

PUBLIC HEALTH AMENDMENT
(CREMATION) ACT.

Act No. 32, 1932.

An Act to make further provision relating to the erection, maintenance, and conduct of crematories and the cremation of human remains; to validate certain matters; to confer powers on trustees of land set apart and dedicated for cremation purposes; to amend the Public Health Act, 1902, and certain other Acts; and for purposes connected therewith. [Assented to, 29th November, 1932.]

George V.
No. 32, 1932.

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:—

1. (1) This Act may be cited as the "Public Health Amendment (Cremation) Act, 1932." Short title,

(2)

Public Health Amendment (Cremation) Act.

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(2) The Public Health Act, 1902, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(a) by omitting section fifty-one and by inserting in lieu thereof the following new section:—

Amendment of Act No. 30, 1902.

2. (1) The Principal Act is amended—

Substituted s. 51.

(a) by omitting section fifty-one and by inserting in lieu thereof the following new section:—

Crematories

51. (1) Subject to this Part and to the regulations made thereunder any person may establish and maintain and/or conduct a crematory for the burning of the dead.

(2) No person shall erect a crematory unless and until notice of intention to apply for approval of the proposed site thereof has been published as prescribed and the proposed site thereof has been approved by the Minister upon the recommendation of the Board of Health, and also by the council of the municipality or shire within whose area the proposed site is situated, nor unless and until the detailed plans of the proposed building have been approved by the Minister upon the recommendation of the said Board and by the council of the area within which the building is to be erected. The erection shall be subject in all respects to the Local Government Act, 1919, and the ordinances made thereunder.

(3) No person shall conduct a crematory unless the equipment and apparatus to be used in connection therewith are in accordance with plans and specifications approved by the Minister upon the recommendation of the said Board.

(4) No person shall effect any alteration of or departure from any plan or specification which has been approved under this section without a like approval to such alteration or departure.

(5) Whosoever contravenes any provision of this section shall be liable to a penalty not exceeding two hundred pounds, or where

where the breach is a continuing one not exceeding twenty pounds for every day that the breach continues.

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- (b) (i) by inserting in subsection one of section 51A after paragraph (a) the following new paragraphs:—

(a1) prescribing the form and manner in which any application to the Minister for approval of a site or of plans or specifications shall be made, the information to be furnished in connection therewith, and the fees to be paid;

(a2) providing for the giving of security, if required, for the due performance of any condition imposed in the grant of any approval;

(a3) providing for the maintenance of crematories in a clean and proper working condition and with a sufficient number of attendants;

(a4) prescribing the location relative to any dwelling or any public road of the site of a crematory;

- (ii) by inserting in the same subsection after paragraph (e) the following new paragraphs:—

(e1) requiring a cremation authority to furnish to the Minister an annual report of its activities, including a statement of the number of cremations effected;

(e2) providing for the appointment, subject to the approval of the Minister, of medical referees, and prescribing the duties and obligations of such medical referees;

(e3) prescribing the scale of fees payable for the cremation of human remains, the preservation and/or disposal of the ashes, and any other service rendered by the authority controlling the crematory;

(e4)

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(e4) providing for the closing of a crematory by order of the Minister or by direction of the authority controlling the crematory and the notice to be given in connection therewith ;

(e5) providing for the temporary suspension or modification by proclamation by the Governor of any requirement of the Act or regulations on the occasion of an epidemic or for other sufficient reason ;

(e6) prescribing all matters which by this Part are required or authorised to be prescribed or which are necessary or convenient to be prescribed for carrying this Part into effect ;

(iii) by inserting next after subsection three of the same section the following new subsection :—

(4) The regulations shall, except where otherwise expressly therein stated, apply and extend to and in respect of cremations effected at and to the crematory established under the Necropolis Act, 1901, as amended by subsequent Acts.

(c) by inserting in Part IV next after section 51B the following new section :—

51c. (1) The person conducting a crematory situate within any cemetery shall contribute annually towards the general upkeep of such cemetery such amount as may be fixed in each year by the Minister not exceeding ten per centum of the gross income derived from the crematory during a prescribed period of twelve months.

(2) The person conducting any such crematory shall at the prescribed date in each year forward a statement of such gross income verified in the prescribed manner to the Minister showing the gross income derived from the crematory during the period prescribed.

(3)

Contribution
towards
upkeep of
crematory.

(3) The contribution when fixed shall be paid to such person as the Minister directs and in default of payment within the prescribed period may be recovered by such person as a debt in any court of competent jurisdiction.

