

Western Australia

## **Albany Cemeteries Act 1943**



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## **Albany Cemeteries Act 1943**

**An Act to revest certain lands in His Majesty and for other purposes relative thereto.**

Whereas the lands described in the first and second columns of the Schedule are vested in the religious bodies or trustees set out in the third column of the Schedule and are held and used as burial grounds but not as a public cemetery under and within the meaning of the *Cemeteries Act 1897*<sup>2</sup>; and whereas it is deemed desirable and expedient that the lands should become and be used as a public cemetery under the Act: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows: —

**1. Short title**

This Act may be cited as the *Albany Cemeteries Act 1943*<sup>1</sup>.

**2. Lands revested in His Majesty**

Subject to section 5 and from and after the commencement of this Act, all rights of property which may have at any time been vested by statute or otherwise howsoever in the persons or corporations mentioned in the third column of the Schedule or in any other person or corporation whatsoever in any part of the lands described in the first and second columns of the Schedule shall absolutely cease and determine, and all and singular the lands and all the right and title thereto either in law or in equity shall be and the same are hereby vested in His Majesty freed and released from all and every trusts or trust affecting the same.

**3. Land revested to be reserved as a cemetery**

The lands revested in His Majesty by section 2 shall forthwith be reserved as a site for a cemetery and be proclaimed as a public cemetery under and in accordance with the provisions of the *Cemeteries Act 1897*<sup>2</sup>, and, when so reserved and proclaimed as aforesaid the lands shall be vested in or placed under the control of trustees appointed under the provisions of the *Cemeteries Act 1897*<sup>2</sup>, as the Governor may think fit for the purposes of a public cemetery.

**4. Original owner of land relieved of responsibility**

When the lands revested in His Majesty by section 2 have been reserved and proclaimed as a public cemetery as provided for in section 3 the persons and corporations mentioned in the third column of the Schedule and all other persons or corporations having prior to the commencement of this Act any duty obligation or responsibility in relation to the management, conduct or control of the lands or any part thereof as a burial ground shall be freed and relieved from every such duty, obligation and responsibility.

**5. Reservation of existing burial rights**

Notwithstanding anything to the contrary contained in section 2, every person holding at the commencement of this Act by virtue of any instrument of lease, license or other title then subsisting and in force any right of burial in respect of any area or piece of any of the lands as specified in such instrument shall, after the commencement of this Act, continue to hold and enjoy the benefit of such right of burial according to the tenor of the instrument by which such right is conferred in respect of the area or piece of land specified in such instrument and forming part of the public cemetery proclaimed as provided for in section 3; and the trustees of such public cemetery shall be bound by and shall observe all the provisions and conditions of such instrument in all respects and to the same extent as if such instrument had originally been executed and the right of burial

granted thereby had originally been given to the holder thereof  
by such trustees.

**Schedule**

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<b>Schedule</b>		
<b>Land</b>	<b>Instrument of Title</b>	<b>Proprietors</b>
Albany Town Lots 327 and 328	Vol. 35, Fols. 172 and 173	James Young Simpson, Superintendent Wesleyan Minister; George Shenton, merchant; Richard Watson Hardey, gentleman, all of Perth; John Henry Monger, merchant, of York, and Charles Crowther, merchant, of Geraldton, as trustees for the Wesleyan Methodist Church.
Albany building Lot 329.	Enrolment 1298.	The Roman Catholic Bishop of Perth.
Albany Allotment S. 51	Enrolment 859.	Frederick Goldsmith, Thomas Louch, Frederick Henry Piesse, William Lambden Owen, Arnold Edmund Piesse, Kenneth McAskell Eastman, The Diocesan Trustees, of Bunbury, Incorporated.
Albany Lots 503 and 504.	Vol. 68, Fols. 32 and 34.	The Commissioners of the Presbyterian Church in Western Australia.



## Notes

- <sup>1</sup> This is a compilation of the *Albany Cemeteries Act 1943* and includes all the amendments made by the other written laws referred to in the following table <sup>1a</sup>.

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Albany Cemeteries Act 1943</i>	23 of 1943	25 Oct 1943	25 Oct 1943

- <sup>1a</sup> On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

### Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Standardisation of Formatting Act 2010</i> s. 4 and 50 <sup>3</sup>	19 of 2010	28 Jun 2010	To be proclaimed (see s. 2(b))

- <sup>2</sup> Repealed by the *Cemeteries Act 1986* (No. 102 of 1986).
- <sup>3</sup> On the date as at which this compilation was prepared, the *Standardisation of Formatting Act 2010* s. 4 and 50 had not come into operation. They read as follows:

#### 4. Schedule headings reformatted

- (1) This section amends the Acts listed in the Table.
- (2) In each Schedule listed in the Table:
  - (a) if there is a title set out in the Table for the Schedule — after the identifier for the Schedule insert that title;
  - (b) if there is a shoulder note set out in the Table for the Schedule — at the end of the heading to the Schedule insert that shoulder note;

- (c) reformat the heading to the Schedule, as amended by paragraphs (a) and (b) if applicable, so that it is in the current format.

Act	Identifier	Title	Shoulder note
<i>Albany Cemeteries Act 1943</i>	Schedule	Cemetery land	[s. 2]

**50. Heading to preamble**

- (1) This section amends the Acts listed in the Table.
- (2) In each Act listed in the Table after the long title insert:

**Preamble**