

CHAPTER 563

CEMETERIES AND BURIAL GROUNDS

Ordinances AN ORDINANCE TO CONSOLIDATE THE LAW RELATING TO CEMETERIES AND BURIAL
 Nos. 9 of 1899 GROUNDS.
 9 of 1921,
 3 of 1923,
 14 of 1929,
 7 of 1931,
 14 of 1937,
 61 of 1939.
 3 of 1946,
 57 of 1946,
 29 of 1947.

[1st January, 1900.]

CHAPTER I

PRELIMINARY

Short title. **1.** This Ordinance may be cited as the Cemeteries and Burials Ordinance.*

Existing Proclamations, regulations, notices, by-laws, &c.. to be in force until repealed. **2.** Every Proclamation, regulation, notice, by-law, and public order, made or purporting to be made under any enactment repealed by Ordinance No. 9 of 1899 and of force at the time of this Ordinance coming into operation, shall continue and be as if this Ordinance had not been passed, but so that the same shall be as valid and may be revoked, altered, or otherwise dealt with under this Ordinance as if it had been made under this Ordinance, and any contravention or breach thereof of which, after the coming into operation of this Ordinance, any person is guilty, may be punished in like manner as if it were a contravention, or breach of a regulation, by-law, or public order made under this Ordinance.

Interpretation. **3.** In this Ordinance, unless the context otherwise requires—

" administrative region " means an administrative region defined by Order made under section 2 of the Local Government (Administrative Regions) Ordinance;

"burial ground" means any land or ground (other than a general cemetery) used for the burial or cremation of the dead at the time of the coming into operation of this Ordinance, or subsequently approved by the Minister in manner provided in Chapter III for the purposes of burying or cremating the dead;

" cemetery " means any general cemetery established under the provisions of Ordinance No. 12 of 1862 or of this Ordinance;

" proper authority " means in the case of an area situated within a Municipality, or an Urban Council established under the Urban Councils Ordinance, or a Town Council, such Municipality, Urban Council, or Town Council, and in the case of every other town, village, or place, the Assistant Commissioner of Local Government for the administrative region within which such town, village, or place is situated.

4. All Proclamations, regulations, notices, by-laws, and public orders made and issued under this Ordinance shall be published in the Gazette. Proclamations, &c., to be published in Gazette.

* Primary Court has exclusive jurisdiction in respect of all offences under this Ordinance under Section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979-07-02.

+ Repealed by Ordinance No, 9 of IS99.

CHAPTER II

GENERAL CEMETERIES

Minister may establish cemetery;

5. (1) The Minister may, when to him it shall seem advisable, by Order, establish a general cemetery for the burial or cremation of the dead within such limits as shall be specified and defined in such Order; and may by like Order add to or reduce or otherwise alter the area of any cemetery heretofore or to be hereafter established.

and prohibit burials elsewhere;

(2) Whenever a cemetery is established as aforesaid the Minister may, from time to time, order that, after a time to be mentioned in the order, burials or cremations in every or any other cemetery or burial ground within such limits shall be wholly or partially discontinued.

and exempt cemeteries from parts of Ordinance.

(3) The Minister may exempt either wholly or in part any cemetery heretofore or hereafter established from the operation of sections 10, 15, 16, and 23 or any of them, and may, from time to time, withdraw or renew such exemption; and the granting, withdrawal or renewal of any such exemption shall be published in the Gazette.

Lands to be provided for the purpose.

6. It shall be the duty of the Municipal Council of a Municipal town, and of the Urban Council or Town Council of a town for which an Urban Council or Town Council is constituted, on the request of the Minister, to provide land for the purpose of the establishment of a general cemetery for the burial or cremation of persons dying within the limits of such town, or for the addition to the area of any cemetery heretofore or to be hereafter established.

Sale of closed burial grounds prohibited.

7. No land which shall have been consecrated or exclusively set apart for the burial of the dead, and in which burials shall have been discontinued under the provisions of Ordinance No. 12 of 1862* or of this Ordinance, shall be sold, disposed of, or made any use of for any purpose whatsoever without the permission of the Minister; and every sale and disposal of such land without the permission aforesaid shall be null and void; and any person making any use of such land without the permission of the Minister shall be guilty of an offence, and be liable on conviction to a fine not exceeding one thousand rupees.

