

NORTHERN TERRITORY OF AUSTRALIA

CEMETERIES ACT 1952

As in force at 1 May 2016

Table of provisions

1	Short Title	1
2	Commencement	1
3	Repeal	1
4	Definitions	1
5	Application of Act	2
6	Establishment of cemeteries	2
6A	Nhulunbuy Public Cemetery	3
7	Provision of public cemeteries according to religious denominations, etc.	3
8	Board of Trustees of a cemetery	4
9	Constitution of a Board	4
10	Vacation of office	5
11	Meetings of Board	5
12	Board may delegate its powers	6
13	Powers of Boards	6
13A	By-laws	6
14	Board or other person may erect etc. crematorium	7
14A	Appointment of person to supervise crematorium	7
15	Cremations	8
16	Permit for cremation	8
17	Interested persons not to certify	9
18	Next of kin may object to cremation	9
19	Officers may forbid cremation	10
20	No cremation without permit or in contravention of notice	10
21	Burial must be in cemetery	10
22	Time for burials	10
23	Manner of burial	10
24	Place of burial	11
25	Inspection of premises	11
26	Interference with burial ceremonies	11
27	Recognized head may object to certain matters	11
28	Compliance with Board's order	12
29	Burial allotments	12
30	Ministers of religion may exercise spiritual functions	12
30A	No exhumation without consent or authorisation	13
30B	Guidelines in relation to exhumation etc.	13
30C	Application for exhumation and removal of remains	13
30D	Consent to exhumation and removal of remains	15
30E	Minister may appoint employee to be present at exhumation	15
30F	Minister may prescribe fees etc. in respect of exhumation	15
31	Employment of staff	15

32	Maintenance of cemeteries.....	16
33	Accounts.....	16
34	Audit	16
35	Annual report.....	16
36	Closing of cemeteries	17
37	Burials in closed cemeteries.....	17
38	Appointment of curators	17
39	Minister may determine fees.....	17
39A	Licences	17
39B	Regulatory offences.....	17
40	Regulations.....	18

Schedule

ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 May 2016

CEMETERIES ACT 1952

An Act relating to the establishment, maintenance and control of cemeteries

1 Short Title

This Act may be cited as the *Cemeteries Act 1952*.

2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3 Repeal

The Act number 19 of 1862, the "*Cremation Act, 1891*" and "*The Cemeteries Act Amendment Act, 1897*" of the State of South Australia cease to apply to the Territory.

4 Definitions

In this Act unless the contrary intention appears:

Aboriginal land means Aboriginal land within the meaning of the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth.

Board means a Board of Trustees of a public cemetery appointed under this Act.

burial ceremony includes a ceremony at a burial or cremation.

cemetery includes a public cemetery and a private burial ground.

legally qualified medical practitioner means:

- (a) a medical practitioner; or
- (b) a medical practitioner who has a right of practice under a law of a State or another Territory.

private burial ground means land set apart for, or dedicated to, the purposes of a private burial ground under this Act.

public cemetery means land set apart for, or dedicated to, the purposes of a public cemetery under this Act.

the recognized head, in relation to a religious denomination or group of religious denominations, means the person for the time being recognized by the Minister as the head, in the Territory, of a religious denomination or group of religious denominations.

5 Application of Act

- (1) Subject to this section, the provisions of this Act:
 - (a) apply only to such portions of the Territory as are specified by the Minister, by notice in the *Gazette*;
 - (b) do not apply to the cemetery known as the Darwin Chinese Public Cemetery; and
 - (c) do not apply to a cemetery or portion of a cemetery the control of which is exercised by the body known as the Imperial War Graves Commission.
- (2) Sections 1 to 6 (inclusive), 15, 17, 18, 19, 21, 22, 25, 26, 30 and 36 to 40 (inclusive) apply throughout the Territory.
- (3) Sections 30A to 30F (inclusive) apply in relation to the exhumation of the remains of a deceased person:
 - (a) wherever in the Territory the remains are buried; and
 - (b) whether or not the remains are buried in a cemetery.

6 Establishment of cemeteries

- (1) The Administrator may, by notice in the *Gazette*, set apart for, or dedicate to, the purposes of a public cemetery or a private burial ground, any unleased land belonging to the Territory.
- (1A) The Administrator may, by notice in the *Gazette*, dedicate to the purpose of a public cemetery, Aboriginal land which has been leased in perpetuity at a nominal rental under the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth to the Commonwealth of Australia for the purpose of a public cemetery.
- (2) Land so set apart or dedicated shall be used only for the burial or cremation of bodies of deceased persons and for purposes incidental thereto.

6A Nhulunbuy Public Cemetery

- (1) The purported dedication under section 6(1) of the land described in the Schedule, made on 8 February 1973, is, and shall be deemed always to have been, as valid and effectual as it would have been if that land had not then been a reserve within the meaning of the *Social Welfare Act 1979*.
- (2) The *Social Welfare Act 1979* does not apply, and shall be deemed never to have applied since 7 February 1973, to or in respect of the land described in the Schedule.
- (3) The purported appointment under section 8(1) of a Board of Trustees of the Nhulunbuy Public Cemetery, made on 6 September 1973, is, and shall be deemed always to have been, as valid and effectual as it would have been if the land described in the Schedule had not been, on 8 February 1973, a reserve within the meaning of the *Social Welfare Act 1979*.

