

Necropolis.

Act No. 20, 1902.

An Act to consolidate the Acts relating to the establishment and regulation of the Necropolis. [25th January, 1902.] NECROPOLIS.

BE it enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

Repeal savings and interpretation.

1. This Act may be cited as the "Necropolis Act 1901." Short title.
2. The Acts mentioned in the Schedule to this Act are to the extent therein expressed hereby repealed. Repeal.
3. All trustees chaplains secretaries managers and other officers appointed under the authority of any of the Acts hereby repealed and holding office at the time of the passing of this Act shall be deemed to have been appointed under this Act. Existing officers.
4. All proclamations and notifications made under the authority of any of the Acts hereby repealed which have not been revoked or recalled at the time of the passing of this Act shall be deemed to have been made under this Act. Existing proclamation &c.
5. All rules and regulations made under the authority of any of the Acts hereby repealed and in force at the time of the passing of this Act shall be deemed to have been made under this Act. Existing rules &c.
6. In this Act unless the context or subject-matter otherwise indicates or requires— Interpretation.
 "Necropolis" means the lands which have been heretofore and shall be hereafter dedicated as a cemetery for burying the dead at Haslem's Creek and Rookwood.

Dedication setting apart and vesting of lands.

7. (1) All lands at Haslem's Creek and Rookwood heretofore dedicated for the purpose of being used as cemetery under the name and designation of Necropolis shall continue to be so dedicated. Lands already dedicated.
- (2) Every portion of any such lands heretofore set apart for any denomination and vested in trustees as a burial ground for the use of such denomination shall continue to be so set apart and be vested in the present trustees thereof and their successors. Lands already set apart for denominations.
- (3) Every portion of any such lands heretofore set apart and vested in trustees as a general cemetery to be used as a burial ground for Lands already set apart as a general cemetery.

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for burying the dead for whose burial none of the portions of land set apart for the use of denominations may be applicable shall continue to be so set apart and used and shall continue to be vested in the present trustees thereof and their successors subject to the provisions of section nine.

Lands hereafter dedicated may be set apart:—

For denominations.
56 Vic. No. 25 s. 3.

As a general cemetery.

31 Vic. No. 14, s. 3.
56 Vic. No. 25, s. 3.

8. (1) The Governor may by proclamation in the Gazette set apart as burial grounds for the use of any denominations whatsoever separate portions of any land at Rookwood hereafter reserved or dedicated for the interment of the dead.

(2) The Governor may by proclamation in the Gazette set apart as a general cemetery separate portions of any land at Rookwood hereafter reserved or dedicated for the interment of the dead to be used as a burial ground for burying the dead for whose burial none of the portions of land set apart for the use of denominations may be applicable.

Parts of land dedicated in 1887 and added to general cemetery may be set apart for denominations.

Ibid. s. 5.

9. The Governor may by proclamation in the Gazette set apart as a burial ground or additional burial ground for the use of any denomination any portion not hitherto specifically vested in the trustees of any denomination out of a certain parcel of land dedicated as an additional area for cemetery purposes by notification in the Gazette of December second one thousand eight hundred and eighty-seven and containing five hundred and seventy-seven acres or thereabouts.

Adjustment of boundaries.

Ibid. s. 3.

10. On the application of the trustees of any portion of land whether appointed under any of the Acts hereby repealed or this Act the Governor may adjust the boundaries thereof and for that purpose may vest any part of any portion of land in any such trustees whether already vested in any other body of trustees or not.

Vesting of lands hereafter set apart.

Ibid. ss. 3, 5.

11. Every separate portion of land hereafter set apart shall upon the issue of the proclamation in that behalf in the Gazette vest in the trustees of the denomination for which it is set apart and their successors or as the case may be in the trustees of the general cemetery of the Necropolis and their successors.

Nature of trusts.

31 Vic. No. 14 s. 4.

12. Each body of trustees appointed under this Act and their successors shall by virtue of this Act have vested in them and shall hold for ever the portion of land in respect of which they are appointed for a burial ground for burying the dead and the land so vested in them together with all erections thereon and the rights easements and appurtenances to the same belonging shall remain vested in the said trustees and their successors for ever upon the trusts and for the purposes and subject to the provisions of this Act.

Rights of ministers of religion.

Ministers may exercise their spiritual functions without hindrance.

Ibid. s. 7.

