



MONTSERRAT

CHAPTER 14.12

BURIAL GROUNDS ACT and Subsidiary Legislation

Revised Edition

showing the law as at 1 January 2019

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

BURIAL GROUNDS ACT

Act 5 of 1944 .. in force 23 December 1944

Amended by Act 9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)

BURIAL GROUNDS PROCLAMATION – Section 3

Amended by S.R.O 71/2013

BURIAL GROUNDS REGULATIONS – Section 5

S.R.O. 4/1945

Amended by S.R.O. 4/1960

Page

3

7

9



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Page

3

7

9

CHAPTER 14.12

BURIAL GROUNDS ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Existing burial grounds
3. Licensing of burial grounds
4. Prohibition of burial in unlicensed ground
5. Management and control of burial grounds
6. Allotments to religious denominations
7. Discontinuance of burial grounds
8. Penalty
9. Recovery of penalties, etc.

CHAPTER 14.12

BURIAL GROUNDS ACT

(Acts 5 of 1944 and 9 of 2011)

Commencement

[23 December 1944]

Short title

1. This Act may be cited as the Burial Grounds Act.

Existing burial grounds

2. The cemeteries and burial grounds used as such at the commencement of this Act are deemed to be and are hereby declared to be licensed burial grounds within the meaning of this Act, and any allotments in any such burial grounds made to any denomination before the commencement of this Act shall remain as an allotment to such denomination under this Act.

Licensing of burial grounds

3. The Governor acting on the advice of Cabinet may by proclamation licence as a public or private burial ground any parcel of land which may be required for that purpose. *(Amended by Act 9 of 2011)*

Prohibition of burial in unlicensed ground

4. It shall not be lawful to bury a dead human body in any place not being a licensed burial ground, and any person who shall bury or in any way act or assist in the burial of any such body, in any place not being a licensed burial ground, shall, for every such offence, be liable to a penalty of \$96.

Management and control of burial grounds

5. (1) The management and control of all burial grounds in Montserrat shall be vested in the Public Health Advisory Board established by the Public Health Act (hereinafter referred to as “**the Board**”) and the Board may with the approval of the Governor acting on the advice of Cabinet from time to time make regulations for the general governance of licensed burial grounds. *(Amended by Act 9 of 2011)*

(2) The power to make regulations conferred by this section shall include power to require, impose and charge dues and fees with respect to the matters dealt with in such regulations.

(3) Regulations made under this section shall be subject to affirmative resolution of the Legislative Assembly.

Allotments to religious denominations

6. The Board shall from time to time allot any public burial ground licensed under this Act in such proportion as it considers right and advisable, to and among the various religious denominations in Montserrat, and no religious service shall be performed at the burial of the dead in a part of such burial ground allotted as aforesaid, unless the minister in charge of such denomination shall have consented thereto.

Discontinuance of burial grounds

7. The Governor acting on the advice of Cabinet may by order declare that any place shall cease to be a¹ burial ground, and such place shall thereupon no longer be a lawful place for burial. *(Amended by Act 9 of 2011)*

Penalty

8. Any person who contravenes any provisions of this Act or regulations made thereunder for which no penalty is expressly provided, shall be liable on summary conviction to a penalty of \$48, and in the case of a continuing offence to a further penalty of \$9.60 for each day during which the offence is continued after written notice in this behalf from the Board.

¹ The Cemetery located at Carrs Bay ceased to be a burial ground with effect from 30 November, 2003. (S.R.O. 67/2003)

Recovery of penalties, etc.

9. All penalties under this Act may be recovered on summary conviction before a magistrate.

BURIAL GROUNDS PROCLAMATION – SECTION 3

The following burial grounds have been established—

(1) ALL THAT plot of land adjacent to the Methodist Church at Judy Piece in the parish of Saint Peter in Montserrat containing approximately one half acre and bounded on the North-East and West by land owned by Mr. Lee of Blakes and on the South by a public pathway. (*S.R.O. 3/1954*)

(2) That parcel of land adjacent to the Apostolic Faith Mission Church at Tuitts and hereinafter described—

ALL THAT rectangular lot, piece or parcel of land situate at Tuitts in the parish of St. George's in the island of Montserrat measuring sixty feet by forty feet and bounded on the North by Bethel Estate, on the West and South by lands of the Apostolic Faith Mission and on the South by the Tuitts Public Road. (*S.R.O. 14/1963*)

