

DEPARTMENT OF FOREIGN AFFAIRS AND TRADE
CANBERRA

**AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF NAMIBIA
AND
THE GOVERNMENTS OF
AUSTRALIA, CANADA, INDIA, NEW ZEALAND, SOUTH AFRICA AND THE
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
CONCERNING THE TREATMENT OF WAR GRAVES OF MEMBERS
OF THE ARMED FORCES OF THE COMMONWEALTH
IN THE TERRITORY OF THE REPUBLIC OF NAMIBIA**

(Windhoek, 27 June 2005)

Not yet in force
[2006] ATNIF 3

AGREEMENT

BETWEEN THE GOVERNMENT OF THE REPUBLIC OF NAMIBIA (OF THE ONE PART) AND THE GOVERNMENTS OF AUSTRALIA, CANADA, INDIA, NEW ZEALAND, SOUTH AFRICA AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND (OF THE OTHER PART) CONCERNING THE TREATMENT OF WAR GRAVES OF MEMBERS OF THE ARMED FORCES OF THE COMMONWEALTH IN THE TERRITORY OF THE REPUBLIC OF NAMIBIA.

The Government of the Republic of Namibia, of the one part, and the Governments of Australia, Canada, India, New Zealand, South Africa and the United Kingdom of Great Britain and Northern Ireland, of the other part (which participate in the work of the Commonwealth War Graves Commission and which are hereinafter referred to as "the member countries");

Having resolved to conclude an agreement concerning the treatment of cemeteries, memorials and war graves of members of the Armed Forces of the member countries in the Republic of Namibia

Have agreed as follows:

Article 1

The present Agreement lays down the principles governing the upkeep and care of graves and memorials and the exhumation and the transport or transfer of the remains of members of the Armed Forces of the member countries who died as a result of the two World Wars of 1914 - 1918 and 1939 - 1945 and who are interred in the territory of the Republic of Namibia (hereinafter referred to as "the Commonwealth war dead").

Article 2

1. The Commonwealth War Graves Commission, incorporated by Royal Charter, dated the 21 May 1917, (hereinafter referred to as "the Commission"), shall be recognised by the Government of the Republic of Namibia as the sole authority charged on behalf of the member countries with the laying out, construction and permanent care of the graves, cemeteries and memorials of the Commonwealth war dead in the territory of the Republic of Namibia.
2. The Commission is empowered to settle with the Government of the Republic of Namibia all questions concerning the Commonwealth war dead and the cemeteries, graves and memorials which relate thereto.
3. For the purpose of the exercise of its official functions on behalf of the member countries, the Commission shall be recognised, pursuant to the present Agreement, as having the status of a legal entity in the Republic of Namibia.

Article 3

1. The Government of the Republic of Namibia undertakes to permit free of charge to the Commission the free use of the areas of land in the Republic of Namibia on which are

situated the graves, memorials and cemeteries of the Commonwealth war dead, for the purpose set forth in the present Agreement and for so long as such use of the land is maintained.

2. The Annex of this Agreement lists those cemeteries containing Commonwealth war graves and memorials.

Article 4

1. The Commission shall after due consultations with the Government of the Republic of Namibia, be at liberty to transfer to other cemeteries within Namibia the remains of such Commonwealth war dead as it may deem necessary.
2. The Government of the Republic of Namibia shall arrange for the grant by the appropriate authorities of the necessary permits for the exhumation and transport of the remains to be so transferred.

Article 5

1. Exhumation of remains of the Commonwealth war dead shall not be permitted without the prior consent of the Commission acting in consultation with the Government of the Republic of Namibia.
2. If the Government of the Republic of Namibia considers that any remains of the Commonwealth war dead need to be removed for reasons of overriding public necessity it shall notify the Commission without delay. The Commission shall consider the matter and not unreasonably withhold its agreement to the transfer of the remains to such additional land as may be made available by the Government of the Republic of Namibia. All expenses pertaining to such transfers of remains, including exhumation, transport and re-burial, shall be borne by the Government of the Republic of Namibia.

