

# ENFIELD GENERAL CEMETERY ACT, 1944-1972

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## ENFIELD GENERAL CEMETERY ACT, 1944-1972

being

Enfield General Cemetery Act, 1944, No. 35 of 1944 [Assented to 14th December, 1944];

as amended by

Enfield General Cemetery Act Amendment Act, 1949, No. 17 of 1949 [Assented to 27th October, 1949];  
 Enfield General Cemetery (Exchange of Land) Act, 1952, No. 46 of 1952 [Assented to 4th December, 1952];  
 Enfield General Cemetery Act Amendment Act, 1956, No. 12 of 1956 [Assented to 1st November, 1956];  
 Enfield General Cemetery Act Amendment Act, 1960, No. 33 of 1960 [Assented to 3rd November, 1960];  
 Enfield General Cemetery Act Amendment Act, 1966, No. 63 of 1966 [Assented to 17th November, 1966];

and

Enfield General Cemetery Act Amendment Act, 1972, No. 25 of 1972 [Assented to 6th April, 1972]<sup>1</sup>.

**An Act to establish a public cemetery at Enfield, and for incidental purposes.**

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

### PART I

### PART I

#### PRELIMINARY

1. This Act may be cited as the "Enfield General Cemetery Act, 1944-1972".

Short title.  
Citation  
amended by 25,  
1972, s. 1 (2).

2. The provisions of this Act are arranged as follows:—

Arrangement of  
Act.

PART I—Preliminary.

PART II—Constitution and general powers of the trust.

PART III—Establishment and management of the cemetery.

PART IV—Miscellaneous.

3. In this Act, unless the context otherwise requires—

Interpretation.

"chairman" means the chairman of the trust:

"extraordinary vacancy" means a vacancy in an office arising otherwise than by effluxion of time:

"financial year" means the period of twelve months ending on the thirtieth day of June:

"member" means member of the trust, and includes the chairman:

"Minister" means the Minister of the Crown to whom for the time being the administration of this Act is committed by the Governor:

<sup>1</sup> Came into operation 18th May, 1972: *Gaz.* 11th May, 1972, p. 1759.

“secretary” means the secretary of the trust:

“the cemetery” means The Enfield General Cemetery:

“trust” means The Enfield General Cemetery Trust.

## PART II

## PART II

## CONSTITUTION AND GENERAL POWERS OF THE TRUST

Constitution of trust.

4. (1) A trust to be called “The Enfield General Cemetery Trust” is hereby constituted.

(2) The trust shall be a body corporate, and shall have perpetual succession and a common seal.

(3) All courts, judges, and persons acting judicially shall take judicial notice of the seal of the trust when affixed to any instrument and shall, in the absence of proof to the contrary, presume that the same was properly affixed thereto.

Membership of trust.

Subsec. (1) amended by 63, 1966, s. 3; 25, 1972, s. 3 (h).

5. (1) Subject to subsection (2) of this section, the trust shall consist of—

(a) a chairman appointed by the Governor on the nomination of the Minister;

(b) one member appointed by the Governor on the nomination of the Minister;

(c) two members appointed by the Governor on the nomination of the council of The Corporation of the City of Enfield;

(d) one member appointed by the Governor upon the nomination of the person for the time being administering the Diocese of Adelaide of the Church of England;

(e) one member appointed by the Governor upon the nomination of the person for the time being administering the Archdiocese of Adelaide of the Roman Catholic Church;

(f) one member appointed by the Governor on the nomination of the Minister and who, in the opinion of the Minister, is representative of other religious denominations in South Australia.

Subsec. (2) inserted by 25, 1972, s. 3 (b).

(2) Notwithstanding any other provision of this Act, on the appointed day<sup>1</sup> the members appointed and holding office as such pursuant to paragraphs (d), (e) and (f) of subsection (1) of this section shall retire from office as members and their offices shall be abolished, and, on and after the appointed day<sup>1</sup>, the trust shall consist of—

(a) the chairman appointed pursuant to paragraph (a) of subsection (1) of this section;

(b) the member appointed pursuant to paragraph (b) of subsection (1) of this section;

(c) the two members appointed pursuant to paragraph (c) of subsection (1) of this section;

<sup>1</sup> 18th May, 1972: See proclamation *Gaz.* 11th May, 1972, p. 1759. See also s. 5 (4) of this Act.

