

Cemeteries (Amendment) Bill

EXPLANATORY MEMORANDUM

Outline

The main aim of this Bill is to resolve the legal and other problems created by the illegal clearing and reuse of certain areas within the Melbourne General Cemetery.

It will also enable the trustees of the Necropolis, Springvale, and the trustees of the Fawkner Crematorium and Memorial Park to be appointed as trustees of other cemeteries, and provide for the conversion of Coburg Cemetery to a Pioneer Memorial Park.

Clause Notes

Clause 1 sets out the purposes of the Bill.

Clause 2 is the commencement clause. It states that the Act is to come into operation on Royal Assent.

Clause 3 identifies the *Cemeteries Act 1958* as being the Principal Act.

Clause 4 inserts a new section 46A into the Principal Act. The new section cancels existing rights of burial or interment to the lower strata graves in the areas reused at the Melbourne General Cemetery. It validates the rights of burial or interment granted to the upper strata graves. If a validated right cannot be exercised or fully exercised, the new section will entitle the holder to a substituted right of burial at some other cemetery chosen from a list provided by the trustees. Upon acceptance of the substituted right, or if the holder fails to elect to accept a substituted right of burial by a specified date, the right of burial at Melbourne General Cemetery is extinguished to the extent it cannot be exercised. The clause also prohibits the granting of further rights of burial to the upper strata site by the trustees.

Clause 5 inserts a new section 85C into the Principal Act. It empowers the Governor in Council to proclaim a day on which the trustees of the Necropolis are to become the trustees of some other cemetery. The new section requires the trustees to administer the other cemetery as if it was part of the necropolis. It also empowers the Trust to expend the property, funds, and income of any cemetery of which it is the trust on any other cemetery of which it is the trust.

Clause 6 inserts a new section 87A into the Principal Act. The new section is similar to proposed section 85C but applies to the trustees of the Fawkner Crematorium and Memorial Park.

Clause 7 includes the Coburg Public Cemetery in the Fourth Schedule to the Principal Act. The effect will be to enable the trustees to submit a proposal to the Chief General Manager of the Department of Health for conversion of the whole or part of the cemetery to a Pioneer Memorial Park. On the recommendation of the Chief General Manager, the Minister may authorize the establishment of a Pioneer Memorial Park at the cemetery.

Clause 8 makes two minor changes to sections 1 and 2 of the Principal Act. The first repeals the description of Parts and Divisions in section 1. In accordance with current practice, this will be replaced by a Table of Provisions in the next reprint of the Act. The second repeals the transitional provisions in section 2 which are now spent.