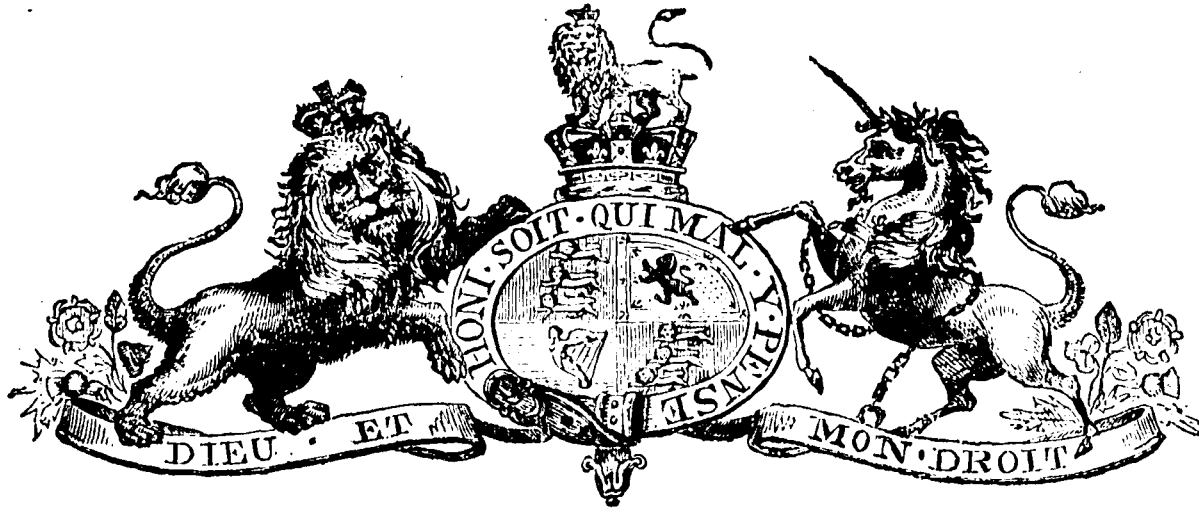


VICTORIA.



ANNO TERTIO

EDWARDI SEPTIMI REGIS.

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No. 1876.

An Act to regulate Cremation and for other purposes.

[24<sup>th</sup> December, 1903.]

BE it enacted by the King'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. This Act may be cited as the *Cremation Act* 1903, and shall be construed as one with the *Cemeteries Act* 1890 but shall have no application to the Melbourne General Cemetery or the St. Kilda Public Cemetery or the Boroondara Public Cemetery or the old Ballarat Cemetery or the trustees of any of the said cemeteries, and the powers and obligations of such trustees shall continue as if this Act had not passed.

Short title and construction.  
No. 1072.

2. In

## 2. In this Act—

“Cemetery.”  
“Cremation.”

(a) “cemetery” means public cemetery;

(b) “cremation” or “cremated” means the burning to ashes of the body of a deceased person in a crematorium constructed so as to prevent the escape of any noxious gases or exhalations; and

Crematorium.  
2 Ed. VII.  
cap. 8 s. 2.

(c) “crematorium” or “crematoria” means any building or buildings fitted with appliances for the purpose of burning human remains and includes everything incidental or ancillary thereto.

Trustees of  
cemeteries may  
provide for  
cremation.

3. The *Cemeteries Act* 1890 shall be read and construed as if power to provide for the cremation of the dead were added to the powers conferred on trustees of any cemetery by section seven of the said Act, and as if the words “or cremation” followed the word “burial” wherever it occurs in the said section.

Trustees may be  
appointed for  
cemeteries for  
cremation.

4. (1) The power to appoint trustees for any cemetery conferred by section three of the *Cemeteries Act* 1890 shall extend to and include power to appoint trustees for any new cemetery wherein corpses may be disposed of by cremation only or by cremation as well as by ordinary burial as the Governor in Council may at the time of making such appointment direct.

(2) After any such appointment all the provisions of the said Act as amended by this Act shall extend and apply to any cemetery so appointed.

(3) Where any such balance of moneys as is referred to in section thirty-four of the said Act is in the hands of any trustees, the Governor in Council may direct that any part thereof be paid by such trustees to any trustees appointed under this Act to be applied by them for the purpose of constructing or maintaining a crematorium.

Powers of cemetery  
trustees extended  
to cremations.

2 Ed. VII. cap. 8 s. 4.

Section 46.

5. The powers conferred by the *Cemeteries Act* 1890 on the trustees of any cemetery to make rules and regulations and to do and perform and cause to be done and performed all acts matters and things necessary and proper for any of the purposes set forth in section seven of the said Act shall be extended to confer on such trustees power to provide manage and maintain crematoria and to provide for the disposal of the ashes of cremated bodies subject to any regulations of the Governor in Council made pursuant to the provisions of the said Act as amended by this Act.

Site of crematorium.  
2 Ed. VII. cap. 8 s. 5.