- (d) two members appointed by the Governor, one of whom shall be nominated by the Treasurer and the other nominated by the Minister;

and

- (e) one member appointed by the Governor in accordance with subsection (3) of this section who will represent the religious denominations in South Australia.

(3) The member referred to in paragraph (e) of subsection (2) of this section shall be appointed in accordance with the following provisions:—

Subsec. (3)  
inserted by 25,  
1972, s. 3 (b).

- (a) the member to be first appointed pursuant to that paragraph or to be appointed to succeed a member appointed under paragraph (c) of this subsection at the end of his term of office shall be appointed upon the nomination of the person for the time being administering the Diocese of Adelaide of the Church of England in Australia;
- (b) the member to be appointed to succeed a member appointed under paragraph (a) of this subsection at the end of his term of office shall be appointed upon the nomination of the person for the time being administering the Archdiocese of Adelaide of the Roman Catholic Church;

and

- (c) the member to be appointed to succeed a member appointed under paragraph (b) of this subsection at the end of his term of office shall be appointed upon the nomination of the Minister and shall be a person who, in the opinion of the Minister, is representative of other religious denominations in South Australia.

- (4) In this section—

“the appointed day” means the day which shall be fixed by proclamation as the appointed day for the purposes of this section<sup>1</sup>.

Subsec. (4)  
inserted by 25,  
1972, s. 3 (b).

6. (1) \* \* \* \* \*

Term of office.  
Subsec. (1)  
struck out by 25,  
1972, s. 4 (a).

- (2) All members shall, subject to this Act, hold office for four years.

Subsec. (2)  
amended by 25,  
1972, s. 4 (b).

(3) A member appointed to fill an extraordinary vacancy shall, subject to this Act, hold office only for the unexpired portion of the term of the member in whose place he is appointed.

- (4) Any retiring member shall hold office until his successor is appointed.

(5) Any person ceasing to be a member by reason of the expiration of his term of office shall be eligible for reappointment if otherwise eligible under this Act.

6a. (1) Where a member of the trust appointed pursuant to paragraph (c) of section 5 of this Act was, at the time of his appointment as such, a member of the council of The Corporation of the City of Enfield, he shall, notwithstanding any other provision of this Act, cease to be a member of the trust and vacate his office as such upon his ceasing to be a member of that council.

Member of  
trust who is also  
a member of the  
council of The  
Corporation of  
the City of  
Enfield to  
vacate office on  
ceasing to be  
member of that  
council.  
S. 6a enacted by  
63, 1966, s. 4.

(2) Subsection (1) of this section shall not apply to a person who immediately before the commencement of the Enfield General Cemetery Act

<sup>1</sup> 18th May, 1972: See proclamation *Gaz.* 11th May, 1972, p. 1759.

Amendment Act, 1966, was a member of the trust and whose term of office had not expired at such commencement.

Power of  
Minister in case  
of default in  
nomination.

7. (1) In any case where there has, in the opinion of the Minister, been unreasonable delay in the nomination of a member by any person entitled to nominate a member, the Minister may, on behalf of that person, nominate a member for appointment by the Governor.

(2) The member so appointed shall be deemed to have been duly nominated by that person.

(3) The Minister shall give notice of the appointment in the *Government Gazette*, stating on whose behalf the member was nominated, and the notice in the *Government Gazette* of the appointment shall be conclusive evidence of the appointment and that the same was duly made.

Method of  
filling up  
vacancies.

8. When any vacancy occurs on the trust, whether by expiration of a member's term of office or otherwise, it shall be filled up in manner provided by this Act by appointment on nomination by the person who nominated the member whose place it is desired to fill.

Disqualifica-  
tion of member.

9. No person shall be appointed a member or continue to be a member who—

(a) holds any office or place of profit in the gift or disposal of the trust;

(b) by himself, his partner, or otherwise, has any interest in any contract (except for advertisements or printing) with or employment under the trust: Provided that no person shall be disqualified from being a member of the trust by being a member or shareholder of or in any company incorporated under any Act or registered under any Act for registering joint stock companies and limiting the liabilities of the members thereof and consisting of twenty or more members or shareholders, by reason of any contract entered into by the company with the trust; but no such member interested by himself, his partner, or otherwise, in any contract with the trust, or being a member or shareholder of or in any such company, shall vote at any meeting of the trust on any question relating to any contract in which such person or company is interested;

(c) is an undischarged bankrupt.

Casual  
vacancies.

