Version
as at 4 September 2026

Burial and Cremation Act 1964

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

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An Act to consolidate and amend the law relating to the burial and cremation of the dead

1 Short Title and commencement

(1) This Act may be cited as the Burial and Cremation Act 1964.

(2) This Act shall come into force on 1 April 1965.

2 Interpretation

(1) In this Act, unless the context otherwise requires,—

associate coroner means a person who holds office as an associate coroner under the Coroners Act 2006

body means a dead human body and includes the body of a stillborn child

burial ground means a denominational burial ground or a private burial ground; but does not include a Maori burial ground

cemetery means any land held, taken, purchased, acquired, set apart, dedicated, or reserved, under the provisions of any Act or before the commencement of this Act, exclusively for the burial of the dead generally, and, where the context so permits, includes a closed cemetery

certificate of cause of death, in relation to a death or a body, means a certificate referred to in section 46B, 46C, or 46CA relating to the cause of death or, as the case may require, the cause of death of the person whose body it is

closed cemetery means a cemetery which has been closed by a closing order and **closed burial ground** has a corresponding meaning

closing order means an order made under paragraph (a) of subsection (1) of section 41 before 1 January 1969, or a notice published under that paragraph after that date, or an Order in Council made under any corresponding former provision

coroner includes an associate coroner to the extent that they have the jurisdiction of a coroner under the Coroners Act 2006

coroner's authorisation, in relation to a body, means an authorisation by a coroner under section 42 of the Coroners Act 2006 for the release of the body

corporation, in relation to a local authority, means that local authority as constituted a body corporate by section 12 of the Local Government Act 2002

cremation means the reduction to ashes of dead bodies by burning

crematorium means appliances and machinery and furnaces for effecting cremation, and includes any building in which any such appliances, machinery, or furnaces are fixed

dead foetus has the meaning given to it in section 4 of the Births, Deaths, Marriages, and Relationships Registration Act 2021

denominational burial ground means any land, outside the boundaries of a cemetery, held, purchased, acquired, set apart, or dedicated, under the provisions of any Act or before the commencement of this Act, for the burial of the dead belonging to 1 or more religious denominations

disposal includes burial and cremation

financial statements has the same meaning as in section 6 of the Financial Reporting Act 2013

funeral director means a person whose business is or includes disposing of bodies

generally accepted accounting practice has the same meaning as in section 8 of the Financial Reporting Act 2013

give a certificate of cause of death, in relation to a person's death, means complete and sign a certificate of cause of death and give it to the person having charge of the person's body

guardian means a person appointed to be a guardian under section 14

health practitioner has the same meaning as in section 5 of the Health Practitioners Competence Assurance Act 2003

local authority means a territorial authority within the meaning of the Local Government Act 2002

manager means the manager of a denominational burial ground

Maori burial ground means any land set apart for the purposes of a burial ground under section 338 of Te Ture Whenua Maori Act 1993 or any corresponding former provision

medical practitioner means a health practitioner who—

(a) is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine; and

(b) holds a current practising certificate

midwife means a health practitioner who is, or is deemed to be, registered with the Midwifery Council established by section 114(3) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of midwifery

Minister means the Minister of Health

monument includes any tombstone, headstone, memorial, kerbing, or other erection

non-GAAP standard has the same meaning as in section 5 of the Financial Reporting Act 2013

nurse practitioner means a health practitioner who—

(a) is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of nursing and whose scope of practice permits the performance of nurse practitioner functions; and

(b) holds a current practising certificate

private burial ground means a parcel of land declared to be a private burial ground under the provisions of the Cemeteries Amendment Act 1912

registered bank has the same meaning as in section 2 of the Banking (Prudential Supervision) Act 1989

religious denomination means the adherents of any religion and includes any church, sect, or other subdivision of such adherents

specified not-for-profit entity has the same meaning as in section 46 of the Financial Reporting Act 2013

stillborn child has the same meaning as in section 4 of the Births, Deaths, Marriages, and Relationships Registration Act 2021

tablet includes a plaque

trustees means the trustees of a cemetery or of a private burial ground, as the case may require, and, for all the purposes of this Act in relation to the rights, powers, and duties conferred or imposed on managers by this Act, includes managers

unavailable means dead, unknown, missing, of unsound mind, or unable to act by virtue of a medical condition.

(2) Notwithstanding the definitions of cemetery and denominational burial ground in subsection (1) no parcel of land shall be deemed not to be a cemetery or a denominational burial ground only because a crematorium has been erected or is proposed to be erected within its boundaries.

Compare: 1908 No 19 s 2; 1926 No 23 s 2

Section 2(1) **associate coroner**: inserted, on 5 April 2023, by section 36 of the Coroners Amendment Act 2023 (2023 No 8).

Section 2(1) **certificate of cause of death**: inserted, on 31 January 2018, by section 4(2) of the Burial and Cremation Amendment Act 2016 (2016 No 74).

Section 2(1) **certificate of cause of death**: amended, on 6 November 2021, by section 41 of the End of Life Choice Act 2019 (2019 No 67).

Section 2(1) **closing order**: amended, on 1 January 1969, by section 2 of the Burial and Cremation Amendment Act 1968 (1968 No 71).

Section 2(1) **coroner**: inserted, on 5 April 2023, by section 36 of the Coroners Amendment Act 2023 (2023 No 8).

Section 2(1) **coroner's authorisation**: inserted, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Section 2(1) **corporation**: substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 2(1) **dead foetus**: inserted, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Section 2(1) **dead foetus**: amended, on 15 June 2023, by section 147 of the Births, Deaths, Marriages, and Relationships Registration Act 2021 (2021 No 57).

Section 2(1) **disposal**: inserted, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Section 2(1) **doctor**: repealed, on 31 January 2018, by section 4(1) of the Burial and Cremation Amendment Act 2016 (2016 No 74).

Section 2(1) **doctor's certificate**: repealed, on 31 January 2018, by section 4(1) of the Burial and Cremation Amendment Act 2016 (2016 No 74).

Section 2(1) **financial statements**: inserted, on 1 April 2014, by section 125 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 2(1) **funeral director**: inserted, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Section 2(1) **generally accepted accounting practice**: inserted, on 1 April 2014, by section 125 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 2(1) **give a certificate of cause of death**: inserted, on 31 January 2018, by section 4(2) of the Burial and Cremation Amendment Act 2016 (2016 No 74).

Section 2(1) **give a doctor's certificate**: repealed, on 31 January 2018, by section 4(1) of the Burial and Cremation Amendment Act 2016 (2016 No 74).

Section 2(1) **health practitioner**: inserted, on 31 January 2018, by section 4(2) of the Burial and Cremation Amendment Act 2016 (2016 No 74).

Section 2(1) **local authority**: substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 2(1) **Maori burial ground**: editorial change made by the PCO, on 17 March 2026, under sections 86(1) and 87(l)(iii) and (o) of the Legislation Act 2019 (2019 No 58).

Section 2(1) **medical practitioner**: inserted, on 31 January 2018, by section 4(2) of the Burial and Cremation Amendment Act 2016 (2016 No 74).

Section 2(1) **midwife**: inserted, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 2(1) **non-GAAP standard**: inserted, on 1 April 2014, by section 125 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 2(1) **nurse practitioner**: inserted, on 31 January 2018, by section 4(2) of the Burial and Cremation Amendment Act 2016 (2016 No 74).

Section 2(1) **registered bank**: inserted, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

Section 2(1) **registered bank**: amended, on 1 July 2022, by section 300(1) of the Reserve Bank of New Zealand Act 2021 (2021 No 31).

Section 2(1) **specified not-for-profit entity**: inserted, on 1 April 2014, by section 125 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Section 2(1) **stillborn child**: substituted, on 28 July 1997, by section 2 of the Burial and Cremation Amendment Act 1997 (1997 No 36).

Section 2(1) **stillborn child**: amended, on 15 June 2023, by section 147 of the Births, Deaths, Marriages, and Relationships Registration Act 2021 (2021 No 57).

Section 2(1) **unavailable**: added, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

3 Act not to apply to Maori burial grounds

Except as is expressly provided in this Act, this Act shall not apply to Maori burial grounds or to the burial of bodies therein.

Part 1
Establishment, maintenance, and regulation of cemeteries

4 Local authorities to provide cemeteries

(1) It shall be the duty of every local authority, where sufficient provision is not otherwise made for the burial of the bodies of persons dying within its district, to establish and maintain a suitable cemetery.

(2) Every local authority is hereby authorised to undertake any work for the purpose of carrying out the duty imposed on it by subsection (1) and to expend such money as it thinks fit on the acquisition of land for cemeteries and on the establishment, maintenance, and improvement of cemeteries.

(3) A cemetery is a public work within the meaning of the Public Works Act 1981 and land may be acquired or taken for cemeteries under the provisions of that Act.

(4) *[Repealed]*

Compare: 1908 No 19 ss 49, 50(1), 51, 60; 1922 No 36 s 3

Section 4(3): substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 4(4): repealed, on 10 December 1976, by section 2(1) of the Burial and Cremation Amendment Act 1976 (1976 No 77).

5 Functions of local authorities

(1) Subject to the provisions of Parts 3 and 6, a local authority shall have the control and management of every cemetery—

(a) which is on land to which the corporation of the local authority has title; or

(b) which is on land administered by the local authority under the provisions of any Act other than this Act; or

(c) which was under the control and management of that local authority immediately before the commencement of this Act by virtue of an appointment as trustees of that cemetery; or

(d) which is under the control and management of that local authority by virtue of an appointment under section 23.

(2) Any land which is vested in any local authority as trustees under the Cemeteries Act 1908 immediately before the commencement of this Act shall be deemed to be vested in that local authority for cemetery purposes.

(3) All property, other than land, which is vested in any local authority or other persons as trustees of a cemetery immediately before the local authority assumes control and management of that cemetery under subsection (1) shall vest without assignment in the local authority subject to the provisions of this Act; and all liabilities and engagements of that local authority or of those other persons in their capacity as trustees of the cemetery and all proceedings pending by or against it or them in that capacity, shall respectively be liabilities and engagements of, and proceedings to be carried on by or against, the corporation of the local authority.

(4) The rights, powers, and duties conferred on a local authority by sections 7 to 21 may be exercised and shall be performed by the local authority in relation to any cemetery which is under its control and management, whether such cemetery is within or outside the area otherwise controlled by such local authority, but, except for the rights, powers, and duties conferred or imposed by subsections (3) to (5) of section 21, shall not be exercised or performed in relation to any other cemetery.