8. No part of any cemetery shall be constructed nearer to any dwelling house than fifty feet, except with the consent in writing of the owner, lessee, and occupier of such dwelling house.

Cemetery to be at a distance from houses.

9. The proper authority may authorize the erection of chapels and other buildings for the performance of burial services or cremation within the limits of a cemetery,

Chapels, &c., may be built.

10. Every cemetery and every portion of a cemetery set apart as a ground for cremation shall be enclosed by the proper authority with substantial walls or iron railings of the height of six feet at least, which shall be kept in complete repair.

Cemetery to be enclosed.

11. (1) The proper authority may sell a portion of any cemetery for the special use of any religious denomination applying for the same, and the portion so sold shall for the purposes of this Ordinance, but for no other purpose whatever, vest in the person or persons to whom such portion has been or may hereafter be conveyed by deed executed by the proper authority in trust for such denomination.

Appropriation of the cemetery.

(2) It shall be lawful for such person or persons acting as trustee or trustees to appoint, from time to time, a board of management consisting of three or more members; and such board, or a majority of the members thereof, may exercise any of the following powers in respect of such portion :—

Trustees may appoint board of management.

Powers of board.

(a) power to appoint a caretaker, grave-diggers, and other servants necessary for the care and use of such portion of any cemetery;

(b) power to grant the exclusive right of burial in any plot or plots of land within such portion, or the right of one or more burials therein, or the right of placing any monument or gravestone over any grave, or any tablet or monumental inscription on the walls of any chapel or building within such portion ;

(c) power to prohibit cremation within any such portion.

* Repealed by Ordinance No, 9 of 1899.

Every grant under this section shall be in writing and signed by a member of, or by the caretaker appointed by, such board in the presence of one or more witnesses, and shall be issued on payment of such fee or fees as such board shall determine, with the approval of the Minister.

(3) The fees payable under this section shall be paid to and appropriated by the board of management of such portion irrespective of any fees payable to the keeper of the cemetery under the provisions of section 22, and the same shall be applied by such board to the proper upkeep and maintenance of such portion.

(4) Nothing herein contained shall relieve the keeper of any cemetery appointed by the proper authority under section 16 from the duties imposed upon him by section 23 ; but no such keeper shall execute any grant under section 20 in respect of any portion of such cemetery which is set apart for the special use of any religious denomination.

12. No part of any cemetery shall be used for any purpose except for the purpose of a cemetery ; and any person making any other use of such land, except for the burial or cremation of the dead and purposes relative to such burial or cremation, shall be guilty of an offence, and liable on conviction to a fine not exceeding two hundred rupees for every such offence.

13. Any clerk in holy orders, minister, priest, or other person may perform the services of his religion, at the request of the executor of the will of any deceased person, or at the request of any other person having the charge of the body of any deceased person.

14. No corpse buried in any part of any cemetery shall be removed from its place of burial without the authority of a District Court having jurisdiction over the limits thereof;

Provided that nothing in this section shall be taken to limit any powers now existing to order a post-mortem examination for the purposes of the criminal law.

15. All burials and cremations shall be registered in register books to be kept for that purpose by the keeper of the cemetery hereinafter mentioned, or where a caretaker

has been appointed by a board of management under the provisions of section 11, by the caretaker appointed by such board ; and such register books or certified copies or extracts therefrom shall be received in all courts as prima facie evidence of such burials and cremations, and copies or transcripts thereof shall be, from time to time, sent to such officer as shall be appointed by the Minister for such purpose.

16. The proper authority shall appoint a keeper, grave-diggers, and other servants necessary for the care and use of the cemetery, and may pay them such salary, wages, and allowances as he may think fit, and may remove them or any of them at his pleasure.