10. In addition to the retirement of members by the expiration of their terms of office, the office of a member shall be vacated on—

Para. (a)  
amended by 25,  
1972, s. 5.

(a) the death, lunacy, or bankruptcy of the member, or the execution by the member of a statutory deed of assignment for the benefit of his creditors, or his compounding with his creditors for less than one hundred cents in the dollar, or the conviction of the member of an indictable offence;

(b) the absence of the member from three consecutive ordinary meetings of the trust, without leave of the trust, followed by a resolution of the trust declaring the office vacant (which resolution the trust may pass if it thinks fit but shall not pass at any time later than six weeks after the last of the three consecutive meetings);

(c) the absence of the member from the State for three consecutive months without leave of the trust;

(d) disqualification of the member as hereinbefore in this Act provided;

- (e) the resignation of the member by notice in writing, posted or delivered to the Minister; or
- (f) the judgment or order of any competent court declaring the office of the member vacant.

11. (1) The chairman, when present, shall preside at all meetings of the trust. In the absence of the chairman from any meeting, another member, chosen for the purpose by the majority of the members present and voting, shall preside. Chairman.

(2) The person presiding for the time being shall have a casting vote as well as a deliberative vote.

12. Four members present at a meeting shall constitute a quorum of the trust. Quorum.

13. (1) No act or proceeding of the trust shall be invalid or illegal in consequence only of the number of the members of the trust not being complete at the time of the act or proceeding. Defects in appointment not to invalidate proceedings of trust.

(2) All acts and proceedings of the trust shall, notwithstanding the subsequent discovery of any defect in the appointment of any member thereof, or that any member was disqualified or disentitled to act, be as valid as if the member had been duly appointed and was qualified and entitled to act and had acted as a member of the trust, and as if the trust had been properly and fully constituted.

14. (1) The trust may—

Ancillary powers of trust.

- (a) in its corporate name purchase, take, receive, accept, hold, acquire, and possess lands, tenements, and hereditaments in fee simple, or for any less estate or for any term of years or otherwise, and goods and chattels, and may grant, sell, convey, transfer, demise, assign, or otherwise dispose of the same;
- (b) in its corporate name arbitrate or sue, implead, and answer and be sued, impleaded, and answered in all courts and before all judges, magistrates, justices, and arbitrators whomsoever, in all actions, pleas, suits, disputes, causes, and matters whatsoever; and
- (c) do and exercise all such further acts and powers as it is by this Act authorized to do and exercise, or as may be necessary for the doing or exercising of any of such acts or powers.

(1a) The trust may delegate to any person approved by the Governor, on such terms and conditions as the Governor approves, any of the powers it is authorized to exercise by this Act, other than the power to make regulations under section 43 of this Act, and may at any time, with the Governor's approval, vary or revoke such delegation. Subsec. (1a) inserted by 33, 1960, s. 3; amended by 25, 1972, s. 6.

(2) The trust may accept any gift, devise or bequest for any purpose of the cemetery and may give effect to any trusts, conditions or stipulations relating thereto which are in accordance with law.

15. (1) The trust may enter into, vary, and discharge contracts for any of the purposes of this Act. Power of trust to make, vary, and discharge contracts.

(2) The trust may for the purposes of this Act, enter into any contract with any person.

(3) Every contract entered into by the trust may be made, varied, or discharged by the trust as follows:—

- I. A contract which, if made between private persons, would by law be required to be in writing and under seal, or to be proved by writing under seal, may be made in writing and under the common seal of the trust, and may be varied or discharged in the same manner:
- II. A contract which, if made between private persons, would by law be required to be in writing, signed by or on behalf of the parties thereto, or to be proved by writing so signed, may be in writing under the common seal of the trust, or in writing signed by the chairman or two members and countersigned by the secretary acting by the direction and on behalf of the trust, and may be varied or discharged in the same way as it was or might have been made:
- III. A contract which, if made by private persons, would be valid in law although not reduced into writing, or might be proved without writing, may be made in either of the two ways aforesaid, or by either of the chairman or secretary when acting by the direction (whether general or specific) and on behalf of the trust with or without writing, and may be varied or discharged in the same manner as it was or might have been made.

(4) Every deed, conveyance, agreement, contract under seal, or instrument which it is necessary for the trust to execute or sign and is not otherwise provided for by this section, shall have the common seal of the trust affixed thereto, and be signed by the chairman or two members and countersigned by the secretary.