Compare: 1908 No 19 s 9

Section 5(1): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

6 Cemetery to be open to public

Subject to the provisions of this Act, every cemetery shall be open for the interment of all deceased persons, to be buried with such religious or other ceremony, or without any ceremony, as the friends of the deceased think proper.

Compare: 1908 No 19 s 20

7 Name of cemetery

(1) A cemetery shall have the name by which it was called immediately before the commencement of this Act, or, in the case of a cemetery established after the commencement of this Act, such name as the local authority may decide.

(2) A local authority may, with the approval of the Minister, from time to time change the name of any cemetery.

8 Management of cemetery

A local authority may from time to time—

(a) enclose the land comprised in a cemetery, or any portion thereof, with proper and sufficient walls, rails, or fences, and erect suitable gates and entrances:

(b) lay out and ornament a cemetery in such manner as is most convenient and suitable for the burial of the dead, and provide it with such walks, avenues, roads, lawns, and shrubberies as it thinks proper:

(c) preserve, maintain, and keep a cemetery and its walls, rails, fences, gates, and entrances and all monuments, enclosures, buildings, erections, walks, avenues, roads, lawns, and shrubberies therein in a safe, clean, and orderly condition:

(d) make all necessary and proper drains in and about a cemetery for draining and keeping it dry; and may from time to time, as occasion requires, cause any such drain to connect with any existing drain with the consent in writing of any other persons having the management of any such existing drain, and with the consent in writing of any other persons having the management of any street or road and of the owners and occupiers of any land through which such drain is made, doing as little damage as possible to the road or such land, and restoring it to the same or as good condition as it was in before being disturbed.

Compare: 1908 No 19 ss 26, 61, 63

9 Powers as to vaults, monuments, etc

The following provisions shall apply with respect to the digging, making, erection, placing, and maintenance of graves, vaults, monuments, and tablets:

(a) the local authority may, upon payment of the prescribed fees, permit any grave or vault to be dug or made, and any monument or tablet to be erected or placed, in a cemetery as it thinks proper:

(b) when any person desires to erect a monument in a cemetery he shall submit a plan of the proposed monument to the local authority which may at its discretion grant or refuse permission for such erection:

(c) the local authority shall determine and fix the position of any monument proposed to be erected, according to the description, size, and character thereof, having regard to the general plan for ornamenting the cemetery in an appropriate manner, and may require that any such monument be erected with such precautions as it may think necessary for the protection of persons frequenting or working in the cemetery at any time thereafter:

(d) subject to the provisions of this Act, any person who has dug or made a grave or vault or erected a monument or placed a tablet in accordance with any permission granted by the local authority in that behalf, and has paid the prescribed fees, shall be entitled to maintain such grave, vault, monument, or tablet according to the terms of such permission to and for the sole and separate use of such person and his representatives and successors in perpetuity, or for the time limited in such permission:

(e) without prejudice to the powers conferred by paragraphs (a) to (d) the local authority may prohibit generally the erection in a cemetery, or in such part of a cemetery as it may designate for the purpose,—

(i) of any monuments other than monuments of a specified size or type; or

(ii) of any monument and the placing of any tablet otherwise than slightly below the level of the surrounding ground or in such other place or position as the local authority may specify, but so that a reasonable area remains available in a cemetery under the control of the local authority for the erection of monuments, whether of a specified size or type or not as the local authority thinks fit:

(f) the local authority may enter into agreements to maintain, either in perpetuity or for specified periods, the graves in a cemetery:

(g) if any monument is erected, or any tablet is placed, otherwise than in accordance with the terms and conditions on which permission was granted, or in a place prohibited by the local authority for the purpose, the local authority may take down or remove such monument or tablet:

(h) where any monument or tablet is, or in the opinion of the local authority is, a danger to persons frequenting or working in the cemetery, the local authority shall make the monument or tablet safe or shall take it down or remove it:

(i) no body shall be buried under any church, chapel, or crematorium or within 5 metres of the outer wall of any church, chapel, or crematorium.

Compare: 1908 No 19 ss 30, 30A(1), 62

Section 9(i): amended, on 9 October 1975, by section 2(1) of the Burial and Cremation Amendment Act 1975 (1975 No 63).

10 Exclusive right of burial, etc

(1) A local authority may sell either in perpetuity or for a limited period the exclusive right of burial in any part of a cemetery, and also the right of constructing any vault or place of burial with the exclusive right of burial therein.

(2) Before any body is permitted to be buried in any vault, brick grave, or place of burial, the exclusive right of burial wherein has been sold, the local authority may require satisfactory evidence that the person for the time being appearing to it to be entitled as owner to such exclusive right has consented or would not object to the burial taking place therein.

(3) Any sale of an exclusive right under this section may at any time be rescinded by agreement between the local authority and the person for the time being appearing to it to be entitled as owner to such exclusive right and the local authority may pay to such person such price as may be agreed in consideration of such rescission for which the receipt of such person shall be sufficient discharge.

(4) Notwithstanding the provisions of subsections (1) to (3), any exclusive right of burial referred to in subsection (1), whether sold before or after the commencement of this Act, shall lapse if, at any time after the sale, 60 years pass without a burial taking place in that part of the cemetery or in that vault, brick grave, or place of burial which is the subject of such exclusive right.

Compare: 1908 No 19 ss 27, 29

11 Portions for different denominations

(1) Upon the application of the governing body of any religious denomination, a local authority may set apart permanently a portion of the cemetery to be used only for the burial of the bodies of members of such denomination.

(2) If the local authority refuses the application the governing body so applying may thereupon appeal against the decision of the local authority to any District Court Judge exercising jurisdiction at or near the place where such cemetery is situated, and the District Court Judge shall consider the appeal and make such order thereupon as seems to meet the justice of the case.

(3) The setting apart under subsection (1) or subsection (2) of any portion of a cemetery may be at any time determined in respect of the whole or part of that portion by the local authority with the consent of the governing body of the religious denomination.

(4) For the purposes of this section the recognised senior office bearer of a religious denomination in the diocese or district, or in his absence, or if there is no such person, any 2 persons of such denomination holding therein any of the offices of minister, deacon, churchwarden, church manager, trustee, or other similar office, shall be deemed to be the governing body of that denomination.

Compare: 1908 No 19 ss 31, 32

Section 11(2): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

12 Sections may be marked off and consecrated

(1) The local authority shall define by suitable marks, not being a dividing fence, any portion of the cemetery set apart under section 11, and any such portion may, at the expense of the particular religious denomination, be enclosed with any suitable open fence of a character that will not mar the general appearance of the cemetery.

(2) The local authority shall permit the portion so set apart to be consecrated according to the rites of the religious denomination, and the portion so consecrated shall be used only for burials according to the rites of that denomination.

(3) Where the members of any religious denomination desire at their own expense to build in a cemetery a suitable mortuary church or chapel for the performance of the rites and ceremonies in the burial of the dead according to the usages of

that denomination, the local authority may permit the same to be built within such portion of the cemetery as is set apart for that denomination.

Compare: 1908 No 19 ss 33, 34, 35

13 Rights of minister of religion, etc

(1) The minister of any religious denomination for which any portion of a cemetery is set apart under section 11 shall at all times have free right of access and admission thereto, and may freely exercise his spiritual functions therein, without any hindrance or disturbance by the local authority or any other person.

(2) Every religious denomination shall have power to regulate, in relation to any portion of a cemetery set apart for its exclusive use,—

(a) the performance of any religious ceremony in the burial of the dead according to the usage of the denomination; and

(b) the inscriptions on any monuments erected in such portion in accordance with the provisions of section 9 and any bylaws made under this Act.

(3) A local authority shall not by any bylaw, or any act, matter, or thing, at any time interfere directly or indirectly with the matters specified in subsection (2).

Compare: 1908 No 19 ss 36, 37, 38

14 Guardians

(1) Every religious denomination may from time to time appoint guardians to administer and supervise, subject to the powers conferred on the local authority by this Act, any portion of a cemetery set apart for its exclusive use.

(2) The local authority may make such arrangements as it thinks fit with any such guardians for the upkeep of the portion administered and supervised by them and the graves, vaults, monuments, and tablets therein.

Compare: 1908 No 19 ss 39, 40

15 Burial of members of His Majesty's Forces, etc

(1) Notwithstanding anything in this Act, a local authority may—

(a) set aside permanently a part of any cemetery under its control and management to be used for the burial of the bodies of—

(i) persons who have been on operational service in His Majesty's Forces; and

(ii) the husband, wife, civil union partner, or de facto partner of a person who has been on operational service in His Majesty's Forces:

(b) without fee,—

(i) permit burials to take place in the part of the cemetery set aside under paragraph (a):

(ii) grant (whether in perpetuity or for a limited period) the exclusive right of burial in that part of the cemetery.

(2) The Minister of Veterans' Affairs may, after consultation with the Minister of Defence and the New Zealand Returned Services' Association (Incorporated), by notice, specify a war, armed conflict, peacekeeping force, or other operation for the purposes of subsection (1).

(3) In subsection (1), **operational service** means service in a war, armed conflict, peacekeeping force, or other operation specified under subsection (2).

(4) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 15: substituted, on 1 November 1997, by section 3 of the Burial and Cremation Amendment Act 1997 (1997 No 36).

Section 15 heading: editorial change made by the PCO, on 8 August 2024, under sections 86(1) and 87(d) of the Legislation Act 2019 (2019 No 58).

Section 15(1)(a)(i): editorial change made by the PCO, on 8 August 2024, under sections 86(1) and 87(d) of the Legislation Act 2019 (2019 No 58).

Section 15(1)(a)(ii): substituted, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 15(1)(a)(ii): editorial change made by the PCO, on 8 August 2024, under sections 86(1) and 87(d) of the Legislation Act 2019 (2019 No 58).

Section 15(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 15(2): amended, on 22 October 2003, by section 3 of the Burial and Cremation Amendment Act 2003 (2003 No 63).

Section 15(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

16 Bylaws

(1) A local authority may in respect of any cemetery, or, so far as is applicable, any closed cemetery under its control, make bylaws for all or any of the following purposes:

(a) maintaining, preserving, and embellishing the cemetery or closed cemetery:

(b) directing the positions of all graves and vaults in the cemetery, the depths of the graves, and the construction of coffins to be admitted into vaults, and the covering of vaults so as to prevent the escape of any noxious exhalation in the cemetery:

(c) protecting buildings, monuments, lawns, shrubberies, plantations, and enclosures in the cemetery or closed cemetery from destruction or damage:

(d) prohibiting the burial in any grave of more than 1 body or prescribing conditions subject to which more than 1 body may be buried in any grave:

(e) controlling or restricting the times at which or between which burials may be carried out:

(f) regulating the burial in the cemetery of the ashes of the dead:

(g) subject to section 51, regulating and restricting the disinterment and removal of bodies:

(h) fixing a scale of fees payable in respect of any grave or vault dug or made, and any monument or tablet erected or placed, in the cemetery, and in respect of any agreements to maintain graves:

(i) prescribing fines for the breach of any such bylaw not exceeding 50 pounds in any case, and, where the breach is a continuing one, not exceeding 5 pounds for every day or part of a day during which the breach has continued:

(j) any of the matters referred to in section 9 or in paragraphs (a), (b), (c), or (e) of section 59.