17. The proper authority may make regulations—

- (a) for ensuring that all burials within the cemetery are conducted in a decent and solemn manner, and that the graves are of a proper depth;
- (b) for setting apart any portion of any cemetery not included in the portions sold under section 11 as a ground for cremation, and regulating the manner in which such cremation shall be carried out;
- (c) for preventing the reopening of graves within specified periods ; and
- (d) for defining the duties of cemetery keepers, caretakers, and grave-diggers.

18. No corpse shall be buried in any vault under any chapel or building of the cemetery, or within five feet of the outer wall of any such chapel or building; and every person who shall bury, or cause or permit or suffer any corpse to be buried contrary to the provisions of this section shall be guilty of an offence, and be liable on conviction to a fine not exceeding three hundred rupees.

19. (1) The proper authority may sell, or, with the sanction of the Minister, make free grants of portions of the cemetery not included in the portions sold under section 11 of this Ordinance, either in perpetuity or for a limited time, and, subject to any conditions which he may think fit, the

Proper authority to appoint a keeper, grave-diggers, &c.

Regulations for ensuring decency, solemnity, and deep graves.

No burials under or close to chapels or buildings.

Portions of cemetery may be set apart for exclusive burial.

Cemetery to be used for burials or cremations only.

Clerk in holy orders may perform services.

Corpse not to be removed without authority.

Burials to be registered.

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exclusive right of burial in any such portions of the cemetery so sold or granted, or the rights of one or more burials therein, and may sell or grant the right of placing any monument or gravestone in any part of the cemetery not included in the portions sold under section 11, or any tablet or monumental inscription on the walls of any chapel or other building within any such part-

(2) All moneys realized by the sale of any portion or portions of a cemetery under the provisions of section 11, or by any sale under the provisions of this section shall, if the cemetery be in a Municipal town, be paid into the Municipal Fund, if within the limits of an Urban Council or Town Council into the funds of such Council, and in any other case into the Consolidated Fund.

Form of grant of right of exclusive burial.

20. The grant under section 19 of the exclusive right of burial in any part of a cemetery, and of the right of one or more burials therein, or of placing therein any monument, tablet, or gravestone, shall be made in either one of the forms A or B in the Schedule, or to the like effect, and shall be executed by the cemetery keeper in the presence of two witnesses.

Register of grants to be kept.

21. (1) A register of all such grants shall be kept by the cemetery keeper, and within fourteen days after the date of any such grant a memorial of the date thereof and of the parties thereto, and also of the consideration if any for such grant, and also a proper description of the ground described in such grant so that the situation thereof may be ascertained, shall be made by the said keeper in such register:

Provided always that whenever a portion of a cemetery has been heretofore set apart under section 12 of Ordinance No. 12 of 1862,* or shall hereafter be sold for the special use of any religious denomination under section 11, the register for such portion of the cemetery shall be kept by the caretaker appointed under that section.

(2) The cemetery keeper shall be entitled to demand from the grantee such sum as the proper authority shall think fit, not

exceeding one rupee for every memorial; and the register kept by the cemetery keeper shall be open to inspection at all reasonable hours by any grantee or assignee of any right conveyed to him upon payment of the sum of fifty cents to the cemetery keeper.

22. (1) The proper authority shall make regulations as to the fees to be paid to the cemetery keeper, and the fees for the performance of burial services in respect of any portion of any cemetery not sold or set apart for the special use of any religious denomination, and the fees for digging graves and for cremations, and such other services in any cemetery situated within the territorial limits of such proper authority,

The proper authority to make regulations as to fees, &c.

(2) The fees payable under this section in respect of any portion of any cemetery sold or set apart for the special use of any religious denomination shall be paid to the cemetery keeper irrespective of any fees payable to the board of management for such portion under the provisions of section 11.

23. The proper authority shall cause a plan of the cemetery to be made upon a scale sufficiently large to show the situation of every burial place in all parts of the cemetery so set apart and in which an exclusive right of burial has been granted; and all such burial places shall be numbered, and such numbers shall be entered in a book to be kept by the cemetery keeper for that purpose, and such book shall contain the names and descriptions of the several persons to whom the exclusive right of burial in any such place of burial has been granted; and no place of burial with exclusive right of burial therein shall be made in the cemetery without the same being marked out in such plan and a corresponding entry made in the said book; and the said plan and book shall be kept by the cemetery keeper and shall be open to public inspection at all reasonable hours on payment of such fee as the proper authority shall appoint.

