

CHAPTER 236

THE WAR GRAVES ACT [PRINCIPAL LEGISLATION] ARRANGEMENT OF SECTIONS

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CHAPTER 236

THE WAR GRAVES ACT

An Act to provide for the control of war graves.

[1st February, 1924]

Ords. Nos.
3 of 1924
40 of 1960
Act No.
9 of 1969

Short title

1. This Act may be cited as the War Graves Act.

Interpretation
Ord. No.
40 of 1960 s. 2

2. In this Act, unless the context otherwise requires-

“Commission” means the Commonwealth War Graves Commission¹ a body corporate constituted by the Royal Charter of the 21st May, 1917, and so entitled by virtue of a Supplemental Royal Charter of the 28th March, 1960;

“war grave” means a grave which has been accepted by the Commission as a grave within the purposes of the said Charter and of a Supplemental Charter of August 10th, 1921.

Power to vest
control of war
graves and
cemeteries in
Commission

3. The President may by notice published in the *Gazette*, vest in the Commission-

- (a) the control of all or any war graves in Tanzania or in any area of Tanzania, whether on public or private land;
- (b) the control of any piece of public land containing war graves, in this Act referred to as a war grave cemetery; and
- (c) the control of any piece of land for the erection by the Commission of a War Memorial elsewhere than in a war grave cemetery.

Ord. No.
40 of 1960s. 3

¹ Any reference to the Imperial War Graves Commission in any notice issued, power conferred or approval given under the War Graves Act shall be deemed to be a reference to the Commonwealth War Graves Commission.

Powers of
Commission

4. The Commission shall have all powers necessary or convenient for the fulfilment of their purposes and in particular for maintaining any war grave or war grave cemetery under their control in proper order and for beautifying the grave or cemetery, and, in particular, power to enclose the grave or cemetery and to erect and maintain thereon or therein gravestones, tablets or monuments of any description.

Protection of
private rights

5.–(1) Where a war grave is situated on private land, the Commission shall before entering thereon give at least twenty-four hours notice to the occupier, if any, and shall, as far as possible, consult at his convenience, and shall compensate him for any actual damage caused to him by the exercise of their powers.

(2) In the event of dispute the amount of such compensation shall be fixed by the President whose decision shall be final.

(3) Nothing in this Act shall affect the right of the owner of any grave in a war grave cemetery, not being a war grave, to have access to and maintain such grave, or confer on the Commission any right to interfere with any such grave or gravestone, tablet or monument thereon.

Exclusive right of
burial

6.–(1) The Commission shall have the exclusive right of burial in all war graves under their control.

(2) The President may confer on the Commission the exclusive right of burial in any vacant space in a war grave cemetery under their control.

(3) A person shall not, except with the consent of the Commission, bury anybody in any war grave or in any vacant space in any war grave cemetery in which the Commission have the exclusive right of burial.

Power to remove
bodies from war
graves

7. Where the Commission is satisfied that by reason of its situation or for any other reason a war grave cannot be properly maintained in its present position, they may, with the consent of the President and subject to such conditions as he

may impose, remove the body from the war grave and re-inter it in any place approved by the President for the purpose:

Provided that-

- (a) the body of a Hindu shall, instead of being re-interred, be cremated in the manner customary among Hindus; and
- (b) the Commission shall, before removing a body, endeavour to obtain the consent of the widow, if any, of the deceased, or, if there is no widow, of one of his next-of-kin, and shall not remove the body if they are of opinion that the removal will be against the wishes of the widow, or, if there is no widow, of the next-of-kin.

Offences in
relation to war
graves
Act No.
9 of 1969 s. 12

8.-(1) A person shall not wilfully destroy, injure, defile, disfigure or deface any building, wall, fence, gate, tree, plant, monument, tablet, inscription or gravestone belonging to or under the control of the Commission.

(2) A person shall not without the consent of the Commission disturb the soil of any war grave under their control, or without lawful title, the soil of any war grave cemetery under their control.

(3) A person shall not obstruct the Commission or any servant or agent of the Commission in the exercise of their powers or rights under this Act.

(4) The provisions of this section shall not apply to a duly authorised person doing any act or thing in accordance with any power conferred or duty imposed upon him by or under the Graves (Removal) Act.

Cap. 72

Penalty

9. A person who contravenes or attempts or abets the contravention of the provisions of this Act commits an offence and on conviction shall be liable to a fine not exceeding five hundred shillings or to imprisonment for a term not exceeding six months or to both.