13. Any recognised minister of the denomination for which any portion of the Necropolis is set apart shall at all times have free access and admission to such portion of the Necropolis and also to the general cemetery

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cemetery and shall freely exercise his spiritual functions therein in connection with the burial of the dead without any hindrance or disturbance:

Provided that no such minister shall be entitled to receive any fee in respect of any service he so performs unless with the sanction of the trustees of that portion of the Necropolis within which the same is performed.

Appointment and removal of trustees.

14. (1) The Governor may by proclamation in the Gazette appoint trustees of the portions of land set apart for the use of a denomination such trustees not being fewer than five in number and being members of the denomination for whose use the portions of land are set apart.

Appointment of
denominational
trustees.
31 Vic. No. 14, s. 2.
56 Vic. No. 25 s. 3.

(2) The Governor may by proclamation in the Gazette appoint trustees not being fewer than five in number of the portions of land set apart as a general cemetery.

Appointment of
general trustees.
31 Vic. No. 14 s. 3.
56 Vic. No. 25 s. 3.

(3) The Governor may remove from the said respective trusts any trustee appointed hereunder or under any of the Acts hereby repealed and upon the death resignation or removal of any such trustee may appoint another in his stead.

Removal resignation
of trustees.
31 Vic. No. 14 s. 5.

Powers and duties of trustees.

15. Each body of trustees shall—

- (a) have for all purposes of this Act entire control and management of the portions of land for which they are appointed
- (b) receive all fees charges and sums of money payable under this Act
- (c) make all payments authorised by them as such trustees and
- (d) keep full and particular accounts of all moneys received and disbursed and of all liabilities incurred by them as such trustees.

47 Vic. No. 11 s. 2.
General powers and
duties.

16. (1) Each body of trustees shall subject to the approval of the Governor lay out the portion of land vested in them in such manner as may be most convenient for the burial of the dead and may embellish the same with such walks avenues roads trees and shrubs as to them seem fitting and may enclose the same with proper and sufficient palisades gates and entrances and preserve in a cleanly and orderly state the said land palisades gates and entrances and all monuments tombstones enclosures buildings erections and shrubberies thereon and belonging thereto.

Trustees to lay out
grounds.
31 Vic. No. 14 s. 6.

(2) Each body of trustees may subject to the approval of the Governor set apart and dedicate as a road or for the purpose of drainage either permanently or temporarily and subject to such conditions and restrictions as may be convenient any portion of the land vested in them.

Trustees may make
roads and drains.
56 Vic. No. 25 s. 6.

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Trustees may fix fees and charges.

31 Vic. No. 14 s. 9.

17. (1) Each body of trustees may fix in respect of the portions of the Necropolis vested in them fees and charges for and in connection with the following matters—

- (a) the interment of bodies and
- (b) the exclusive right of burial either in perpetuity or for a limited period and
- (c) 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
- (d) the right of erecting or placing any monument gravestone tablet or monumental inscription.

Notification of fees and charges.

(2) All such fees and charges shall be approved by the Governor and notified in the Gazette.

Table of fees and charges to be exhibited.

(3) A table showing such fees and charges shall be affixed and at all times continue in a conspicuous part of that portion of the Necropolis to which the same are applicable.

No fee for burial of body of poor person.

(4) The trustees of any portion of the Necropolis shall allow the interment of the dead body of any poor person in such portion free of any charge whatsoever.

Trustees to apply fees and charges for certain purposes.

Ibid. s. 14.

18. Each body of trustees shall subject to the provisions of the twenty-third section apply the fees charges and other income arising from the portion of the Necropolis vested in them in and towards

- (*firstly*) defraying their expenses as trustees under this Act
- (*secondly*) maintaining the portion of the Necropolis vested in them and so fenced and laid out as hereinbefore mentioned and all erections thereon in complete repair
- (*thirdly*) paying the stipend of their chaplain if any or the fees of any minister officiating at the burial service in respect of any interment within the portions of the Necropolis vested in them and in paying the salary of the secretary manager and other officers appointed by them and
- (*lastly*) laying out and embellishing the portion of the Necropolis vested in them.

Trustees to forward accounts yearly to Minister for Lands.

47 Vic. No. 11 s. 2.

19. (1) Each body of trustees shall forward to the Minister during the month of January in each year an abstract of all moneys received and expended by them during the preceding year.

(2) Such abstract shall be verified by a statutory declaration of their secretary or manager and shall be published by the Minister in the Gazette.

