

[Act 2001 No 122]



New South Wales

## **Cemeteries Legislation Amendment (Unused Burial Rights) Bill 2001**

### **Explanatory note**

This explanatory note relates to this Bill as introduced into Parliament.\*

### **Overview of Bill**

The objects of this Bill are:

- (a) to amend the *Necropolis Act 1901* so as to allow the body of trustees for a cemetery at Rookwood to revoke burial rights it has granted if they remain unused for more than 60 years, and to provide for the compensation of holders of burial rights revoked by the trustees in those circumstances, and
- (b) to amend the *Crown Lands (General Reserves) By-law 2001* so as to allow the reserve trust for any other public cemetery to revoke burial rights it has granted if they remain unused for more than 60 years, and to provide for the compensation of holders of burial rights revoked by the trust in those circumstances, and

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\* Amended in committee—see table at end of volume.

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- (c) to make minor, consequential and ancillary amendments to the *Crown Lands Act 1989* and the *Land Acquisition (Just Terms Compensation) Act 1991*.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the amendments to the *Necropolis Act 1901* set out in Schedule 1.

**Clause 4** is a formal provision giving effect to the amendments to the *Crown Lands (General Reserves) By-law 2001* set out in Schedule 2.

**Clause 5** is a formal provision giving effect to the amendments to the *Crown Lands Act 1989* and the *Land Acquisition (Just Terms Compensation) Act 1991* set out in Schedule 3.

## Schedule 1 Amendment of Necropolis Act 1901

### Revocation of exclusive rights of burial

**Schedule 1 [1]** amends section 24 so as to enable a body of trustees that has granted exclusive rights of burial to revoke those rights if they remain unused for more than 60 years, provided that it advertises its intention to do so in accordance with the regulations under the Act.

**Schedule 1 [2]** inserts proposed section 24A. The new section requires a body of trustees that has revoked a person's exclusive rights of burial in certain circumstances to compensate the person, either by granting the person burial rights for an alternative burial place in the same cemetery or by paying the person an amount equivalent to half the fee currently chargeable by the trustees for such a burial place. It also empowers the regulations under the Act to control the manner in which, and the time within which, an application for compensation is to be made.

**Schedule 1 [4]** amends the Fifth Schedule so as to authorise the regulations under the Act to make savings and transitional provisions. **Schedule 1 [3]** makes a consequential amendment.

## **Schedule 2 Amendment of Crown Lands (General Reserves) By-law 2001**

### **Revocation of exclusive rights of burial**

**Schedule 2** inserts proposed clauses 31A and 31B.

**Proposed clause 31A** enables a reserve trust for a cemetery that has granted exclusive rights of burial to revoke those rights if they remain unused for more than 60 years.

**Proposed clause 31B** requires a reserve trust that has revoked a person's exclusive rights of burial in certain circumstances to compensate the person, either by granting the person burial rights for an alternative burial place in the same cemetery or by paying the person an amount equivalent to half the fee currently chargeable by the trust for such a burial place.

## **Schedule 3 Amendment of other Acts**

### **Crown Lands Act 1989 No 6**

**Schedule 3.1** amends section 128 so as to ensure that the power to make by-laws under the Act in relation to land reserved for the purposes of a public cemetery is sufficient to support provisions of the kind being inserted into the *Crown Lands (General Reserves) By-law 2001* by Schedule 2.

### **Land Acquisition (Just Terms Compensation) Act 1991 No 22**

**Schedule 3.2** amends section 6 so as to ensure that the Act does not apply to any acquisition of land arising from the revocation of exclusive rights of burial that have been granted under an Act in relation to a public cemetery.