(2) All bylaws made by a local authority under this Act shall be made in the same manner in all respects as if they were bylaws made pursuant to the Local Government Act 2002.

Compare: 1908 No 19 ss 22, 30A(1), 56(1)(c); 1922 No 36 s 4

Section 16(2): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

17 Copies of bylaws

(1) A copy of all bylaws proposed to be made under this Act shall be sent to the Minister not less than 21 days before the bylaws are confirmed.

(2) The local authority shall cause printed copies of all its bylaws under this Act to be kept at its office, and to be sold at a reasonable charge to any person who applies for them.

(3) There shall be available for inspection at all reasonable times at the office of the local authority and at the office or residence of the sexton, if any, and, if there is no sexton, at the cemetery, a table of the fees fixed under this Act in respect of the cemetery.

Compare: 1908 No 19 s 24

Part 2
Finance and miscellaneous functions

18 Receipts and expenditure

(1) All money received by a local authority pursuant to the provisions of this Act or of any regulations or bylaws made under this Act shall be credited to a separate account and such account shall be kept in like manner as the ordinary accounts of the local authority are kept and shall be subject to the provisions of any enactment governing the keeping and audit of such accounts.

(2) Subject to the provisions of any other enactment relating to the appropriation of money in a separate account of a local authority all money received by a local authority and credited as required by subsection (1) shall be applied in the management and improvement of the cemetery or cemeteries under its control and for the several purposes and objects authorised by this Act.

Compare: 1908 No 19 ss 19, 56(2)

19 Appointment of officers

A local authority may from time to time appoint such officers and servants as it thinks necessary to assist in the execution of this Act, and the provisions of any other enactment relating to the terms and conditions of employment of officers or servants of a local authority shall apply in respect of the employment of persons appointed pursuant to this section.

Compare: 1908 No 19 s 17

20 Clearance of disused cemeteries

A local authority may expend such money as it thinks fit for the purposes of clearing, cleaning, repairing, and tidying any closed or otherwise disused or derelict cemetery or other place of burial, and, subject to the provisions of this Act, for the purposes of renovating or removing and disposing of monuments and tablets therein, and may enter into any contracts with the owners or occupiers of the land comprising the cemetery or place of burial and any other persons whatsoever for any of the said purposes.

21 Restrictions on alienation

(1) A local authority shall not make use of the land comprised in a cemetery for any purpose except such as is authorised by this Act, or charge or alienate that land or any part thereof by mortgage, sale, or otherwise or dispose of the rents, issues, and profits thereof, except as expressly provided in this Act.

(2) A local authority may grant leases of any unused portion of the land comprised in a cemetery for any term not exceeding 5 years for such consideration or at such rent and upon such terms and conditions and in such manner as it thinks fit, and may accept surrenders of any such leases.

(3) Any land comprised in a cemetery, which is not required for cemetery purposes, may, in any case in which section 24 of the Reserves Act 1977 or section 42 or section 52 of the Public Works Act 1981 is otherwise applicable, be dealt with under the section so applicable, with the consequences provided for in those Acts, and any land which has been disposed of or otherwise dealt with in accordance with the provisions of any such section shall thereupon cease to be a cemetery or part of a cemetery as the case may be.

(4) Any land comprised in a cemetery which is held by a corporation or administered by a local authority under the terms of an instrument of trust, and which is not required for cemetery purposes, may, with the prior approval of the Minister, be disposed of, and the proceeds of such disposition shall be applied in accordance with the terms of the instrument or, if the terms of the instrument do not provide for the disposition of those proceeds, in such manner as the Minister shall direct. Any land which is disposed of pursuant to this subsection shall cease to be a cemetery or part of a cemetery as the case may be.

(5) Any land comprised in a cemetery which is held by a corporation, otherwise than subject to the provisions of any enactment (other than this Act or any former Cemeteries Act) or to any instrument of trust, and which is not required for cemetery purposes, may, with the prior approval of the Minister, be disposed of, and the proceeds of such disposition may be applied for the general purposes of the local authority. Any land which is disposed of pursuant to this subsection shall cease to be a cemetery or part of a cemetery as the case may be.

(6) Section 45 of the Public Works Act 1981 and section 12 of the Local Government Act 2002 must, in their application to land comprised in a cemetery, be read subject to the provisions of this section.

(7) Nothing in this section shall prevent a local authority disposing of land comprised in a cemetery to another local authority if that land is to be held for cemetery purposes by the local authority acquiring it.

Compare: 1908 No 19 s 13(1)–(2); 1912 No 25 s 7; 1953 No 49 s 2

Section 21(3): amended, on 1 February 1982, pursuant to section 248(1) of the Public Works Act 1981 (1981 No 35).

Section 21(3): amended, on 1 April 1978, pursuant to section 125(1) of the Reserves Act 1977 (1977 No 66).

Section 21(6): substituted, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 21(7): added, on 9 October 1975, by section 3 of the Burial and Cremation Amendment Act 1975 (1975 No 63).

Part 3
Trustees

22 Application of this Part

(1) This Part shall apply to cemeteries which immediately before the commencement of this Act were under the maintenance and care of trustees other than a local authority and to the trustees of any such cemetery.

(2) Subject to the provisions of this Act, such trustees shall continue to be the trustees of the cemetery that was under their maintenance and care immediately before the commencement of this Act and all money, goods, chattels, and effects of or belonging to or connected with that cemetery shall continue to be vested in them.

(3) If, owing to the death or resignation or absence or removal of 1 or more trustees of a cemetery which is on land to which the corporation of a local authority has title or which is on land administered by a local authority under the provisions of any Act, there is at any time no person holding the office of trustee in respect of that cemetery, this Part shall forthwith cease to apply to that cemetery.

(4) This Part shall also cease to apply to a cemetery when a local authority is appointed to have the control and management of that cemetery pursuant to section 23.

23 Appointment and removal of trustees

(1) Subject to the provisions of subsection (3) of section 22, if any trustee dies or resigns or is absent from New Zealand for more than 6 consecutive months or is removed by the Governor-General his office shall become vacant and the Governor-General may appoint a new trustee in his place.

(2) The Governor-General may at his discretion remove 1 or more of the trustees having the control and management of a cemetery.

(3) If the trustees of a cemetery to which this Part applies at any time number less than 3 the Governor-General may, instead of appointing trustees under this section, with the consent of a local authority, appoint that local authority to have the control and management of the cemetery as from a date to be specified, which date may be before or after the date of the making of the appointment.

(4) Notice of every appointment made or effected under this section shall be published in the *Gazette*.

(5) If the boundaries of a cemetery which is under the control and management of trustees are extended by the setting apart, dedication, reservation, or acquisition for the purposes of a cemetery under the provisions of any other Act of land adjacent to the cemetery the trustees of the cemetery immediately before such

extension shall be the trustees of the cemetery as so extended without any further appointment.

Compare: 1908 No 19 ss 4(1)–(3), 55

24 Governor-General may delegate powers

(1) The Governor-General may from time to time, by Order in Council, delegate to a local authority, in respect of any particular cemetery or cemeteries, all or any of the powers conferred on him by subsections (1) and (2) of section 23, and may at any time revoke any such delegation.

(1A) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(2) Every appointment of trustees by a local authority pursuant to a delegation under subsection (1) shall be publicly notified in the district wherein the cemetery is situated, and it shall not be necessary to notify any such appointment in the *Gazette*.

(3) Every appointment or removal of trustees by a local authority pursuant to a delegation under subsection (1) shall take effect as if such appointment or removal had been made or effected by the Governor-General.

(4) Subsection (3) of section 22 shall apply in the case of a cemetery of which the trustees have been appointed by a local authority as it does in the case of a cemetery of which the trustees have been appointed by the Governor-General.

(5) Any persons who, immediately before the commencement of this Act, had the control and management of a cemetery by virtue of the lawful delegation to them of the powers of a local authority in respect of that cemetery, shall be deemed for the purposes of this Act to be trustees of the cemetery appointed pursuant to the provisions of this section.

Compare: 1908 No 19 ss 5, 7, 8; 1922 No 36 s 5

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 24(1A): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

25 Functions of trustees

(1) Subject to the provisions of this Act, trustees shall have the control and management of any cemetery of which they are trustees.

(2) Subject to the provisions of this Part, trustees shall have, in relation to any cemetery under their control and management, all the rights, powers, and duties, with the same restrictions and limitations, as are conferred or imposed

on a local authority by this Act, except the rights, powers, and duties conferred or imposed by sections 4 and 20, and the provisions of this Act shall, so far as they are applicable and with any necessary modifications, apply accordingly.

(3) Trustees shall have the power to hold any land comprised in a cemetery and, subject to the provisions of this Act, shall continue to hold any such land which was held by them or their predecessors in office immediately before the commencement of this Act.

(4) Notwithstanding anything to the contrary in any Act or rule of law, no person shall be incapable of being at the same time a trustee of a cemetery and in the employment of the trustees of that cemetery.

(5) It shall be the duty of trustees to comply with and enforce any regulations or bylaws made under this Act affecting the cemetery under their control.

Compare: 1908 No 19 ss 4(4), 10, 79(2); 1950 No 42 s 2

26 Proceedings of trustees

(1) All acts, matters, and things which the trustees are authorised or required to do by any of the provisions of this Act shall and may be done by any 3 of such trustees assembled at a meeting whereof due notice has been given or forwarded to all the trustees.

(2) The majority in number present at any meeting of trustees shall decide and determine all questions, matters, and things discussed or considered at such meeting; and in case of equality of votes the chairman shall have a second or casting vote.

(3) Trustees may from time to time make bylaws for convening meetings, the appointment of their chairman, and such other purposes as may be necessary for their guidance and management.

Compare: 1908 No 19 ss 15, 16, 21

27 Property to vest in trustees

(1) The property in all money, goods, chattels, and effects of or belonging to or connected with or derived from a cemetery under the control and management of trustees shall vest in the trustees for the time being as joint tenants.

