

# METROPOLITAN CEMETERIES BOARD BY-LAW 1992

## THIS IS NOT AN OFFICIAL VERSION

This unofficial reprint incorporates -

1. the Metropolitan Cemeteries Board By-law published in the Government Gazette on 3 April 1992; and
2. amendments published in the Government Gazette on 17/9/93, 8/7/94 and 19/1/96.

### DISCLAIMER

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# CEMETERIES ACT 1986

## METROPOLITAN CEMETERIES BOARD BY-LAW 1992

In pursuance of the powers conferred upon them by the abovementioned Act, and of every other power enabling them, the Metropolitan Cemeteries Board hereby records having resolved on the 28th day of February 1991 to make and submit for confirmation by the Governor the following By-law:

### **PART I - PRELIMINARY**

#### Repeal

1. The following By-laws are hereby repealed.
  - (a) The By-laws made by the Trustees of the Karrakatta Cemetery under the provisions of the Cemeteries Act 1897, published in the Government Gazette on July 8th, 1970; as amended
  - (b) The By-laws made by the Trustees of the Pinnaroo Valley Memorial Park Public Cemetery under the provision of the Cemeteries Act 1897, published in the Government Gazette on June 2nd, 1978; as amended
  - (c) The By-laws made by the Trustees of the Midland Junction Cemetery under the provision of the Cemeteries Act 1897, published in the Government Gazette January 1st, 1904; as amended
  - (d) The By-laws made by the Trustees of the Guildford Public Cemetery under the provisions of the Cemeteries Act 1897, published in the Government Gazette July 30th, 1937 as amended.

Amended 19/1/96 Citation

2. This By-law may be cited as the Metropolitan Cemeteries Board By-law 1992.

#### Arrangement and Definitions

- Amended 19/1/96
3. (1) This By-law is divided into parts as follows:-

PART I	PRELIMINARY
PART II	ADMINISTRATION
PART III	RIGHTS OF BURIAL;
PART IV	APPLICATIONS FOR FUNERALS: Division 1 Application Division 2 Time for Funerals
PART V	FUNERAL DIRECTORS
PART VI	SINGLE FUNERAL PERMITS
PART VII	FUNERALS Division 1 General Division 2 Cremation Division 3 Placement of Ashes Division 4 Burial
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Division 3 Memorial Plaque Section  
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Division 5 Licensing of Monumental Masons  
Division 6 Single Monumental Work Permit  
PART IX GENERAL  
PART X OFFENCES AND MODIFIED PENALTIES

(2) In this By-law unless the context requires otherwise:

"Act" means the Cemeteries Act, 1986;

"ashes" means so much of the remains after the due processes of cremation as may be contained in a standard sized cremation urn;

"Authorised Officer" means an officer or employee of the Board authorised by the Board to exercise any power conferred by an act of Parliament or this By-law;

"Board" means the Metropolitan Cemeteries Board as constituted under Section 7 of the Act;

"burial" has the same meaning as is given to it in the Act;

"Cemeteries" means all cemeteries which the Governor by order has vested under the care, control and management of the Board.

"Cemetery" means any one of the Cemeteries;

"Crematorium" has the same meaning as is given to it in the Cremation Act 1927.

"dead body" has the same meaning as that expression in the Act;

"funeral" includes the burial and cremation of a dead body and all associated processions and ceremonials but does not include so much of a ceremonial that is solely a religious rite;

"Funeral Director" means a person, firm, or company holding a current funeral director's licence;

"funeral director's licence" means a licence issued by the Board in accordance with clause 21 which entitles the holder to conduct funerals at the Cemeteries;

"General Manager" means the General Manager for the time being appointed by the Board in accordance with Clause 4 and includes any person for the time being acting in that capacity in the absence of the General Manager;

"grant" means a grant by the Board, under clause 7 or clause 9, of an exclusive right of burial in a grave;

"grave" means a specified area of a Cemetery for burial, including a compartment within a mausoleum or vault

"guide dog" has the same meaning as is given to that expression in the Dog Act 1976;

"holder" in relation to a grant includes:

- (a) a person issued with a grant by the Board under clause 7 or clause 9;
- (b) a person for the time being appearing to the Board to be the holder of a grant;

"mausoleum" means a building or construction wholly above or partially above and below ground level, so constructed as to allow the deposition of dead bodies into a compartment in the wall or floor and being sealed from view;

"memorial" has the same meaning as is given to it in the Act;

"Memorial Park" means the Pinnaroo Valley Memorial Park, appointed as a public cemetery reserved for the burial of the dead by proclamation of the Governor published in the Government Gazette of the 19th October, 1973;

"military grave" means a grave eligible for commemoration by the Office of Australian War graves;

"monument" includes a tombstone, vault, enclosure or other approved form of memorial;

"Monumental Mason" means a person, firm or company holding a current monumental mason's licence;

"monumental mason's licence" means a licence issued by the Board in accordance with clause 63 which entitles the holder to carry out monumental works within a Cemetery;

"monumental work" when the term is used as an abstract noun shall include the erection, alteration or removal of or other working upon a monument on a grave;

"personal representative" means:

- (a) the administrator of the estate or executor of the will of a deceased person;
- (b) the person who, by law or practice, has the best right to apply for administration of the estate of a deceased person; or
- (c) a person having the lawful custody of a dead body;

"set fee" refers to fees and charges set by a resolution of the Board and published in the Government Gazette in accordance with section 53 of the Act;

"single funeral permit" means a permit issued by the Board in accordance with clause 25 which entitles the holder to conduct a funeral at the Cemetery for the deceased persons named in the permit;

"vault" means a below ground lined grave with one or more sealed compartments constructed to specifications approved from time to time by the Board;

"vehicle" has the same meaning as is given to that word in the Road Traffic Act 1974 as amended from time to time, and includes trail bikes, beach buggies and other recreational vehicles licensed or unlicensed, but excludes a wheel chair being used by a physically impaired person.