6. No crematorium shall be constructed nearer to any dwelling house than two hundred yards except with the consent in writing of the owner lessee and occupier of such house, nor within fifty yards of any public highway road or street, nor in the part of any cemetery set apart for any particular religious denomination.

7. The

7. The trustees of a cemetery may accept a donation of money for enabling them to acquire construct and maintain a crematorium, and may with the consent of the Board accept a donation of land for the same purpose.

Donations for  
crematorium.  
2 Ed. VII. cap. 8 s. 7.

8. Before the construction of a crematorium for any cemetery notice of the intention of the trustees to erect a crematorium shall be published in the *Government Gazette* and in a newspaper generally circulating in the neighbourhood of such cemetery for at least one month.

Notice of intention  
to erect  
crematorium to be  
published.

9. The trustees of any cemetery may from time to time with the consent of the Governor in Council make and publish in the *Government Gazette* a scale of fees payable for cremation and for the preservation or disposition of the ashes of cremated bodies.

Fees for cremation.

10. The power given to the Governor in Council by section forty-three of the *Cemeteries Act* 1890 to direct the discontinuance of burials in any cemetery or burial ground or place of burial after a time mentioned in any such order shall extend to and include power to direct the discontinuance of cremation therein or in any crematorium and the penalties attached by section forty-four thereof to burying any body after any such order of discontinuance shall extend and apply to cremation in any such cemetery burial ground or place of burial or in any crematorium after the time mentioned in such order.

Discontinuance of  
cremation.

11. Sections forty-six and forty-seven of the *Cemeteries Act* 1890 shall be read and construed as if after the words "places of burial" or "place of burial" wherever they occur there were inserted the words "or cremation."

Amendment of  
sections 46 and 47  
of No. 1072.

12. Pursuant to the provisions of the *Cemeteries Act* 1890 the Governor in Council may make regulations as to the maintenance management and inspection of crematoria and prescribing in what cases and under what conditions the burning of any human remains may take place and directing the disposition or interment of the ashes and prescribing the form of register-book for the registration of cremations.

Regulations as to  
management  
inspection &c.  
2 Ed. VII. cap. 8 s. 7.

13. All cremations effected within any cemetery shall be registered in a register-book in the prescribed form to be provided and kept by the trustees of the cemetery, and such register-book shall be indexed so as to facilitate searches for entries therein, and every book and document purporting to be such register-book or a copy or extract therefrom shall be received in all courts as evidence of the cremations entered therein. All statutory provisions relating to the destruction or falsification of registers of burials shall extend and apply to any register-book under this Act as if it were a register of burials.

Register of  
cremations.  
Comp.  
2 Ed. VII. cap. 8 s. 7.

14. For

Section 24 No. 1137  
to extend to  
cremation.

14. For the purposes of section twenty-four of the *Registration of Births Deaths and Marriages Act 1890* a person having charge or conduct of a proposed cremation shall be deemed to be included in the reference to the undertaker or person having charge of the funeral; and the like certificate and notice shall be given in case of cremation as therein required in case of burial; and the like penalty shall attach to an omission to give notice of cremation as is therein provided for an omission to give notice of burial; and the coroner or magistrate holding an inquest instead of ordering burial as in such section provided may order cremation and in such event the form in the Eighth Schedule to the said Act may be altered accordingly.

Amendment of  
section 31 of  
No. 1137.

15. At the end of section thirty-one of the *Registration of Births Deaths and Marriages Act 1890* there shall be added the words "or cremation."

Persons conducting  
cremation to send  
certificate of  
cremation to  
Government Statist  
or registrar.

16. The person who has the charge or conduct of a cremation shall forthwith cause to be transmitted either to the Government Statist or the registrar of births and deaths of the district wherein such cremation took place a certificate signed by him stating the name of the person whose body was cremated, and the date and place of cremation, and where practicable the names of the persons related to the deceased present at the cremation, and the name of the minister officiating at any religious ceremony upon such cremation; and the date and place of such cremation shall be entered in the registration of the death of such person. Any person who omits to cause a certificate to be transmitted or to enter the date and place of cremation as aforesaid shall be guilty of an offence and shall on conviction be liable to a penalty not exceeding Five pounds.

Anatomical remains  
may be cremated.  
No. 1118.

17. The *Medical Act 1890* shall be read and construed as if the words "or cremated" followed the word "interred" wherever occurring in sections twenty-five, twenty-six, twenty-seven, and thirty-two thereof; and the words "or cremation" followed the word "interment" wherever occurring in sections twenty-six, thirty-two, and thirty-three thereof.

Bodies of prisoners  
may be cremated.

18. Notwithstanding any law or usage to the contrary it shall be lawful to cremate the body of any prisoner dying in gaol whose consent has been given in writing where the right or duty of disposing of such body devolves upon the gaol authorities.

No cremation to  
take place without  
permission.

19. Except in the cases mentioned in the two preceding sections no corpse shall be cremated or otherwise destroyed by fire in any public cemetery until permission to cremate such corpse shall have been signed by an officer of the trustees of such cemetery.

