



MONTSERRAT

CHAPTER 14.12

CEMETERIES ACT

Revised Edition

showing the law as at 1 January 2025

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—

CEMETERIES ACT

Act 19 of 2024 .. in force 28 June 2024

CEMETERIES REGULATIONS – Section 10

S.R.O. 36/2024 .. in force 9 September 2024

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CHAPTER 14.12

CEMETERIES ACT

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CHAPTER 14.12

CEMETERIES ACT

(Act 19 of 2024)

AN ACT TO PROVIDE FOR THE LICENSING AND ALLOTMENT OF CEMETERIES, TO REGULATE THE INTERMENT OF DECEASED PERSONS, AND FOR RELATED MATTERS.

Commencement

[28 June 2024]

Short title

1. This Act may be cited as the Cemeteries Act.

Interpretation

2. In this Act—

“**Board**” means the Public Health Advisory Board established by the Public Health Act (Cap. 14.01);

“**body**” means a dead human body;

“**cemetery**” means a place licensed for the interment of a body;

“**inter**” means to place in a grave, tomb or mausoleum and “**interred**” and “**interment**” shall be construed accordingly.

Licensing of cemeteries

3. The Governor, acting on the advice of the Cabinet, may by proclamation licence as a public or private cemetery any parcel of land which may be required for that purpose.

Prohibition of interment in unlicensed place

4. (1) A person shall not inter a body in a place other than a cemetery.

(2) A person who contravenes subsection (1) or assists in the contravention of subsection (1), commits a summary offence and is liable to a fine of \$5,000 and in the case of a continuing offence, to a further fine of \$100 for each day the offence is continued.

Management and control of cemeteries

5. The management and control of all cemeteries is vested in the Board.

Allotments to religious denominations

6. (1) The Board may allot a public cemetery in such proportion as it considers reasonable, to a religious denomination in Montserrat.

(2) No religious service shall be performed at an interment in a part of a public cemetery allotted under subsection (1), unless the minister of religion or other religious leader in charge of the religious denomination has consented to the religious service.

Discontinuance of cemeteries

7. (1) Where it appears to the Governor, acting on the advice of the Cabinet, that interment in a cemetery should be discontinued in the public interest, the Governor, acting on the advice of the Cabinet, may by Order declare that, after a time stated in the Order, interment in the cemetery is discontinued.

(2) A notice of the Order declaring the discontinuance of interment in the cemetery shall be published in the *Gazette* at least one month before the Order takes effect.

(3) After the expiration of the period stated in the Order, the cemetery shall no longer be used for interment.

Excavation, disturbance or removal of body, etc.

8. (1) Subject to subsection (2), a person who—

- (a) excavates a grave or tomb containing a body other than for the purpose of interring another body in accordance with this Act and regulations made under this Act;
- (b) disturbs a body or the remains of a body interred in a cemetery;
or
- (c) removes any body or part of a body interred in a cemetery or any item interred with a body in a cemetery,

commits a summary offence and is liable to a fine of \$5,000.

(2) For the avoidance of doubt, this section does not apply to exhumation authorised by the Chief Medical Officer.

General penalty

9. A person who contravenes this Act or regulations made under this Act, for which no penalty is expressed, commits a summary offence and is liable to a fine of \$2,000 and in the case of a continuing offence, to a further fine of \$100 for each day the offence is continued.

Regulations

10. (1) The Board may, with the approval of the Governor, acting on the advice of the Cabinet, make regulations for the general governance of cemeteries.

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

Savings

¹11. (1) A Burial Grounds Proclamation made under section 3 of the repealed Burial Grounds Act (Act 5 of 1944) continues in force until repealed.

(2) A burial ground licensed by a Burial Grounds Proclamation made under section 3 of the repealed Burial Grounds Act (Act 5 of 1944) continues to be licensed until interment is discontinued under section 7.