## **PART II - ADMINISTRATION**

### Appointment of General Manager

4. The Board shall appoint a General Manager who shall, at its direction, exercise general supervision and control over all matters concerning the administration of the Cemeteries and the carrying out and enforcement of this By-law and, unless the Board otherwise resolves, all directions of the General Manager shall be deemed to have been given by order of the Board.

### Appointment of Employees

5. The Board may directly or by delegation to the General Manager appoint support staff to administer and supervise work within the Cemeteries and carry out such work as is required for the general care of the Cemeteries.

Plans and Registers

6. (1) The Board shall establish and maintain:
- (a) a plan of each Cemetery showing the location and identifying number of every burial place or grave and the distribution of the land, compartments and sections;
  - (b) a register containing the identification numbers of graves and the names and description of the persons buried;
  - (c) a register of grants made with respect to each Cemetery;
  - (d) a register of cremations containing the names and descriptions of any person cremated in each Cemetery; and
  - (e) a register of persons cremated whose ashes have been buried or disposed in each Cemetery.
- (2) The plans and registers referred to in sub-clause (1) shall be open for inspection by members of the public during normal office hours of the Board and upon payment of the set fee.

**PART III - RIGHTS OF BURIAL**

Issue of a grant

Substituted 7. Upon:  
19/1/96

- (a) the written application of a person; and
- (b) payment of the set fee,

the Board may issue to that person a grant of right of burial for a term of 25 years.

Rights of a holder

Substituted  
19/1/96

8. (1) Subject to this By-law, to the prior approval of the Board and to the terms and conditions (if any) imposed by the Board, a grant confers on the holder, during the term of the grant, an exclusive right:
- (a) to bury one or more dead bodies, or the ashes of one or more dead bodies in the grave specified in the grant; and
  - (b) to carry out monumental works on the grave specified in the grant.
- (2) The Board, in its absolute discretion, may determine from time to time the number of dead bodies or ashes which may be placed in a grave.
- (3) The Board or an Authorised Officer may request a holder to produce the grant before the exercise of any of the rights referred to in sub-clause (1) and the holder shall forthwith comply with that request.

### Renewal of a grant

Substituted 9. (1) Where, at any time during the term of a grant issued under clause 7, the holder:  
19/1/96

- (a) makes written application; and
- (b) pays the set fee,

the Board shall renew that grant for a further term of 25 years commencing on the initial expiry date of the grant.

(2) Where a grant has been renewed under sub-clause (1) and the holder, within 6 months before or after the expiry date of the grant:

- (a) makes written application; and
- (b) pays the set fee,

the Board may renew that grant for a further period not exceeding 25 years in the case of any one renewal.

### Replacement grant

Substituted 10. Upon:  
19/1/96

- (a) the written application of a holder; and
- (b) the production of evidence to the satisfaction of the Board, which may include a statutory declaration by the holder substantially in the form set out in the First Schedule,

the Board may issue a new grant to replace a grant which is lost or has been destroyed."

### Transfer of a grant

Substituted  
19/1/96

11. (1) A holder who wishes to assign a grant must produce to the Board for registration the document giving effect to the assignment.

(2) An assignment may be in the form set out in the Second Schedule."

### Exercising the rights of a holder

Substituted 12. If the Board is satisfied, on the basis of written evidence, that the holder of a grant:  
19/1/96

- (a) is unavailable;
- (b) is not immediately ascertainable; or
- (c) has died without bequeathing the grant by will,

then the Board may authorise, in writing:

- (d) the holder's personal representative;
- (e) a person acting expressly on behalf of the holder's personal representative;  
or
- (f) where no one described in paragraphs (d) or (e) is available or immediately ascertainable, any other person,

to exercise, subject to any conditions imposed by the Board, the rights conferred on the holder."

### Burial without a grant

Substituted

19/1/96 13. (1) Where a person who wishes to bury a dead body, or the ashes of a dead body, in a grave which is not the subject of a grant:

- (a) makes written application; and
- (b) pays the set fee,

the Board may authorise the burial of that body or ashes in a specified grave allocated for that purpose.

(2) Where a grave is allocated under sub-clause (1), the Board shall retain all rights and powers in respect of that grave, including the rights and powers to reopen the grave to:

- (a) disinter the remains buried in that grave and reinter them:
  - (i) in the same grave;
  - (ii) in another grave but within the Cemetery;or
  - (iii) elsewhere in accordance with the Act;
- (b) disinter and cremate the remains buried in that grave; or
- (c) bury other dead bodies.