20. (1) Any

20. (1) Any such officer of a cemetery shall on signing or refusing to sign such permission comply with such regulations as may be made by the Governor in Council and also with such general or special directions as may be given by the trustees, but in no case shall any such permission be signed until certificates in the form of the Schedules to this Act shall have been produced to and received by such officer, and such certificates shall be retained and filed by such officer in the office of the cemetery.

Permission not to be given without production of medical certificates.

(2) The certificate in the form of the First Schedule to this Act shall be signed by the legally qualified medical practitioner who personally attended the deceased.

First Schedule.

(3) The certificate in the form of the Second Schedule to this Act shall be signed by a legally qualified medical practitioner who did not personally attend the deceased and who is an officer of health of any municipal district.

Second Schedule.

21. The Governor in Council may at any time grant a licence to any legally qualified medical practitioner authorizing such practitioner to sign certificates for cremation and may at any time revoke any such licence.

Medical practitioners may be licensed for signing certificates.

22. Save as hereinbefore provided in this Act no human remains shall be cremated or destroyed by fire in any place outside a cemetery without the consent of the Board of Public Health.

Consent of Board necessary to cremation outside cemetery.

23. Any person who cremates or destroys by fire or assists in the cremation or the destruction by fire of any corpse in any cemetery or in any other place without the permission or consent hereinbefore provided for shall be guilty of a misdemeanour and being convicted thereof shall be liable at the discretion of the court to a penalty not exceeding Five hundred pounds or to be imprisoned for any term not exceeding five years.

Penalty on cremation without permission.

24. Any person who wilfully makes any false statement in any certificate signed by him for the purposes of this Act or for the purpose of obtaining such certificate, or who makes use of any such certificate knowing any statement therein to be false or who forges any such certificate or uses any such certificate known by him to be forged, shall be guilty of felony, and being convicted thereof shall be liable at the discretion of the court to imprisonment for any term not exceeding ten years.

False statement in certificate or use of false certificate a felony.

## SCHEDULES.

## SCHEDULES.

Section 20.

### FIRST SCHEDULE.

*Cremation Act 1903.*

#### CERTIFICATE OF CAUSE OF DEATH AND CIRCUMSTANCES CONNECTED THEREWITH.

Name of the deceased in full—

Place of residence—

Place of decease—

Age—

Date of death—

Married or single—

Did the deceased die at ["his" or "her"] own residence?

If not, state name and address of occupier of house, lodging-house, hotel, nursing-house, or place where deceased died?

*The following to be answered by the Legally Qualified Medical Practitioner who personally attended the Deceased.*

1. How long have you professionally known and attended [*name of deceased*]?
2. Did you attend h in h last illness, and on what date did you see h last?
3. Did you personally ascertain that death had taken place, and that the body was that of the above named?
- 4.\* What was the nature of the disease or injury—privation or neglect, if any—causing death [*mentioning its duration in years, months, or less*]?
- 5.\* What was the immediate or proximate cause of death [*mentioning the duration of the final stage or attack in days, hours, or less*]?
6. Had any surgical operations been performed during the last few months; and, if so, of what nature?
7. Is the above report regarding the questions marked (\*) based on a necropsy, or on your personal knowledge of the course of the disease during h last illness?
8. With your knowledge of h age, constitution, and habits does the character of the fatal attack suggest any doubt as to its cause, or is there any circumstance leading you to believe that a further examination of the body is desirable?

Signed—

Professional qualification—

Dated at

this

day of

19

Section 20.

### SECOND SCHEDULE.

*Cremation Act 1903.*

*Certificate respecting Deceased.*

Name of the deceased in full—

Place of residence—

Place of decease—

Age—

Date of death—

Married or single—

Did the deceased die at ["his" or "her"] own residence?

If not, state name and address of occupier of house, lodging-house, hotel, nursing-house, or other place where deceased died?

SECOND

SECOND SCHEDULE—*continued.*

I certify that, in relation to the expressed desire that the deceased should be cremated, I have carefully and separately investigated the circumstances connected with the death, and I declare—

- (a) that there are no circumstances connected with it which could, in my opinion, make exhumation of the body hereafter necessary ;
- (b) that I have not acquired and do not anticipate acquiring directly or indirectly any property or pecuniary or other benefit of any description by or by reason of the death of C.D. of \_\_\_\_\_ ;
- (c) that I have made careful and independent inquiry into the circumstances attending the death of the said C.D., specially inquiring into the possibility of the death having been the result of poison, of injury inflicted by the deceased or by any other person, or of any illegal operation ;
- (d) that I am of opinion that the primary cause of death was \_\_\_\_\_ and the secondary cause was \_\_\_\_\_ ;
- (e) that I am of opinion that there is no circumstance concerning the death of the said C.D. that demands, in the interests of justice, any further inquiry before the body is cremated ; and
- (f) that I am not in partnership with or deriving any professional remuneration from any medical practitioner who professionally attended the deceased.

Signed—

Professional qualification—

for the [*city, or as the case may be*] of \_\_\_\_\_

and officer of health

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

MELBOURNE:

By Authority: ROBT. S. BRAIN, Government Printer.