

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.

Preamble

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*²; and whereas it is deemed desirable and expedient that the lands should become and be used as a public cemetery under the Act:

[Preamble amended by No. 19 of 2010 s. 50.]

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*¹.

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*², 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*², 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 — Cemetery land

[s. 2]

[Heading amended by No. 19 of 2010 s. 4.]

| Land | Instrument of Title | Proprietors |
|---------------------------------|-------------------------------|--|
| 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

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

Compilation table

| Short title | Number and year | Assent | Commencement |
|---|----------------------------|---------------|--|
| <i>Albany Cemeteries Act 1943</i> | 23 of 1943 | 25 Oct 1943 | 25 Oct 1943 |
| <i>Standardisation of Formatting Act 2010</i> s. 4 and 50 | 19 of 2010 | 28 Jun 2010 | 11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341) |

- ² Repealed by the *Cemeteries Act 1986* (No. 102 of 1986).