## **PART IV - APPLICATION FOR FUNERALS**

### **Division 1 - Applications**

#### Application to hold a Funeral

Amended  
19/1/96

14. (1) A person who desires to hold a funeral within a Cemetery shall, in the case of the burial of a dead body:

- (a) make an application to the Board in the form prescribed by the Third Schedule; and
- (b) lodge with the application referred to in paragraph (a):
  - (i) evidence to the satisfaction of the Board that the holder of the grant in respect of the grave in which the body is intended to be buried has consented to or would not object to the burial; or
  - (ii) an application for a grant under clause 7; or
  - (iii) an application for the allocation of a grave under clause 13.

(2) A person who desires to hold a funeral within a Cemetery shall, in the case of the cremation of a dead body:

- (a) make an application to the Board in the form prescribed in the Fourth Schedule; and
- (b) lodge with the application referred to in paragraph (a) a permit to cremate issued in accordance with the Cremation Act 1927.

(3) All applications referred to in sub-clauses (1) and (2) shall be accompanied by:

- (a) a doctor's certificate for burial or disposal of the dead body; or
- (b) a coroner's order for burial; and
- (c) a certificate of identification in accordance with clause 15.

(4) All applications to hold a funeral must be lodged at the office of the Board in such time as to permit at least five (5) working hours notice to be given prior to the time requested to be fixed for the funeral.

- (5) All applications to hold a funeral on a Saturday must be lodged at the office of the Board no later than 2.30 pm on the day before the funeral unless a later time is approved by the Board.

#### Certificate of Identification

15. (1) After a deceased person is placed in a coffin and prior to a deceased person being removed to a Cemetery, or Crematorium within a Cemetery, a person who personally knew the deceased shall identify the dead body and shall complete the form prescribed in the Fifth Schedule unless:

- (a) in the opinion of the Funeral Director, the dead body is not in a fit state to be viewed; or  
(b) after reasonable effort the Funeral Director is unable to arrange for a person to identify the dead body.

- (2) Where:

- (a) in the opinion of the Funeral Director, the dead body is not in a fit state to be viewed; or  
(b) after reasonable effort the Funeral Director is unable to arrange for a person to identify the dead body,

then the Funeral Director shall complete the form prescribed in the Sixth Schedule.

### **Division 2 - Times for Funerals**

#### Receipt of the Application for a Funeral

Amended  
19/1/96

16. Upon receipt of a properly completed application form in accordance with clause 14 and all other things required by this By-law, the Board shall:
- (a) fix a time for the funeral; and  
(b) prepare any grave that is required or reserve the venue for a cremation service (as the case may be).

#### Fixing Times for a Funeral

17. The time fixed for a funeral is at the discretion of the Board but subject to this By-law will be as near as possible to the time requested by the applicant.

#### Times for Burials and Cremations

18. (1) A person shall not carry out a burial or cremation:

- (a) on Christmas Day;  
(b) on Good Friday; or  
(c) at any time other than during the following days and hours:  
Monday to Thursday - 8.00am to 4.00pm  
Friday - 8.00am to 3.30pm  
Saturday - 8.00am to 11.00

except with the written permission of the Board.

- (2) The Board may, by notice displayed at Board offices, at least one week before a Public Holiday, close any Cemetery on that Public Holiday and where a Cemetery is so closed no funeral may take place within it, except with the written permission of the Board.

#### Admittance of Coffins



19. A person shall not bring a coffin into a Cemetery other than during the hours referred to in clause 18(1)(c), except with the written permission of the Board.

## **PART V - FUNERAL DIRECTORS**

### Directing a Funeral

20. A person shall not direct a funeral within a Cemetery or otherwise make use of a Cemetery for any purpose connected with directing a funeral unless that person is:
- (a) a Funeral Director;
  - (b) an employee of the Funeral Director;
  - (c) the holder of a single funeral permit issued in accordance with clause 25.

### Funeral Director's Licence

Amended  
17/9/93

21. (1) The Board may upon receipt of an application in writing by any person in the form prescribed in the Seventh Schedule and upon payment of the set fee, issue to the applicant a funeral director's licence authorising the holder to direct funerals within a Cemetery at such times and on such days and subject to such conditions as the Board shall specify and in compliance with the provisions of this By-law.
- (2) If the application referred to in sub-clause (1) is approved by the Board, the Board shall issue to the applicant a licence in the form prescribed in the Eighth Schedule.
- (3) Any person who is the holder of a current funeral director's licence may apply for a new licence for the then following year by lodging with the Board an application form prescribed in the Seventh Schedule and upon payment of the set fee.

### Period of Licence

Amended  
17/9/93

22. A funeral director's licence:
- (a) shall be valid from the date specified therein until the 30th day of June next following the date of commencement of the licence or until the licence is determined pursuant to clause 24, whichever shall occur sooner; and
  - (b) shall not be transferable.

### Responsibilities of the holder of a Funeral Director's Licence

23. The holder of a funeral director's licence shall be responsible for the compliance by every person purporting to be authorised to direct a funeral within a Cemetery pursuant to that licence with:
- (a) all the requirements of:
    - (i) the licence,
    - (ii) this By-law; and
    - (iii) the Act; and
  - (b) the conditions imposed by the Board in respect of that licence.