Trustees may appoint officers.

Ibid.

20. Each body of trustees may appoint a secretary manager and other officers.

Trustees may appoint chaplains.

31 Vic. No. 14 s. 12.

47 Vic. No. 11 s. 2.

21. (1) Each body of trustees representing a particular denomination may appoint duly recognised ministers of such denomination as chaplains to perform the burial service within any portion of the Necropolis set apart for such denomination according to the rites of such denomination.

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(2) Each body of trustees representing a particular denomination may fix the remuneration to be paid to any chaplain or officiating minister of the denomination represented by such trustees whether by way of annual stipend or by fees or partly in the one way and partly in the other.

Remuneration of chaplains and ministers.
17 Vic. No. 11 s. 5.

(3) Where no chaplain is appointed the minister performing the burial service in respect of any dead body brought to such portion of the Necropolis to be buried shall be entitled to receive for every such interment the fees fixed as in section seventeen provided by the trustees of the portion of the Necropolis within which such interment takes place.

Fee to minister officiating where no chaplain is appointed.
31 Vic. No. 14 s. 12.

22. Any minister performing the burial service in respect of any interment in the general cemetery shall be entitled to receive the fees fixed as in section seventeen provided by the trustees of the general cemetery.

Fee to minister officiating in general cemetery.
Ibid. s. 13.

23. (1) Each body of trustees may build within the portion of the Necropolis vested in them a suitable mortuary church or chapel for the performance therein of the rites and ceremonies in the burial of the dead which may under the provisions of this Act be performed within such portion.

Trustees may build mortuaries.
Ibid. s. 15.

(2) The said trustees may (subject to the Governor's approval of the specifications elevations and models of the proposed church or chapel being previously signified) borrow any money for such purpose and charge the fees and charges payable to and receivable by them under this Act with the repayment of such money with interest thereon.

Trustees may borrow money for building mortuaries.
Ibid.

24. (1) Each body of trustees may in respect of the portion of the Necropolis vested in them and under such restrictions and conditions as they think proper and the Governor has previously approved sell and grant—

Trustees may sell exclusive burial rights &c.
Ibid. s. 8.

- (a) the exclusive right of burial either in perpetuity or for a limited period and also
- (b) 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
- (c) the right of erecting and placing any monument gravestone tablet or monumental inscription.

(2) Such exclusive rights as aforesaid whether granted in perpetuity or for a limited time shall be considered as the personal estate of the grantee and may be assigned in his lifetime or bequeathed by his will.

Such rights to be personal estate of grantees.

(3) No body shall be buried in any place wherein any exclusive right of burial has been so granted except with the consent in writing of the owner for the time being of such exclusive right of burial.

Burials not to be made where such rights are granted without leave of owner.
Ibid. s. 11.

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Trustees may remove monuments &c.
31 Vic. No. 14, s. 10.

25. Each body of trustees may in the portion of the Necropolis vested in them take down and remove any monument gravestone tablet or monumental inscription erected or placed contrary to the rules and conditions upon which permission to erect or place the same was granted or in case such rules or conditions or the regulations of that portion of the Necropolis have not been complied with.

Trustees may make rules and regulations.
Ibid. ss. 18, 19.
47 Vic. No. 11 ss. 2, 3.

26. (1) Each body of trustees may in respect of the portion of the Necropolis vested in them make such rules and regulations and do and cause to be done all such acts matters and things as may be necessary for

- (a) carrying out the purposes of this Act
- (b) determining and directing the formation order and position of all graves and vaults to be made in such portion of the Necropolis
- (c) for protecting the buildings monuments shrubberies plantations and enclosures in the same from destruction or damage
- (d) defining and providing for the performance of the duties of their secretary manager chaplain and other officers
- (e) the regulation of all persons employed in the Necropolis
- (f) the general good order and government of the Necropolis
- (g) the enforcement of any rule or regulation made under any of the Acts hereby repealed or this Act by the infliction of penalties not exceeding ten pounds nor less than ten shillings in any case to be recovered in manner directed by such rules or regulations or in default of any such direction to be recovered as by this Act provided and
- (h) fixing the time and place for holding meetings of trustees.

Rules to be approved of by the Governor.

(2) All such rules and regulations shall previously to their coming into force be approved of by the Governor.

Rules may not interfere with religious ceremonies.

