

1991
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Cemeteries (Amendment) Bill (No. 2) 1991

A BILL

FOR

An Act to amend the *Cemeteries Act 1933*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

- 5 1. This Act may be cited as the *Cemeteries (Amendment) Act (No. 2) 1991*.

Principal Act

2. In this Act, "Principal Act" means the *Cemeteries Act 1933*.¹

Trustees of cemeteries

- 10 3. Section 6 of the Principal Act is amended by omitting from subsection (1) "Chairman" and substituting "Chairperson".

Appointment of officers

4. Section 19 of the Principal Act is amended by omitting from subsection (1) "The" and substituting "Subject to subsection 19A (1), the".

81114/91 1991/92 (T114/91)

Insertion

5. After section 19 of the Principal Act the following section is inserted:

Personnel management

5 "19A. (1) The trustees' powers in relation to employment matters shall be exercised—

- (a) without patronage, favouritism or unjustified discrimination; and
- (b) with regard to the equal employment opportunity program.

10 "(2) Without limiting the generality of paragraph (1) (a), and subject to paragraph (1) (b), the trustees' powers in relation to employment matters shall be exercised in accordance with procedures that ensure that where a person is to be selected for engagement for a period exceeding 3 months, or for advancement, by the trustees—

- 15 (a) all persons who are eligible have, so far as practicable, a reasonable opportunity to apply for selection; and
- (b) the selection is made on the basis of an assessment of the relative suitability of the applicants having regard to—
 - 20 (i) the nature of the duties to be performed; and
 - (ii) the abilities, qualifications, experience, personal qualities and potential for development of each applicant that are relevant to the performance of the duties.

"(3) A reference in this section to the exercise of a power shall be read as including a reference to the making of a report or recommendation in relation to the exercise of that power.

25 "(4) For the purposes of paragraph (1) (b), the trustees shall, after consulting with each relevant staff organisation and such other persons as the trustees consider appropriate—

- (a) develop an equal employment opportunity program; and
- (b) from time to time, review that program.

30 "(5) The trustees shall comply with paragraph (4) (a) as soon as practicable and, in any event, within 12 months after the commencement of this section.

35 "(6) As soon as practicable after the development or review of the equal employment opportunity program, the trustees shall provide the Head of Administration with written particulars of the program.

“(7) The Head of Administration may, from time to time, by notice in writing given to the trustees, issue guidelines to the trustees on the provisions to be made by the equal employment opportunity program, and on the development, implementation or review of the program.

5 “(8) The trustees shall take any action necessary to give effect to the equal employment opportunity program and to comply with any guidelines issued under subsection (7).

“(9) The trustees shall furnish to the Minister a written report relating to the operation of this section during each financial year.

10 “(10) In this section—

‘advancement’ means movement within the employment of the trustees resulting in an officer undertaking work, and being remunerated, at a higher level than previously;

‘designated group’ means any of the following classes of persons:

15 (a) members of the Aboriginal race of Australia or persons who are descendants of indigenous inhabitants of the Torres Strait Islands;

 (b) persons who have migrated to Australia and whose first language is a language other than English, and the children of such persons;

20 (c) persons who are physically or mentally disabled;

 (d) any other class of persons declared by the regulations to be a designated group for the purposes of this definition;

‘employment matter’ means—

25 (a) the selection of persons by the trustees for engagement or advancement;

 (b) the conditions of service of officers; and

 (c) any other matter related to the employment of persons by the trustees;

30 ‘equal employment opportunity program’ means a program designed to ensure that—

 (a) appropriate action is taken to eliminate unjustified discrimination against women and persons in designated groups in relation to employment matters; and

35 (b) measures are taken to enable officers who are women or persons in designated groups—

(i) to compete for engagement and advancement as officers; and

(ii) to pursue careers as officers;

as effectively as other persons and to have equal opportunities with others in relation to other employment matters;

'relevant staff organisation' means an organisation—

(a) within the meaning of the *Industrial Relations Act 1988* of the Commonwealth;

(b) in which officers would be eligible for membership; and

(c) that is a party to an industrial award that applies in relation to the remuneration of officers;

'trustees' means the trustees of a public cemetery;

'unjustified discrimination' includes—

(a) discrimination that is unlawful under the *Human Rights and Equal Opportunity Act 1991*; and

(b) unjustified discrimination on the ground of age or social origin;

but does not include—

(c) discrimination that is essential for the effective performance of the relevant duties, is not unlawful under the *Human Rights and Equal Opportunity Act 1991* and is prescribed; or

(d) discrimination that is not unlawful under the *Human Rights and Equal Opportunity Act 1991* and is in accordance with the equal employment opportunity program or with a prescribed program.”.

NOTE

1. Ordinance No. 29, 1933 as amended to date. For previous amendments see Note 1 to Act No. 41, 1991 and see also Act No. 41, 1991.