### Cancellation of a Funeral Director's Licence

24. (1) The Board may, by notice in writing to the holder of a funeral director's licence, cancel the licence if:

- (a) the holder of the licence or any employee of the holder has committed a breach of this By-law, the Act, the Cremation Act 1927 or any of the conditions upon which the licence was issued;
  - (b) in the opinion of the Board, the conduct of the holder of the funeral director's licence or any employee of the holder in directing or attempting to direct any funeral within a Cemetery is inappropriate or unbecoming;
  - (c) the holder of the funeral director's licence has purported to transfer the licence issued to that holder;
  - (d) the funeral director's licence was issued erroneously or in consequence of a false or fraudulent document, statement or representation;
  - (e) the fee for the funeral director's licence is due and unpaid;
  - (f) the holder of the funeral director's licence is convicted of an offence against this Act or this By-law; or
  - (g) the Board is no longer satisfied that the holder of the funeral director's licence:
    - (i) is of good repute and is fit to hold a funeral director's licence;
    - or
    - (ii) has suitable facilities and equipment for handling and storing dead bodies and conducting funerals.
- (2) Upon the cancellation of a licence pursuant to this clause, no part of any fee paid for the issue of that licence is refundable by the Board.

## **PART VI - SINGLE FUNERAL PERMITS**

### Application for a Single Funeral Permit

25. The Board may upon receipt of an application in writing by any person in the form prescribed by the Ninth Schedule and upon payment of the set fee issue to the applicant a single funeral permit authorising the holder to direct the funeral of the person named in the permit within a Cemetery at such time and subject to such conditions as the Board shall specify upon the issue of that permit or in this By-law.

### Specifications and Details

26. Every application for a single funeral permit made in accordance with clause 25 shall include coffin specifications and details of the vehicle transporting the dead body to the gravesite or Crematorium.

## **PART VII - FUNERALS**

### **Division 1 - General**

#### Requirements as to Coffins

27. A person shall not bring a dead body into a Cemetery unless:
- (a) the Board has received an application for the burial or cremation of that dead body in accordance with clause 14;
  - (b) it is enclosed in a coffin which in the opinion of the Board is structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate on the coffin's lid; and
  - (c) under the plate referred to in paragraph (b) there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10mm in height.

### Funeral Processions

28. (1) Where:
- (a) a funeral procession fails to arrive at a Cemetery at the time fixed by the Board for the funeral; or
  - (b) all the forms prescribed by this By-law to hold and direct a funeral at a Cemetery are not presented to an Authorised Officer at a Cemetery at the time fixed by the Board for the funeral,
- then the applicant who applied to hold the funeral under clause 14 shall pay the set fee for being late or make a written application to the Board requesting another time to be fixed for the funeral.
- (2) Where a funeral procession fails to proceed to the Crematorium or grave site of a Cemetery within seven (7) minutes of arrival at a Cemetery, the applicant who applied to hold the funeral shall pay the set fee for being late.
- (3) No funeral procession at a Cemetery shall include more than:
- (a) one funeral director's hearse; and
  - (b) four (4) mourning coaches, without the prior approval of the General Manager.

### **Division 2 - Cremation**

#### Metal or Metal Lined Coffins

29. Metal or metal lined coffins shall not be accepted by the Board for cremation at a Cemetery.

#### Polyvinyls

30. The use of polyvinyl or its derivative, polyurethane, aerosol cans, other sealed containers and/or glass in or upon coffins presented for cremation at a Cemetery is prohibited.

#### Depositing the Coffin

31. (1) The Funeral Director shall deposit the coffin for cremation upon the catafalque in the Crematorium chapel or at such other position within a Cemetery as may be determined from time to time by the Board.
- (2) Once the coffin has been deposited for cremation in accordance with sub-clause (1), all further services will be rendered by and be under the sole control of the Board.

#### Removal of the Name Plate and Lead Strip

32. The Board shall remove the name plate and lead strip from the coffin prior to cremation at a Cemetery and the lead strip shall be placed in the container with the ashes.

### Removal of Metal Fittings

33. The Board may remove any metal fittings on coffins presented for cremation at a Cemetery which in the opinion of the Board could impede the cremation or cause damage to the cremation equipment.

### **Division 3 - Placement of Ashes**

#### Directions to Place Ashes

- Amended 34. (1) Where the personal representative of a deceased person whose body has been  
9/1/96 cremated:
- (a) has not given directions for the placement of ashes in the application for a cremation referred to in clause 14; or
  - (b) wishes to vary the directions for the placement of ashes specified in the application for a cremation referred to in clause 14,
- then the personal representative may apply to the Board in the form prescribed by the Tenth Schedule for permission to dispose of the ashes in a Cemetery and upon payment of the set fee the Board may grant permission for the ashes to be disposed of by one of the methods specified in the Eleventh Schedule.
- (2) Subject to sub-clauses (3) and (4), a person shall not place the ashes of a deceased person in a Cemetery.
  - (3) An Authorised Officer may place the ashes of a deceased person in a Cemetery provided:
    - (a) the person requesting the placement of the ashes has the permission of the Board; and
    - (b) the ashes are placed within an area set aside for that purpose by the Board.
  - (4) An Authorised Officer may place the ashes of a deceased person in a grave provided:
    - (a) any monumental work commemorating the deceased person is in accordance with Part VIII of this By-law;
    - (b) the ashes are not deposited in an above ground repository; and
    - (c) the person requesting the placement of the ashes has the written permission of the Board.