7 Provision of public cemeteries according to religious denominations, etc.

- (1) The Minister may, by notice in the *Gazette*, set apart separate portions of the land comprising a public cemetery for the burial of deceased persons:
 - (a) of a religious denomination or group of religious denominations if requested to do so by the recognized head thereof;
 - (b) who served in any war in which the Crown is or has been engaged:
 - (i) in the Naval, Military or Air Forces of the Commonwealth or of any other part of the Queen's dominions; or
 - (ii) in Australia, a Territory or in an area adjacent thereto, in the Armed Forces of a Power or Authority allied or associated with the Crown; or
 - (c) who served in the Naval, Military or Air Forces of the Commonwealth or of any other part of the Queen's dominions and who do not come within the provisions of paragraph (b).
- (2) In setting apart portions of the land comprising a public cemetery for the burial of deceased persons of a religious denomination, the Minister shall have regard to the number of adherents, in the Territory, of that and other religious denominations and shall give preference to the religious denomination having the greatest number of adherents as shown by the last official census.

-
- (3) In subsection (2) the expression **religious denomination** does not include a group of religious denominations.

8 Board of Trustees of a cemetery

- (1) The Minister may, by notice in the *Gazette*, appoint a board of trustees to be a Board of Trustees of a public cemetery, for the purposes of this Act.
- (2) A board of trustees of a cemetery shall be known by a name consisting of the words "Board of Trustees of" followed by the name of the cemetery.
- (3) A Board shall be a body corporate with perpetual succession and a common seal and shall be capable of suing and being sued.
- (4) All courts, judges and persons acting judicially shall take judicial notice of the seal of a Board affixed to a document and shall presume that it was duly affixed.
- (5) The exercise of the rights, powers, authorities or functions, or the performance of the duties or obligations, of a Board shall not be affected by reason only of there being a vacancy in the office of a member of that Board.

9 Constitution of a Board

- (1) A Board shall consist of not less than 5 nor more than 12 persons.
- (2) The Minister, by notice in the *Gazette*:
- (a) may appoint a person to, or remove a member from, a Board; and
 - (b) may appoint a person to be a member of a Board in the place of a member who vacates his or her office.
- (3) Where a portion of a public cemetery has been set apart for the burial of deceased persons of a religious denomination, the recognized head thereof may nominate a person for appointment to the Board.
- (4) Where a portion of a public cemetery has been set apart for the burial of deceased persons of a group of religious denominations, the recognized head thereof may nominate a person for appointment to the Board.
- (5) Where a portion of a public cemetery has been set apart for the burial of deceased persons who are described in section 7(1)(b) or (c), the sub-branch of the organization known as the Returned

Sailors', Soldiers' and Airmen's Imperial League of Australia situated nearest to the cemetery may nominate a person for appointment to the Board.

- (6) The Minister, in his absolute discretion, may appoint a person who is nominated pursuant to subsection (3), (4) or (5) to be a member of the Board.
- (7) The Minister shall, by notice in the *Gazette*, appoint one of the members of a Board to be Chairman of the Board.

10 Vacation of office

A member of a Board is deemed to vacate his or her office:

- (a) if the Minister removes him or her from a Board;
- (b) if he or she becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration or income for their benefit;
- (c) if he or she becomes of unsound mind;
- (d) if he or she resigns his or her office by writing under his or her hand addressed to the Minister and the resignation is accepted by the Minister; or
- (e) if he or she is absent, except on leave granted by a Board, from 3 consecutive meetings of that Board.

11 Meetings of Board

- (1) A Board shall meet once in every 6 months and shall meet at such other times as, in the opinion of the Chairman, are necessary for the efficient conduct of its affairs.
- (2) The Chairman of a Board at any time may, and upon receipt of a written request signed by not less than 3 members of the Board shall, call a meeting of the Board.
- (3) The Chairman of a Board shall preside at all meetings of the Board at which he or she is present.
- (4) In the event of the absence of the Chairman from a meeting of a Board, the members present shall appoint one of their number to preside at that meeting.
- (5) At a meeting of a Board, 3 members shall constitute a quorum.

-
- (6) The member of a Board presiding at a meeting of a Board shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.

12 Board may delegate its powers

- (1) A Board may, in relation to any particular matter or class of matters, or to any particular place, by writing under its seal, delegate to any person all or any of its powers or functions under this Act (except this power of delegation), so that the delegated powers and functions may be exercised by the delegate with respect to the matter or class of matters, or to the place, specified in the instrument of delegation.
- (2) Every delegation under this section shall be revocable at will and no delegation shall prevent the exercise of any power by the Board.

13 Powers of Boards

A Board shall have power:

- (a) to do anything necessary for the upkeep, maintenance, improvement and management of the public cemetery in respect of which it is appointed;
- (aa) to grant annual licences to undertakers to undertake funerals in that cemetery;
- (aaa) to grant a licence to a person who is not an undertaker to undertake in that cemetery the funeral of a relative of the person or the funeral of another person with whom the Board is satisfied the person had a close association;
- (ab) to demand and receive fees and charges in respect of licences granted under this section and the undertaking of funerals in that cemetery; and
- (b) to do anything incidental to any of the powers conferred by this Act.