(4) Subsections one and three of this section shall not extend to the persons conducting the crematory established under the Necropolis Act, 1901, as amended by subsequent Acts, but such persons shall contribute for the year ending the thirtieth day of June, one thousand nine hundred and thirty-two, and in each year thereafter a percentage of the gross income which shall be two-thirds of the percentage fixed in each year by the committee as provided for in subsection four of section 18A of the Necropolis Act, 1901, in relation to the other trusts in the Necropolis towards the general upkeep of the cemetery within which such crematory is established, and such contribution shall be paid to such person and at such time as the Minister directs, and in default of payment within the prescribed period may be recovered by such person as a debt in any court of competent jurisdiction.

(2) Any regulations made before the commencement of this Act in accordance with the powers conferred by the amendments made by paragraph (b) of subsection one of this section are hereby validated.

3. The Local Government Act, 1919, is amended by omitting subsection two of section four hundred and forty-seven. Amendment of Act No. 41, 1919, s. 447 (2).

Powers of trustees of land set apart and dedicated for cremation purposes.

4. The trustees of any land set apart and dedicated for cremation purposes or for the purpose of the interment of the dead under any Act relating to the disposal of lands of the Crown, may, subject to this Act— Powers of trustees.

(a) establish, maintain, and conduct a crematory, chapel, columbarium, and such other buildings

as

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as they may consider necessary for the cremation of human remains and the care of the ashes of the said remains;

- (b) enclose the buildings with a suitable fence or wall and improve, layout, and adorn the area so enclosed, and construct and maintain an approach thereto;
- (c) lease such land in accordance with this Act;
- (d) in accordance with this Act borrow money or enter into contracts for any of such purposes, and charge the revenue derived from the crematory for the purpose of meeting the liability in respect of any such borrowing or contract.

Leases by trustees.
cf. Act No. 68, 1902, s. 6.

5. (1) Any trustees of land so set apart and dedicated for cremation purposes or for the purpose of the interment of the dead may apply in writing to the Minister for Lands on a full statement to him of the facts relating to any proposed lease, for his consent thereto in writing.

cf. *Ibid.* s. 7 (1).

(2) The said Minister may in any case give his consent either as to the whole or as to part of any lands in respect of which any application is made, and may at any time withdraw his consent, either wholly or partially, or vary the terms and conditions thereof, if he can do so without prejudice to the rights of third parties.

The said Minister shall report to Parliament any consent given by him under this section.

cf. *Ibid.* s. 7 (2).

(3) The said Minister may give his consent either generally by authorising the lease of such lands subject to such conditions, restrictions, reservations, and covenants, and in such manner and within such time, as he may think desirable, or by approving of particular contracts of lease.

cf. *Ibid.* s. 8.

(4) After obtaining the written consent hereinbefore mentioned, and not otherwise, the trustees may lease the lands in respect of which such consent was given, according to the terms of such consent:

Provided that where the said Minister has given his consent generally, as in this section provided, no land shall

shall be leased in pursuance of such consent, unless in each case the rent reserved has been submitted to and approved of by him. ^{No. 32, 1932.}

(5) The proceeds of any lease under this Act shall be held by the trustees, after payment of costs and expenses, for the general purposes of the trust, and shall be invested or applied as the said Minister directs. ^{cf. Act No. 68, 1902.}

(6) Every lease under this Act shall contain covenants by the lessee—

- (a) to lodge with the Minister for Health and with the council of the area within which the land comprised in such lease is situated, within the time prescribed in that behalf, detailed plans of the proposed crematory and other buildings;
- (b) to commence and complete such crematory and buildings within a time to be specified in the lease; and
- (c) not to use the land for any purpose other than for the cremation of human remains and the disposal of the ashes;

and shall also contain a condition of re-entry on breach of any of such covenants.

6. (1) Any trustees of land so set apart and dedicated for cremation purposes or for the purpose of interment of the dead may apply in writing to the Minister for Lands on a full statement to him of the facts relating to any proposed borrowing or contract for his consent thereto in writing. ^{Contracts by trustees.}

(2) The said Minister may in any case give his consent and may at any time withdraw his consent either wholly or partially or vary the terms and conditions thereof if he can do so without prejudice to the rights of third parties.

(3) After obtaining the written consent hereinbefore mentioned, and not otherwise, the trustees may borrow the money or enter into the contract in respect of which such consent was given according to the terms of such consent.