#### Availability of Ashes

35. Subject to compliance with clause 34, and upon the payment of the set fee, the ashes of a deceased person that have not been placed within a Cemetery will be made available to a personal representative of the deceased person during the normal office hours of the Board after the expiration of twenty four hours (24) after the completion of the cremation at a Cemetery.

#### Ashes held by the Board

36. (1) If within six (6) months after the date of cremation at a Cemetery:
- (a) the ashes of the deceased person have not been claimed; or
  - (b) no arrangements have been made for the placement of the ashes of a deceased person by the personal representative,

then the Board may dispose of the ashes at its discretion.

- (2) Where the ashes of a deceased person are held by the Board at the request of the personal representative after the expiration of six (6) months from the date of cremation then the personal representative shall pay the set fee, which fee shall be payable monthly in advance.
- (3) In the event that the legal representative defaults in the payment of the fee referred to in sub-clause (2), the Board may dispose of the ashes.

#### **Division 4 - Burials**

##### Specification of Graves

Substituted 37. The Board may from time to time determine the specifications of graves.  
19/1/96

##### Vaults & Mausoleums

Substituted  
8/7/94

38. (1) A person other than the Board shall not construct a brick grave, crypt, vault or mausoleum within a cemetery.

Amended  
19/1/96

(2) The Board may upon receipt of an application in writing by any person and upon payment of the set fee construct a vault or mausoleum within a Cemetery which vault or mausoleum shall at all times remain the property of the Board.

(3) A mausoleum must be:-

- (a) constructed of brick, stone, concrete or similar durable material; and
- (b) adequately ventilated and drained; and
- (c) vermin proof; and
- (d) capable of being secured against entry by vandals or other unauthorised persons.

(4) A person shall not place a dead body in a mausoleum except:-

- (a) in a closed coffin; and
- (b) in a soundly constructed chamber; and
- (c) in accordance with Subclause (5).

(5) The number of burials in a chamber must not exceed the number for which the chamber was designed.

(6) The Board shall ensure that as soon as possible after a dead body is placed in a mausoleum, the front of the chamber is sealed with a slab of impervious material and faced with a substantial slab of stone, slate, or other material approved by the Board.

##### Burying a Coffin

Substituted  
17/9/93

39. (1) A person shall not bury a coffin within a cemetery so that the distance from the top of the coffin to the original surface of the ground is-

- (a) subject to sub-clause (b), less than 750 mm, unless that person has the permission of an Authorised Officer; or
- (b) in any circumstances less than 600 mm.

(2) The permission of the Authorised Officer in sub-clause (1) (a) will only be granted where in the opinion of the Authorised Officer exceptional circumstances require granting of that permission.

#### Re-opening a Grave

40. (1) Subject to sub-clause (2), if for the purpose of re-opening a grave in a Cemetery the Board finds it necessary to remove a monument, edging, tiles, plants, grass, shrubs or other like matter from the grave, then the person ordering the re-opening of that grave shall bear the cost of the removal and any necessary reinstatement.
- (2) If the Minister orders the exhumation of a body in accordance with Section 58 of the Act then, the Minister may further order how and by whom the costs referred to in sub-clause (1) shall be met.
- (3) In this clause, the word "Minister" has the same meaning as is given to that expression in the Act.

#### Disintering a Coffin

41. (1) Subject to sub-clause (2), a person shall not disinter a coffin in a Cemetery for the purposes of re-burial within twelve (12) months after the date of its interment.
- (2) Sub-clause (1), shall not apply where the coffin is disintered for the purposes of the exhumation of a dead body and the exhumation is ordered or authorised pursuant to the Act.

#### Exhumation

42. A person shall not disinter a coffin in a Cemetery for the exhumation of a dead body unless:
- (a) the exhumation is ordered or authorised pursuant to the Act; or
- (b) the holder of the grant of right of burial has applied in writing to the Board requesting the exhumation and the Board has authorised the exhumation.

#### Opening a Coffin

43. (1) A person shall not open a coffin in a Cemetery unless:
- (a) the coffin is opened for the purposes of the exhumation of a dead body; or
- (b) that person has produced to the Board an order signed by the Commissioner of Police and the Board has approved the opening of that coffin.
- (2) In this clause:  
"Commissioner of Police" means the Commissioner of Police for the time being appointed under the Police Act 1892 and includes any person for the time being acting in that capacity in the absence of the Commissioner of Police.

### **PART VIII - MONUMENTAL AND OTHER WORK**

Amended 19/1/96

#### **Division 1 - Permission for Monumental Work**

#### Carrying out Monumental Work

- Amended 44. (1) Subject to sub-clause (2), a person shall not carry out monumental work on a grave:  
17/9/93
- Substituted (a) unless the monumental work has first been approved by the Board;  
19/1/96 (b) except in accordance with the plans and specifications approved by the Board; and  
(c) unless the set fee has been paid.
- (2) The Office of Australian War Graves:
- (a) may, without the approval of the Board, carry out monumental work on a military grave; and  
(b) is not required to pay the set fee for any monumental work that is carried out on a military grave."