13A By-laws

A Board may make by-laws, not inconsistent with this Act or the regulations, for the control and management of the public cemetery in respect of which it is appointed and, in particular:

- (a) regulating and prescribing charges for the undertaking of funerals in that cemetery;

-
- (b) prohibiting, except under licence granted by the Board, the undertaking of funerals, and the acceptance of fees for the undertaking of funerals, in that cemetery;
 - (c) prescribing the manner in which an application may be made for a licence to be granted by the Board for the undertaking of funerals in that cemetery;
 - (d) prescribing fees to be paid to the Board in respect of licences granted by the Board for the undertaking of funerals in that cemetery; and
 - (e) prescribing the fee or charge in respect of a service or facility provided under this Act at that cemetery.

14 Board or other person may erect etc. crematorium

- (1) Subject to this section, a person (who may be a Board) may erect, maintain, upkeep or improve a crematorium.
- (2) A person must not erect a crematorium unless the Minister approves in writing the erection of the crematorium.

Maximum penalty: 10 penalty units or imprisonment for 3 years.

- (3) The Minister's approval to erect a crematorium may be subject to any conditions relating to the location, erection, maintenance, upkeep and improvement of the crematorium that the Minister considers appropriate and specifies in the approval.
- (4) A person must not erect a crematorium unless it is erected in accordance with the Minister's approval.

Maximum penalty: 10 penalty units or imprisonment for 3 years.

- (5) A person who maintains, upkeeps or improves a crematorium must do so in accordance with the conditions as to maintenance, upkeep or improvement specified in the Minister's approval to erect the crematorium.

Maximum penalty: 10 penalty units or imprisonment for 3 years.

14A Appointment of person to supervise crematorium

A person who controls the business of a crematorium must appoint a natural person (who may be the person who controls the crematorium) to supervise the operations of the crematorium.

15 Cremations

A person shall not cremate the body of a deceased person, otherwise than in a crematorium maintained in accordance with this Act and instruments of a legislative or administrative character made under this Act.

Maximum penalty: 10 penalty units or imprisonment for 3 years.

16 Permit for cremation

(1) Subject to this Act, a Board may grant a permit for the cremation of the body of a deceased person in a crematorium controlled by the Board if it receives:

- (a) a certificate signed by 2 legally qualified medical practitioners, one of whom has attended the deceased in a professional capacity prior to death, stating that death was due to natural causes;
- (b) a certificate signed by a legally qualified medical practitioner stating that he or she has conducted a post-mortem examination of the body of the deceased and that death was due to natural causes; or
- (c) a certificate signed by a coroner stating that he or she has held an inquest as to the cause of death of the deceased and that no further examination of the body is necessary.

(2) Subject to this Act, the Minister may grant a permit for the cremation of the body of a deceased person in a crematorium controlled by a person who is not a Board if the Minister receives:

- (a) a certificate signed by 2 legally qualified medical practitioners, one or whom has attended the deceased in a professional capacity prior to death, stating that death was due to natural causes;
- (b) a certificate signed by a legally qualified medical practitioner stating that he or she has conducted a post-mortem examination of the body of the deceased and that death was due to natural causes; or
- (c) a certificate signed by a coroner stating that he or she has held an inquest as to the cause of death of the deceased and that no further examination of the body is necessary.

17 Interested persons not to certify

A person knowing that he or she has, whether directly or indirectly, an interest ensuing upon the death of a deceased person:

- (a) in the proceeds of a policy of insurance or assurance; or
- (b) in any real or personal property or the income therefrom, whether immediately or in expectancy,

shall not sign a certificate for the purposes of section 16 in respect of the body of that person.

Maximum penalty: 4 penalty units or imprisonment for 1 year.

18 Next of kin may object to cremation

(1) A next of kin, whether 18 years of age or not, of a deceased person may give notice:

- (a) in the case of the proposed cremation of the deceased person in a crematorium controlled by a Board – to the Board objecting to the cremation of the body of the deceased; or
- (b) in the case of the proposed cremation of the deceased person in a crematorium controlled by a person who is not a Board – to the Minister objecting to the cremation of the body of the deceased.

(1A) For subsection (1), a deceased person's next of kin are:

- (a) any spouse of the person;
- (b) any de facto partner of the person; and
- (c) any person who is related by blood to the person.

(2) On receiving a notice under subsection (1), unless the deceased person has left an attested memorandum directing or expressing the desire that his or her body is to be cremated, the Board or the Minister must:

- (a) refuse to grant a permit for the cremation of the deceased person; or
- (b) if a permit has been granted – immediately revoke the permit and give written notice of the revocation to the person supervising the operations of the crematorium by affixing a copy of the notice to the door of the crematorium concerned and serving a copy of the notice on the person.

19 Officers may forbid cremation

The Solicitor for the Northern Territory, the Director of Public Prosecutions, a justice of the peace or a police officer, having reasonable cause for so doing, may, by notice in writing affixed to the door of a crematorium and by notice served on the person supervising the operations of the crematorium:

- (a) forbid the cremation of the body of a deceased person; and
- (b) order the removal of the body to such custody as the person giving the notice sees fit.

20 No cremation without permit or in contravention of notice

A person shall not cremate, or permit to be cremated, the body of a deceased person in a crematorium maintained under this Act:

- (a) unless a permit for the cremation of that body is produced to the person and he or she has reasonable grounds for believing that the permit has not been revoked; or
- (b) if a notice has been given under section 19.

