

Malawi

War Graves Act

Chapter 29:02

Legislation as at 31 December 2014

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War Graves Act

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Assented to on 24 July 1967

Commenced on 28 July 1967

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An Act to provide for the Control of War Graves

1. Short title

This Act may be cited as the War Graves Act.

2. Interpretation

In this Act—

"**the Commission**" means the Commonwealth War Graves Commission, a body corporate constituted by Royal Charter of the United Kingdom of the 21st May, 1917;

"**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 the 8th June, 1964.

3. Power to vest control of war graves and, cemeteries in Commission

The Minister may from time to time, by notice published in the *Gazette*, vest in the Commission—

- (a) the control of all or any war graves in Malawi or in any area of Malawi, whether on public, private or customary land;
- (b) the control of any piece of public or customary 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.

4. Powers of Commission

The Commission shall, subject to the general or special directions of the Minister, 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 maintaining and improving the appearance and amenities of the grave or cemetery. Such powers include the power to enclose the grave or cemetery and to erect and maintain thereon or therein gravestones, tablets, or monuments of any description.

5. Protection of private rights

- (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 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 Minister, 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.

6. Exclusive right of burial

- (1) The Commission shall have the exclusive right of burial in all war graves under their control.
- (2) The Minister may confer on the Commission the exclusive right of burial in any vacant space in a war grave cemetery under their control.
- (3) No person shall, except with the consent of the Commission, bury any body in any war grave or in any vacant space in any war grave cemetery in which the Commission have the exclusive right of burial.

7. Power to remove bodies from war graves

Where the Commission are 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 Minister 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 Minister for the purpose:

Provided that 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.

8. Offences in relation to war graves

- (1) No person shall 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) No person shall 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) No person shall obstruct the Commission or any servant or agent of the Commission in the exercise of their powers or rights under this Act.

9. Penalty

Any person who contravenes any of the provisions of this Act shall be liable to a fine of K200 and to imprisonment for six months.