#### Application to Carry out Monumental Work

- Substituted 45. (1) Upon:  
19/1/96
- (a) the written application of a person in the form of the Twelfth Schedule and accompanied by the documents set out in sub-clause (2); and  
(b) payment of the set fee,
- the Board may issue to that person a permit to carry out monumental work on the grave specified in the application on the days, at the times and subject to the conditions specified by the Board.
- (2) An application referred to in sub-clause (1) shall be accompanied by:
- (a) the plans and specifications of the proposed monumental work, including precise details of all words, designs and pictures intended to be inscribed on or attached to the monumental work;  
(b) if the applicant is not the holder of the grant in respect of the grave on which the work is to be carried out, the written consent of the holder; and  
(c) the quoted cost of the proposed monumental work.
- (3) The Board may refuse any application where it considers that the proposed monumental work is inappropriate."

### **Division 2 - Lawn Section**

#### Specifications of Monuments

46. (1) All monuments in the lawn section of a Cemetery shall:
- (a) be made of natural stone;  
(b) be placed upon a base of natural stone;  
(c) comply with the following specifications:  
(i) the overall height of the monument above the original surface of the grave shall not exceed 1.05m;  
(ii) the height of the base of the monument above the original surface of the grave shall not be less than 150mm nor more than 450mm;  
(iii) the width of the base of the monument shall not exceed 1.20m;  
(iv) the depth of the base of the monument shall not exceed 300mm;  
(d) have foundations extending to the bottom of the grave unless concrete beam foundations are provided by the Board.

- (2) An admiralty bronze memorial plaque may be attached to a monument erected or being erected in the lawn section of a Cemetery.
- (3) A person shall not display any trade names or marks upon any monument within the lawn section of a Cemetery.

Headstones

- 47. No portion of a headstone in a lawn section of a Cemetery shall protrude outside the area of the perimeter of the base of that headstone.

**Division 3 - Memorial Plaque Section**

Requirements of a Memorial Plaque

- 48. (1) All memorial plaques placed in a memorial plaque section of a Cemetery shall:
  - (a) be made of admiralty bronze or any other material approved by the Board;
  - (b) not be less than the dimensions 380mm x 280mm, nor more than 560mm x 305mm; and
  - (c) bear an inscription approved by the Board.
- (2) All memorial plaques made of admiralty bronze shall:
  - (a) not exceed 20mm in thickness; and
  - (b) be placed upon a base mounting approved by the Board.
- (3) All memorial plaques made of stone shall:
  - (a) not exceed 50mm in thickness placed upon a base mounting approved by the Board; or
  - (b) not be less than 100mm in thickness if it is not to be placed upon a base mounting.

**Division 4 - General**

Kerbing

Substituted  
19/1/96

- 49. (1) The Board may from time to time set aside any part of a Cemetery for graves that are not to be enclosed by kerbing.
- (2) A person shall not enclose a grave with kerbing where the grave is situated:
  - (a) in a lawn section of a Cemetery;
  - (b) in a memorial plaque section of a Cemetery; or
  - (c) in a part of a Cemetery set aside under sub-clause (1).

Numbering on Graves

Substituted  
19/1/96

- 50. (1) A person shall not carry out monumental work on a grave unless the number of that grave is indelibly and legibly inscribed on the base of the headstone, or if this is not practicable, on the kerbing at the foot of the grave."

Monuments to be Kept in Good Repair and Condition

- 51. The holder shall keep the grave the subject of the grant and all monuments upon it in good repair and condition.



#### Placing of Glass Domes and Vases

- Amended 19/1/96
52. A person shall not place glass domes, vases or other grave ornaments:
- (a) outside the perimeter of a grave in a Cemetery; or
  - (b) on the lawn in an area set aside by the Board as a lawn or a memorial plaque section.

#### Plants and Trees

53. A person shall not plant trees, shrubs or plants on the surface of or within one metre of the outside perimeter of any grave in a Cemetery without the prior approval of the Board.

#### Materials

54. (1) A person who proposes to carry out monumental work in a Cemetery shall:
- (a) use material of good quality; and
  - (b) not use any plastic or epoxy based substances for the in-filling of inscriptions on headstones, tablets or any other monumental work.
- (2) An Authorised Officer may reject any material that in the Officer's opinion is not good quality and the person who brought such material into the Cemetery shall forthwith remove it therefrom.

#### Use of Wood

55. A person shall not place wooden fences, railings, crosses or other wooden erections within a Cemetery unless:
- (a) the wooden material is a temporary marker; and
  - (b) the person has obtained the prior approval of the Board.

#### Operation of Work

56. All material required in the erection or completion of any monumental work shall:
- (a) be prepared as far as practicable before being brought into a Cemetery; and
  - (b) be admitted at such entrances of a Cemetery and at such times as the General Manager may direct.