(5) Every deed, conveyance, agreement, contract, or instrument made in writing under the common seal of the trust shall be signed by the chairman or two members and countersigned by the secretary.

Appointment of  
secretary and  
other officers.

**16. (1)** The trust shall appoint a secretary for the purposes of this Act.

Subsec. (2)  
amended by 33,  
1960, s. 4.

(2) The trust may appoint and employ such other officers and servants as it deems necessary and, with the Governor's approval, enter into any arrangement with any person, whether as its agent or otherwise, to enable or assist it to carry into execution the various powers and duties vested in or imposed on it by this Act.

(3) The secretary and all other persons appointed by the trust shall act under the control of the trust.

Trust to be  
under  
Ministerial  
control.  
S. 16a enacted  
by 25, 1972,  
s. 7.

**16a.** The trust shall be subject to the control and directions of the Minister who may give any direction to the trust by communicating the same, orally or in writing, to the chairman, the secretary or some other responsible officer of the trust.

Payment of  
salaries, etc.

**17. (1)** The trust may pay to every person appointed or employed by it such salary, allowances, fees, wages, pensions, or retiring allowances as it deems reasonable or proper, and may pay the premiums in respect of the fidelity guarantee or workmen's compensation insurance policies of its officers and servants.

(2) The trust may contribute to any sick, accident, or pension fund for its officers and servants or to any fund for the purpose of providing retiring benefits for its officers and servants.

18. The trust may from time to time appoint a committee or committees of its members, and may delegate to any such committee such of its powers and duties as it thinks fit, and may at any time alter, vary, or revoke any such delegation. Committee.

19. (1) The trust shall keep a minute-book in which the proceedings of each meeting and the business performed thereat shall be entered. Minute-book.

(2) The minutes of each meeting shall be submitted for confirmation at a subsequent meeting of the trust, and, if confirmed, shall be signed by the chairman or other person presiding at the subsequent meeting. All entries in the minutes so signed shall be received in all courts and tribunals and by all persons as sufficient evidence of the accuracy of the matters therein recorded until the contrary is proved.

### PART III

### PART III

#### ESTABLISHMENT AND MANAGEMENT OF THE CEMETERY

20. Upon payment by the trust of an amount calculated as provided in the first schedule The Synod of the Church of England in the Diocese of Adelaide Incorporated shall transfer to the trust an estate of fee simple in the land described in the second schedule. Transfer of land to trust.

21. (1) Upon transfer to the trust of the land referred to in section 20, that part of the said land shown in the plan in the third schedule and therein hachured in black shall be a public cemetery and shall be held by the trust for the purposes of a public cemetery and shall be known as "The Enfield General Cemetery". Constitution of cemetery.

(2) The provisions of section 586 of the Local Government Act, 1934-1941<sup>1</sup>, shall not apply to the cemetery.

22. (1) The portion of the land transferred as provided by section 20 and not included in the cemetery shall be sold by the trust at such times and in such manner and upon such terms and conditions as the trust thinks fit. Provision as to balance of land transferred.

(2) The proceeds of the sale of the land or any portion of such proceeds shall be applied in such manner as the Minister may, from time to time, by writing addressed to the trust, direct. Subsec. (2) substituted by S. 22a enacted by 33, 1960, s. 8.

(3) No part of the said land shall be used by the trust as a cemetery.

22a. (1) The trust may as occasion requires, with the consent of the Governor, sell in such manner and upon such terms and conditions as the Governor approves, such portions of the land included in the cemetery as have not been developed, prepared or used for burial purposes. Power to sell land not used for burial purposes. S. 22a enacted by 33, 1960, s. 5.

(2) The proceeds of every sale under this section or any portion of such proceeds shall be applied in such manner as the Minister may, from time to time, by writing addressed to the trust, direct. Subsec. (2) substituted by S. 25, 1972, s. 9.

<sup>1</sup> Now Local Government Act, 1934-1975.



(3) Upon the sale of any portion of the land that portion shall cease to be part of the cemetery.

Advance to trust.

**23.** (1) From moneys provided by Parliament for the purpose the Minister may advance to the trust—

(a) the moneys required to be paid by the trust pursuant to section 20; and

Para. (b) amended by 17, 1949, s. 2 (a) (b); 46, 1952, s. 8 (a), (b).