Maximum penalty: 10 penalty units or imprisonment for 3 years.

21 Burial must be in cemetery

A person shall not, except with the consent in writing of the Minister, bury the body of a deceased person elsewhere than in a cemetery.

Maximum penalty: 2 penalty units.

22 Time for burials

A person shall not bury the body of a deceased person during the time between sunset on any day and sunrise on the next succeeding day.

Maximum penalty: 1 penalty unit.

23 Manner of burial

A person shall not bury the body of a deceased person otherwise than in the manner prescribed.

Maximum penalty: 1 penalty unit.

24 Place of burial

A person shall not bury the body of a deceased person otherwise than in the place directed by the Board or a servant or agent of the Board.

Maximum penalty: 1 penalty unit.

25 Inspection of premises

The Minister may, in writing, authorise a person to enter and inspect a cemetery or a crematorium and the buildings, fittings, works, apparatus, graves, vaults and places of burials in the cemetery or crematorium.

26 Interference with burial ceremonies

Subject to this Act, a person shall not, whether directly or indirectly, obstruct or hinder the performance of a burial ceremony in a cemetery.

Maximum penalty: 1 penalty unit.

27 Recognized head may object to certain matters

(1) The recognized head of a religious denomination, or group of religious denominations, for the burial of deceased members of which a portion of a public cemetery has been set apart, may, by notice in writing to the Board, object to:

- (a) the performance of a particular form of burial ceremony;
- (b) the design of a monument, tombstone or headstone; or
- (c) the inscription on a monument, tombstone or headstone,

within that portion of the cemetery.

(2) When notice is given under subsection (1), the Board shall serve a notice by post on the person concerned in or responsible for the matter to which objection has been made:

- (a) prohibiting the performance of the particular form of burial ceremony;
- (b) prohibiting the placing, or ordering the removal, of a monument, tombstone or headstone; or
- (c) prohibiting the placing, or ordering the removal, of an inscription on a monument, tombstone or headstone,

as the case may be, within that portion of the cemetery.

28 Compliance with Board's order

A person shall not:

- (a) perform a particular form of burial ceremony;
- (b) place, or fail to remove, a monument, tombstone or headstone; or
- (c) place, or fail to remove, an inscription on a monument, tombstone or headstone,

contrary to a notice under section 27(2).

Maximum penalty: 1 penalty unit.

29 Burial allotments

- (1) A Board may, on the application of a person, and on payment of the prescribed fee grant to that person an exclusive right of burial in a grave, vault or burial ground comprising one or more allotments in a public cemetery.
- (2) The Board shall permit the recognized head to state whether he or she has any objection, and if so the grounds therefor, to a grant being made if an allotment, in respect of which an application is made under subsection (1), is within a portion of a cemetery which has been set apart for the burial of deceased persons of a religious denomination or group of denominations.
- (3) The Board shall permit the sub-branch of the organization known as the Returned Sailors', Soldiers' and Airmen's Imperial League of Australia situated nearest to the cemetery to state whether it has any objection, and if so the grounds therefor, to a grant being made if an allotment, in respect of which an application is made under subsection (1), is within a portion of a cemetery which has been set apart for the burial of deceased persons who are described in section 7(1)(b) or (c).

30 Ministers of religion may exercise spiritual functions

Subject to this Act, a minister of religion may exercise his or her spiritual functions in connection with a burial ceremony without hindrance by or from any person.

30A No exhumation without consent or authorisation

A person must not exhume the remains of a deceased person unless given consent to do so under section 30D or authorized to do so by or under another law in force in the Territory.

Maximum penalty: 200 penalty units or 12 months imprisonment.

30B Guidelines in relation to exhumation etc.

The Chief Health Officer may issue guidelines in relation to the exhumation, removal or disposal of human remains.

30C Application for exhumation and removal of remains

- (1) In this section, ***next of kin***, in relation to a deceased person, means:
- (a) a spouse or de facto partner of the deceased person;
 - (b) a parent or guardian of the deceased person;
 - (c) a child of the deceased person who has attained 18 years of age or, if there is no such child, a brother or sister of the deceased person who has attained that age; or
 - (d) if the deceased person is an Aborigine or Torres Strait Islander – a person who, according to the customs and tradition of the community or group to which the deceased person belonged, is an appropriate person to apply for the exhumation and removal of the deceased person's remains or object to a proposed exhumation and removal of those remains.
- (2) The following persons may apply to the Minister for consent to exhume the remains of a deceased person and remove the remains from the Territory or to another place in the Territory:
- (a) a next of kin;
 - (b) an executor of the estate of the deceased person;
 - (c) a person who, in the opinion of the Minister, is a proper person in the circumstances.

(3) An applicant for consent under this section must satisfy the Minister in respect of the following matters:

- (a) that the applicant is a person entitled under subsection (2) to make the application;
- (b) that the applicant has notified all the next of kin:
 - (i) of the applicant's intention to make an application under this section; and
 - (ii) that a next of kin may object on reasonable grounds to the proposed exhumation and removal;
- (c) that the applicant has allowed all the next of kin sufficient time in which to object to the proposed exhumation and removal;
- (d) if the applicant has been unable to locate all the next of kin – that the applicant has taken all reasonable steps to do so;
- (e) that no next of kin has reasonable grounds for objecting to the proposed exhumation and removal;
- (f) that the Chief Health Officer has approved in writing the proposed exhumation and removal;
- (g) if the Chief Health Officer has approved the proposed exhumation and removal subject to conditions – that the applicant will comply with those conditions;
- (h) that the applicant has the necessary authority to bury, cremate or otherwise dispose of the remains at the place to which the applicant intends to remove them;
- (j) that the applicant has arranged for appropriate transportation for the removal of the remains;
- (k) any additional matters the Minister considers relevant to the application.

