to do subject to the covenants and other matters hereinafter mentioned:</p> <p>NOW THIS INDENTURE WITNESSETH that the Trustees do hereby irrevocably set apart for the burial of persons who belong to and are members of (e.g. the Church of England in Western Australia) ALL THAT piece of land coloured _____ in the diagram indorsed on these presents, being a portion of the public cemetery at _____ Location _____, together with full right of way for all purposes to and from such land.</p> <p>AND THE TRUSTEES, so far as they lawfully can and may, covenant with the said (the parties of the other part) not to permit any</p>

SCHEDULE—continued.

Amending Act.		Item No.	Amendment.
No. of Act.	Short Title.		
2 Edw. VII. No. 42 (as amended by No. 73 of 1956) (contd.).	Cemeteries Act Amendment Act, 1902 (contd.).	12. (contd.)	<p>person to perform or take part in any religious ceremony in the burial of the dead in the said portion of land set apart by these presents unless such person is at such time a member of and duly authorised by (the Trustees or the recognised head of the religious denomination) to officiate at such a ceremony.</p> <p>AND the said (the parties of the other part) covenant with the Trustees not to use the portion of land so set apart except for the purposes and in the manner authorised by the said Act as amended.</p> <p>AND IT IS HEREBY DECLARED that nothing herein contained shall prejudice or affect the right of the said (the parties of the other part) to build on the said portion of land a suitable mortuary, church or chapel, subject to the conditions and permission prescribed by the said Act as amended.</p> <p>IN WITNESS WHEREOF the parties hereto have hereunto affixed their common seals the day and year first before written.</p> <p>The Common Seal } of etc. } was affixed } etc. }</p>

SCHEDULE—*continued.*

Amending Act.		Item No.	Amendment.
No. of Act.	Short Title.		
No. 22 of 1911.	Cemeteries Amendment Act, 1911.	13.	The Schedule is deleted.
		14.	Section two is amended by adding after the section number "2" the following passage— The principal Act is amended by adding after section thirty-four as section thirty-four A, the following—.
		15.	Section three is amended— (a) by adding after the section number "3" the following passage— The principal Act is amended by adding as section thirty-four B, the following—; (b) by substituting for the words, "the principal" where they occur in line five and in line seven, the word, "this"; (c) by substituting for the words, "hereinafter mentioned" in paragraph (b), the passage, "referred to in section thirty-four E of this Act".
		16.	Section four is amended— (a) by adding after the section number "4" the following passage— The principal Act is amended by adding as section thirty-four C the following—; (b) by substituting for the words, "the said section thirty" in line one the words, "section thirty of this Act";

SCHEDULE—*continued.*

Amending Act.		Item No.	Amendment.
No. of Act.	Short Title.		
No. 22 of 1911 (<i>contd.</i>).	Cemeteries Amendment Act, 1911 (<i>contd.</i>).	16. (<i>contd.</i>). (c) by deleting the word, "said" occurring before the word, "account" in the last line; (d) by substituting for the words, "the said section thirty" in the last line, the words, "that section."	
		17. Section five is amended— (a) by adding after the section number "5" the following passage— The principal Act is amended by adding as section thirty-four D, the following—; (b) by substituting for the words, "the said section thirty or of section four" in line two, the passage, "section thirty or section thirty-four C".	
		18. Section six is amended— (a) by adding after the section number "6" the following passage— The principal Act is amended by adding as section thirty-four E, the following—; (b) by substituting for the words, "contributions to be made as hereinbefore provided" in lines two and three of subsection (1), the passage, "such amounts as are from time to time applied in payment to the fund in accordance with the provisions of section thirty-four B of this Act".	

SCHEDULE—*continued.*

Amending Act.		Item No.	Amendment.
No. of Act.	Short Title.		
No. 22 of 1911 (<i>contd.</i>).	Cemeteries Amendment Act, 1911 (<i>contd.</i>).	19.	Section seven is repealed and re-enacted as follows—
		Section 34F added.	7. The principal Act is amended by adding as section 34F, the following—
		Sections 34A, 34B, 34C, 34D and 34E retro- spective.	34F. Sections thirty-four A, thirty-four B, thirty-four C, thirty-four D and thirty-four E of this Act have effect as if they had formed part of this Act as originally enacted.