¹ Cap. 14.12, 2019 Revised Edition (now repealed)

CEMETERIES REGULATIONS

ARRANGEMENT OF SECTIONS

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SCHEDULE: Interment and other fees

CEMETERIES REGULATIONS – SECTION 10

(S.R.O. 36/2024)

Commencement

[9 September 2024]

Citation

1. These Regulations may be cited as the Cemeteries Regulations.

Interpretation

2. In these Regulations—

“**Custodian**” means—

- (a) in respect of a private cemetery, a person designated by the minister of religion or other religious leader in charge of the religious establishment attached to the private cemetery;
- (b) in respect of a public cemetery, the Environmental Health Officer assigned to the district in which the public cemetery is located; or
- (c) in respect of a private cemetery other than a private cemetery in paragraph (a), the owner of the land on which the private cemetery is located;

“**mausoleum**” means a building constructed above ground for the interment of a body;

“**Minister**” means the Minister with responsibility for health;

“**tomb**” means an underground vault for the interment of a body.

Management of cemeteries

3. A Custodian is, on behalf of the Board, responsible for the management of the cemetery for which he is appointed.

Hours of opening

4. A cemetery shall be open for interment from 6 a.m. to 6 p.m. daily.

Application and grant of approval for interment

5. (1) A body shall only be interred in a cemetery.

(2) A body shall not be interred in a cemetery without the approval of a Custodian.

(3) A person who wishes to inter a body in a cemetery shall make an application to a Custodian for the interment of a body and in the case of interment in a private cemetery, a copy of the application shall be submitted to the Environmental Health Department.

- (4) An application shall set out—
- (a) the name, age and gender of the person to be interred;
 - (b) the date and place of death of the person to be interred;
 - (c) the religious denomination of the person to be interred, if any;
 - (d) the proposed date of interment;
 - (e) the location where the body is to be interred, including whether it is in a public cemetery or private cemetery;
 - (f) whether the body is to be interred in a grave, tomb or mausoleum;
 - (g) whether the body is to be interred in a grave or tomb which contains a body or is intended to contain more than one body;
 - (h) if the body is to be interred in a mausoleum, whether it is a private mausoleum or public mausoleum;
 - (i) the particular vault in the private mausoleum the body will be interred, if any;
 - (j) any other information that the Custodian deems necessary.
- (5) An application shall be accompanied by—
- (a) the permit to bury in respect of the person, issued in accordance with the Registration of Births and Deaths Act (Cap. 6.13);
 - (b) an image or specimen of the design of the tomb, if necessary; and
 - (c) in the case where the application is for the interment of the second body in a grave or tomb, a certificate from the Environmental Health Department certifying that a body has already been interred in the grave; and
 - (d) the fee payable for—
 - (i) interment in a grave;
 - (ii) interment in a tomb in a public cemetery for the interment of two bodies;
 - (iii) interment in a public mausoleum;
 - (iv) interment in a private mausoleum;
 - (v) interment in a private tomb; or
 - (vi) purchase of a tomb in a public cemetery for the interment of two bodies.

(6) The Custodian shall, on being satisfied that all the necessary information has been provided and the requisite fees have been paid, grant written approval to an applicant for the interment of a body in a cemetery.

(7) Despite subregulation (5)(d)(iii) or (vi), if a person has, prior to the submission of an application under subregulation (3), purchased a tomb in a public cemetery for the interment of two bodies or has purchased a vault in a public

mausoleum, he shall submit proof of payment of the required fee in support of his application.

Register of interments

6. (1) A Custodian shall keep a register of interments, setting out the dates of interment, names, sexes, and ages of all persons interred in the cemetery under his management and the manner of interment.

(2) A Custodian shall submit to the Board an annual report setting out the information recorded in the register of interments, within three months of the end of the calendar year.

Number of bodies in a coffin, grave or tomb

7. (1) A body shall be placed in a coffin prior to interment and a coffin shall not contain more than one body.

(2) A grave or tomb may contain a maximum of two bodies with each body in a coffin.

Dimensions of graves and tombs

8. (1) A grave for interment of a body in a coffin shall, in respect of—

(a) one coffin, be no less than six feet deep; and

(b) two coffins, be no less than nine feet deep; and

(2) A tomb for the interment of a body in a coffin shall, in respect of—

(a) one tomb, be no less than three feet deep; and

(b) two tombs, be no less than six feet deep.

Burial of mother and child

9. (1) Despite regulation 7, the Board may approve the interment of a mother and her child under the age of three years in one coffin at the same time.

(2) The Board may determine the manner in which a burial under subregulation (1) may be conducted.

Interment of ashes in a grave

10. (1) A person who wishes to inter the ashes of a person in a grave in a cemetery shall make an application to the Custodian for the interment of the ashes and in the case of interment in a private cemetery, a copy of the application shall be submitted to the Environmental Health Department.