(2) If a trustee dies or his office otherwise becomes vacant on any of the grounds specified in subsection (1) of section 23 the property referred to in subsection (1) of this section and any land held by the trustees shall, until a new trustee is appointed, vest in the continuing trustees alone as joint tenants.

(3) When a new trustee is appointed or when a local authority is appointed to have the control and management of a cemetery pursuant to section 23 the property referred to in subsection (1) and any land held by the trustees shall vest in the new trustee and the continuing trustees, if any, as joint tenants, or in the corporation for cemetery purposes, as the case may require.

Compare: 1908 No 19 ss 11, 14

28 Finance

(1) The funds of trustees shall consist of all money received by them under this Act or any enactment repealed by this Act or any regulations or bylaws made under this Act or any enactment so repealed in respect of any cemetery of which they are the trustees.

(2) Subject to the provisions of this Act, trustees may expend out of their funds such money as they think fit on the management and improvement of the cemetery and for the several purposes and objects authorised by this Act, including the appointment of such officers and servants as they think necessary.

(3) All money received by trustees shall, as soon as practicable after it has come into the hands of the Treasurer or other proper officer of the trustees, be paid into a registered bank to an account to be called "The [*Name of Cemetery*] Trustees' Account", and no money shall be withdrawn from the bank except by authority of the trustees, and any cheque or other withdrawal notice shall be signed by at least 2 of the trustees.

(4) Trustees may, unless the Minister otherwise directs, invest any of their funds not for the time being required to be expended in any manner in which trustees are for the time being authorised to invest trust funds.

(5) Trustees may from time to time with the consent of the Minister apply any money received by them under this Act or any regulations or bylaws made under this Act in respect of a cemetery towards the management, administration, or improvement of any other cemetery.

(6) When land comprised in a cemetery, which is under the control and management of trustees, is disposed of pursuant to subsections (4) or (5) of section 21, or where any such cemetery has been closed under section 41, the trustees shall apply the proceeds of such disposition or any money received by them in respect of such cemetery and unexpended at the time when the closing order takes effect, respectively, in accordance with such directions as may be given to them by the Minister in that behalf.

Compare: 1908 No 19 ss 13(3), 17, 19, 30A(2), (3), (4); 1926 No 23 s 4; 1950 No 42 s 4; 1953 No 49 s 2

Section 28(3): amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

29 Accounting records must be kept

(1) Trustees must ensure that there are kept at all times accounting records that—

(a) correctly record the transactions of the trustees; and

(b) will enable the trustees to ensure that the financial statements of the trustees comply with this Act; and

(c) will enable the financial statements of the trustees to be readily and properly audited.

(2) Trustees must establish and maintain a satisfactory system of control of those accounting records.

(3) The accounting records must be kept—

(a) in written form in English; or

(b) in a form or manner in which they are easily accessible and convertible into written form in English.

Section 29: replaced, on 1 April 2014, by section 125 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

29A Financial statements

(1) Trustees must ensure that, within 5 months after the end of the financial year ending on 31 March, financial statements are—

(a) completed in relation to the trustees and that financial year; and

(b) dated and signed on behalf of the trustees by 2 of the trustees.

(2) The financial statements must be prepared in accordance with,—

(a) in the case of a specified not-for-profit entity, generally accepted accounting practice; or

(b) in any other case, either generally accepted accounting practice or a non-GAAP standard that applies for the purposes of this section.

Section 29A: inserted, on 1 April 2014, by section 125 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

29B Audits

(1) Subsection (2) applies, for a financial year, to trustees of cemeteries that have total operating expenditure for the financial year of $1 million or more.

(2) Trustees must ensure that the financial statements for the financial year are audited.

(3) Trustees are public entities as defined in section 4 of the Public Audit Act 2001 and, in accordance with that Act, the Auditor-General is their auditor.

Section 29B: replaced, on 24 October 2019, by section 14 of the Statutes Amendment Act 2019 (2019 No 56).

30 Bylaws made by trustees

(1) No bylaw made by trustees under this Act shall take effect until it has been approved by the Minister and his approval has been publicly notified.

(2) Every bylaw made by trustees under this Act shall be publicly notified at least 7 days before it comes into operation but it shall not be necessary for trustees to comply with subsection (2) of section 17.

(3) Subsection (1) of section 17 shall have no application to bylaws made by trustees, but trustees shall send to the Minister a copy of every notice published under subsection (2) of this section.

Compare: 1908 No 19 ss 23, 24

Part 4
Burial grounds

31 Dedication of denominational burial grounds

(1) If not less than 25 of the adult members of a religious denomination desire that any land, which is held in fee simple by any 1 or more of them or by a corporate body under the control of any 1 or more of them, should be set apart as a burial ground, to be used only for the burial of the members of that denomination, they may, with the prior written approval of the Minister, by public notice published at least once in the *Gazette* and at least once in each of 3 consecutive weeks in a newspaper circulating in the district in which the land is situated, declare the land to be dedicated and open as a denominational burial ground to be used as aforesaid, and thereafter, subject to subsection (3), the said land shall be used for such purpose only:

provided that nothing in this subsection shall prevent the managers of any such burial ground from permitting the burial of any other person therein if they think fit.

(2) The Minister may at his discretion approve or disapprove any proposal made to him under subsection (1) having taken into consideration the position of the land, its suitability as a burial ground, its suitability for alternative uses, and such other matters as he deems material.

(3) Subject to the provisions of Part 5, a crematorium may be erected within the boundaries of a denominational burial ground for the cremation of human remains of such persons or classes of person as the managers of the burial ground think fit.

(4) A copy of any notice under subsection (1) may be forwarded to the Registrar-General of Land who shall thereupon, if he is satisfied that the provisions of that subsection have been complied with, without payment of any fee register it against the appropriate title, and such registration shall, subject to the provisions of this Act, have the effect of a perpetual caveat to restrain any dealing with the land manifestly inconsistent with such notice.

(5) If any land which is the subject of a notice under subsection (1) is only part of the land comprised in a record of title, that record may, at the discretion of the Registrar-General of Land, be deemed to be a transfer of the land for the purposes of sections 74 and 224 of the Land Transfer Act 2017.

Compare: 1908 No 19 s 59

Section 31(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 31(5): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

32 Managers of denominational burial grounds

(1) Subject to the provisions of subsection (2), the person or persons who hold in fee simple the land comprising a denominational burial ground shall be the manager or managers of that burial ground:

provided that such person or persons may appoint some other person or persons to be a manager or managers in addition to or in lieu of himself or themselves and may at any time revoke any such appointment.

(2) At the request or with the consent of the person or persons who hold in fee simple the land comprising a denominational burial ground the Minister may appoint some other person or persons to be the manager or managers thereof in lieu of or in addition to such person or persons, and may, on the like request, at any time revoke any such appointment.

(3) All persons appointed by the Governor-General to be managers before the commencement of this Act shall be deemed to have been lawfully appointed.

33 Private burial grounds

(1) Every body corporate consisting of the trustees of a private burial ground and existing at the commencement of this Act shall continue to exist as the same body corporate by the same name and with the same capacity as theretofore.

(2) In the application of this Act to private burial grounds references to trustees shall, unless inconsistent with the context, be deemed to be references to bodies corporate referred to in subsection (1).

Compare: 1912 No 25 s 4

34 Trustees of private burial grounds

(1) The Minister may appoint as many trustees, being not less than 3 in number holding office at any one time, as he thinks fit, to have the care and maintenance of a private burial ground, and may at his discretion remove any trustee whether such trustee was appointed before or after the commencement of this Act.

(2) If any trustee dies or resigns or is absent from New Zealand for more than 6 consecutive months or is removed by the Minister his office shall become vacant and the Minister may appoint a new trustee in his place.

(3) Every appointment made or effected under this section shall be published in the *Gazette*.

Compare: 1912 No 25 s 3

35 Trustees may hold endowments for maintenance of burial ground, etc

(1) Trustees may, in addition to the private burial ground, hold any real or personal property that may be vested in them as an endowment for the purposes of the burial ground; and may sell, lease, or otherwise dispose of the same on such terms and conditions as they think fit.

(2) The proceeds of the sale of any part of the endowment may be invested by the trustees.

(3) All rents or other profits derived from the endowment shall be applied by the trustees for the maintenance, control, improvement, and upkeep of the private burial ground in such manner as the trustees in their discretion think fit.

Compare: 1912 No 25 s 8

Section 35(2): amended, on 30 January 2021, by section 161 of the Trusts Act 2019 (2019 No 38).

36 Application of Act to burial grounds

(1) The provisions of this Act specified in Part 1 of Schedule 1 shall so far as they are applicable and with any necessary modifications apply to denominational burial grounds and managers.

(2) The provisions of this Act specified in Part 2 of Schedule 1 shall so far as they are applicable and with any necessary modifications apply to private burial grounds and the trustees of such burial grounds.

(3) It shall not be lawful to bury in a private burial ground any body other than the body of a person defined or belonging to a class defined in the notice which constituted such burial ground.

Compare: 1908 No 19 ss 57, 58; 1912 No 25 ss 9, 11

Part 5
Cremation

37 Regulations as to cremation

(1) Without prejudice to the power to make regulations conferred by section 59 the Governor-General may from time to time, by Order in Council, make regulations controlling or restricting the establishment and closing of crematoria, prescribing the conditions subject to which and the manner in which cremations are to be carried out, and providing for all matters incidental thereto.

(2) No person shall carry out or procure or take part in any cremation except in accordance with regulations made under this section.

(3) The provisions of sections 38 to 40 shall be subject to any regulations made under this section.

(4) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1908 No 19 s 46

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 37(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

38 Erection of crematoria

(1) A local authority may erect a crematorium either within or outside the boundaries of a cemetery and may make provision for cremation therein and elsewhere.

(2) Where any person (whether a local authority or not) proposes to construct any crematorium, or to reconstruct or adapt any existing premises with the intention that they be used as a crematorium, that person shall, before the work is commenced, submit to the Minister, in a form approved by the Director-General, the plans (including a site plan) and specifications thereof, and its equipment, for the Minister's approval.

Compare: 1908 No 19 s 45; 1922 No 36 s 2

Section 38(2): substituted, on 1 July 1992, by section 92(1) of the Building Act 1991 (1991 No 150).

39 Application of Act in respect of crematoria

The provisions of this Act relating to the powers and duties of local authorities with respect to cemeteries shall so far as they are applicable and with any necessary modifications apply to crematoria under or proposed to be under the control and management of local authorities and any such crematorium situated within the boundaries of a cemetery which is under the control and management of the same local authority shall for the purposes of this Act be deemed to be part of that cemetery.