(3) ALL THAT plot, piece or parcel of land being a part of the Hermitage Estate in the Parish of Saint George, in the Island of Montserrat, containing approximately 30,661 square feet in area, and bounded on all sides by other lands of the said Hermitage Estate, all as the same is set out bounded and described in a plan thereof drawn by Bertrand B. Burke, Licensed Surveyor, on 25 July, 1972. (*S.R.O. 22/1972*)

(4) ALL THAT lot, piece or parcel of land being a part of the Hermitage Estate in the Parish of Saint George, in the island of Montserrat, containing approximately 26,610 square feet, and bounded on the North, East, South East, South and South West by a Public Road, and on the West by other lands of the said Hermitage Estate, all as the same is set out bounded and described in a plan thereof drawn by Bertrand B. Burke, Licensed Surveyor, on 13 November, 1974. (*S.R.O. 1/1975*)

(5) ALL THAT rectangular lot, piece or parcel of land, situate entirely within the boundaries of the property of the Church of God of Prophecy at Happy Hill Village in the Parish of Saint Peter, lying to the East of the present Church Building, and in extent sixty feet in length by twenty two feet in width, as delineated on a published 12:2500 map sheet signed by Senior Surveyor E.F. Lucas and dated 6 April, 1973. (*S.R.O. 23/1973*)

(6) ALL THAT lot piece or parcel of land situate at Salem in the Parish of Saint Peter in Montserrat containing 6755.01 square feet and bounded as follows, that is to say, on or towards the North by land of William Sweeney, on or towards the South by the public road, on or towards the East by land of William Sweeney and on or towards the West by the public road, all as the same are delineated and set forth on the plan thereof by James Percival Meade, licensed surveyor of Plymouth and dated 13 October, 1971. (*S.R.O. 7/1976*).

(7) Parcel of land situated at Salem approximately one acre being parcel 11/2/21, bounded as follows—

On the North by parcel 11/2/20 (St. James Anglican Church); on the East by parcel 11/2/183 (Unclaimed); on the South by parcel 11/2/22 (Shiloh Pentecostal Church); on the West by Public Main Road. (*S.R.O. 71/2003*)

(8) Parcel of land situated at Lime Kiln and described as Block 12/4 Parcel 325 in the Beachettes Registration Section, for the purposes of the burial of the body of Mr Alphonsus Cassell MBE. (*S.R.O. 42/2010*)

(9) Parcel of land situated at Lookout approximately 118,047.6 square feet or 2.71 acres being Block 14/8 Parcel 1 in the St. John's Registration Section, bounded as follows—

On the North by Block 14/16 Parcel 85 in the St. John's Registration Section; on the East by the Cliff Face of Block 14/16 Parcel 87 in the St. John's Registration Section; on the South by Block 14/16 Parcel 85 in the St. John's Registration Section; and, on the North West by Block 14/16 Parcel 85 in the St. John's Registration Section.

BURIAL GROUNDS REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Short title
2. Interpretation
3. Control of burial grounds
4. Hours of opening
5. Register of interments
6. Fees to be paid into Treasury
7. Dimensions of graves
8. Re-opening of grave
9. Number of bodies in one grave
10. Erections of vaults, etc.
11. Board to be informed of design of vault, etc.
12. Repairs to erections in burial ground
13. Design of fence or enclosure to be approved by Board
14. Fees for burial and other matters
15. Grave diggers
16. Monuments, etc., in state of disrepair
17. Paupers, etc.
18. Offences
19. Public behaviour in burial ground

SCHEDULE: Fees

BURIAL GROUNDS REGULATIONS – SECTION 5

(S.R.O.s 4/1945 and 4/1960)

Short title

1. These Regulations may be cited as the Burial Grounds Regulations.

Interpretation

2. In these Regulations “**the Board**” shall mean the Public Health Advisory Board established by the Public Health Act.

Control of burial grounds

3. Every burial ground shall be under the control of the sanitary officer of the district or such other person as may be appointed by the Governor. Such officer shall be known as “**the Custodian**” of the burial ground for which he shall be appointed, and shall be responsible for its proper management in accordance with these Regulations.

Hours of opening

4. Every burial ground shall be open for burials from 6 a.m. to 6 p.m. daily.

Register of interments

5. The Custodian shall keep a register for all interments, showing the dates of burial, names, sexes, and ages of all persons buried in the burial ground under his control. He shall also keep an account book in which shall be entered all moneys received and expended by him with the dates of each receipt and payment.

