



Isle of Man

Ellan Vannin

AT 2 of 2016

WAR MEMORIALS ACT 2016



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WAR MEMORIALS ACT 2016

Signed in Tynwald: 19 April 2016
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AN ACT to make fresh provision about war memorials; and for connected purposes.

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

1 Short title

The short title of this Act is the War Memorials Act 2016.

2 Commencement

- (1) This Act comes into operation on such day or days as the Council of Ministers may by order appoint.
- (2) An order under subsection (1) may make such consequential, incidental, supplemental, transitional and transitory provision as appears to the Council of Ministers to be necessary or expedient.

3 Interpretation

In this Act—

“**the Department**” means the Department of Environment, Food and Agriculture;

“**registered war memorial**” means a war memorial entered in the War Memorials Register; and

“**war memorial**” means, subject to section 5(6), any property (whether real or personal) which has as its purpose the permanent, physical and public commemoration of service or sacrifice in or in connection with war or other armed conflict, other than —

- (a) a grave, a grave marker or a tombstone; or

- (b) a memorial to a single individual or individuals all of whom were members of the same family;

“**War Memorial Committee**” means a body established (before or after the commencement of this Act) for the purpose of creating a war memorial;

“**War Memorials Register**” means the register maintained under section 4.

4 **War Memorials Register**

The Council of Ministers must cause to be maintained and published, in such form and manner as the Council of Ministers may determine, a register of war memorials in the Island (“**the War Memorials Register**”).

5 **Creation of war memorials and designation of property as a war memorial**

- (1) The Council of Ministers may consent to the creation of a war memorial.
- (2) No person may create a war memorial without such consent.
- (3) Where consent has been given under subsection (1), the war memorial which the consent authorises may be created without the need for any other consent, licence or permission of any kind.
- (4) Upon the completion of a war memorial created with the consent of the Council of Ministers under subsection (1) the Council of Ministers must cause the war memorial to be entered in the War Memorials Register.
- (5) A consent under subsection (1)—
 - (a) must be given in writing;
 - (b) must specify the nature and form of the war memorial which it authorises; and
 - (c) without limiting paragraph (b), may impose, or authorise the imposition by the Department, of such conditions, requirements or restrictions on the consent as appear to the Council of Ministers to be necessary or appropriate.
- (6) If it appears to the Council of Ministers that it is in the national interest that any real or personal property, which would be a war memorial but for the exception in paragraph (a) or (b) of the definition of that term, should be designated as a war memorial, the Council of Ministers may —
 - (a) designate the property as a war memorial; and
 - (b) cause that war memorial to be entered in the War Memorials Register.
- (7) Before designating property as a war memorial in accordance with subsection (6) the Council of Ministers must consult—
 - (a) the local authority within whose area the item is situate; and

- (b) any person appearing to the Council of Ministers to have an interest in the item or in the proposal to designate the item under subsection (6).
- (8) The Council of Ministers must make rules about the procedure for —
 - (a) an application for consent under subsection (1); and
 - (b) the designation of property as a war memorial under subsection (6).
- (9) Rules under subsection (8) must be laid before Tynwald as soon as reasonably practicable after they are made.

6 Ownership and maintenance of war memorials

- (1) The owner of a registered war memorial must maintain it.
- (2) If, after reasonable enquiry —
 - (a) the ownership of a registered war memorial cannot be determined, or
 - (b) the owner of a registered war memorial cannot be found,the Council of Ministers may make a declaration under subsection (3).
- (3) A declaration under this subsection may provide that the registered war memorial —
 - (a) is the property of the owner of the land comprised in it or upon which it stands; or
 - (b) is to vest in the local authority within whose area it is for the time being situate.

7 Vesting of registered war memorials in local authority

- (1) The owner of a registered war memorial may apply to the Council of Ministers to vest it in a local authority.
- (2) If satisfied that it is in the public interest to do so, on an application under subsection (1) the Council of Ministers may vest the registered war memorial in the local authority within whose area it is for the time being situate.
- (3) Before exercising the power conferred by subsection (2), if it is practicable to do so, the Council of Ministers must consult the owner of the registered war memorial.
- (4) On vesting the local authority becomes the owner of the registered war memorial, and accordingly section 6(1) applies to the authority.

8 Powers of local authorities

- (1) A local authority may —

- (a) insure any registered war memorial vested in the authority;
 - (b) expend monies on the maintenance of a registered war memorial (whether or not vested in the authority and wherever it is located on the Island);
 - (c) with the consent of the Department, borrow money for the purposes of the authority's functions under this Act;
 - (d) accept monies from a War Memorial Committee, or an officer of such a Committee for the purpose of maintaining a registered war memorial.
- (2) In this section "maintenance" includes alteration, extension, inscription, protection, relocation, renewal or repair.

9 Application of provisions of Parts 3 to 5 of the Town and Country Planning Act 1999 to registered war memorials

- (1) The Council of Ministers may by order apply Parts 3 to 5 of *the Town and Country Planning Act 1999* to war memorials.
- (2) An order under subsection (1) may –
- (a) make such modifications of those Parts, and
 - (b) include such consequential, incidental or supplemental provisions,
- as appears to the Council of Ministers to be appropriate.
- (3) An order under subsection (1) must not come into operation unless approved by Tynwald.

10 Exceptions for ecclesiastical jurisdiction

- (1) The Council of Ministers may by order disapply or modify sections 5 to 9 (and enactment applied under section 9) in relation to a registered war memorial which –
- (a) is attached to,
 - (b) forms part of, or
 - (c) is situate within the curtilage of,
- a church building which is for the time being used for ecclesiastical purposes and which is subject to appropriate ecclesiastical control.
- (2) For the purposes of subsection (1) "appropriate ecclesiastical control" and "ecclesiastical purposes" have such meaning as the order under that subsection provides.
- (3) An order under subsection (1) must not come into operation unless approved by Tynwald.

11 Repeal

The War Memorials (Local Authorities' Powers) Act 1927 is repealed.

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