40 Crematorium bylaws

(1) In addition to the power to make bylaws conferred by section 16, but subject to the provisions of subsection (2) of that section and of section 17, every local authority may make bylaws, with respect to any crematorium under its control, for all or any of the following purposes:

(a) maintaining, preserving, and embellishing the crematorium, and any building erected or used for the preservation of the ashes of the dead:

(b) protecting the crematorium and any such building from destruction or damage:

(c) regulating the manner and method in which cremations shall be carried out and the conduct of persons attending at such cremations or using or visiting the crematorium grounds:

(d) controlling or restricting the times at which or between which cremations may be carried out:

(e) regulating the extent to which the public may have access to the crematorium and to any garden and grounds belonging thereto:

(f) fixing a scale of fees payable for cremation, and for the use of any building provided for the preservation of the ashes of the dead.

(2) The powers conferred on a local authority by subsection (1) may be exercised by any person or body of persons owning or exercising control over a crematorium with respect to that crematorium, subject to the same conditions and requirements as are imposed by section 30 on the trustees of a cemetery.

Compare: 1908 No 19 s 47

Part 6
Closing of cemeteries and burial grounds

41 Minister may close cemeteries and burial grounds

(1) Where it appears to the Minister that burials in any cemetery or burial ground should be wholly discontinued, or should be discontinued subject to any exception or qualification, he may, by notice in the *Gazette*,—

(a) direct that, after a time to be mentioned in such notice, not being less than 6 months from the date of the publication thereof, such cemetery or burial ground shall be closed and burials therein discontinued subject to such exceptions and qualifications as he may specify; and

(b) from time to time postpone the time mentioned in any closing order for the discontinuance of burials, or otherwise vary any such order either as to burials generally or as to any particular burial, whether the time appointed for the discontinuance of burials or other operation of such order has or has not arrived.

(2) In any case where a crematorium is situated within the boundaries of the cemetery or burial ground the Minister may in the closing order closing that cemetery or burial ground or in any subsequent notice in the *Gazette* specify whether or not the crematorium is to be closed and may otherwise make such provision as he thinks fit for the future control, management, and use of the crematorium.

(3) Notwithstanding the provisions of subsection (2), any crematorium situated within the boundaries of the burial ground known as the Purewa Cemetery shall not be closed by a notice published under this section.

(4) Except as is provided in subsection (2) of section 42 or by the terms of the closing order it shall not be lawful to bury a body in a closed cemetery or in a closed burial ground.

Compare: 1908 No 19 s 72

Section 41 heading: amended, on 1 January 1969, pursuant to section 2 of the Burial and Cremation Amendment Act 1968 (1968 No 71).

Section 41(1): amended, on 1 January 1969, by section 2 of the Burial and Cremation Amendment Act 1968 (1968 No 71).

Section 41(1)(a): amended, on 1 January 1969, by section 2 of the Burial and Cremation Amendment Act 1968 (1968 No 71).

Section 41(1)(b): amended, on 1 January 1969, by section 2 of the Burial and Cremation Amendment Act 1968 (1968 No 71).

Section 41(2): amended, on 1 January 1969, by section 2 of the Burial and Cremation Amendment Act 1968 (1968 No 71).

Section 41(3): amended, on 1 January 1969, by section 2 of the Burial and Cremation Amendment Act 1968 (1968 No 71).

42 Saving of rights

(1) Subject to any notice in the *Gazette* that may be published by the Minister under this Part, nothing in this Act relating to the closing of cemeteries or burial grounds shall be construed to divest, alter, or affect the right, title, or interest of any local authority, trustee, guardian, manager, or other person in or to any part of the closed cemetery or closed burial ground or in or to any vault, monument, church, chapel or any other place, matter, or thing therein, or such free right of ingress or egress as they respectively have in, from, and through the same, or to affect such right of control and management of the site of such burying places as they have, save as to future burials.

(2) Notwithstanding the existence of a closing order, where any person has been buried in a cemetery, denominational burial ground, or private burial ground before any such order comes into effect, any survivor of such person, being within the degrees of relationship of husband, wife, civil union partner, de facto partner, parent, child, brother, or sister to the deceased, may be buried in the same plot of ground with the said deceased:

provided that nothing contained in this subsection shall enable the burial in a denominational burial ground of the body of a person who was not at the time of his death a practising member of the denomination concerned or the burial in a private burial ground of a body the burial of which in such burial ground is prohibited by subsection (3) of section 36.

(3) Any person who has acquired a plot of ground wherein no burial has been made in any cemetery which is the subject of a closing order shall be entitled, at any time within 2 years after the date when the closing order came into effect, to select free of charge, in another cemetery under the control and management of the same local authority, subject to any bylaws relating thereto, a plot of ground for the burial of the dead equal in size to that of the use whereof he has been deprived by the order.

Compare: 1908 No 19 ss 73, 74, 77

Section 42(1): amended, on 1 January 1969, by section 2 of the Burial and Cremation Amendment Act 1968 (1968 No 71).

Section 42(2): amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

43 Closed cemeteries

(1) The Minister may by any closing order or by any subsequent notice in the *Gazette* vest the control and management of a closed cemetery in any individual, body corporate, or local authority, as from a date to be specified in that behalf in such order or subsequent notice, and the closed cemetery shall thenceforth be maintained in good condition by such individual, body corporate, or local authority and shall be open to the public subject to any regulations or bylaws which may be made under this Act.

(2) A closed cemetery shall not be sold or leased or otherwise disposed of or diverted to any other purpose.

(3) The Minister may by notice in the *Gazette* revoke such part of any closing order as purports to vest the control and management of a closed cemetery in any individual, body corporate, or local authority, or any subsequent notice published under subsection (1) or this subsection and may by the same or a subsequent notice in the *Gazette* vest the said control and management in some other individual, body corporate, or local authority, in lieu of or in addition to the individual, body corporate, or local authority in whom the said control and management have theretofore been vested, and the same consequences shall flow from such vesting as are specified in subsection (1).

(4) In this section the term **control and management** includes the power to make bylaws with respect to a closed cemetery conferred by section 16, subject to section 17 where such control and management is vested in a local authority, and in any other case, subject to the application of the provisions of section 30 as if the individual or body corporate having such control and management were trustees of a cemetery.

Compare: 1908 No 19 s 78

Section 43(1): amended, on 1 January 1969, by section 2 of the Burial and Cremation Amendment Act 1968 (1968 No 71).

Section 43(3): amended, on 1 January 1969, by section 2 of the Burial and Cremation Amendment Act 1968 (1968 No 71).

44 Closed burial grounds

(1) The Minister may by any closing order or by any subsequent notice in the *Gazette* vest the control and management of a closed burial ground in any individual or body corporate as from a date to be specified in that behalf in such order or subsequent notice.

(2) The Minister may by notice in the *Gazette* revoke such part of any closing order as purports to vest the control and management of a closed burial ground in any individual or body corporate, or any subsequent notice published under

subsection (1) or this subsection, and may by the same or a subsequent notice in the *Gazette* vest the said control and management in some other individual or body corporate, in lieu of or in addition to the individual or body corporate in whom the said control and management have theretofore been vested.

(3) The Minister may, if he thinks fit, in any notice published under section 41 or this section provide for the future maintenance of a closed burial ground and all matters incidental thereto.

(4) A closed burial ground shall not be sold or leased or otherwise disposed of or diverted to any other purpose:

provided that the Minister may by the closing order or any subsequent notice in the *Gazette* exempt a closed burial ground or any part of a closed burial ground from the provisions of this subsection either absolutely or subject to such conditions as he may specify.

(5) In this section the term **control and management** includes the power to make bylaws with respect to a closed burial ground conferred by sections 16 and 36, subject to the application of the provisions of section 30 as if the individual or body corporate having such control and management were trustees of a cemetery.

Compare: 1908 No 19 s 78; 1912 No 25 s 10

Section 44(1): amended, on 1 January 1969, by section 2 of the Burial and Cremation Amendment Act 1968 (1968 No 71).

Section 44(2): amended, on 1 January 1969, by section 2 of the Burial and Cremation Amendment Act 1968 (1968 No 71).

Section 44(3): amended, on 1 January 1969, by section 2 of the Burial and Cremation Amendment Act 1968 (1968 No 71).

Section 44(4) proviso: amended, on 1 January 1969, by section 2 of the Burial and Cremation Amendment Act 1968 (1968 No 71).

45 Clearance of closed cemeteries and closed burial grounds

(1) The Minister may by any closing order or by any subsequent notice in the *Gazette*, on the application of the individual, body corporate, or local authority who has or will have the control and management of a closed cemetery or closed burial ground, direct that, notwithstanding anything in section 41 or section 42, no further burials shall take place in the closed cemetery or closed burial ground, and may in like manner authorise such individual, body corporate, or local authority to remove all or any of the monuments and tablets erected therein.

(2) Any individual, body corporate, or local authority which proposes to make an application for an order under subsection (1) shall give public notice, in such form and in such manner as the Minister shall direct, of the proposed application. The application shall be made to the Minister and shall be accompanied by particulars of any objections to the application.

(2A) Every individual, body corporate, or local authority which gives public notice under subsection (2) shall send a copy of that notice to Heritage New Zealand Pouhere Taonga.

(3) Upon the removal of any monuments and tablets pursuant to subsection (1), the individual, body corporate, or local authority having the control and management of the closed cemetery or closed burial ground shall—

(a) dispose of the monuments and tablets or, if it sees fit, as far as practicable cause them to be re-erected or replaced in some part of the closed cemetery or closed burial ground set aside for the purpose:

(b) cause to be compiled as complete a record as practicable of the names of all persons known to be buried in the closed cemetery or closed burial ground or in the part thereof from which any monuments or tablets are removed and the position therein of the graves of such persons:

(c) cause all such records to be available for inspection at all reasonable times:

(d) cause the closed cemetery or closed burial ground or the part thereof from which any monuments or tablets are removed to be cleared, levelled, sown in grass and planted with trees and shrubs:

(e) cause to be erected in the closed cemetery or burial ground or in the part thereof from which any monuments or tablets are removed a memorial inscribed with the names of the persons known to be buried therein.

Section 45(1): amended, on 1 January 1969, by section 2 of the Burial and Cremation Amendment Act 1968 (1968 No 71).

Section 45(2): amended, on 1 January 1969, by section 2 of the Burial and Cremation Amendment Act 1968 (1968 No 71).

Section 45(2A): inserted, on 13 December 1979, by section 2 of the Burial and Cremation Amendment Act 1979 (1979 No 78).

Section 45(2A): amended, on 20 May 2014, by section 107 of the Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26).

