CHAPTER 17

BURIALS ORDINANCE*

To prohibit the burial of corpses in certain places and to make other provisions in connection therewith.

(10th May, 1869)†

ORDINANCE II of 1869, as amended by Ordinance V of 1873; Act IV of 1955; Legal Notice 4 of l963; Acts: III of 1974, XXII and XXXVI of 1975, XI of 1977, IX of 1982, XIII of 1983 and Legal Notice 407 of 2007.

Short title.

1. This Ordinance may be cited as the Burials Ordinance.

Santa Maria Addolorata Cemetery. *Amended by: XXXVI.1975.2.*

2. (1) The cemetery constructed upon the hill situate within the limits of Tarxien, to the right of the slope called *Tal-Palma*, shall be the main burial place in Malta and every Maltese citizen shall be entitled to be buried in the said cemetery in accordance with the provisions of this Ordinance and of any other relevant law.

(2) Such cemetery shall be called "The Santa Maria Addolorata Cemetery".

Demands for grants of sites. *Amended by: IV.1955.3; L.N. 4 of 1963; XXII.1975.2; XI.1977.2; IX.1982.2; XIII.1983.5; L.N. 407 of 2007.*

3. (1) It shall be lawful for any person to apply, in writing, to the Superintendent of Public Health for the grant of a site, of the extent of two and one-half metres in length and one metre and five centimetres in width, in such part of any cemetery belonging to the Government, as, according to a plan made by the Superintendent of Public Health, is appointed for the construction of private graves, for the purpose of constructing thereon, at his expense, a grave, upon payment in respect of such site of the sum of fifty-eight euros and twenty-three cents (58.23).

(2) The said dimensions shall include such parts of the site as have already, according to the provisions of articles 7 and 8, been occupied by dividing walls constructed by others.

(3) From time to time the Superintendent of Public Health may cause to be constructed private graves on unappropriated sites for disposal to applicants therefor. On an application for the acquisition of a constructed grave, and if such a constructed grave is available, the Superintendent of Public Health shall require the applicant to pay a sum of sixty-five euros and eighty cents (65.80) that shall be inclusive of the consideration for the site.

(4) No such application shall be considered unless it is accompanied by a deposit of the appropriate sum in the office of the Superintendent of Public Health and by a declaration signed by the applicant to the effect that neither he nor any member of his family is the owner of any grave or site for a grave in any Government cemetery:

**See* also the Addolorata Cemetery Ordinance (Chapter 18) and Part VI of the Code of Police Laws (Chapter 10).
†*See* Proclamation No. 1 of the 10th May, 1869.

Provided that the said Superintendent may, where he is satisfied of the real needs of the applicant, grant exemption from the production of the said declaration.

For the purpose of this subarticle, "family" means the father, the mother, the husband or wife, any brother, sister, son or daughter of the applicant.

(5) The amounts of money expressed in subarticles (1) and (3) may be varied from time to time by the Minister responsible for public health by means of a notice in the Government Gazette referable to a period commencing not earlier than four weeks from the date of the notice.

Transfer of graves or sites. *Added by: XXII.1975.3.*

4. (1) No person may transfer to any other person any grave or site for a grave in any Government cemetery without the prior approval of the Superintendent of Public Health.

(2) The said Superintendent may subject his approval to the production of a declaration similar to that referred to in subarticle (4) of article 3 of this Ordinance, unless he is satisfied of the real needs of the applicant.

Grant of areas. *Substituted by: IX.1982.2.*

5. The Superintendent of Public Health may, upon an application to this effect, and upon the payment of such fee as may be fixed by the said Superintendent, grant, together with a site, an area, not exceeding twenty-six metres in surface, contiguous to the said site, for the construction of additional graves or for the erection of a chapel.

Construction of tombs in crypt. *Amended by: L.N. 4 of 1963; XI.1977.2; IX.1982.2.*

6. Any grave in any part of a cemetery must be entirely constructed underground, and covered with stones to the level of the nearest pathway; any side of every such grave, which is not at least sixty centimetres distant from the nearest point of the ground granted to the person to whom the said grave belongs, although it has been excavated in the rock, must be constructed with a wall of not less than thirty centimetres in thickness; and the grave itself must be at least one metre and eighty-three centimetres deep:

Provided that even such graves may, with the permission of the Minister responsible for public health, be of a less depth, width, or length, or be constructed on the surface of the ground.

Dividing wall.

7. Any person constructing a grave contiguous to ground granted or destined to be granted to others, may construct the dividing wall, to a thickness of fifteen centimetres, on such ground: and in such case, the Superintendent of Public Health, or the person to whom the said ground shall have been granted, may, for one of the sides of another grave, avail himself of the wall thus constructed, on paying to the possessor of the former grave, half the value of the said wall, to be considered as a wall of thirty centimetres in thickness.