Article 6

1. The Government of the Republic of Namibia shall recognise the right of the Commission to arrange and provide for the layout, control and maintenance of the cemeteries or parts of cemeteries containing the remains of the Commonwealth war dead including the power to enclose the cemeteries or such parts, to erect memorials or other structures, to plant trees, shrubs and provide other horticultural embellishments in them, to install and maintain water-supply systems and to carry out such alteration and incidental work as may be appropriate.
2. Work relating to the upkeep and care of the graves shall include gardening and maintenance work, the replacement and erection of gravestones, ledgers and the like, and the cleaning, painting and repair of any stonework or other structures associated with the graves.
3. In making arrangements for such upkeep and care, account shall be taken of specific local conditions in the cemeteries in question, of the general layout of the graves and structures,

as well as the traditional standards of layout and maintenance of Commonwealth war cemeteries elsewhere in the world.

Article 7

1. The personnel of the Commission and persons appointed by it shall have access to the cemeteries containing the remains of the Commonwealth war dead for the purpose of inspecting the graves and for the purposes of any work carried out under the provisions of this Agreement.
2. The Commission may supply materials for the upkeep and care of the graves and memorials of the Commonwealth war dead in accordance with Article 6 of this Agreement and arrangements may be made subject to the approval of the Ministry of Finance, for the importation of such materials into Namibia free of customs duty and/or other duties or taxes.
3. The Commission shall not, subject to the approval of the Ministry of Finance, be subject to any state or local taxes, duties or charges for which it might otherwise be liable in connection with carrying out its functions in accordance with the present Agreement.

Article 8

Unless specifically agreed otherwise in the present Agreement in exercising the rights conferred upon it by the present Agreement the Commission shall conform to the laws of the Republic of Namibia and regulations relating to cemeteries, graves and memorials.

Article 9

The present Agreement shall enter into force one month after the date on which the formalities required by the Government of the Republic of Namibia have been completed. The Government of the Republic of Namibia will notify each of the other signatory Governments of this date as soon as possible thereafter.

In witness whereof the undersigned, duly authorised by their respective governments, have signed this Agreement.

Done at Windhoek this twenty seventh day of June 2005 in the English and French languages, each version being equally authentic, a copy of which shall remain deposited in the archives of the Government of the Republic of Namibia and of which certified copies shall be transmitted by the Government to each of the signatory Governments.

For the Government of the
Republic of Namibia

For the Government of the United
Kingdom of Great Britain and
Northern Ireland:

For the Government of Australia:

For the Government of Canada:

For the Government of India:

For the Government of New Zealand:

For the Government of South Africa:

THE COMMISSION'S COMMITMENT IN THE REPUBLIC OF NAMIBIA

The following cemeteries contain Commonwealth war graves and memorials

Aus Military Cemetery
Engela Cemetery, Oshikango
Gibeon Station Cemetery
Grootfontein Cemetery
Grouwater Farm Burial Ground, Rehoboth
Karasburg Cemetery
Karibib Cemetery

Katimo Mulilo Graves

Keetmanshoop Jewish Cemetery
Keetmanshoop Municipal Cemetery
Luderitz Jewish Cemetery
Luderitz Municipal Cemetery
Odibo Mission Station Cemetery, Oshikango
Okahandja Cemetery
Omaruru Municipal Cemetery
Onandjokue Hospital Cemetery, Ondangwa
Ondangwa Cemetery
Otavifontein Cemetery
Otjiwarongo Cemetery
Otjohorong (Okaperre) Cemetery, Omaruru
Outjo Cemetery
Rhehoboth Cemetery
Sandfontein Cemetery
Swakopmund Municipal Cemetery
Trekopje Cemetery
Tsumeb (Nomtsoub) Cemetery
Tsumeb Cemetery
Usakos Cemetery
Walvis Bay Cemetery
Warmbad Cemetery
Windhoek Jewish Cemetery
Windhoek New Municipal Cemetery
Windhoek Old Municipal Cemetery

Total : 33 cemeteries