45A Minister may reopen closed cemeteries and burial grounds

(1) The Minister may, by notice in the *Gazette*, reopen a closed cemetery or burial ground if satisfied that—

(a) the cemetery or burial ground should be reopened; and

(b) the local authority has consulted the appropriate persons or organisations; and

(c) the reopening complies with the Resource Management Act 1991.

(2) The reopening order must specify—

(a) the cemetery or burial ground to be reopened; and

(b) the date that the cemetery or burial ground may reopen, not being more than 6 months from the date of publication of the order; and

(c) any exceptions or qualifications that the Minister has imposed on the reopened cemetery or burial ground; and

(d) the individual, body corporate, or local authority who has or will have control and management of the reopened cemetery or burial ground.

(3) The Minister may, by notice in the *Gazette*, revoke any notice authorising the removal of monuments and tablets issued under section 45 that applies to the cemetery or burial ground that the Minister reopens under subsection (1).

Section 45A: inserted, on 15 November 2000, by section 3 of the Burial and Cremation Amendment Act 2000 (2000 No 55).

Section 45A(1)(c): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

45B Control and management of reopened cemeteries and burial grounds

The Minister may, by any reopening order or by any later notice in the *Gazette*,—

(a) vest the control and management of a reopened cemetery in any individual, body corporate, or local authority from the date specified in such order or later notice:

(b) vest the control and management of a reopened burial ground in any individual or body corporate from the date specified in such order or later notice.

Section 45B: inserted, on 15 November 2000, by section 3 of the Burial and Cremation Amendment Act 2000 (2000 No 55).

45C Vesting of title in reopened cemeteries and burial grounds

(1) A notice in the *Gazette* vesting in any individual, body corporate, or local authority the control or management of a reopened cemetery has the effect of vesting the land comprising the reopened cemetery in that individual, body corporate, or local authority unless the notice provides otherwise.

(2) A notice in the *Gazette* vesting in any individual or body corporate the control or management of a reopened burial ground has the effect of vesting the land comprising the reopened burial ground in that individual or body corporate unless the notice provides otherwise.

(3) On the production of a copy of a vesting notice, the Registrar-General of Land must register the notice under the Land Transfer Act 2017 and, if the case so requires, must issue a record of title under that Act in the name of the individual, body corporate, or local authority for the land so vested.

Section 45C: inserted, on 15 November 2000, by section 3 of the Burial and Cremation Amendment Act 2000 (2000 No 55).

Section 45C(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

45D Crematoria situated within reopened cemeteries or burial grounds

(1) In any case where a closed crematorium is situated within the boundaries of a cemetery or burial ground that is to be reopened, the Minister, if satisfied that the appropriate consent has been obtained under the Resource Management Act 1991, may specify, in the reopening order or in any later notice in the *Gazette*, whether or not the closed crematorium is to be reopened.

(2) The Minister may make such other provision as the Minister thinks fit for the future control, management, and use of the reopened crematorium.

Section 45D: inserted, on 15 November 2000, by section 3 of the Burial and Cremation Amendment Act 2000 (2000 No 55).

Section 45D(1): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Part 7
General provisions

46 Unlawful burials

(1) Subject to the provisions of sections 47 and 48 of this Act and of section 132(1)(d) of the Emergency Management Act 2026, it shall not be lawful to bury any body in any land not being a cemetery or a denominational burial ground or a private burial ground or a Maori burial ground if there is a cemetery or any such burial ground within 32 kilometres of the place where the death has occurred, or of the place whence the body is taken for the purpose of burial:

provided that nothing in this subsection shall compel the burial in a denominational burial ground of the body of a person who was not at the time of his death a practising member of the denomination concerned or the burial in a Maori burial ground of any body which would not otherwise be permitted to be buried therein or permit the burial in a private burial ground of a body the burial of which in such burial ground is prohibited by subsection (3) of section 36.

(2) If there is not a cemetery, or any such burial ground in which the body may properly be buried, within the distance mentioned in subsection (1), the body may be buried in other land but notice of every such burial specifying the name of the person buried, if known, the supposed cause of death, and the place of burial, shall, within 3 days after the burial, be given by the person burying the body to the nearest District Court Judge.

Compare: 1908 No 19 ss 80(1), 81(1)

Section 46(1): amended, on 4 September 2026, by section 235 of the Emergency Management Act 2026 (2026 No 53).

Section 46(1): amended, on 9 October 1975, by section 2(2) of the Burial and Cremation Amendment Act 1975 (1975 No 63).

Section 46(2): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

46AA Certificate of cause of death or coroner's authorisation required before body disposed of

(1) A body must not be buried, cremated, or otherwise disposed of unless the person in charge of the disposal has been given—

(a) a certificate of cause of death; or

(b) a coroner's authorisation.

(2) After receiving under subsection (1) a certificate of cause of death or coroner's authorisation, the person in charge of the disposal must send a copy of that certificate or authorisation to the department that administers this Act.

(3) This section is subject to section 46A.

Section 46AA: replaced, on 31 January 2018, by section 5 of the Burial and Cremation Amendment Act 2016 (2016 No 74).

46A Stillborn children

(1) A stillborn child must not be buried, cremated, or otherwise disposed of unless the person in charge of the disposal has obtained—

(a) a written certificate relating to the cause of the stillbirth signed—

(i) by a medical practitioner who was present at the birth or examined the child after birth; or

(ii) if no medical practitioner was present at the birth or examined the child after birth, by a midwife; or

(b) a statutory declaration, made by the person or one of the persons required under the Births, Deaths, Marriages, and Relationships Registration Act 2021 to notify the birth, to the effect that the child was born dead, and that—

(i) no medical practitioner or midwife was present at the birth; or

(ii) it is impossible to obtain a certificate under paragraph (a) from a medical practitioner or midwife present at the birth; or

(c) a coroner's authorisation.

(2) The person in charge of the disposal must send a copy of the certificate, statutory declaration, or coroner's authorisation to the department administering this Act.

Section 46A: substituted, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Section 46A(1)(a)(i): amended, on 31 January 2018, by section 6 of the Burial and Cremation Amendment Act 2016 (2016 No 74).

Section 46A(1)(a)(ii): amended, on 31 January 2018, by section 6 of the Burial and Cremation Amendment Act 2016 (2016 No 74).

Section 46A(1)(b): amended, on 15 June 2023, by section 147 of the Births, Deaths, Marriages, and Relationships Registration Act 2021 (2021 No 57).

Section 46A(1)(b)(i): amended, on 31 January 2018, by section 6 of the Burial and Cremation Amendment Act 2016 (2016 No 74).

Section 46A(1)(b)(ii): amended, on 31 January 2018, by section 6 of the Burial and Cremation Amendment Act 2016 (2016 No 74).

46B Certificate of cause of death in relation to illness

(1) This section applies if a person dies after an illness.

(2) A medical practitioner or a nurse practitioner who attended the person during the illness must, immediately after learning of the person's death, give a certificate of cause of death for the person's death if the practitioner—

(a) is satisfied that the person's death was a natural consequence of the illness; and

(b) has taken reasonable steps to consult with any health practitioner known to have subsequently attended the person during the person's illness.

(3) Any other medical practitioner or nurse practitioner may give a certificate of cause of death for the person's death if (and only if) the practitioner is satisfied that the person's death was a natural consequence of the illness and—

(a) a medical practitioner or nurse practitioner who attended the person during the person's illness is unavailable; or

(b) less than 24 hours has passed since the death, and a medical practitioner or nurse practitioner who attended the person during the person's illness is unlikely to be able to give a certificate of cause of death for the person's death within 24 hours after the death; or

(c) at least 24 hours have passed since the person's death, and a medical practitioner or nurse practitioner who attended the person during the person's illness has not given a certificate of cause of death for the person's death.

(4) Subsection (3)(b) and (c) does not apply if a medical practitioner or nurse practitioner who attended the person during the person's illness has refused to give a certificate of cause of death for the person's death because the practitioner was not satisfied, or was not yet satisfied, that the death was a natural consequence of the illness.

(5) A medical practitioner or nurse practitioner must not give a certificate of cause of death under subsection (3) unless the practitioner—

(a) has regard to the medical records relating to the person concerned of the health practitioner who last attended the person during the illness; and

(b) has regard to the circumstances of the person's death; and

(c) has examined the person's body.

(6) A certificate of cause of death must not be given under subsection (2) or (3) if—

(a) the death—

(i) must be reported to the New Zealand Police because section 14(2) (except paragraph (f)) of the Coroners Act 2006 applies; or

(ii) has been reported to a coroner under section 15(2) of that Act; and

(b) the coroner has decided to open an inquiry into the death.

Section 46B: replaced, on 31 January 2018, by section 7 of the Burial and Cremation Amendment Act 2016 (2016 No 74).

Section 46B(6)(a)(i): amended, on 27 November 2025, by section 24 of the Statutes Amendment Act 2025 (2025 No 74).

46C Certificate of cause of death in relation to accidents to persons aged 70 years or more

(1) This section applies if a person of or over the age of 70 years dies (the **deceased**) and, in the opinion of a medical practitioner or nurse practitioner,—

(a) the death was caused by injuries, or injuries contributed substantially to it; and

(b) the injuries were caused by an accident; and

(c) the injuries, the accident, or both arose principally by virtue of infirmities that were attributes of the deceased's age; and

(d) the accident was not suspicious or unusual; and

(e) the accident was not caused by an act or omission of any other person; and

(f) except to the extent that the death involved injury by accident, it was not violent, unnatural, or in some way a death in respect of which the Coroners Act 2006 requires an inquiry to be conducted.

(2) A medical practitioner or nurse practitioner may give a certificate of cause of death for the deceased.

(3) Subsection (2) applies even though the death may have been reported to the New Zealand Police under section 14 of the Coroners Act 2006.

(4) However, if the medical practitioner or nurse practitioner is aware that the death has been reported to a coroner under section 15(2) of the Coroners Act 2006, the practitioner must not give a certificate of cause of death under subsection (2) without first obtaining the agreement of the designated coroner.

Section 46C: replaced, on 31 January 2018, by section 8 of the Burial and Cremation Amendment Act 2016 (2016 No 74).

46CA Certificate of cause of death in relation to assisted dying

(1) This section applies if a person dies as a result of assisted dying under the End of Life Choice Act 2019.

(2) The medical practitioner or nurse practitioner who was available to the person until the person died must, immediately after the person's death, give a certificate of cause of death.

(3) However, a certificate of cause of death must not be given under this section if the coroner has decided to open an inquiry into the death under Part 3 of the Coroners Act 2006.

Section 46CA: inserted, on 6 November 2021, by section 41 of the End of Life Choice Act 2019 (2019 No 67).