(4) A person must not knowingly give the Minister false information in respect of an application under this section.

Maximum penalty: 200 penalty units or 12 months imprisonment.

(5) In considering an application under this section, the Minister must have regard to any guidelines issued under section 30B.

30D Consent to exhumation and removal of remains

- (1) If satisfied in respect of the matters referred to in section 30C(3), the Minister may give written consent to the applicant to exhume and remove the remains.
- (2) The Minister may specify conditions in respect of the exhumation or removal in the instrument of consent.
- (3) A person given consent under this section must comply with conditions specified in the instrument of consent.

Maximum penalty: 200 penalty units or 12 months imprisonment.

30E Minister may appoint employee to be present at exhumation

The Minister may appoint an employee within the meaning of the *Public Sector Employment and Management Act 1993* to be present at the exhumation of human remains.

30F Minister may prescribe fees etc. in respect of exhumation

- (1) The Minister may, by notice in the *Gazette*, prescribe fees in respect of:
 - (a) an application under section 30C; or
 - (b) any other matter in connection with an application for exhumation, or an exhumation, of human remains.
- (2) In a particular case, the Minister may waive payment of the whole or part of a prescribed fee.
- (3) Expenses reasonably incurred by the Territory in connection with an application for exhumation, or an exhumation, of human remains are a debt due to the Territory by the person who applied for consent to exhume the remains or on whose behalf the expenses were incurred.

31 Employment of staff

A Board may employ such caretakers and other persons upon such conditions and at such wages as it deems reasonable, for the purpose of carrying out, and giving effect to, the provisions of this Act.

32 Maintenance of cemeteries

- (1) There shall be paid to a Board such sums of money as are, from time to time, appropriated by law for the purposes of this Act.
- (2) A Board shall, subject to the control of the Minister, expend moneys received by it under this Act in laying out, ornamenting, preserving, maintaining and keeping the cemetery in a clean and orderly condition and in a manner appropriate to a cemetery.

33 Accounts

A Board shall keep accounts, in respect of all moneys received and expended by it, in such form and manner as is approved by the Minister.

34 Audit

- (1) The Minister may:
 - (a) by notice in writing to a Board, require the Board to ensure that its accounts are audited by a registered company auditor as defined in the Corporations Act 2001; or
 - (b) request the Auditor-General to audit the accounts of a Board.
- (2) An auditor auditing those accounts of a Board that the Minister requires to be audited:
 - (a) has a right of access to all books, accounts, vouchers and documents of the Board; and
 - (b) may require from a member or former member of the Board information and explanations necessary for the performance of the auditor's duties as auditor.

35 Annual report

- (1) A Board shall, as soon as practicable after 30 June in each year, prepare and furnish to the Minister a report on the operations of the Board during the year ended on that date, together with a copy of its accounts in respect of that year.
- (2) A Board shall furnish to the Minister such other reports, and such documents and information, relating to the operations of the Board as the Minister requires.

36 Closing of cemeteries

- (1) The Minister may, by notice in the *Gazette*, order that from and including a date specified in that notice, being not less than 3 calendar months after the date thereof, burials or cremations, or both, in a cemetery be wholly discontinued or discontinued subject to such exceptions as are notified in that notice.
- (2) Despite subsection (1), the Minister may give approval for a multiple burial in an open or closed cemetery under the Regulations.

37 Burials in closed cemeteries

- (1) A person shall not bury the body of a deceased person in a cemetery contrary to the provisions of a notice under section 36.

Maximum penalty: 2 penalty units.

- (2) A person does not commit an offence against subsection (1) if the person buries the body of a deceased person in accordance with an approval under the Regulations.

38 Appointment of curators

The Minister may appoint a person to be the curator of a public cemetery which is situated within a portion of the Territory to which the provisions of this Act, other than the provisions set forth in section 5(2), do not apply.

39 Minister may determine fees

The Minister may, by notice in the *Gazette*:

- (a) determine fees or charges for the undertaking of a funeral at a cemetery in respect of which a curator has been appointed under section 38; and
- (b) determine the fee or charge in respect of a service or facility provided under this Act at such a cemetery.

39A Licences

The Minister may grant annual licences to undertakers to undertake funerals in a cemetery in respect of which a curator has been appointed under section 38.

39B Regulatory offences

An offence against section 21, 23, 24 or 37 is a regulatory offence.

