



**ENFIELD GENERAL CEMETERY (ADMINISTRATION OF WEST
TERRACE CEMETERY) AMENDMENT ACT 1997**

No. 63 of 1997

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Miscellaneous Amendments and Transitional Provisions



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ELIZABETHAE II REGINAE

A.D. 1997

No. 63 of 1997

An Act to amend the Enfield General Cemetery Act 1944.

[Assented to 7 August 1997]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Enfield General Cemetery (Administration of West Terrace Cemetery) Amendment Act 1997*.

(2) The *Enfield General Cemetery Act 1944* is referred to in this Act as "the principal Act".

Commencement

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

Amendment of s. 3—Interpretation

3. Section 3 of the principal Act is amended by inserting after the definition of "trust" the following definition:

"West Terrace Cemetery" means the Cemetery within the meaning of the *West Terrace Cemetery Act 1976*.

Substitution of s. 5

4. Section 5 of the principal Act is repealed and the following section is substituted:

Membership of trust

5. (1) The trust consists of ten members appointed by the Governor as follows:

- (a) five members appointed on the nomination of the Minister (one of whom is to be a person with extensive knowledge of the historical significance of cemeteries);
- (b) two members appointed on the nomination of the Treasurer;

- (c) two members appointed on the nomination of the City of Port Adelaide Enfield;
- (d) one member representing religious denominations appointed on the nomination in turn of—
 - (i) the person for the time being administering the Diocese of Adelaide of the Anglican Church of Australia;
 - (ii) the person for the time being administering the Archdiocese of Adelaide of the Roman Catholic Church;
 - (iii) the Minister,

so that, at the completion of a term of office of four years, a member nominated under subparagraph (i) is succeeded by a member nominated under subparagraph (ii), a member nominated under subparagraph (ii) is succeeded by a member nominated under subparagraph (iii), a member nominated under subparagraph (iii) is succeeded by a member nominated under subparagraph (i), and so on.

(2) The person nominated by the Minister under subsection (1)(d)(iii) must be a person who, in the opinion of the Minister, is representative of religious denominations in the State other than the Anglican Church of Australia and the Roman Catholic Church.

(3) The Minister is to designate one of the persons nominated by the Minister as the chairperson.

Substitution of s. 6a

5. Section 6a of the principal Act is repealed and the following section is substituted:

Vacation of office of member nominated on basis of council membership

6A. If—

- (a) a person appointed as a member of the trust on the nomination of the council under this Act was, at the time of nomination, a member of the council; and
- (b) the member ceases to be a member of the council,

the person's office as a member of the trust becomes vacant.

Amendment of s. 12—Quorum

6. Section 12 of the principal Act is amended by striking out "Four" and substituting "Six".

Insertion of s. 20A

7. The following section is inserted after section 20 of the principal Act:

Administration of West Terrace Cemetery

20A. (1) The trust will administer and maintain West Terrace Cemetery.

(2) The following provisions apply to the administration and maintenance of West Terrace Cemetery by the trust:

- (a) the trust has the powers and duties of the Minister under the *West Terrace Cemetery Act 1976* and must administer and maintain West Terrace Cemetery in accordance with that Act;
 - (b) for that purpose the *West Terrace Cemetery Act 1976* is to be read as if a reference to the Corporation or the Minister (except in section 4) were a reference to the trust;
 - (c) to the extent of any inconsistency between this Act and the *West Terrace Cemetery Act 1976* (as modified by paragraph (b)), the *West Terrace Cemetery Act 1976* prevails;
 - (d) without limiting the effect of paragraph (c)—
 - (i) the granting of interment rights and the fees payable in respect of West Terrace Cemetery remain regulated by the *West Terrace Cemetery Act 1976*; and
 - (ii) West Terrace Cemetery remains non-rateable property;
 - (e) the trust may apply its revenue (whether derived from West Terrace Cemetery, a cemetery of the trust or any other source) in the administration and maintenance of West Terrace Cemetery;
 - (f) for the purposes of keeping a reserve fund under this Act, West Terrace Cemetery is to be regarded as a cemetery of the trust;
 - (g) the trust is subject to the control and direction of the Minister.
- (3) The trust must, in accordance with this section—
- (a) prepare plans of management for West Terrace Cemetery; and
 - (b) present the plans at public meetings convened by the trust.
- (4) The plans of management must be prepared and presented as follows:
- (a) the first plan must cover a five year period and be prepared and presented within 12 months after the commencement of this section;
 - (b) subsequent plans must cover subsequent five year periods and each plan must be prepared and presented at least six months before it is to take effect.
- (5) A plan of management must take into account the historical significance of the cemetery and establish policies relating to the following matters:
- (a) retention or removal of existing headstones;
 - (b) reuse of burial sites;
 - (c) the scale and character of new memorials or monuments;
 - (d) planting and nurturing of vegetation in the cemetery.

(6) In preparing a plan of management the trust must consult with the State Heritage Branch of the Department of Environment and Natural Resources and other persons who, in the opinion of the trust, have a particular interest in management of the West Terrace Cemetery.

(7) The trust must, at least two weeks before the date of a public meeting to be convened under this section, publish a notice of the date, time, place and purpose of that meeting in a newspaper circulating generally throughout the State.

(8) The trust may revise and update a plan of management at any time.

(9) The trust must keep a copy of the current plan of management available for inspection by members of the public, without charge and during normal office hours, at a place determined by the Minister.

SCHEDULE

Miscellaneous Amendments and Transitional Provisions

Amendment of principal Act

1. The principal Act is further amended as follows:

Provision amended	How amended
Section 3—definition of "chairman"	Strike out "chairman" twice occurring and substitute, in each case, "chairperson".
Section 3—definition of "member"	Strike out "chairman" and substitute "chairperson".
Section 11(1)	Strike out "chairman" twice occurring and substitute, in each case, "chairperson".
Section 15(3) II	Strike out "chairman" and substitute "chairperson".
Section 15(3) III	Strike out "chairman" and substitute "chairperson".
Section 15(4)	Strike out "chairman" and substitute "chairperson".
Section 15(5)	Strike out "chairman" and substitute "chairperson".
Section 16a	Strike out "chairman" and substitute "chairperson".
Section 19(2)	Strike out "chairman" and substitute "chairperson".
Section 44(2)	Strike out this subsection and substitute:

(2) The rates payable in respect of The Enfield General Cemetery are not to be determined under the *Local Government Act 1934* but instead are \$200 for each financial year.;

Fifth Schedule **Strike out this schedule.**

Membership of trust to continue

2. (1) The members of the trust who held office immediately before the commencement of this amending Act continue to hold office on the trust subject to the principal Act.

(2) Of those members, the member who was appointed under section 5(2)(e) on the nomination of a person under section 5(3)(a), (b) or (c) will be taken to have been appointed on the nomination of the person under the corresponding subparagraph of section 5(d).

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

E. J. NEAL Governor