Plan and book of reference to be open to inspection.

24. Every assignment of an exclusive right of burial may be in the form C in the Schedule or to the like effect, and shall be

Form of assignment of an exclusive right of burial.

* Repealed by Ordinance No. 9 of 1899.

valid if executed before one or more witnesses; and every such assignment shall within six months after the execution thereof if executed in Sri Lanka or within six months after the arrival thereof in Sri Lanka if executed elsewhere, be produced to the keeper of the cemetery, or in the case of a portion of a cemetery which has been heretofore set apart under section 12 of Ordinance No. 12 of 1862,* or shall hereafter be sold for the special use of any religious denomination under section 11, to the board of management of such denomination; and a memorial of such assignment shall be made in the register by the cemetery keeper or board, as the case may be, in the same manner as that of the original grant; and until such memorial no right of burial shall be acquired under any such assignment; and for every such memorial the cemetery keeper or board shall be entitled to demand such sum as the proper authority shall think fit, not exceeding one rupee.

Assignment to be registered.

Exclusive right of burial not to be disturbed without consent.

Removal of monuments improperly erected.

When proper authority refuses to exercise powers conferred by sections 9, 11 and 19, Minister may exercise them.

25. No corpse shall be buried in any place wherein the exclusive right of burial shall have been granted, except with the consent of the owner for the time being of such exclusive right of burial.

26. The board of management in respect of any portion of a cemetery sold under section 11, and the proper authority in respect of the remaining portion of such cemetery, may cause to be taken down and removed any gravestone, monument, tablet, or monumental inscription which shall have been erected without its or his authority respectively.

27. Whenever the proper authority shall refuse to authorize the erection of a chapel or other building for the performance of burial services or cremation within the limits of any general cemetery or to sell a portion thereof for the special use of any religious denomination applying for the same, or for the purpose of exclusive right of burial therein, or shall demand for the sale of any such portion a sum of money which appears to such denomination to be excessive, it shall be lawful for the Minister, on application by such denomination, if it should seem expedient, to exercise in respect

of such cemetery all or any of the powers conferred on the proper authority by the provisions of sections 9, 11 and 19, or any of them.

28. Every person who shall wilfully destroy or injure any building, wall, or fence belonging to any cemetery, or destroy or injure any tree or plant therein, or who shall daub or disfigure any wall thereof, or put up any bill thereon or on any wall thereof, or wilfully destroy, injure, or deface any monument, tablet, inscription, or gravestone within any cemetery, or do any other 'vilful damage therein, shall be guilty of an offence and be liable on conviction to a fine not exceeding one hundred rupees,

Penalty for damaging the cemetery.

29. Every person who shall play at any game or sport or discharge firearms, save at a military funeral, in any cemetery, or who shall wilfully or unlawfully disturb any persons assembled in any cemetery for the purpose of burying or cremating any corpse therein, or who shall commit any nuisance within any cemetery, shall be guilty of an offence and be liable on conviction to a fine not exceeding one hundred rupees.

Penalty on persons playing at any game or discharging firearms or committing any nuisance in the cemetery.

30. Any person committing any breach of any regulations made in virtue of this Ordinance shall be guilty of an offence and be liable on conviction to a fine not exceeding one hundred rupees.

Breach of regulations.

CHAPTER III

BURIAL GROUNDS

31. In this Chapter the term "place of public worship" shall include all cathedrals, churches, temples of every description, mosques of every description, and chapels other than chapels erected in a cemetery or burial ground and used exclusively for the purpose of reading burial services therein.

Definition of "place of public worship".

32. The Minister may, from time to time, order that after a time to be mentioned in such order it shall not be lawful to bury or cremate any corpse or coffin in any place of public worship or within a specified area about the same; and every person who shall, after the time

Burials in places of public worship, &c., forbidden.