40 Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for carrying out or giving effect to this Act, and in particular for:

- (a) the use and management of cemeteries;
- (b) regulating and controlling the digging, making and maintenance of graves, vaults and places of burial in cemeteries and fixing the position thereof;
- (c) prescribing the manner of burial and the conditions under which graves, vaults and places of burial in cemeteries may be re-opened;
- (d) prescribing the powers, duties and remuneration of curators;
- (e) regulating and controlling the erection and maintenance of monuments, tombstones, headstones and other structures;
- (f) regulating the receipt and control of moneys paid, contributed or donated to Boards;
- (g) prohibiting, except under licence granted by the Minister, the undertaking of funerals, and the acceptance of fees for the undertaking of funerals, in a cemetery in respect of which a curator has been appointed under section 38;
- (h) prescribing the form of, the manner in which an application may be made for, and the fee payable in respect of, a licence referred to in paragraph (g);
- (i) protecting buildings, fittings, works, apparatus, monuments, tombstones, headstones and enclosures within cemeteries;
- (j) regulating the use and management of crematoria;
- (k) regulating the duties of caretakers and servants of Boards;
- (l) regulating the proceedings of Boards; and
- (m) prescribing maximum penalties of 1 penalty unit for an offence against the regulations.

Schedule

section 6A

All that piece or parcel of land on the Gove Peninsula, Northern Territory of Australia, containing an area of 22 acres 3 roods 30 perches more or less being Northern Territory Portion 1398: Commencing at a point bearing 0 degrees 3083.4 links; 299 degrees 29 minutes 30 seconds 2425.1 links from the most westerly southwestern corner of Northern Territory Portion 1192; thence by lines bearing 180 degrees 984.8 links; 270 degrees 1515.2 links; 360 degrees 1515.1 links; 90 degrees 1515.2 links; 180 degrees 530.3 links to the point of commencement.

ENDNOTES
1**KEY**

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced

od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2**LIST OF LEGISLATION*****Cemeteries Ordinance 1952 (Act No. 18, 1952)***

Assent date 24 April 1952
 Commenced 8 March 1967 (*Gaz No. 14, 8 March 1967*)

Cemeteries Ordinance 1955 (Act No. 7, 1955)

Assent date 8 June 1955
 Commenced 8 Mar 1967 (s 2, s 2 *Cemeteries Ordinance 1952 (Act No. 18, 1952)* and *Gaz No. 14, 8 March 1967*)

Administrator's Council Ordinance 1959 (Act No. 22, 1959)

Assent date 22 July 1959
 Commenced 28 Apr 1960 (*Gaz No. 18, 27 April 1960*)

Cemeteries Ordinance 1963 (Act No. 47, 1963)

Assent date 22 July 1963
 Commenced 8 March 1967 (s 2, s 2 *Cemeteries Ordinance 1952 (Act No. 18, 1952)* and *Gaz No. 14, 8 March 1967*)

Cemeteries Ordinance 1964 (Act No. 36, 1964)

Assent date 7 September 1964
 Commenced 8 March 1967 (s 2, s 2 *Cemeteries Ordinance 1952 (Act No. 18, 1952)* and *Gaz No. 14, 8 March 1967*)

Cemeteries Ordinance 1966 (Act No. 46, 1966)

Assent date 2 December 1966
 Commenced 8 March 1967 (s 2, s 2 *Cemeteries Ordinance 1952 (Act No. 18, 1952)* and *Gaz No. 14, 8 March 1967*)

Cemeteries Ordinance 1971 (Act No. 4, 1971)

Assent date 24 March 1971
 Commenced 24 March 1971

Ordinances Revision Ordinance 1973 (Act No. 87, 1973)

Assent date 11 December 1973
 Commenced 11 December 1973 (s 12(2))

Amending legislation

Ordinances Revision Ordinance 1974 (Act No. 34, 1974)

Assent date 26 August 1974
 Commenced 11 December 1973 (s 3(2))

Ordinances Revision Ordinance (No. 2) 1974 (Act No. 69, 1974)

Assent date 24 October 1974
 Commenced 11 December 1973 (s 3)

Ordinances Revision Ordinance 1976 (Act No. 27, 1976)

Assent date 28 June 1976
 Commenced ss 1, 2 and 6: 28 June 1976, s 6(2); ss 3 and 4:
 11 December 1973; s 5: 24 October 1974

Cemeteries Ordinance 1977 (Act No. 47, 1977)

Assent date 30 September 1977
 Commenced 30 September 1977

Transfer of Powers (Further Provisions) Ordinance 1977 (Act No. 51, 1977)

Assent date 9 December 1977
 Commenced 1 January 1978 (s 6)

Transfer of Powers (Self-Government) Ordinance 1978 (Act No. 54, 1978)

Assent date 1 July 1978
 Commenced 1 July 1978 (s 8)

Law Officers Ordinance 1978 (Act No. 61, 1978)

Assent date 1 July 1978
 Commenced 1 July 1978

Statute Law Revision Act 1978 (Act No. 95, 1978)

Assent date 5 September 1978
 Commenced 5 September 1978

Cemeteries Ordinance 1978 (Act No. 109, 1978)

Assent date 9 November 1978
 Commenced 1 February 1979 (s 3, s 2 *Aboriginal Land Ordinance 1978*
 (Act No. 106, 1978) and *Gaz G4*, 26 January 1979, p 18)

Cemeteries Act 1979 (Act No. 92, 1979)

Assent date 10 August 1979
 Commenced 10 August 1979

Statute Law Revision Act (No. 2) 1979 (Act No. 128, 1979)

Assent date 15 October 1979
 Commenced 15 October 1979

Statute Law Revision Act (No. 3) 1979 (Act No. 37, 1980)