(b) a sum of twenty thousand pounds<sup>1</sup> to be advanced in such instalments as the Minister thinks fit but no part of such sum shall be advanced after the thirtieth day of June, 1958<sup>2</sup>.

Subsec. (2) amended by 12, 1956, s. 2; 25, 1972, s. 10 (a).

(2) All moneys advanced pursuant to this section shall, until repaid to the Minister, bear interest at such rate or rates as the Treasurer from time to time determines, and the Treasurer may determine different rates to be payable in respect of moneys advanced at different times. All such interest shall be payable to the Minister by the trust in such manner as the Minister may on the recommendation of the Treasurer, from time to time, by writing addressed to the trust, direct.

Subsec. (3) amended by 25, 1972, s. 10 (b).

(3) The moneys advanced pursuant to this section shall be repaid to the Minister by the trust in such manner as the Minister may on the recommendation of the Treasurer, from time to time, by writing addressed to the trust, direct.

Subsec. (4) inserted by 25, 1972, s. 10 (c).

(4) The Minister may, upon such terms and conditions as he thinks fit, from time to time extend the time for payment of any amount the trust is liable to pay to the Minister under this Act.

Subsec. (5) inserted by 25, 1972, s. 10 (c).

(5) Any interest payable by the trust to the Minister shall, if the Minister so directs, and from such date as may from time to time be fixed by the Minister, be capitalized and added to the amount advanced to the trust.

Subsec. (6) inserted by 25, 1972, s. 10 (c).

(6) The trust may at any time pay off the whole or any part of the amount owing by the trust to the Minister.

Power of trust to borrow on overdraft.

S. 24 amended by 17, 1949, s. 3; 46, 1952, s. 9; substituted by 25, 1972, s. 11.

**24.** (1) The trust may borrow from any bank by way of overdraft any moneys for the purposes of carrying out its duties and functions under this Act or of conducting the affairs of the trust.

(2) The Treasurer may, upon such terms and conditions as he thinks fit, guarantee the repayment of any moneys borrowed by the trust under this section.

Trust may borrow money for erection of crematorium, etc.

S. 24a enacted by 63, 1966, s. 5.

**24a.** The trust may, with the consent of the Minister, borrow money for the purpose of erecting a crematorium or any building or of making improvements which the trust is authorized to erect or make under this Act and may, with like consent, mortgage or charge any portion of the land included in the cemetery which has not been developed, prepared, set apart or used for burial purposes as security for the repayment of any money so borrowed together with interest thereon.

Application of revenue.

S. 25 amended by 63, 1966, s. 6; substituted by 25, 1972, s. 12.

**25.** The trust shall apply its revenue in such manner as the Minister approves.

<sup>1</sup> In this Act references to amounts of money expressed in the old currency have not been converted to their equivalents in decimal currency as those references were applicable before the commencement of the Decimal Currency Act, 1965-1966, and conversion of those references would therefore seem inappropriate.

<sup>2</sup> Reference to the year nineteen hundred and fifty-eight altered to 1958 pursuant to s. 7 (1) of the Acts Reproduction Act, 1967, as amended.

26. (1) The trust may in any financial year set aside out of its revenue such amount as the Minister may approve as a reserve fund or a contribution towards a reserve fund to provide for the payment of future working expenses and maintenance costs of the cemetery. The trust may expend the reserve fund or any part thereof for any such purpose.

Reserve fund.  
Subsec. (1)  
amended by 25,  
1972, s. 13 (a),  
(b).

(2) The reserve fund, and any interest thereon or income therefrom shall, until expended as aforesaid, be invested in any securities of or guaranteed by the Government of the State or the Commonwealth or in any securities guaranteed by or under the authority of any Act of the Parliament of the State or the Commonwealth or by the Treasurer of South Australia, or shall be deposited at interest with the Treasurer of the State or a bank in the State. The said interest and income shall form part of the reserve fund.

Subsec. (2)  
amended by 63,  
1966, s. 7 (a),  
(b).

27. (1) The trust shall keep proper books of account for the purpose of recording its income and expenditure.

Books and  
accounts.

(1a) Where any income is derived or expenditure is incurred by the trust through the exercise of any powers delegated by the trust to any person or through any activity of any person with whom the trust has entered into an arrangement pursuant to this Act, such person shall keep proper books of account for the purpose of recording all transactions relating to such income and expenditure, and shall, when requested by the trust, or the Auditor-General, or by any person authorized in that behalf by the Minister, produce such books for inspection.