* Repealed by Ordinance No. 9 of 1899.

mentioned in such order, bury or cremate, or cause, permit, or suffer any corpse or coffin to be buried or cremated contrary to the provisions of this section, shall be guilty of an offence, and liable on conviction to a fine not exceeding three hundred rupees.

New burial grounds to be approved by the Minister.

33. No new burial ground shall be provided and used in any town, district, or place without the previous approval of the Minister, on the recommendation of the proper authority, and such approval shall be signified by notice in the Gazeite. Every application for a new burial ground shall be accompanied by a plan prepared by a surveyor licensed under the Surveyors Ordinance, and showing clearly the position of such burial ground.

When burials and cremations in burial ground shall be discontinued.

34. In case it appears to the Minister, upon the representation of the proper authority, that any burial ground situated in any town, district, or place is in such a state or locality as to be dangerous to the health of the inhabitants of such town, district, or place, it shall be lawful for the Minister, to order that, after a time to be mentioned in the order, burials or cremations in any such burial ground shall be discontinued; and every such order shall be published in the Gazette.

Burial or cremation not to take place after order of discontinuation.

35. After the time mentioned in any such order it shall not be lawful to bury or cremate any corpse in any burial ground mentioned in such order: and every person who after such time as aforesaid shall bury or cremate, cause, permit, or suffer to be buried or cremated, or assist in burying or cremating any corpse contrary to this section, shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding three hundred rupees.

Burial grounds to be enclosed and kept clear of jungle.

36. It shall be lawful for the proper authority to call upon the trustees, managers, or proprietors of any burial ground, or upon the person having sole or principal charge thereof, to enclose or to clear the same of jungle or underwood, within a reasonable time to be determined by the proper authority; and in case of non-compliance with such requisition it shall be lawful for the proper authority to cause any such burial ground to be properly enclosed

or cleared of jungle or underwood at the expense of such trustees, managers, proprietors, or person having sole or principal charge thereof as aforesaid.

37. No corpse buried in any part of any burial ground shall be removed from its place of burial without the authority of the District Court within the jurisdiction of which such burial ground is situated : Corpse not to be removed from burial ground without authority.

Provided that nothing in this section shall affect or limit the provisions of section 373 of the Code of Criminal Procedure Act.

38. It shall be lawful for the proper authority, from time to time, to make by-laws for the following purposes:— By-laws.

- (a) for the inspection of burial grounds ;
- (b) for the proper regulation of the burial and cremation of corpses in such burial grounds, and for ensuring that the graves are of proper depth;
- (c) for the registration of burial grounds within specified areas, the limits of which shall be therein defined ;
- (d) and generally for the proper management, regulation, preservation, and control of all burial grounds, and for the maintenance of order, decency, and cleanliness within the limits thereof,

and such by-laws at any time to repeal, alter, or amend.

39. Such by-laws shall not be of any force or effect unless and until they shall be submitted to and confirmed by the Minister, who is hereby empowered to alter, amend, or disallow the same, or any repeal, alteration or amendment thereof as he may think proper; and all such by-laws and any repeal, alteration, or amendment thereof shall be published in the Gazette : By-laws to be confirmed by Minister.

Provided, however, that all such by-laws shall be laid before Parliament if Parliament is in session within one month of such publication, and if not in session within one month of the commencement of the session

next ensuing, and in either case they shall lie on the table during four sittings of Parliament, and any by-law which has been disapproved by a resolution of Parliament shall cease to have any force or effect.

CHAPTER IV

PENAL PROVISIONS AND POWERS OF COURTS

Burials and cremations in unregistered burialground or in a place other than a general cemetery prohibited.

40. From and after the expiration of three months from the date of the publication in the Gazette of by-laws providing for the registration of burial grounds within specified areas, it shall not be lawful to bury or cremate any corpse in any place within such specified areas other than a general cemetery established under the provisions of this Ordinance or of the Ordinance No. 12 of 1862,* or a burial ground registered in the manner prescribed by such by-laws; and every person who shall after the expiry of three months as aforesaid, contrary to the provisions of this section, bury or cremate, or cause, permit, or suffer to be buried or cremated, or assist in burying or cremating a corpse, shall be guilty of an offence, and liable on conviction thereof to a fine not exceeding three hundred rupees:

Provided that it shall be lawful for the proper authority, or, where the proper authority is a Municipality, Urban Council, or Town Council, for the Mayor or Chairman of such proper authority, at any time to grant permission to bury or cremate any corpse in any place other than a general cemetery established under the provisions of this Ordinance or of the Ordinance No. 12 of 1862,* or a burial ground registered in the manner prescribed by such by-laws, and the provisions of this section shall not apply to any such burial or cremation.