Assent date 24 April 1980
 Commenced 24 April 1980

Statute Law Revision Act 1981 (Act No. No. 29, 1981)

Assent date 25 March 1981
Commenced 25 March 1981

Criminal Law (Regulatory Offences) Act 1983 (Act No. 68, 1983)

Assent date 28 November 1983
Commenced 1 January 1984 (s 2, s 2 *Criminal Code Act 1983* (Act No. 47, 1983), *Gaz G46*, 18 November 1983, p 11 and *Gaz G8*, 26 February 1986, p 5)

Law Officers Amendment Act (No. 2) 1986 (Act No. 48, 1986)

Assent date 10 December 1986
Commenced 19 December 1986 (*Gaz S87*, 17 December 1986)

Director of Public Prosecutions (Consequential Amendments) Act 1990 (Act No. 29, 1990)

Assent date 11 June 1990
Commenced 21 January 1991 (s 2, s 2 *Director of Public Prosecutions Act 1990* (Act No. 35, 1990) and *Gaz G2*, 16 January 1991, p 9)

De Facto Relationships (Miscellaneous Amendments) Act 1991 (Act No. 82, 1991)

Assent date 24 December 1991
Commenced 1 January 1992 (s 2)

Medical (Consequential Amendments) Act 1995 (Act No. 8, 1995)

Assent date 10 April 1995
Commenced 1 June 1995 (s 2, s 2 *Medical Act 1995* (Act No. 7, 1995) and *Gaz S21*, 1 June 1995)

Statute Law Revision Act (No. 2) 1998 (Act No. 92, 1998)

Assent date 11 December 1998
Commenced 11 December 1998

Cemeteries Amendment Act 1999 (Act No. 57, 1999)

Assent date 14 December 1999
Commenced 1 January 2002 (*Gaz G50*, 19 December 2001, p 3)

Cemeteries Amendment Act 2000 (Act No. 68, 2000)

Assent date 14 December 2000
Commenced 1 January 2002 (*Gaz G50*, 19 December 2001, p 3)

Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)

Assent date 29 June 2001
Commenced 15 July 2001 (s 2, s 2 *Corporations Act 2001* (Act No. 56, 1990) (Cth) and *Cth Gaz S285*, 13 July 2001)

Statute Law Revision Act (No. 2) 2003 (Act No. 44, 2003)

Assent date 7 July 2003
Commenced 7 July 2003

Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003 (Act No. 1, 2004)

Assent date 7 January 2004
Commenced 17 March 2004 (*Gaz G11*, 17 March 2004, p 8)

Cemeteries Amendment Act 2005 (Act No. 35, 2005)

Assent date 21 October 2005
Commenced 21 October 2005

Statute Law Revision Act 2005 (Act No. 44, 2005)

Assent date 14 December 2005
Commenced 14 December 2005

Statute Law Revision Act 2007 (Act No. 4, 2007)

Assent date 8 March 2007
Commenced 8 March 2007

Public and Environmental Health Act 2011 (Act No. 7, 2011)

Assent date 16 March 2011
Commenced 1 July 2011 (*Gaz S28*, 3 June 2011)

Penalties Amendment (Miscellaneous) Act 2013 (Act No. 23, 2013)

Assent date 12 July 2013
Commenced 28 August 2013 (*Gaz G35*, 28 August 2013, p 2)

Local Court (Related Amendments) Act 2016 (Act No. 8, 2016)

Assent date 6 April 2016
Commenced 1 May 2016 (s 2, s 2 *Local Court (Repeals and Related Amendments) Act 2016* (Act No. 9, 2016) and *Gaz S34*, 29 April 2016)

3 SAVINGS AND TRANSITIONAL PROVISIONS

- s 6(2) *De Facto Relationships (Miscellaneous Amendments) Act 1991* (Act No. 82, 1991)
- s 65 *Law Reform (Gender, Sexuality and De Facto Relationships) Act 2004* (Act No. 1, 2004)

4 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the list of amendments to this reprint) are made by the *Ordinances Revision Ordinance 1973* (Act No. 87, 1973) (as amended) to the following provisions: ss 4, 5, 7, 9 to 11, 15 to 18, 20 to 24, 26 to 29 and 35 to 40.

5 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 6A and 30E.

6 LIST OF AMENDMENTS

- It amd No. 29, 1981, s 2
- ss 1 – 2 amd No. 29, 1981, s 2
- s 4 amd No. 7, 1955, s 3; No. 22, 1959, s 6; No. 87, 1973, s 12; No. 51, 1977, s 3; No. 54, 1978, s 3; No. 109, 1978, s 4; No. 29, 1981, s 2; No. 8, 1995, s 4; No. 57, 1999, s 4; No. 44, 2005, s 22; No. 7, 2011, s 140
- s 5 amd No. 22, 1959, s 6; No. 51, 1977, s 3; No. 54, 1978, s 3; No. 92, 1979, s 3; No. 29, 1981, s 2; No. 57, 1999, s 5