(2) An application under subregulation (1) shall set out the information required in regulation 5(4)(a) to (e) and (k) and shall be accompanied by the fee payable for interment of ashes in a grave.

(3) The Custodian shall, on being satisfied that all the necessary information has been provided and the requisite fee has been paid, grant written approval to an applicant for the interment of the ashes in a grave in a cemetery.

(4) The ashes of a person shall be placed in an urn or similar receptacle prior to interment in a grave.

(5) A grave for the interment of ashes shall be no less than three feet deep.

Public mausoleums

11. (1) The Governor, acting on the advice of the Cabinet, may authorise the construction of public mausoleums in a public cemetery.

(2) A public mausoleum shall be constructed in accordance with the grant of development permission for the construction of the public mausoleum under the Physical Planning Act (Cap. 8.03).

Private mausoleums

12. (1) A person who wishes to construct a private mausoleum in a private cemetery shall make an application to the Custodian and the person shall submit a copy of the application to the Board.

(2) An application under subregulation (1) shall be accompanied by—

- (a) the location in the cemetery in which the private mausoleum is to be constructed;
- (b) proof of the grant of development permission for the construction of the private mausoleum under the Physical Planning Act (Cap. 8.03);
- (c) copies of the drawings submitted to support the grant of permission under paragraph (b) for the construction of the private mausoleum;
- (d) the number of vaults the private mausoleum will contain;
- (e) details of the religious denominations of the persons to be interred in the private mausoleum, if any;
- (f) written confirmation by the religious leader of the denomination that there is no objection to the construction of the private mausoleum; and
- (g) the fee payable for the sale of land for the construction of a private mausoleum in a private cemetery.

(3) The Custodian shall, on being satisfied that all the required information has been submitted and the requisite fees have been paid, grant approval for the construction of the private mausoleum.

Re-opening of graves, tombs or mausoleums

13. (1) A grave or tomb shall only be re-opened for the purpose of—

- (a) interring a second body; or
- (b) exhuming a body on the written authorisation of the Chief Medical Officer.

(2) A vault in a mausoleum shall only be re-opened for the purpose of exhuming a body on the written authorisation of the Chief Medical Officer.

(3) For the purposes of subregulation (1)(a), the Custodian may authorise the re-opening of a grave or tomb no earlier than—

- (a) seven years from the date of the first interment, if the coffins in the grave are to be separated by a layer of earth;
- (b) seven days from the date of the first interment, if the coffins in the tomb are to be separated by a layer of concrete.

Grave digging, etc.

14. A person, other than a person employed by or with the approval of a Custodian, shall not—

- (a) dig a grave;
- (b) place a tomb; or
- (c) construct a mausoleum,

in a cemetery.

Erection of headstones

15. (1) A person shall not erect a headstone in any part of a—

- (a) public cemetery without the written permission of the Board; or
- (b) private cemetery without the written permission of the Custodian.

(2) A person may erect and install a temporary cross or other temporary marker on a grave or tomb.

(3) A headstone installed on a grave or tomb shall not exceed a width of three feet or a height of two and a half feet.

(4) No person shall install or erect a structure other than a structure listed under subregulation (1) or (2) in a cemetery.

Application and grant of permission to erect a headstone

16. (1) A person may make an application to the Custodian for permission to erect a headstone on a grave in a cemetery and in the case of a public cemetery, the Custodian shall submit the application to the Board for approval.

(2) An application shall set out—

- (a) the name of the applicant;
- (b) the name of the deceased person in respect of whom the headstone is to be erected;
- (c) the location of the grave or tomb in respect of which the headstone is to be erected;
- (d) whether the grave or tomb on which the headstone is to be erected contains or is intended to contain two bodies;
- (e) the proposed date of erection of the headstone; and

(f) any other information the Board deems necessary.

(3) An application shall be accompanied by—

(a) the death certificate of the person in respect of whom the headstone is to be erected;

(b) a statement in writing or image of the design and the words to be inscribed on the headstone; and

(c) the fee payable for the grant of permission to erect the headstone.

(4) The Board shall, on being satisfied—

(a) with the information provided; and

(b) that the requisite fee has been paid for permission to erect a headstone,

grant written permission to the applicant to erect a headstone on a grave or tomb.