* Repealed by Ordinance No. 9 of [899.

t Primary Court has exclusive jurisdiction in respect of all offences under this Ordinance under section 33 of the Judicature Act read with Ga/eili: Extraordinary No. 43, 4 of 1979-07-02.

41. The breach of any by-law made and published under this Ordinance shall be an offence, and any person convicted of any such breach shall be liable to a fine not exceeding three hundred rupees, and in the case of a continuing offence to a further fine not exceeding one hundred rupees for each day on which the offence is continued.

Breach of by-laws made an offence.

42. Magistrates' Courts are hereby empowered to deal summarily with all cases instituted under this Ordinance or any by-law made in pursuance thereof, and to impose the full penalties herein prescribed, anything in the Code of Criminal Procedure Act, or any other enactment to the contrary notwithstanding.

Magistrates' Courts empowered to deal with offences.

43. No prosecution shall be instituted against any person for an offence against the provisions of this Ordinance unless the same shall be commenced within three months from the commission of the offence.

Limitation of prosecution.

44. It shall be lawful for the court before which any conviction under this Ordinance shall take place to award to the person who may have given information of the offence such share of any fine actually recovered, not exceeding the half of the sum recovered, as the court may deem fit.

Informer's share of penalty.

45. Subject to the provisions in section 44 contained, all fines recovered in respect of any offence under this Ordinance or for the breach of any by-law made in pursuance thereof shall, if the fine was for an offence committed in an area situated within a Municipality, or an Urban Council, or Town Council, be paid to such Municipality, Urban Council or Town Council, as the case may be, and in all other cases to the Consolidated Fund.

Disposal of fines.

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SCHEDULE

FORM A

FORM OF GRANT OF BURIAL PLACE IN CEMETERY

[Section 20.]

Whereas by an order of Government dated the day of issued under the Cemeteries and Burials Ordinance, a general cemetery was established at of which I, the undersigned, am the cemetery keeper :

Now I, in consideration of the sum of Rs. paid to me by of do, as such cemetery keeper as aforesaid, and under the provisions of the said Ordinance, hereby grant unto the said the exclusive right of burial in (*here describe the ground intended to be granted*), to hold the same to the said for ever for the purposes of burial.

Given under my hand this day of 19.....

Cemetery Keeper.

FORM B

FORM OF FREE GRANT OF BURIAL PLACE IN CEMETERY

[Section 20.]

Whereas by an order of Government dated the day of issued under the Cemeteries and Burials Ordinance, a general cemetery was established at of which I, the undersigned, am the cemetery keeper :

And whereas the Minister has approved the making of a free grant of the rights hereinafter granted to the person within named:

Now I, as such cemetery keeper as aforesaid and under the provisions of the said Ordinance, do hereby grant unto the exclusive right of burial in (*here describe the ground intended to be granted*) to hold the same to the said for ever for the purpose of burial, subject always to the conditions set forth in the schedule of conditions hereunto annexed.

Given under my hand this day of 19.....

Cemetery Keeper.

FORM C

FORM OF ASSIGNMENT OF RIGHT OF BURIAL

[Section 24.]

I, A. B., of in consideration of the sum of Rs. paid to me by C. D., of do hereby assign unto the said C. D., the exclusive right of burial in (*here describe the place*), and numbered on the plan of the cemetery made in pursuance of the Cemeteries and Burials Ordinance, which was granted to me for ever by a grant bearing date the day of and all my estate, title, and interest therein, to hold the same unto the said C. D. for ever, subject to the conditions to which i held the same immediately before the execution hereof.

Witness my hand this day of 19.....

(Signed) A. B.