



**GENERAL EXPLANATORY NOTE:**

[ ] Words in bold type in square brackets indicate omissions from existing enactments

\_\_\_\_\_ Words underlined with a solid line indicate insertions in existing enactments

**BILL**

**To amend the KwaZulu-Natal Cemeteries and Crematoria Act, 1996, to make provision for burials other than at established cemeteries; and to provide for matters connected therewith.**

BE IT ENACTED by the Legislature of the Province of KwaZulu-Natal, as follows:-

**Amendment of section 1 of Act 12 of 1996**

1. Section 1 of the KwaZulu-Natal Cemeteries and Crematoria Act, 1996 (Act No. 12 of 1996), hereinafter referred to as the principal Act, is hereby amended –

(a) by the insertion after the definition of “Development and Services Board” of the following definition:

“**established practice**’ means a practice in terms of which the owner or person in charge or his or her predecessor in title routinely gave permission to people residing on land to bury deceased members of their family on that land in accordance with their religion or cultural belief.”;

(b) by the insertion after the definition of “KwaZulu-Natal” of the following definition:

“**land**’, for the purposes of –

(a) the definitions of –

(i) established practice;

(ii) occupier;

(iii) owner; and

(iv) person in charge; and

(b) section 3(2) and (3),

means land predominantly used for agricultural purposes.”;

(c) by the insertion after the definition of “next-of-kin” of the following definition:

“**occupier**’ means a person residing on land which belongs to another person and who has consent or another right in law to do so.”;

(d) by the insertion after the definition of “operator” of the following definitions:

“owner’ means the owner of land at the time of a death contemplated in section 3(2):

‘person in charge’ means a person who at the time of a death contemplated in section 3(2) had or has legal authority to give consent to a person to reside on the land in question;”;

(e) by the insertion after the definition of “Regional Council” of the following definitions:

“regulations’ means regulations made under section 26:

‘this Act’ includes the regulations.”.

### **Amendment of section 3 of Act 12 of 1996**

2. The following section is hereby substituted for section 3 of the principal Act:

**“Prohibition against burial or cremation elsewhere than at established cemeteries and crematoria**

**3.(1)** Subject to the provisions of section 2, no human remains shall be –

- (a) buried except in a cemetery; or
- (b) cremated except at a crematorium,

established and operated in terms of this Act and the regulations made thereunder.

(2) Despite the provisions of subsection (1)(a), but otherwise subject to this Act, an occupier may bury a deceased member of the family of the occupier, who at the time of the death of the deceased, was residing on land on which the occupier resides.

(3) A burial contemplated in subsection (2) –

- (a) may take place only if there exists an established practice in respect of the land on which the occupier resides; and
- (b) may be conducted in accordance with the religion or cultural belief of the occupier.”.

### **Short title**

3. This Act is called the KwaZulu-Natal Cemeteries and Crematoria Amendment Act, 2004.