Fees to be paid into Treasury

6. (1) All fees and dues received or recovered under these Regulations by the Custodian shall forthwith be paid into the Treasury.

(2) Fees and dues payable under these Regulations may be sued for and recovered by the Custodian summarily as a civil debt.

(3) No grave shall be opened in a burial ground without the permission of the Custodian and until all fees for the same shall have been paid.

Dimensions of graves

7. No grave shall be more than nine feet or less than six feet in depth.

Re-opening of grave

8. No grave shall be re-opened until ten years shall have elapsed from the date of the original opening of the same.

Number of bodies in one grave

9. Not more than one body shall, without the written permission of the Custodian, be interred in any one grave, except where more than one member of the same family is to be buried at one and the same time.

Erections of vaults, etc.

10. (1) No person shall build or erect any vault, tomb, headstone, monument, cross or fence in any part of a burial ground without having purchased the fee simple thereof. The part so acquired shall be enclosed within six months after it has been purchased.

(2) The price to be paid for acquiring the fee simple of land at a burial ground shall be at the rate of thirty six cents per square foot, superficial measure.

(3) No quantity of land less than eight feet by three feet shall be sold except as an addition to land already acquired.

(4) The acquisition of the fee simple of land in a burial ground shall be subject to these Regulations.

Board to be informed of design of vault, etc.

11. Before any vault, tomb, headstone, monument, cross or fence is built or erected in any part of a burial ground, a statement in writing of the design and material of the same and of the terms of inscription which it is intended to affix thereto shall be submitted to the Board and no work shall be commenced on any such building or erection until the Board shall have approved in writing of such design and material and, in the case of an inscription, of the terms of such inscription.

Repairs to erections in burial ground

12. Monuments, railings, headstones and curbings shall be kept in repair by the owner.

Design of fence or enclosure to be approved by Board

13. No denomination to whom a particular portion of a burial ground has been allotted shall erect any separate fence or enclosure to such portion until the design and plan thereof have been approved in writing by the Board.

Fees for burial and other matters

14. The fees for burials and for admission of a hearse or carriage in a burial ground shall be in accordance with the Schedule.

Grave diggers

15. (1) The Custodian shall appoint, subject to the approval of the Board, grave diggers, who shall receive such wages as are approved by the Board. The grave diggers shall prepare the graves, and shall be present at all funerals to render every necessary assistance, and when not engaged in digging graves, they shall be employed

in the cleaning of the ground, roads, and walks, and in the care of the burial ground generally.

(2) No grave shall be dug in a burial ground except by a person employed by, or with the approval of the Board.

Monuments, etc., in state of disrepair

16. The Custodian shall have the right to require the owner to repair or remove any monument, railing, headstone or curbing, which has become dilapidated, or which, in his opinion, is not kept in proper repair. After the expiration of fourteen days from the date of a notice, in writing, requiring the owner to repair or remove such monument, railing, headstone or curbing, the Custodian may, on failure of the owner to comply with such order, have the necessary work executed and recover the cost thereof before a magistrate summarily as a civil debt. In the absence of any known owner, the Board may have the necessary work done.

Paupers, etc.

17. Upon the receipt of an order duly signed by a magistrate, or of the certificate of death from the proper officer of a public institution, for the burial of any pauper or person dying in such public institution, or in other cases where the expenses of burial are being borne by Government, the Custodian shall order that a grave be given free of charge for the burial of such person, and shall remit all other fees.

Offences

18. No person shall within a burial ground—

- (a) damage any building, fence, monument, tomb, tree or shrub;
- (b) walk over, or climb upon any building, fence, monument, rail, tomb or tree;
- (c) commit any nuisance;
- (d) create any disturbance, or indulge in any noisy, provoking or boisterous language;
- (e) behave disrespectfully during the burial of a body;
- (f) play any game;
- (g) leave any litter or deposit any filth;
- (h) tether or allow to be at large or in any way graze any animal;
- (i) pluck or remove any branches of trees, flowers or shrubs of any kind without the permission of the Custodian;
- (j) haul or drive any cart, carriage, or other vehicle of any kind without permission having been first obtained from the Custodian.

Public behaviour in burial ground

19. Every visitor to a burial ground shall deport himself with decorum and shall be decently clothed.

SCHEDULE

(REGULATION 14)

*(Impliedly amended by S.R.O. 11/1985 and substituted by S.R.O. 29/2009)***FEES**

	\$
1. Opening of Grave Permission - Adult	15
2. Opening of Grave Permission - Child	10
3. Tomb Space	50