Subsec. (1a)  
inserted by 33,  
1960, s. 6;  
amended by 25,  
1972, s. 14.

Penalty: One hundred dollars.

(2) The financial year of the trust shall end on the thirtieth day of June in every year.

(3) The books shall be balanced in respect of every financial year on or before the first day of October after the close of the financial year.

28. (1) On or before the first day of October in every year the trust shall cause to be prepared a statement and balance-sheet of the accounts of the trust for the financial year then last past.

Statement of  
accounts and  
balance-sheet.

(2) A copy of the statement and balance-sheet shall, on or before the first day of October—

(a) be published by the trust in the *Government Gazette*; and

(b) be forwarded by the trust to the Minister.

29. (1) The Auditor-General shall make an annual audit of the trust's accounts and for the purpose of the audit may exercise any of the powers which he could exercise for the purpose of auditing the accounts of a Government department.

Auditor.

(2) The trust shall for every audit pay to the Treasurer of the State a reasonable fee of an amount approved by the Treasurer.

30. (1) All moneys received by the trust shall be paid to the credit of the trust with some bank in Adelaide or with the Treasurer of the State.

Banking  
account.

(2) No money shall be withdrawn from any such bank or the Treasurer of the State except by cheque signed by a member and the secretary.

31. (1) Members of the trust shall be paid by the trust such fees as are from time to time fixed by the Minister.

Payment of  
members.  
Subsec. (1)  
amended by 63,  
1966, s. 8.

(2) The trust may pay to any member any travelling or other expenses necessarily incurred by the member on the business of the trust.

Management of the cemetery.

Subsec. (1) amended by 33, 1960, s. 7 (a).

**32.** (1) The trust shall have the care, control, and management of the cemetery and may, subject to this Act, do or cause or permit to be done such things as the trust considers necessary or expedient to conduct the cemetery as a public cemetery.

Subsec. (2) substituted by 33, 1960, s. 7 (b).

(2) Subject to this Act, the trust may within the cemetery erect or cause or permit to be erected any buildings, and make or cause or permit to be made any improvements, which the trust considers necessary or expedient for the conduct of the cemetery.

Subsec. (3) substituted by 33, 1960, s. 7 (c).

(3) Subject to this Act and the Cremation Act, 1891-1936<sup>1</sup>, the trust may erect and maintain or cause or permit to be erected and maintained a crematorium within the cemetery.

Power to set apart portion of cemetery for religious denominations and deceased members of the armed forces.

Subsec. (1) amended by 63, 1966, s. 9.

**33.** (1) The trust may set apart any portion of the cemetery for the burial of persons of any particular religious denomination. If a request in writing is made to the trust by any religious denomination requesting that a portion of the cemetery be set apart for the burial of persons of that denomination, the trust may set apart a portion of the cemetery for that purpose.

(2) The trust shall set apart a portion of the cemetery for the burial of persons who are or who have been members of any naval, military, or air force of the Commonwealth or any other part of His Majesty's Dominions.

Subsec. (3) inserted by 33, 1960, s. 8.

(3) Where the trust has set apart or sets apart a portion of the cemetery for any purpose pursuant to this section that portion shall not be used by any person for any other purpose except with the consent of the Governor.

Ministers of religion to have free access.

**34.** The minister of any religious denomination for which any portion of the cemetery is specially set apart shall have free access and admission to that portion of the cemetery at all times as he thinks fit, and may freely exercise his spiritual functions therein without any hindrance or disturbance.

Erection of mortuary chapels by religious denominations.

**35.** If any portion of the cemetery is set apart for the burial of persons of any particular religious denomination the trust may, after approving the plans thereof, permit the members of that religious denomination to erect in the said portion of the cemetery a suitable mortuary church or chapel for the performance of the rites and ceremonies in the burial of the dead according to the usages of that denomination. Any such permission may be granted subject to any conditions thought fit by the trust.

Right to performance of religious ceremony.

**36.** The trust shall not by any regulation or any 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 usage of the communion to which the deceased has belonged.

Power to grant burial rights.

**37.** (1) The trust may grant rights for burial purposes over any part of the cemetery.

(2) No such burial right shall be granted for any longer term than ninety-nine years but may be renewed from time to time for any period not exceeding ninety-nine years.

(3) Any such burial right may grant the exclusive right of burial in the land therein comprised.

