

## VICTORIA.



ANNO VICESIMO SEXTO

ELIZABETHÆ SECUNDÆ REGINÆ

No. 9052.

An Act to amend the *Cemeteries Act* 1958 and for other purposes.

[22nd November, 1977.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

1. (1) This Act may be cited as the *Cemeteries (Amendment) Act* 1977. Short title.

(2) This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*. Commence-  
ment.

(3) In this Act the *Cemeteries Act* 1958 is called the Principal Act. Principal Act  
No. 6217.  
Reprinted to  
No. 7672.  
Subsequently  
amended by  
Nos. 7972,  
8116, 8181, 8634,  
8907, 9023.

2. Section 18 of the Principal Act shall be amended as follows :— Amendment of  
No. 6217 s. 18.

(a) After the expression " the trustee of any such cemetery " there shall be inserted the expression " or any officer-

of

of the trustees authorized in that behalf (whether generally or in any particular case) by the trustees and the Commission of Public Health” ;

- (b) For the expression “ they think proper, upon payment to them ” there shall be substituted the expression “ they think or he thinks proper, upon payment to them or to him ”.

Amendment of  
No. 6217 s. 19.

3. In section 19 (1) after the expression “ by the trustees ” there shall be inserted the expression “ and the Commission of Public Health ”.

Amendment of  
No. 6217.  
Substitution  
of s. 20.

4. For section 20 of the Principal Act there shall be substituted the following section :—

“ 20. When any person desires to erect or place any monument or tombstone in any part of any such cemetery, he shall before such permission as aforesaid is given submit a plan of the monument or tombstone proposed to be erected or placed to the trustees of such cemetery or an officer of the trustees authorized in that behalf (whether generally or in any particular case) by the trustees and the Commission of Public Health who shall be at liberty to withhold their or his permission and to prevent the erection or placing of any monument or tombstone which appears to them or him inappropriate unsafe or dangerous.”.

Amendment of  
No. 6217.  
Substitution  
of s. 23.

5. For section 23 of the Principal Act there shall be substituted the following section :—

“ 23. (1) Where any person has for the time being the exclusive right of burial or interment in any grave or vault such person shall maintain or cause to be maintained at his expense such grave or vault or monument tombstone headstone cenotaph wall fence or other erection placed thereon in a state unlikely to cause danger to life or limb and in thorough repair and proper condition.

(2) Where in the opinion of the trustees any grave or vault or monument tombstone headstone cenotaph wall fence or other erection is in a state likely to cause danger to life or limb or is not in thorough repair or proper condition the trustees may by notice in writing sent to the person having the exclusive right to burial or interment require such person to remove the danger or to make such repairs or restoration as are specified in the notice in writing.

(3) In the event of a person failing to comply with the requirements of any notice given under sub-section (2) within 14 days the trustees may—

- (a) repair the grave vault monument tombstone headstone cenotaph or other erection to which the notice relates ;  
or

(b) with

- (b) with the consent of the Commission of Public Health take down and remove any monument tombstone headstone cenotaph or other erection—

and may recover the cost and expenses of so doing from the person to whom the notice was sent before a magistrates' court as a civil debt recoverable summarily.

(4) Where after diligent inquiry the trustees are unable to discover the whereabouts of any person having for the time being the exclusive right of burial or interment in the grave or vault concerned, or where to the trustees there appears to be no person having an exclusive right of burial or interment in such grave or vault, the trustees may with the consent of the Commission of Public Health repair such grave or remove such monument or other erection.

(5) In this section any act which may be performed by the trustees may be performed by an officer of the trustees authorized on that behalf by the trustees and the Commission of Public Health."

6. The provisions of sections 18 and 20 of the Principal Act amended by this Act shall be deemed to have been enacted as so amended and anything done in pursuance of those provisions shall be deemed to be lawfully done.

Ss. 18 and 20  
deemed to be  
enacted as  
amended.

7. In clause 4 (a) of Part A of Schedule One of the *Health Commission Act 1977* after the words "In sections" there shall be inserted the expression "18, 19, 20 and 23,".

Consequential  
amendment of  
No. 9023.