

|  |
| --- |
| Establishing or replacing fences |
|  |

# Requirements under the Fences Act

The requirements regarding the establishment and replacement of fences are set out under the *Fences Act 1968* and not the *Cemeteries and Crematoria Act 2003*.

Generally, under certain circumstances, cemetery trusts and other managers of Crown land are exempt from the requirements outlined under the *Fences Act 1968*. This exemption is outlined under s. 31 of the *Fences Act 1968* and applies in situations where a cemetery trust manages and maintains the entirety of the cemetery land which is the case for most cemetery trusts. Section 31 of the *Fences Act 1968* states that:

This Act except as is in section 30H otherwise provided shall not apply to any unalienated Crown lands; nor shall the Crown the Governor nor any public officer appointed by the Governor or by the Governor in Council for the administration management or control of the Crown lands or public works or who by virtue of his or her office however styled has any such management or control be liable under this Act to make any contribution towards any fencing works and any subsidiary works for any dividing fence between the land of any owner and any Crown land.

It should be noted however, that where a cemetery trust has leased or provided a licence in respect of any public cemetery land, then the exemption under s. 31 of the *Fences Act 1968* does not extend to the person to whom the lease or licence has been provided to. This means the person will need to comply with the *Fences Act 1968*.

# Further information

For more information and advice on how to discuss establishing or replacing fences with neighbouring property owners, visit the [Dispute Settlement Centre of Victoria website](http://www.disputes.vic.gov.au/information-and-advice/fencing) <www.disputes.vic.gov.au/information-and-advice/fencing>.

|  |
| --- |
| To receive this document in another format, phone 1800 034 280, using the National Relay Service 13 36 77 if required, or [email the Cemetery Sector Governance Support Unit](mailto:cemeteries@health.vic.gov.au) <cemeteries@health.vic.gov.au>.  Authorised and published by the Victorian Government, 1 Treasury Place, Melbourne.  © State of Victoria, Australia, Department of Health, November 2021.  ISBN 978-1-76069-610-8 (MS word/online)  Available at [health.vic](https://www.health.vic.gov.au/cemeteries-and-crematoria/cemetery-fences) <https://www.health.vic.gov.au/cemeteries-and-crematoria/cemetery-fences> |