ENDNOTES

- s 6 amd No. 51, 1977, s 3; No. 54, 1978, s 4; No. 109, 1978, s 5; No. 128, 1979, s 4; No. 29, 1981, s 2
- s 6A ins No. 47, 1977, s 3
amd No. 29, 1981, s 2
- s 7 amd No. 22, 1959, s 6; No. 36, 1964, s 3; No. 87, 1973, s 12; No. 51, 1977, s 3; No. 54, 1978, s 3
- s 8 amd No. 51, 1977, s 3; No. 54, 1978, s 3; No. 29, 1981, s 2
- s 9 amd No. 51, 1977, s 3; No. 54, 1978, s 3; No. 29, 1981, s 2; No. 68, 2000, s 12
- s 10 amd No. 51, 1977, s 3; No. 54, 1978, s 3; No. 68, 2000, s 12
- s 11 amd No. 68, 2000, s 12
- s 12 amd No. 29, 1981, s 2
- s 13 amd No. 47, 1963, s 3; No. 36, 1964, s 4; No. 29, 1981, s 2; No. 68, 2000, s 4
- s 13A ins No. 47, 1963, s 4
amd No. 46, 1966, s 3; No. 29, 1981, s 2
- s 14 amd No. 22, 1959, s 6; No. 51, 1977, s 3; No. 54, 1978, s 3
sub No. 68, 2000, s 5
amd No. 44, 2003, s 5; No. 23, 2013, s 16
- s 14A ins No. 68, 2000, s 5
- s 15 amd No. 46, 1966, s 7; No. 29, 1981, s 2; No. 68, 2000, s 6; No. 23, 2013, s 16
- s 16 amd No. 29, 1981, s 2; No. 68, 2000, s 7
- s 17 amd No. 46, 1966, s 7; No. 29, 1981, s 2; No. 68, 2000, s 12; No. 23, 2013, s 16
- s 18 amd No. 29, 1981, s 2; No. 82, 1991, s 5; No. 68, 2000, s 8; No. 1, 2004, s 62
- s 19 amd No. 61, 1978, s 4; No. 37, 1980, s 4; No. 48, 1986, s 9; No. 29, 1990, s 7; No. 68, 2000, s 9; No. 8, 2016, s 45
- s 20 amd No. 46, 1966, s 7; No. 29, 1981, s 2; No. 68, 2000, s 12; No. 23, 2013, s 16
- s 21 amd No. 46, 1966, s 7; No. 4, 1971, s 2; No. 51, 1977, s 3; No. 54, 1978, s 3; No. 29, 1981, s 2; No. 68, 2000, s 12; No. 23, 2013, s 16
- s 22 amd No. 46, 1966, s 7; No. 29, 1981, s 2; No. 68, 2000, s 12; No. 23, 2013, s 16
- s 23 amd No. 46, 1966, s 7; No. 29, 1981, s 2; No. 68, 2000, s 12; No. 23, 2013, s 16
- s 24 amd No. 46, 1966, s 7; No. 29, 1981, s 2; No. 68, 2000, s 12; No. 23, 2013, s 16
- s 25 amd No. 51, 1977, s 3; No. 54, 1978, s 3
sub No. 68, 2000, s 10
- s 26 amd No. 46, 1966, s 7; No. 29, 1981, s 2; No. 68, 2000, s 12; No. 23, 2013, s 16
- s 28 amd No. 46, 1966, s 7; No. 29, 1981, s 2; No. 68, 2000, s 12; No. 23, 2013, s 16
- s 29 amd No. 29, 1981, s 2; No. 68, 2000, s 12
- s 30 amd No. 29, 1981, s 2; No. 68, 2000, s 12; No. 1, 2004, s 62
- ss 30A – 30B ins No. 57, 1999, s 6
- ss 30C – 30D ins No. 57, 1999, s 6
amd No. 23, 2013, s 16
- ss 30E – 30F ins No. 57, 1999, s 6
- s 31 amd No. 29, 1981, s 2
- s 32 amd No. 51, 1977, s 3; No. 54, 1978, s 4; No. 29, 1981, s 2
- s 33 sub No. 7, 1955, s 4
amd No. 51, 1977, s 3; No. 54, 1978, s 3
- s 34 sub No. 7, 1955, s 5
amd No. 54, 1978, s 4
sub No. 92, 1998, s 5
amd No. 17, 2001, s 21

ENDNOTES

- s 35 sub No. 7, 1955, s 6
amd No. 47, 1963, s 5; No. 51, 1977, s 3; No. 54, 1978, s 3
- s 36 amd No. 51, 1977, s 3; No. 54, 1978, s 3; No. 4, 2007, s 3
- s 37 amd No. 46, 1966, s 7; No. 29, 1981, s 2; No. 68, 2000, s 12; No. 35, 2005,
s 3; No. 23, 2013, s 16
- s 38 amd No. 51, 1977, s 3; No. 54, 1978, s 3; No. 29, 1981, s 2
- s 39 sub No. 46, 1966, s 4
amd No. 51, 1977, s 3; No. 54, 1978, s 3; No. 29, 1981, s 2
- s 39A ins No. 46, 1966, s 4
amd No. 51, 1977, s 3; No. 54, 1978, s 3
- s 39B ins No. 68, 1983, s 43
- s 40 amd No. 46, 1966, ss 5 and 7; No. 87, 1973, s 6; No. 51, 1977, s 3; No. 54,
1978, s 3; No. 95, 1978, s 14; No. 29, 1981, s 2; No. 68, 2000, ss 11 and 12;
No. 23, 2013, s 16
- sch rep No. 46, 1966, s 6
ins No. 47, 1977, s 4