(5) No headstone may be erected on a grave or tomb on which a headstone is already placed.

Repairs to headstone in cemetery

17. A headstone in a cemetery shall be kept in repair by the owner of the headstone or the person to whom permission was granted for the erection of the headstone.

Headstone, etc., in state of disrepair

18. (1) The Custodian may, by written notice, require the owner of a headstone or the person to whom permission was granted for the erection of a headstone to repair or remove the headstone if it has become dilapidated or is not kept in proper repair.

(2) After the expiration of fourteen days from the date of transmission of a notice under subregulation (1), the Custodian may, on failure of the owner or other person to whom permission was granted to comply with the notice, cause the necessary work to be executed and recover the cost of the work before a Magistrate as a civil debt.

(3) If the Custodian is unable to identify or locate the owner of a headstone or the person to whom permission was granted for the erection of a headstone, the Board may cause the necessary work to be done.

Interment of indigent persons, etc.

19. (1) No fee shall be payable for the interment in a grave of an indigent person.

(2) The Government shall bear the cost for the interment in a grave of an indigent person.

Mass interment

20. (1) Despite these Regulations, the Chief Medical Officer may authorise the conduct of mass interments.

(2) The Chief Medical Officer shall, within a reasonable time, provide a report to the Board, on the exercise of his powers under subregulation (1).

(3) The Chief Medical Officer shall issue guidelines for the conduct of mass interments.

(4) For the purposes of this section, “**mass interments**” means the interment of three or more bodies in a single grave, where multiple deaths occur as a result of—

- (a) an epidemic, pandemic, natural disaster, famine or accident;
- (b) the spread of infectious or contagious disease; or
- (c) any other cause the Chief Medical Officer deems relevant.

Fees for interment and other matters

21. (1) The fees for—

- (a) interment in a grave;
- (b) interment in a tomb in a public cemetery for the interment of two bodies;
- (c) interment in a public mausoleum;
- (d) interment in a private mausoleum;
- (e) interment in a private tomb;
- (f) purchase of a tomb in a public cemetery for the interment of two bodies;
- (g) erection of a headstone; and
- (i) interment of ashes in a grave,

are set out in the Schedule.

(2) The fees under subregulation (1) are non-refundable.

(3) All fees and dues received or recovered under these Regulations shall be paid to the Accountant General.

Provision for sale of tombs in a public cemetery or public mausoleums

22. (1) A person may sell or otherwise transfer a tomb in a public cemetery for the interment of two bodies, if at least one level of the tomb is unoccupied.

(2) A person who intends to sell or otherwise transfer a tomb in a public cemetery for the interment of two bodies shall, prior to the sale or transfer, notify the Board in writing.

(3) A sale shall not be completed until the Board confirms to the person under subregulations (1) and (2), in writing, that one or both levels of the tomb is unoccupied.

(4) A person under this regulation shall, following the sale or transfer, submit written proof of the sale or transfer to the Board.

Offences

23. (1) A person shall not, within a cemetery—

- (a) damage a building, fence, headstone, monument, tomb, tree or shrub;

- (b) climb on a building, fence, headstone, monument, rail, tomb or tree;
- (c) commit a nuisance;
- (d) create a disturbance or indulge in noisy, provoking or boisterous language;
- (e) behave in a disorderly manner during or disrupt the interment of a body;
- (f) play a game;
- (g) deposit litter;
- (h) tether or allow to be at large or in any way graze an animal;
- (i) pluck or remove any branches of trees, flowers or shrubs of any kind from the cemetery without the permission of the Custodian;
- (j) haul or drive any cart, carriage, or other vehicle of any kind without the permission of the Custodian.

(2) A person shall not enter or remain in a public cemetery after 6 p.m. or before 6 a.m., without the permission of the Custodian.

SCHEDULE
(Regulation 21)
INTERMENT AND OTHER FEES

No.	Service	Fee (\$)
1.	Interment in a grave	100
2.	Interment in a tomb in a public cemetery for the interment of two bodies	100
3.	Interment in a public mausoleum	3,000
4.	Interment in a private mausoleum	100
5.	Interment in a private tomb	100
6.	Purchase of a tomb in a public cemetery for interment of two bodies	6,000
7.	Erection of a headstone	100
8.	Interment of ashes in a grave	100