#### Placement of Monumental Work

- Amended 17/9/93
57. (1) A person shall not place monumental work in a Cemetery other than on proper and substantial foundations to the satisfaction of an Authorised Officer.
- (2) Notwithstanding Clause 46 (1)(d), all monuments in a Cemetery exceeding 1.8m in height when erected or 500kgs in weight shall have foundations extending to the bottom of the grave.

#### Placement of Rubbish

58. (1) A person shall not place rubbish soil, sand or any other surplus material resulting from monumental work upon any grave.
- (2) Notwithstanding Clause 59, a person carrying out monumental work within a Cemetery shall remove from that Cemetery all surplus material resulting from that work, upon its completion.

#### Removal of Sand, Soil or Loam

59. Subject to Clause 58(2), a person shall not remove sand, soil or loam from any portion of a Cemetery unless that person has the permission of the Board.

#### Supervision

60. (1) All monumental work within a Cemetery shall be carried out in a professional manner subject to the direction and/or supervision of an Authorised Officer.
- (2) All persons carrying out monumental work within a Cemetery shall forthwith comply with any direction given by an Authorised Officer in accordance with sub-clause (1).

#### Hours of Work

61. A person shall not work within a Cemetery without the permission of the General Manager or a person authorised by the Board:
- (a) other than during the days and hours specified in clause 18(1)(c);
- (b) on Saturdays and Sundays; or
- (c) on public holidays.

#### Conditions of Work

62. A person carrying out monumental work within a Cemetery shall not leave any uncompleted monumental work in an untidy or unsafe condition.

### **Division 5 - Licensing of Monumental Masons**

#### Application for a Monumental Mason's Licence

63. (1) The Board may upon receipt of an application in writing by any person, firm or company in the form prescribed in the Thirteenth Schedule and upon payment of the set fee issue to the applicant a monumental mason's licence.
- (2) A licence issued under clause 63 (1) authorises the holder to carry out monumental works within a Cemetery subject to the provisions of this By-law and such conditions as the Board shall specify upon the issue of that licence.

#### Period of Licence

64. A monumental mason's licence:
- (a) shall be valid from the date specified therein until the 30th day of June next following the date of commencement of the licence or until the licence is determined pursuant to clause 67, whichever shall occur sooner; and
- (b) shall not be transferable.

### Carrying out Monumental Work

65. A person shall not carry out monumental work within a Cemetery unless that person is the holder of a current valid monumental mason's licence issued pursuant to clause 63 or does so as the employee of or principal of a firm or a director of a company which holds such licence or is otherwise authorised by the Board.

### Responsibilities of the holder of a Monumental Mason's Licence

66. The holder of a monumental mason's licence shall be responsible for the compliance by every person purporting to be authorised to carry out monumental works within a Cemetery pursuant to that licence with all the requirements of the licence, this By-law, the Cemeteries Act and the Occupational Health Safety and Welfare Act and the conditions pursuant to which that licence was issued.

### Cancellation of a Monumental Mason's Licence

67. (1) The Board may by notice in writing to the holder of a monumental mason's licence determine the licence forthwith on any of the following grounds:
- (a) That the holder of the licence has committed a breach of this By-law, the Cemeteries Act, the Occupational Health Safety and Welfare Act or any of the conditions upon which the licence was issued;
  - (b) That, in the opinion of the Board, the conduct of the holder of the licence or any person in the employ of that holder in carrying out or attempting to carry out any works within a Cemetery, is inappropriate or unbecoming; or
  - (c) That the holder of the licence has purported to transfer the licence issued to that holder.
- (b) Upon determination of a monumental mason's licence under this clause no part of any fee paid for the issue of that licence is refundable by the Board.

## **Division 6 - Single Monumental Work Permits**

### Application For a Single Monumental Work Permit

68. The Board may upon receipt of an application in writing by any person in the form prescribed by the Fourteenth schedule and upon payment of the set fee issue to the applicant a single monumental work permit authorising the holder to place a monument within a Cemetery subject to such conditions as the Board shall specify upon the issue of that permit or in this By-law.

### Specifications and Details

69. Every application for a single monumental work permit made in accordance with clause 68 shall include an application for monumental work in the form prescribed by clause 50.

## **PART IX - GENERAL**

### Vehicles

- Amended 19/1/96 70. (1) A person shall not drive a vehicle:
- (a) in a Cemetery at a speed exceeding 25 kilometres per hour;

- (b) in a Cemetery in any manner likely to cause detriment to the safety of pedestrians or other users of the Cemetery;
  - (c) in a Cemetery other than on those roads directed to be used by an Authorised Officer;
  - (d) in a Cemetery other than in accordance with the directions of an Authorised Officer; or
  - (e) on any part of a Cemetery that is not a constructed roadway or parking area or designated by the Board as an area in which vehicles may be driven.
- (2) A person shall not stand or park a vehicle on any part of a Cemetery:
- (a) if the standing or parking of vehicles on that part is prohibited at all times by a sign; or
  - (b) so as to cause an obstruction to or impede the flow of traffic.

#### Animals

71. (1) Subject to sub-clause (3), a person shall not bring an animal into or permit an animal to enter or remain in a Cemetery;
- (2) Subject to sub-clause (3), the Board or an Authorised Officer may seize and remove any animal found in a Cemetery.
- (3) Sub-clauses (1) and (2), shall not apply to a hearing impaired person or a person who is blind or partially blind and is accompanied by a hearing or guide dog.

