

SOUTH AUSTRALIA

WEST TERRACE CEMETERY ACT, 1976

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Regulations

WEST TERRACE CEMETERY ACT, 1976

being

West Terrace Cemetery Act, 1976, No. 57 of 1976
[Assented to 11 November 1976]¹

¹ Came into operation 20 September 1977: *Gaz.* 29 September 1977, p. 878.

An Act to vest certain land known as the West Terrace Cemetery in a certain body corporate; to make provision for the present management and the future development of that land and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title

1. This Act may be cited as the *West Terrace Cemetery Act, 1976*.

Commencement

2. This Act shall come into operation on a day to be fixed by proclamation.

Interpretation

3. In this Act, unless the contrary intention appears—

"the Cemetery" means all that land situated in the Hundred of Adelaide more particularly delineated on the Plan set out in the first schedule to this Act and margined by a heavy black line and described as West Terrace Cemetery:

"the Corporation" means the body corporate constituted by the *Commissioner of Public Works Incorporation Act, 1917*, which body corporate, pursuant to the *Ministers' Titles Act, 1944*, now bears the name "Minister of Works":

"the Registrar-General" means the person for the time being holding or acting in the office of Registrar-General under the *Real Property Act, 1886*, as amended, or the Registrar-General of Deeds under the *Registration of Deeds Act, 1935*, as amended.

Vesting of the Cemetery

4. (1) The Cemetery shall, on and from the commencement of this Act, by force of this section vest in the Corporation for an estate in fee simple freed and discharged from any trust, estate, right, title, interest, claim or demand of any description whatsoever.

(2) Without limiting the generality of the effect of subsection (1) of this section, the following land grants being:—

(a) Land Grant No. 172 a memorial of which is entered in Memorial Book No. 15;

(b) Land Grant No. 443 a memorial of which is entered in Memorial Book No. 42;

and

(c) Land Grant Register Book 1616 Folio 60,

are by force of this section, and without any compensation or other recompense being payable, cancelled and shall have no further force or effect.

Cemetery not to be under care, etc., of Council

5. Notwithstanding any Act or law to the contrary the Cemetery shall not be under the care, control or management of the council of The Corporation of the City of Adelaide.

Duty of Registrar-General

6. The Registrar-General shall, upon the application by the Corporation and upon being furnished with such information as he considers necessary, without requiring any registration or other fee or stamp duty to be paid, cause to be made such entries and endorsements in any register book or other record in his custody or on any document of title and cause to be issued such certificates of title as he considers appropriate to give full effect to section 4 of this Act, without being obliged to make any further investigation of title or to make any public advertisement.

Powers of Corporation

7. (1) Subject to this Act, the Minister may manage and use the Cemetery as a place for the interment of the dead and may do all things necessary or incidental to such management or use.

(2) In the exercise of the powers conferred by subsection (1) of this section, the Minister shall maintain any portion of the Cemetery, that was, on the commencement of this Act, set aside for the interment of persons of or associated with a particular religious persuasion, for the interment of persons of or associated with that persuasion.

Closing of portion of Cemetery

8. (1) The Governor may by proclamation declare that any portion of the Cemetery, specified in that proclamation, shall not be used as a place for the interment of the dead.

(2) On and from the publication of a proclamation referred to in subsection (1) of this section the portion of the Cemetery referred to in that proclamation shall cease to be used as a place for the interment of the dead.

Development of closed portions

9. (1) The Minister may develop and manage any portion of the Cemetery the subject of a proclamation under section 8 of this Act, as a park or recreation area, so long as that development or management is not, in the opinion of the Minister, inconsistent with the previous use of that portion to the extent that that portion was used as a place for the interment of the dead, and the Minister may do all things necessary or incidental to such development or management.

(2) In the exercise of the powers conferred by subsection (1) of this section, the Minister shall pay due regard to preservation of buildings, headstones and monuments of historical or religious significance.

(3) Where in the exercise of the powers conferred by subsection (1) of this section, the Minister causes any headstone to be moved, he shall, as far as practicable, ensure that that headstone is not damaged or defaced.

Jewish graves not to be disturbed

10. Nothing in this Act contained shall be construed as authorizing the Minister to disturb or otherwise interfere with any place of interment within the area delineated on the plan set out in the first schedule to this Act and marked "Jewish Granted MEM. No. 443 Bk. 42" without the written consent of the Board or Trustees or the Chief Minister of the Adelaide Hebrew Congregation.

Preservation of burial rights

11. Any right purporting to be acquired pursuant to a lease purporting to have been granted under the Regulations referred to in the second schedule to this Act shall, as to the balance of the term for which it purported to have been granted, have effect as if it has been validly and effectually granted under this Act.

Regulations shall cease to have effect

12. The Regulations referred to in the second schedule to this Act, to the extent they had any force or effect before the commencement of this Act, shall on that commencement cease to have any further force or effect.

Regulations

13. (1) The Governor may make such regulations as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1) of this section, those regulations may—

- (a) regulate the position and depth of graves in the Cemetery;
- (b) regulate the construction of coffins that may be admitted to vaults in the Cemetery;
- (c) regulate the covering of vaults in the Cemetery;
- (d) provide for and regulate the exhumation or removal of human remains from any place in the Cemetery;
- (e) provide for and regulate the grant of rights for burial purposes in the Cemetery and the method of granting such rights;
- (f) fix fees and charges for burial rights and other services provided within the Cemetery;
- (g) provide for the keeping of proper records with respect to the Cemetery including but without limiting the generality of the foregoing records of burials, burial rights and exhumations;
- (h) provide for the general regulation of any matter or thing connected with the Cemetery;
- (i) provide for the general regulation of any matter or thing connected with the development, management and use of a portion of the Cemetery the subject of a proclamation under section 8 of this Act;

and

- (j) provide for and prescribe penalties not exceeding two hundred dollars for a contravention of any such regulation.

5.

THE FIRST SCHEDULE

THE SECOND SCHEDULE

Regulations

Regulations with respect to the West Terrace Cemetery, Adelaide made on the twenty-sixth day of November, 1902, and published in *Gazette* of eleventh day of December, 1902, at pp. 1140 and 1141.

Regulation with respect to the West Terrace Cemetery, Adelaide made the fourteenth day of September, 1904, and published in *Gazette* of fifteenth day of December, 1904.

Regulation of the West Terrace Cemetery made the second day of October, 1930, and published in *Gazette* of second day of October, 1930.

Amendment of the West Terrace Cemetery Regulations made the thirty-first day of October, 1940, and published in *Gazette* of thirty-first day of October, 1940.