<sup>1</sup> Now Cremation Act, 1891-1964.

38. (1) The trust may from time to time fix a scale of fees and charges which shall be payable to the trust or to an agent of the trust or some other person duly appointed or authorized to receive the same for the grant of burial rights and in respect of other rights and services granted or given in respect of the cemetery.

Power to make and publish scale of fees.  
Subsec. (1) amended by 33, 1960, s. 9.

(2) Different fees may be fixed with respect to different parts of the cemetery, with respect to different classes of burial rights, and with respect to different kinds of other rights and services.

(3) Any such scale of fees and charges shall be published in the *Government Gazette*.

39. The trust may do anything not inconsistent with this Act or with any direction of the Minister which the trust considers necessary or expedient for the upkeep, maintenance, improvement, and management of the cemetery and may expend its moneys for any such purpose.

General power of maintenance, etc.  
S. 39 amended by 33, 1960, s. 10; 25, 1972, s. 15.

40. (1) The trust shall cause a plan to be made of the cemetery.

Plan of cemetery.

(2) The plan shall be made on a scale large enough to show the situation and distinctive number of every grave and burial place, and to show the information required to be placed thereon pursuant to section 41.

41. (1) All burials within the cemetery shall be registered in a book to be provided and kept by the trust for that purpose, and shall be noted on the plan required to be made pursuant to section 40.

Register of burials.

(2) In the register-book shall be distinguished in what parts of the cemetery the several bodies are buried.

(3) The register-book shall be indexed so as to facilitate searches for entries therein.

(4) Every book and document purporting to be any such register-book or a copy or an extract therefrom shall be received in all courts as evidence of the burials entered therein.

42. (1) All cremations effected within any crematorium within the cemetery shall be registered in a register-book to be provided and kept by the trust.

Register of cremations.  
Subsec. (1) amended by 33, 1960, s. 11.

(2) The register-book shall be indexed so as to facilitate searches for entries therein.

(3) Every book and document purporting to be any such register-book or a copy or extract therefrom shall be received in all courts as evidence of the cremations entered therein.

## PART IV

## PART IV

### MISCELLANEOUS

43. (1) The trust may make regulations not inconsistent with any regulation made pursuant to section 595 of the Local Government Act, 1934-1941<sup>1</sup>, for all or any of the following matters:—

Regulations.

i. For the general management of the cemetery:

<sup>1</sup> Now Local Government Act, 1934-1975.

- II. For regulating and controlling the digging, making, and maintenance of graves and vaults in the cemetery and fixing the position thereof:
- III. For regulating and controlling the erection and maintenance in the cemetery of monuments, tombstones, railings, fences and other structures:
- IV. For protecting the buildings, monuments, tombstones, railings, fences, other structures, shrubberies, plantations, and enclosures in the cemetery and generally for maintaining good order and proper conduct in the cemetery and for the protection of any property therein:
- V. For regulating the duties of the officers and servants of the trust:
- VI. For regulating the proceedings of the trust:
- VII. For any other matters necessary or desirable for carrying this Act into effect:
- VIII. For imposing penalties not exceeding one hundred dollars for the breach of any regulation.

Para. VIII  
amended by 25,  
1972, s. 16.

(2) No such regulation shall be made except with the approval of the Governor.

Liability of  
trust for local  
government  
rates, etc.

44. (1) Except as provided by subsection (2), the trust shall, for the purposes of the Local Government Act, 1934-1941<sup>1</sup>, and in respect of any land of which the trust is the owner or occupier, be subject to the duties and liabilities imposed by that Act upon owners or occupiers of ratable property.

Subsec. (2)  
amended by 25,  
1972, s. 17.

(2) The trust shall pay to The Corporation of the City of Enfield by way of all rates which may be imposed by the said corporation upon the land comprised in the cemetery the amounts specified in the fifth schedule and, notwithstanding the provisions of the Local Government Act, 1934-1941<sup>1</sup>, no other amount shall be payable by the trust to the said corporation by way of rates in respect of the said land. The said corporation shall not make an assessment of the land comprised in the cemetery.

Summary  
proceedings.

