

CHAPTER 179

THE WAR GRAVES AND MEMORIAL ACT

ARRANGEMENT OF SECTIONS

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CHAPTER 179

WAR GRAVES AND MEMORIALS

28 of 1967
13 of 1994

An Act to make provision for vesting the control of war graves, war cemeteries and war memorials in the Commonwealth War Graves Commission; to vest the ownership of the memorials in the Schedule; and to provide for connected matters.

[14th April, 1967]

1. This Act may be cited as the War Graves and Memorials Act. Short title
2. In this Act, unless the context otherwise requires- Interpretation

"Commission" means the Commonwealth War Graves Commission;

"Commonwealth Force" means a military, naval or air force raised in any country or territory which, during the whole or any part of the war periods, formed part of the Britannic dominions;

"died" means died from wounds inflicted, accident occurring or disease contracted while on active service;

"war cemetery" means a piece of land which is declared under this Act to be a war cemetery;

"war grave" means a grave which is declared under this Act to be a war grave;

"war memorial" means a memorial which is declared by or under this Act to be a war memorial;

"war periods" means-

- (a) the period extending from the 4th August, 1914, until the 31st August, 1921; and
- (b) the period extending from the 3rd September, 1939, until the 31st December, 1947.

3. (1) The President may, by statutory order, declare-

War cemeteries
and war graves

- (a) to be a war cemetery any piece of land in which is buried or is proposed to be buried the remains of officers or men of a Commonwealth Force who died during the war periods;
- (b) to be a war grave any piece of land, not being part of a war cemetery, in which is buried the remains of any officer or man of a Commonwealth Force who died during the war periods.

(2) Whenever the President is satisfied that any human remains buried in a war grave have been removed therefrom in accordance with the provisions of this Act, he may, by statutory order, revoke the declaration made under subsection (1) relating to that grave.

4. (1) The memorials together with the land adjacent thereto

War memorials

described in the Schedule, formerly known as the Northern Rhodesia War Memorial and the Northern Rhodesia Police War Memorial, are hereby declared to be war memorials.

(2) The President may, by statutory order, declare any other memorial, together with the land adjacent thereto, erected in memory of officers or men of a Commonwealth Force who died during the war periods to be a war memorial.

5. (1) Subject to the provisions of this Act and notwithstanding anything contained in any other written law, the control of any war cemetery, war grave or war memorial shall be vested in the Commission to the exclusion of any other person or authority.

Rights and powers of Commission

(2) For the fulfilment in Zambia of the purposes of the Commission under the charters providing for the establishment and operation of the Commission, the Commission shall have power-

(a) to maintain in proper order, to beautify and to enclose any war cemetery, war grave or war memorial;

(b) to erect in any war cemetery or on any war grave such gravestones, tablets and monuments as it may think fit.

(3) Notwithstanding anything contained in Part XIII of the Public Health Act, 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 existing position, the Commission may, with the consent of the President and subject to such conditions as he may impose, exhume the remains from the grave and remove them for reinterment in a proper manner in such other grave or cemetery as may be approved by the President for the purpose.

Cap 295

(4) The President shall not consent to the exhumation and removal of any remains from a war grave under the powers conferred by subsection (3) unless he is satisfied either-

(a) that the exhumation and removal accords with the wishes of the legal personal representative or next of kin of the person whose remains are proposed to be removed; or

- (b) that the Commission after having made such reasonable inquiry as may be practicable, has been unable to communicate with the legal personal representative or next of kin of the person whose remains are proposed to be removed and has no reason to believe that such representative or next of kin objects to the removal.

6. (1) Any person who-

Offences and penalties

- (a) buries any human remains in a war cemetery or war grave; or
- (b) wilfully destroys, injures, defiles, disfigures or defaces any war memorial or any building, wall, fence, gate, tree, plant, monument, tablet, inscription or gravestone in or around a war cemetery, war grave or war memorial; or
- (c) disturbs the soil of any grave or war cemetery; or
- (d) obstructs the Commission or any servant or agent of the Commission in the exercise of its rights under this Act;
- shall be guilty of an offence and liable, on conviction, to a fine not exceeding one thousand five hundred penalty units or to imprisonment for a period not exceeding six months, or to both.

(2) The provisions of subsection (1) shall not apply in relation to anything done by or on the authority of the Commission under the powers conferred upon the Commission by this Act.

(As amended by Act No. 13 of 1994)

7. (1) The Zambia War Memorial together with the land adjacent thereto described in the Schedule is hereby vested in the President to the intent that the said memorial shall be and remain as a permanent memorial to those residents of the former Protectorate of Northern Rhodesia now known as the Republic of Zambia who died during the war periods.

Vesting of scheduled memorials in the President

(2) The Zambia Police War Memorial together with the land adjacent thereto described in the Schedule is hereby vested in the President to

the intent that the said memorial shall be and remain as a permanent memorial to those members of the Northern Rhodesia Police now known as the Zambia Police Force who died during the war periods.

(3) Notwithstanding anything contained in the Lands and Deeds Registry Act, the Registrar shall, without any application being made to him in that behalf, register the transfer effected by this section and for that purpose shall make such entries in the registers kept by him as are necessary. Cap. 185

(4) In this section, "the Registrar" means the Registrar appointed to the Registry of Deeds in Lusaka under the Lands and Deeds Registry Act. Cap. 185

8. Nothing in this Act shall affect the right of the owner of any grave in a war cemetery, not being a grave in which is buried the remains of any officer or man of a Commonwealth Force who died during the war periods, to have access to and maintain such grave, or confer on the Commission any right to interfere with any such grave or with any gravestone, tablet or monument thereon. Saving

SCHEDULE

(Section 4)

WAR MEMORIALS

1. *The Zambia War Memorial:* The Memorial erected in the vicinity of the Victoria Falls together with the land set aside by the British South Africa Company for the purpose, being Plot No. 266, Livingstone (Suburban) on a portion of which the Memorial has been erected, the boundaries whereof are shown on a certain diagram dated the 18th July, 1923, signed by the Director of Surveys and deposited in the Survey office of the Government.

2. *The Zambia Police War Memorial:* The Memorial erected at Livingstone together with the land set aside by the British South Africa Company for the purpose, being Plot No. 265, Livingstone (Suburban) on a portion of which the Memorial has been erected, the boundaries whereof are shown on a certain diagram dated the 18th July, 1923, signed by the Director of Surveys and deposited in the Survey office of the Government.

SUBSIDIARY LEGISLATION

WAR GRAVES AND MEMORIALS

CAP. 179

**SECTION 3-THE WAR CEMETERY (DECLARATION)
ORDER** Statutory Instrument
387 of 1969

Order by the President

1. This Order may be cited as the War Cemetery (Declaration) Title
Order.

2. The piece of land described in the Schedule is hereby declared a Declaration of
war cemetery. war cemetery

SCHEDULE

(Paragraph 2)

WAR CEMETERY

Subdivision B of Stand No. 578, Ndola.