#### Fireworks or Firearms

72. (1) A person shall not bring or discharge any fireworks within a Cemetery.
- (2) A person shall not bring or discharge any firearms within a Cemetery except in the case of a military funeral when firearms may be brought into a Cemetery and discharged by members of the Defence Force.
- (3) In this Clause, "Defence Force" has the same meaning as is given to that expression in the Defence Act 1903.

#### Damaging and Removing Objects

73. (1) Subject to sub-clause (2), a person shall not damage, remove or pick any tree, plant, shrub or flower in a Cemetery or any other object or thing on any grave or memorial or which is the property of the Board without the permission of the Board.
- (2) A person may remove withered flowers from a grave or memorial.
- (3) A person who removes withered flowers from a grave or memorial shall place them in a receptacle provided by the Board for that purpose.

#### Advertising

74. A person shall not carry on or advertise any trade, business or profession within a Cemetery without the prior written approval of the Board which consent may be granted subject to such conditions as the Board thinks fit.

#### No Benefits or Gratuities

75. A person employed by the Board shall not accept any gratuities or receive any financial benefit from any work undertaken within a Cemetery other than the remuneration or benefit paid or given to that person by the Board.

#### Littering

76. A person shall not:
- (a) break or cause to be broken any glass, ceramics or other material in or upon a Cemetery;
  - (b) discard, deposit, leave or cause to be discarded, deposited or left any refuse or litter in or upon a Cemetery other than in a receptacle provided for that purpose.

#### Disruption of Funeral Processions

77. A person shall not obstruct, hinder or disrupt a funeral procession or ceremony within a Cemetery or commit a nuisance disrespectful of the feelings and welfare of other users of a Cemetery.

#### Entry

78. A person shall not enter or remain within a Cemetery other than during the hours between sunrise and sunset except with the approval of the Board or an Authorised Officer.

#### Swimming

79. A person shall not swim or wade in or remove fish or wildlife from lakes, tanks or other water features within a Cemetery.

#### Recording on film or videotape

Substituted  
19/1/96

80. (1) A person shall not, without the prior approval of the Board, record on film or videotape any image or sound within a Cemetery.
- (2) A person shall not record on film or videotape a funeral, headstone or memorial within a Cemetery without the prior approval of the next of kin of the deceased person whose funeral, headstone or memorial is being recorded."

#### Camping

81. A person shall not camp in or upon a Cemetery.

#### Lighting Fires

82. A person shall not light a fire within a Cemetery without the prior approval of the Board.

#### Obeying Signs and Directions

83. A person shall obey all signs displayed, marked, placed or erected by the Board within a Cemetery and any other lawful direction of an Authorised Officer.

### Removal from a Cemetery

84. (1) Any person failing to comply with any provision of this By-law or behaving in a manner that in the opinion of the Board or one of its Authorised Officers is in appropriate or unbecoming in a Cemetery may in addition to any penalty provided by this By-law be ordered to leave a Cemetery by the Board or an Authorised Officer.
- (2) Any person failing to comply with an order to leave a Cemetery made pursuant to sub-clause (1) may be expelled from that Cemetery and shall not re-enter that Cemetery for a period of twenty-four (24) hours.

## **PART X - OFFENCES AND MODIFIED PENALTY**

### Offence

85. A person who commits a breach of any provision of this By-law commits an offence and shall on conviction be liable to a penalty not exceeding \$500 and if the offence is a continuing one to a further penalty not exceeding \$20.00 for every day or part of a day during which the offence is continued.

### Modified Penalties

86. (1) A person who:
- (a) receives an infringement notice pursuant to sub-section (1) of Section 63 of the Act; and
  - (b) does not contest that an offence was committed against this By-law,
- may, within the time specified in the notice, pay to the Board the modified penalty payable with respect to that offence.
- (2) The offences and modified penalties prescribed with respect to offences against this By-law shall be as specified in the Fifteenth Schedule.
- (3) The prescribed form of the notice referred to in Section 63 (1) of the Act is set out in the Sixteenth Schedule.
- (4) The production of an acknowledgment from the Board of the payment of a modified penalty is a defence to a charge of the offence in respect of which that penalty was paid.
- (5) If it appears to the Board that an alleged offence cannot be adequately punished by the payment of the modified penalty then the Board may refrain from accepting the modified penalty and may in lieu take proceedings against the alleged offender in a Court of Petty Sessions.
- (6) A notice sent under section 63 (3) of the Act withdrawing an infringement notice served under section 63 (1) in respect of an offence alleged to have been committed against one of the provisions of this By-law shall be in or to the effect of the Seventeenth Schedule.

The By-law was adopted by members of the Metropolitan Cemeteries Board at a duly convened meeting of the Board held on February 28th, 1991.

Given under the Common Seal of the Metropolitan Cemeteries Board by authority of the Board.

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J. MOILER, Chairman.

E.W. BULLOCK, Acting General Manager.

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Recommended-

DAVID SMITH, Minister for Local Government.

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Approved by His Excellency the Governor in Executive Council this 31st day of March 1992.

D.G. BLIGHT, Clerk of the Council.