46D No liability for costs incurred in supplying information

To avoid doubt, the Crown is not liable for the costs incurred by a person in supplying information required by section 46AA, 46A, 46B, 46C, or 46CA.

Section 46D: inserted, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Section 46D: amended, on 6 November 2021, by section 41 of the End of Life Choice Act 2019 (2019 No 67).

46E Bodies to be disposed of within reasonable time

(1) A person having charge of a body must, within a reasonable time of taking charge of it,—

(a) dispose of it; or

(b) cause it to be disposed of; or

(c) transfer charge of it to another person for—

(i) disposal; or

(ii) removal for anatomical examination under the Human Tissue Act 2008; or

(iii) removal from New Zealand for disposal outside New Zealand.

(2) This section is subject to any enactment to the contrary.

Compare: 1995 No 16 s 39

Section 46E: inserted, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

46F Transfer of charge of body

(1) A person having charge of a body must not transfer charge of it to another person unless he or she first—

(a) gives the other person a certificate of cause of death or coroner's authorisation; and

(b) gets from the other person a notice taking responsibility for notifying a Registrar under section 40 of the Births, Deaths, Marriages, and Relationships Registration Act 2021 of the death of the person whose body it is, and (except where the body is being removed by the other person for anatomical examination under the Human Tissue Act 2008)—

(i) taking responsibility for disposing of the body; and

(ii) describing (with enough detail to enable it to be identified) the place where the other person intends to dispose of the body.

(2) However, in any of the following circumstances the person transferring the body does not have to comply with subsection (1):

(a) a person having charge of a body who is not a funeral director transferring charge of it to a funeral director:

(b) a person having charge of a body transferring charge of it to—

(i) a constable; or

(ii) a doctor who has been directed by a coroner to perform a post-mortem of the body; or

(iii) the occupier of a hospital.

(3) Nevertheless, if a person has a certificate of cause of death or coroner's authorisation at the time that he or she transfers charge of a body to another person, he or she must give the certificate or authorisation to the other person.

(4) A person must not take charge of a body for anatomical examination under the Human Tissue Act 2008, or removal from New Zealand for disposal outside New Zealand, without first obtaining a certificate of cause of death or coroner's authorisation.

(5) A notice under subsection (1)(b) must be provided in accordance with any directions issued by the Registrar-General under the Births, Deaths, Marriages, and Relationships Registration Act 2021.

Compare: 1995 No 16 s 40

Section 46F: inserted, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Section 46F(1)(a): amended, on 31 January 2018, by section 9 of the Burial and Cremation Amendment Act 2016 (2016 No 74).

Section 46F(1)(b): amended, on 15 June 2023, by section 147 of the Births, Deaths, Marriages, and Relationships Registration Act 2021 (2021 No 57).

Section 46F(2)(b)(i): amended, on 24 January 2009, by section 130(2) of the Policing Act 2008 (2008 No 72).

Section 46F(3): amended, on 31 January 2018, by section 9 of the Burial and Cremation Amendment Act 2016 (2016 No 74).

Section 46F(4): amended, on 31 January 2018, by section 9 of the Burial and Cremation Amendment Act 2016 (2016 No 74).

Section 46F(5): replaced, on 15 June 2023, by section 147 of the Births, Deaths, Marriages, and Relationships Registration Act 2021 (2021 No 57).

47 Burial in private burial place

(1) Notwithstanding anything in this Act, any body may be buried in any private burial place (not being a private burial ground) used for burials before the date of the commencement of this Act; but no such burial shall be made without the previous sanction of a District Court Judge, or, if within a city or part of the

district of a territorial authority which was formerly a city or borough or part of a city or borough, without the additional sanction of the mayor or 2 members of the governing body of the territorial authority.

(2) Every sanction so given shall be in writing, and shall disclose the name of the person to be buried, the supposed cause of death, and the place of proposed burial.

(3) Such sanction shall not be refused in any case provided for by this section unless the District Court Judge, or the mayor or members of the governing body, as the case may be, are of opinion that such burial would be prejudicial to public health or decency.

Compare: 1908 No 19 s 82(1)–(3)

Section 47(1): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 47(1): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 47(3): amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 47(3): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

48 Burial in special place

Notwithstanding anything in this Act, a body may be buried in any place, even though that place was not used for burials before the date of the commencement of this Act, if the Minister first certifies in writing that he is satisfied that there are exceptional circumstances which make the burial of that body in that place particularly appropriate and if, where the proposed place of burial is within a city or part of the district of a territorial authority which was formerly a city or borough or part of a city or borough, the sanction of the mayor, or 2 members of the governing body of the territorial authority is obtained.

Section 48: amended, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

49 Burial and cremation of poor persons

(1) A local authority having the control and management of a cemetery and any person or body of persons (including a local authority) having the control and management of a crematorium may, and upon an order signed by a Justice shall, permit the body of any poor person, and of any person from any hospital, prison, or other public institution, on the request of the person in charge of such institution, to be buried in the cemetery or cremated in the crematorium free of charge:

provided that every Justice, before signing any such order, shall satisfy himself that the deceased person has not left sufficient means to pay the charge, and that his relatives and friends are unable to pay the same.

(2) If any person is known or believed to have belonged to any particular religious denomination, he shall be buried in the portion of the cemetery (if any) set apart for that denomination.

Compare: 1908 No 19 s 25; 1950 No 42 s 3

Section 49(1): amended, on 1 June 2005, by section 206 of the Corrections Act 2004 (2004 No 50).

50 Burials to be registered

(1) All burials within any cemetery shall be registered in a register to be provided and kept for that purpose by the local authority and in such register shall be distinguished in what parts of the cemetery the several bodies are buried, and a proper description of every grave shall be given, so that the situation thereof can be ascertained, and such register shall be indexed, so as to facilitate searches for entries therein.

(2) Every register shall be open for inspection at all reasonable times, at some convenient place, upon payment of a fee of 5 shillings for every such inspection.

Compare: 1908 No 19 s 66

51 Removal of body

(1) It shall not be lawful to remove from its burial place any body, or the remains of any body, buried in any cemetery, Maori burial ground, or other burial ground or place of burial, without licence under the hand of the Minister, and except in accordance with such conditions as he may prescribe.

(2) There shall be payable in respect of every licence issued under subsection (1), such fee as may be prescribed in that behalf by the Governor-General by Order in Council:

provided that the Minister may, if he thinks fit, in any case waive payment of the whole or part of the fee.

(3) If any person applying for a licence under this section appears to the Minister to be a relative or friend of the deceased person, who desires to remove the body of such person from a closed cemetery for the purpose of burying it in a cemetery which is not closed, the Minister shall grant a licence in respect of such removal and shall remit or waive payment of the whole of the fee unless he is satisfied that for special reasons the said licence should be refused or the fee paid in whole or in part as the case may be.

(4) A licence granted under this section shall not operate to authorise the removal of a body contrary to any regulations or bylaws made under this Act.

(5) An order under subsection (2) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1908 No 19 ss 67, 76; 1930 No 40 s 26

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)

Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 51(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

52 Inspection of cemeteries

(1) An employee of the public service appointed by the Minister for the purpose, or any person designated as a Health Protection Officer under the Health Act 1956, may inspect any cemetery or any portion of a cemetery exclusively set apart for any denomination in order to—

(a) ascertain the state and condition of it; and

(b) examine the accounts of receipts and expenditure in relation to it; and

(c) if regulations or bylaws in relation to it have been made under this Act, ascertain whether the regulations or bylaws are being observed and complied with.

(2) If any person authorised to inspect a cemetery under subsection (1) finds such cemetery or any part thereof or the fences thereof in a condition of neglect or want of repair, he shall serve a notice in writing on the local authority specifying the particulars of such condition and requiring the same to be remedied, and, if the local authority fails, for the period of 1 month from the receipt of such notice, to comply with any such requirements, he may cause all necessary repairs to be done forthwith and may recover the costs and expenses thereof from the local authority.

(3) Without prejudice to the powers conferred by subsection (2) the person so authorised shall report any such case of neglect or want of repair to the Minister who shall thereupon consider whether such cemetery ought to be closed under section 41 and take such other lawful steps as he thinks necessary to prevent desecration.

Compare: 1908 No 19 ss 69, 71

Section 52(1) substituted, on 22 October 2003, by section 4 of the Burial and Cremation Amendment Act 2003 (2003 No 63).

Section 52(1): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 52(3): amended, on 1 January 1969, by section 2 of the Burial and Cremation Amendment Act 1968 (1968 No 71).

53 Vesting of title in certain cases

(1) A notice in the *Gazette* of the appointment of a local authority to have the control and management of a cemetery, pursuant to subsection (3) of section 23, shall have the effect of vesting the land comprising the cemetery in the corporation of that local authority for cemetery purposes, and on the production of a copy of such notice the Registrar-General of Land shall register the same

under the Land Transfer Act 2017 and, if the case so requires, shall issue a record of title under that Act in the name of the corporation for the land so vested.

(2) A notice in the *Gazette* vesting in any individual, body corporate, or local authority the control and management of a closed cemetery or closed burial ground, pursuant to section 43 or section 44, shall, unless it is otherwise provided therein, have the effect of vesting the land comprising the closed cemetery or closed burial ground in that individual or body corporate, or, in the case of a local authority, in the corporation of that local authority, as a closed cemetery or closed burial ground subject to the provisions of this Act, and on the production of a copy of such notice the Registrar-General of Land shall register the same under the Land Transfer Act 2017 and, if the case so requires, shall issue a record of title under that Act in the name of the individual, body corporate, or corporation for the land so vested.

(3) In this section the word **land** has the same meaning as in section 5 of the Land Transfer Act 2017.

(4) For the purposes of giving effect to the provisions of this section the Registrar-General of Land may require the deposit of such plans as may be necessary.

Compare: 1908 No 19 s 78

Section 53(1): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 53(2): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 53(2): amended, on 1 January 1969, by section 2 of the Burial and Cremation Amendment Act 1968 (1968 No 71).

Section 53(3): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Section 53(4): amended, on 12 November 2018, by section 250 of the Land Transfer Act 2017 (2017 No 30).

Part 8
Offences and penalties

54AA Offences concerning certificate of cause of death or certificate relating to stillbirth

A person who contravenes or fails to comply with section 46AA or 46A commits an offence and is liable, on conviction, to a fine not exceeding $1,000.

Section 54AA: inserted, on 24 January 2009, by section 47 of the Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48).

Section 54AA heading: amended, on 31 January 2018, by section 10 of the Burial and Cremation Amendment Act 2016 (2016 No 74).