(3) Notwithstanding anything in this section contained no body of trustees may by any rule or regulation or any other act matter or thing at any time interfere directly or indirectly with the performance of any religious ceremony in the burial of the dead according to the rites of the denomination for which the land is vested in them.

Meetings of trustees.
31 Vic. No. 14 s. 19.

27. (1) Each body of trustees shall meet at least once in every three months at the office of the secretary or some other convenient place according to a rule adopted by them for that purpose.

(2) Every such meeting shall be presided over by a chairman to be chosen at the meeting.

(3) All questions matters and things which are considered at any such meeting shall be determined by the majority in number of the trustees then present.

(4) It shall not be competent for the said trustees to proceed to business unless there be at least three of them present.

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(5) A book shall be opened and kept in which shall be entered a minute of the proceedings of the trustees at every such meeting.

(6) Such minute shall be read and confirmed at the next subsequent meeting and shall be signed by the chairman of such meeting.

(7) Any two of the same body of trustees may by writing under their hands summon with at least forty-eight hours' notice a meeting of such body for any special purpose mentioned in such writing and to meet at such time as shall be appointed therein.

Offences.

28. Whosoever within the Necropolis

- (a) plays at any game or sport
- (b) discharges firearms save at a military funeral
- (c) wilfully and unlawfully disturbs any persons assembled in the Necropolis for the purpose of burying any body therein or
- (d) commits any nuisance

Penalty on persons committing nuisances.
31 Vic. No. 14 s. 20.

shall be liable to a penalty not exceeding five pounds.

29. Whosoever wantonly or wilfully does or causes to be done any damage to any monument vault tombstone building erection railing shrubbery tree or plant in the Necropolis shall be liable to a penalty not exceeding twenty pounds.

Penalty for injuring monuments.
Ibid. s. 21.

30. Whosoever does or causes to be done any injury to any such monument vault tombstone building erection railing shrubbery tree or plant whether wilfully wantonly or otherwise shall also be liable to pay damages and compensation therefor according to the amount of damage sustained either at the suit of the body of trustees in whom is vested that portion of the Necropolis wherein is situated the property so injured or of the persons entitled to such property.

Compensation for damage caused.
Ibid.

31. (1) Whosoever is found committing any offence against this Act and refuses being thereunto required by any person to give his name and place of abode may thereupon be apprehended by such person and taken to and detained at the nearest lockup until he can be taken before a justice of the peace to be dealt with as hereinafter mentioned.

Apprehension of offenders.
Ibid. s. 22.

(2) Any justice of the peace sub-inspector or senior-sergeant of police may liberate such person so apprehended on his giving reasonable bail for his attendance before a justice of the peace to answer for the offence for which he was apprehended.

32. Whosoever being required as in the last preceding section provided to give his name and place of abode gives a false or fictitious name or place of abode shall for every such offence be liable to a penalty not exceeding ten pounds.

Penalty for giving false name.
Ibid. s. 23.

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Recovery of penalties.

31 Vic. No. 14 s. 24.
47 Vic. No. 11 s. 3.

33. All penalties imposed by this Act and all penalties imposed by any rule or regulation which provides no mode of recovering the penalty thereby imposed may be recovered in a summary way according to the provisions of the Act or Acts for the time being regulating proceedings before justices of the peace.

Trustees may prosecute and secretary or manager may prosecute on behalf of his trustees.

31 Vic. No. 14, s. 18.
47 Vic. No. 11 s. 4.

34. Each body of trustees may prosecute all persons who do or cause to be done any damage to the buildings monuments tombstones shrubberies plantations and enclosures in the portion of the Necropolis vested in them and the secretary or manager appointed by each body of trustees shall have power in respect of any offence committed within the limits of the portion of land vested in such trustees to prosecute as such secretary or manager for and on behalf of such body of trustees any person committing any offence under this Act or under any rules and regulations made thereunder.

SCHEDULE.

Reference to Act.	Title or short title.	Extent of repeal.
11 Vic. No. 11 ...	An Act for the establishment and regulation by Trustees of a General Cemetery near to the City of Sydney to be called "The Necropolis."	The whole Act.
31 Vic. No. 14 ...	The "Necropolis Act of 1867" ...	The whole Act.
47 Vic. No. 11 ...	The "Necropolis Act Amendment Act of 1884"	The whole Act.
56 Vic. No. 25 ...	The "Necropolis (Additional Areas) Act of 1893"	The whole Act.