45. All proceedings in respect of any offence against this Act shall be disposed of summarily.

## SCHEDULES

### THE FIRST SCHEDULE

#### AMOUNT TO BE PAID FOR LAND TO BE TRANSFERRED

The amount to be paid pursuant to section 20 by the trust to The Synod of the Church of England in the Diocese of Adelaide Incorporated shall be the total of the following amounts, namely:—

- (a) The sum of £7,069 4s. 4d.<sup>2</sup> (being the amount of the purchase price paid by the said Synod for the land described in the second schedule) together with any amount paid by the said Synod in respect of stamp duties and other charges payable upon the transfer to the said Synod of the said land:

<sup>1</sup> Now Local Government Act, 1934-1975.

<sup>2</sup> In this Act references to amounts of money expressed in the old currency have not been converted to their equivalents in decimal currency as those references were applicable before the commencement of the Decimal Currency Act, 1965-1966, and conversion of those references would therefore seem inappropriate.

(b) Interest on the total amount referred to in paragraph (a) calculated at the rate of  $3\frac{1}{4}$  per centum from 12th December, 1942, until the date of payment to the said Synod pursuant to section 20:

(c) Any amount paid by the said Synod since 12th December, 1942, by way of rates or taxes payable in respect of the said land:

Provided that from the said total amount there shall be deducted any amounts received or payable to the said Synod pursuant to any agreement for the leasing or letting of the said land.

### THE SECOND SCHEDULE

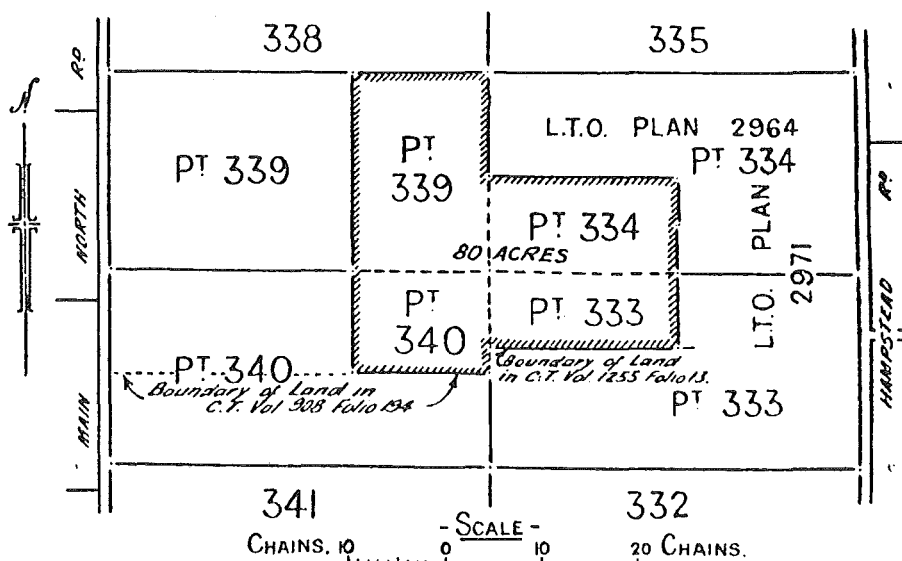
#### LAND TO BE TRANSFERRED

(a) That piece of land situated in the Hundred of Yatala, County of Adelaide, being portion of section 339 containing 16 acres 2 roods and 20 perches or thereabouts, and portion of section 340 containing 40 acres 2 roods and 20 perches or thereabouts and being the whole of the land comprised in certificate of title register book volume 908 folio 194.

(b) That piece of land situated in the Hundred of Yatala, County of Adelaide, being portion of section 333 containing 15 acres and 5 perches or thereabouts, portion of section 334 containing 20 acres 1 rood and 30 perches or thereabouts, and portion of section 339 containing 64 acres 1 rood and 20 perches or thereabouts, and being the whole of the land comprised in certificate of title register book volume 1255 folio 13.

### THE THIRD SCHEDULE

#### LAND TO BE HELD FOR THE PURPOSE OF A PUBLIC CEMETERY



\* \* \* \* \*

4th Sched.  
amended by 17,  
1949, s. 4; 46,  
1952, s. 10;  
repeated by 25,  
1972, s. 18.

5th Sched.  
amended by 25,  
1972, s. 19.

## THE FIFTH SCHEDULE

## AMOUNTS PAYABLE AS LOCAL GOVERNMENT RATES IN RESPECT OF THE CEMETERY

The following amounts shall be payable by the trust as local government rates in respect of the land comprised in the cemetery:—

- (a) During each financial year up to and including the financial year commencing on 1st July, 1979—\$150.
  - (b) During each subsequent financial year—\$200.
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