Section 54AA: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

54 Offences concerning burials

Any person who, contrary to any of the provisions of sections 36, 41, 46, 47, and 48:

(a) buries a body in any place in which the burial of that body is not permitted; or

(b) fails to give notice of the burial of a body to the nearest District Court Judge or Justice; or

(c) buries a body without obtaining the necessary sanction—

commits an offence and shall be liable on conviction to a fine not exceeding 200 pounds.

Compare: 1908 No 19 ss 75, 80(2), 81(2), 82(4)

Section 54: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 54(b): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

55 Unlawful exhumation

(1) Any person who disinters or removes a body or the remains of a body from a place where it is buried without a licence under section 51 or in breach of the conditions of any such licence commits an offence and shall be liable on conviction to a fine not exceeding 200 pounds or to imprisonment for a term not exceeding 3 months.

(2) Proceedings for an offence against this section may only be commenced by a member of the Police, an officer of the Ministry of Health, an officer of the Ministry of Māori Development, a member or officer of a local authority, or a trustee, manager, or other person having control of the place where the body was buried before its disinterment or removal.

Compare: 1908 No 19 s 68

Section 55(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 55(1) proviso: repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 55(2): inserted, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

56 Offences concerning cremation

(1) Any person who commits a breach of any regulation made pursuant to section 37, or who knowingly carries out or procures or takes part in the burning of any body except in accordance with such regulations, commits an offence and shall be liable on conviction to a fine not exceeding 500 pounds, or to imprisonment for a term not exceeding 12 months.

(2) Any person who wilfully signs or utters any false certificate with a view to procuring the cremation of any body commits an offence and shall be liable on conviction to imprisonment for a term not exceeding 2 years.

(3) Any person who with intent to conceal the commission of an offence, or to impede the prosecution of any person for an offence, procures or attempts to procure the cremation of any body, or with such intent makes any declaration or gives any certificate prescribed by regulations under section 37 commits an offence and shall be liable on conviction to imprisonment for a term not exceeding 5 years.

(4) *Amendment(s) incorporated in the Act(s)*.

Section 56(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 56(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 56(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

57 Trespass by animals

(1) Any person who permits any animal to enter any cemetery or burial ground or Maori burial ground contrary to any regulations or bylaws which may be made under this Act or otherwise than in accordance with any such regulations or bylaws, or, if there are no such regulations or bylaws applicable thereto, except with the permission of the local authority or trustees or managers or person or persons having the control and management of the Maori burial ground, as the case may be, commits an offence and shall be liable on conviction to a fine not exceeding 20 pounds and to a further fine not exceeding 5 pounds in respect of every animal so entering.

(2) The owner of any animal, and the person for the time being in charge of any animal, who fails to take reasonable precautions to prevent such animal from entering a cemetery, burial ground, or Maori burial ground contrary to subsection (1), shall be deemed to have permitted such entry.

Compare: 1908 No 19 s 89

Section 57(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

58 Offences punishable on summary conviction

[Repealed]

Section 58: repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Part 9
Regulations, savings, and repeals

59 Regulations

(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) protecting public health and maintaining public decency in relation to cemeteries and burial grounds:

(b) regulating the conduct of persons using or frequenting any cemetery or burial ground:

(c) prohibiting or regulating the admission of animals to any cemetery or burial ground or Maori burial ground:

(d) providing for the removal, after due notice to any known persons entitled to maintain them, of dilapidated or neglected monuments and tablets from cemeteries and burial grounds and from any closed cemetery or closed burial ground in respect of which a notice is not in force under section 45:

(e) regulating the management of any closed cemetery or closed burial ground and any of the matters specified in paragraphs (a) to (c) in relation to any closed cemetery or closed burial ground:

(f) prescribing the conditions subject to which and the manner in which the sanction of the Minister may be obtained for the dedication of a denominational burial ground under section 31:

(g) prescribing forms for the purposes of this Act:

(h) prescribing the fees to be paid in respect of any rights or privileges conferred by this Act or by any regulations made under this Act, or in respect of any certificates, documents, consents, approvals, or sanctions required thereunder and the person or authorities entitled to claim and receive such fees:

(i) prescribing fines for the breach of any such regulation not exceeding 50 pounds in any case, and, where the breach is a continuing one, not exceeding 5 pounds for every day or part of a day during which the breach has continued:

(j) providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1908 No 19 s 79(1)

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 59(1)(d): amended, on 1 January 1969, by section 2 of the Burial and Cremation Amendment Act 1968 (1968 No 71).

Section 59(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

60 Savings

Except so far as may be expressly provided in this Act, nothing in this Act shall be so construed as to limit or affect in any way—

(a) the provisions of any other Act; or

(b) the powers conferred on a local authority by any other Act.

61 Repeals and savings

(1) The enactments specified in Schedule 2 are hereby repealed.

(2) All regulations which originated under section 22 of the Cemeteries Act 1908 or section 4 of the Cemeteries Amendment Act 1922 or under any corresponding provisions of any former enactment and are subsisting or in force on the commencement of this Act shall enure for the purposes of this Act as fully and effectually as if they had originated as bylaws under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to be bylaws and to have so originated; and every reference to any such regulation in any Act, regulation, order, or other enactment, or in any instrument or document whatsoever shall, after the commencement of this Act, unless inconsistent with the context, be read as a reference to a bylaw made under the corresponding provisions of this Act.

(3) Notwithstanding the repeal of any enactment by this section, all money and investments held pursuant to section 30A of the Cemeteries Act 1908 at the date of the commencement of this Act and all money received after the said date pursuant to agreements entered into under the said section 30A before that date and the income derived from any such money or investments shall be held, invested, and applied as if the said section 30A were still in force:

provided that any money held pursuant to this subsection and any money obtained from the realisation of any investments so held and any money derived from any money or investments so held may be expended and applied, if the Minister approves, on the maintenance, improvement, or development of the cemetery or the lawn portion thereof, as the case may be.

(4) The repeal of any enactment by this Act shall not affect the setting apart of any cemetery as a lawn cemetery before the passing of this Act or the validity of any regulations or bylaws made in respect of any such cemetery whether before or after the passing of this Act.

Schedule 1

s 36(1)

Part 1
Provisions of this Act applied to denominational burial grounds and managers

Number of section	Subject matter
8	Management
9	Powers as to vaults, monuments, etc
10	Exclusive right of burial
16(1)	Bylaws
21(2)–(6)	Alienation of land
25(3), (4)	Powers and functions
26(3)	Internal management
30	Bylaws
50	Burials to be registered
52	Inspection

Schedule 1 Part 1: amended, on 10 December 1976, by section 2(2) of the Burial and Cremation Amendment Act 1976 (1976 No 77).

Part 2
Provisions of this Act applied to private burial grounds and the trustees of such burial grounds

s 36(2)

Number of section	Subject matter
8	Management
9	Powers as to vaults, monuments, etc
10	Exclusive right of burial
16(1)	Bylaws
21(1)	Restrictions on alienation
25(3), (4)	Powers and functions
26	Proceedings of trustees
28(1), (2)	Finance
50	Burials to be registered
52	Inspection

Schedule 2
Enactments repealed

s 61(1)

Cemeteries Act 1908 (1908 No 19) (1957 Reprint, Vol 1, p 761)

Cemeteries Amendment Act 1912 (1912 No 25) (1957 Reprint, Vol 1, p 793)

Cemeteries Amendment Act 1922 (1922 No 36) (1957 Reprint, Vol 1, p 796)

Cemeteries Amendment Act 1926 (1926 No 23) (1957 Reprint, Vol 1, p 796)

Cemeteries Amendment Act 1950 (1950 No 42) (1957 Reprint, Vol 1, p 798)

Cemeteries Amendment Act 1953 (1953 No 49) (1957 Reprint, Vol 1, p 798)

Cemeteries Amendment Act 1959 (1959 No 54)

Finance Act 1930 (No 2) (1930 No 40) (1957 Reprint, Vol 1, pp 786, 797)
Amendment(s) incorporated in the Act(s).

Health Act 1956 (1956 No 65) (1957 Reprint, Vol 6, pp 87, 88)
Amendment(s) incorporated in the Act(s).

Public Revenues Amendment Act 1958 (1958 No 88)
Amendment(s) incorporated in the Act(s).

Statutes Amendment Act 1936 (1936 No 58) (1957 Reprint, Vol 1, pp 770, 797)
Amendment(s) incorporated in the Act(s).

Notes

1 General

This is a consolidation of the Burial and Cremation Act 1964 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Emergency Management Act 2026 (2026 No 53): section 235

Statutes Amendment Act 2025 (2025 No 74): Part 6

Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68): section 6

Births, Deaths, Marriages, and Relationships Registration Act 2021 (2021 No 57): section 147

Coroners Amendment Act 2023 (2023 No 8): section 36

Reserve Bank of New Zealand Act 2021 (2021 No 31): section 300(1)

Secondary Legislation Act 2021 (2021 No 7): section 3

Public Service Act 2020 (2020 No 40): section 135

End of Life Choice Act 2019 (2019 No 67): section 41

Statutes Amendment Act 2019 (2019 No 56): Part 4

Trusts Act 2019 (2019 No 38): section 161

Land Transfer Act 2017 (2017 No 30): section 250

Burial and Cremation Amendment Act 2016 (2016 No 74)

Heritage New Zealand Pouhere Taonga Act 2014 (2014 No 26): section 107

Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102): section 125

Criminal Procedure Act 2011 (2011 No 81): section 413

Policing Act 2008 (2008 No 72): section 130(2)

Births, Deaths, Marriages, and Relationships Registration Amendment Act 2008 (2008 No 48): section 47

Relationships (Statutory References) Act 2005 (2005 No 3): section 7

Corrections Act 2004 (2004 No 50): section 206

Burial and Cremation Amendment Act 2003 (2003 No 63)

Health Practitioners Competence Assurance Act 2003 (2003 No 48): section 175(1)

Local Government Act 2002 (2002 No 84): section 262

Burial and Cremation Amendment Act 2000 (2000 No 55)

Burial and Cremation Amendment Act 1997 (1997 No 36)

Building Act 1991 (1991 No 150): section 92(1)

Public Works Act 1981 (1981 No 35): section 248(1)

District Courts Amendment Act 1979 (1979 No 125): section 18(2)

Burial and Cremation Amendment Act 1979 (1979 No 78)

Reserves Act 1977 (1977 No 66): section 125(1)

Burial and Cremation Amendment Act 1976 (1976 No 77)

Burial and Cremation Amendment Act 1975 (1975 No 63)

Burial and Cremation Amendment Act 1968 (1968 No 71)

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