

ABANDONED CEMETERIES

Applications for declaration

101.1 (1) A person set out in subsection (2) may apply to have a judge of the Superior Court of Justice declare a cemetery abandoned if the owner of the cemetery,

- (a) cannot be found or is unknown;
- (b) is unable to maintain it; or
- (c) is not a licensed operator and there is no licensed operator for the cemetery. 2006, c. 34, Sched. D, s. 68.

Who can apply

(2) The application may be made by,

- (a) the Crown if the cemetery is on land that is situated in territory without municipal organization;
- (b) the local municipality within whose geographic boundaries the land of the cemetery is located;
- (c) the owner or operator of the cemetery; or
- (d) the registrar. 2006, c. 34, Sched. D, s. 68.

Notice of application

(3) An applicant shall give notice of the application to the following persons or entities, but is not required to give the notice to the applicant:

1. The owner or operator of the cemetery.
2. The local municipality within whose geographic boundaries the land of the cemetery is located, if there is one.
3. The Crown, if there is no local municipality within whose geographic boundaries the land of the cemetery is located.
4. The registrar. 2006, c. 34, Sched. D, s. 68.

Maintenance

(4) When an application is made to declare a cemetery abandoned, the local municipality within whose geographic boundaries the land of the cemetery is located or the Crown, if there is no such local municipality, shall be responsible for the maintenance of the cemetery until the application is disposed of. 2006, c. 34, Sched. D, s. 68.

Costs of application

(5) The costs of the application, including the cost of a survey of the land involved, are the responsibility of,

- (a) the owner or operator of the cemetery if the owner or operator makes the application and a judge of the court does not declare the cemetery abandoned; or
- (b) the local municipality within whose geographic boundaries the land of the cemetery is located or the Crown, if there is no such local municipality, in all other cases. 2006, c. 34, Sched. D, s. 68.

Order

(6) Upon being satisfied that the applicant has established the circumstances justifying an order of abandonment, a judge to whom an application is made shall, by order, declare the cemetery to be abandoned. 2006, c. 34, Sched. D, s. 68.

Registration of order

(7) When an order declaring that a cemetery is abandoned is registered in the appropriate land registry office, the local municipality within whose geographic boundaries the land of the cemetery is located or the Crown, if there is no such local municipality, becomes the owner of the cemetery with all the rights and obligations in respect of the cemetery and the assets, trust funds and trust accounts related to it that the previous owner or operator had. 2006, c. 34, Sched. D, s. 68.

Exemption

(8) An order made under subsection (6) may exempt the new owner of the cemetery from any provision of the Act and regulations to which it would be inappropriate in the circumstances for the new owner to be subject. 2006, c. 34, Sched. D, s. 68.

Section Amendments with date in force (d/m/y)

2006, c. 34, Sched. D, s. 68 - 01/07/2012