



# **Crown Lands (General Reserves) Amendment (Unused Burial Rights) By-law 2003**

under the

Crown Lands Act 1989

Her Excellency the Governor, with the advice of the Executive Council, has made the following By-law under the *Crown Lands Act 1989*.

JOHN AQUILINA, M.P.,

Minister for Land and Water Conservation

## **Explanatory note**

The object of this By-law is to amend the *Crown Lands (General Reserves) By-law 2001* so as to complete the legislative scheme with respect to the revocation of unused burial rights that has been introduced into that By-law by the *Cemeteries Legislation Amendment (Unused Burial Rights) Act 2001*. The amendments made by this By-law deal with the advertising procedure that must be complied with before unused burial rights may be revoked, the amount of compensation payable when there is no applicable scale of fees by which such an amount can be calculated under the existing provisions of the scheme, the manner and form in which applications under the scheme must be made and the accounting standards to be observed by reserve trusts. These amendments parallel amendments that are being made to an identical scheme under the *Necropolis Act 1901*.

This By-law is made under the *Crown Lands Act 1989*, including section 128 (the general power to make by-laws).

**2002 No 21**

Clause 1 Crown Lands (General Reserves) Amendment (Unused Burial Rights) By-law 2003

---

**Crown Lands (General Reserves) Amendment (Unused Burial Rights) By-law 2003**

under the

Crown Lands Act 1989

**1 Name of By-law**

This By-law is the *Crown Lands (General Reserves) Amendment (Unused Burial Rights) By-law 2003*.

**2 Commencement**

This By-law commences on 1 February 2003.

**3 Amendment of Crown Lands (General Reserves) By-law 2001**

The *Crown Lands (General Reserves) By-law 2001* is amended as set out in Schedule 1.

---

## Schedule 1 Amendments

(Clause 3)

### [1] Clause 31A Revocation of exclusive rights of burial

Insert at the end of clause 31A:

- (2) Before revoking any exclusive rights of burial under this clause, the reserve trust must cause notice of its intention to do so to be sent, by registered mail, to the person (if any) shown in the relevant register of burial places as the holder of those rights.
- (3) If no response to the notice is received within 28 days after the date on which it is sent, a second notice of the reserve trust's intention is to be given by means of an advertisement, identifying the burial place and the name of the holder:
  - (a) displayed in a prominent position at the burial place concerned, at each entrance to the cemetery and at the offices of the reserve trust, and
  - (b) published in at least one national and one local newspaper.
- (4) If no response to the second notice is received within 6 months after the date on which it is advertised, final notice of the reserve trust's intention:
  - (a) identifying the burial place and the name of the holder, and
  - (b) allowing the holder 28 days from the date of the notice within which to enter into negotiations of the kind referred to in subclause (6),is to be given by means of an advertisement published in at least one national and one local newspaper.
- (5) If no person is shown in the relevant register of burial places as the holder of the exclusive rights of burial to be revoked, or if the reserve trust has insufficient information to properly address the notice referred to in subclause (2), the trust is not required to send that notice but may in that case begin the notification process by means of the notice referred to in subclause (3).

**2002 No 21**

Crown Lands (General Reserves) Amendment (Unused Burial Rights) By-law 2003

Schedule 1

Amendments

---

- (6) At any time before the expiry of the period for responding to the final notice, the holder of the exclusive rights of burial concerned may enter into negotiations with the reserve trust for:
- (a) the sale of those rights to the trust, or
  - (b) the retention of those rights.

**[2] Clause 31AB**

Insert after clause 31A:

**31AB Gazettal of revocation of rights**

Within 28 days after revoking any exclusive rights of burial, the reserve trust is to cause a notice:

- (a) identifying the burial place and the name of the former holder of those rights, and
- (b) indicating the date on which the rights were revoked, to be published in the Gazette.

**[3] Clause 31B Compensation**

Insert after clause 31B (1):

- (1A) If there is no alternative burial place available, or if there is no applicable scale of fees, the amount of compensation referred to in subclause (1) (b) is to be half of the fee payable under the most recent applicable scale of fees, varied in proportion to any variation in the Consumer Price Index (All Groups Index) for Sydney that has occurred between the date on which that scale was established and the date of revocation of the exclusive rights of burial.
- (1B) A reserve trust must ensure that any report on its accounts contains an estimate of its contingent liability with respect to any exclusive rights of burial it has revoked.

**[4] Clause 31B (4A)**

Insert after clause 31B (4):

- (4A) An application for an entitlement under this clause:
  - (a) must be in the form approved by the reserve trust, and

**2002 No 21**

Crown Lands (General Reserves) Amendment (Unused Burial Rights) By-law 2003

Schedule 1 Amendments

---

- (b) must be accompanied by the fee set by the reserve trust under clause 20, and
- (c) must be lodged with the reserve trust within 6 years after the date on which the relevant exclusive rights of burial were revoked.

**Note.** Pursuant to clause 20 (8), the fee referred to in paragraph (b) is subject to variation or disallowance by the Minister.

BY AUTHORITY

---