Consent of other possessors necessary in certain cases for raising wall.

8. (1) The possessor of a grave of which one or more walls, shall have been partly constructed beyond his own ground, or the person who in the construction of a grave shall have rendered common a wall of another grave, cannot, without the consent of the

possessor of the latter grave, raise such wall above the level of the surface of the pathway nearest to the said grave.

(2) The possessor or person aforesaid may, nevertheless, cover over his own grave with a cover or a monument rising above the said level, and avail himself of the common wall for the support of such work, provided he does not thereby hinder, or render difficult the opening of the adjoining grave, and saving always the provisions contained in article 10.

Structures on graves. *Amended by: III.1974.2; XI.1977.2.*

9. (1) Saving the provisions contained in the foregoing articles, it shall be lawful for any person having a grave, in the said cemetery, outside the crypt of the chapel, to enclose such grave together with any other area granted to him, with walls or otherwise; to erect on his own ground any monument or other structure to which access may be had from the common pathway, without passing over sites granted or destined to be granted to others; and to make thereon any inscription he pleases; provided the design of any such work and the draft of the inscription be approved by the Board referred to in subarticle (3) hereof.

(2) It shall also be lawful for any person having a tomb in the crypt of the chapel, to make thereon any inscription approved by the said Board; but he may not construct any work without the permission of the Minister responsible for public health, besides the approval of the said Board.

(3) For the purposes of this article, there shall be a board, to be known as the Burials Board which shall be composed of a chairman and two members appointed annually by the Minister responsible for public health.

Structure of more than sixty centimetres in height.

10. It shall not be lawful for any person to erect any structure or monument of more than sixty centimetres in height, if between such structure or monument and the nearest structure or monument, there shall not be at least a distance of one metre and twenty centimetres.

Marks of boundaries of site. *Amended by: IV.1955.4; IX.1982.2.*

11. (1) Any person obtaining a site with the addition of another area the limits of which, in the opinion of the Superintendent of Public Health, cannot be exactly fixed by reference to the plan mentioned in article 3, shall, within ten days of a notice which will be given to him by the said Superintendent of Public Health, make visible and permanent marks of the boundaries of the site with the said area, to the satisfaction of the Superintendent of Public Health or of another person appointed by him.

(2) In default of such marks being made by the grantee within the said time, they shall be made by the Superintendent of Public Health, who, in such case, shall exact from the grantee a sum not larger than the expense incurred.

Charnel house and place of deposit. *Amended by: V.1873.1.*

12. (1) The possessor of a private grave in the said cemetery, shall be gratuitously allowed, on the occasion of the burial of any corpse in that grave, if there shall not be therein sufficient space for such burial, to cause the remains of corpses, previously buried therein to be, at his expense, removed to the general charnel house

to be for such purpose constructed at the expense of the Government.

(2) If the said grave cannot be used on account of a recent burial, the possessor shall, without payment of any fee, be permitted to cause the corpse which is to be buried therein, to be placed in deposit in another grave, in a place within the cemetery to be for that purpose constructed by the Government, until the said grave may be used according to law.

(3) In the place of deposit mentioned in subarticle (2) of this article, no corpse of a member of any congregation shall be permitted to be placed, so long as there are therein four other corpses of members of the said congregation.

Effects of prohibition.

Cap. 10.

13. The prohibition made in virtue of the last preceding article shall, to all intents and purposes, have the same effect as a prohibition made in virtue of article 144 of the Code of Police Laws.

Conveyance of corpses to churches. *Amended by: IX.1982.2.*

14. (1) The said prohibition shall not have the effect of preventing the conveyance of any corpse from the place in which the deceased has died, to any church or chapel for any religious service or other purposes, to be thereafter conveyed from such church or chapel for burial in a place authorised according to law.

(2) Moreover, nothing in this Ordinance contained shall affect the existing laws respecting funeral emoluments due to any ecclesiastic or religious body corporate, in connection with the right of sepulture, which the deceased, before the said prohibition, may have had in any church or chapel.

(3) Finally, except the right of burying corpses in graves situate within the limits of any of the said places, any other right over such graves, which the possessors thereof have according to law, shall remain unaffected.

Penalty for false declaration. *Added by: XXII.1975.4. Amended by: XIII.1983.5; L.N. 407 of 2007.*

15. Any person who makes a false declaration for the purposes of article 3 or of article 4 of this Ordinance shall be guilty of an offence and shall be liable, on conviction, to a fine (*multa*) of not less than fifty-eight euros and twenty-three cents (58.23) but not exceeding two hundred and thirty-two euros and ninety-four cents (232.94).

FORM

[ARTICLE 3]

Amended by:
XIII.1983.4.
Substituted by:
L.N. 407 of 2007.

Application for the non-gratuitous grant of a site for a grave, with or without additional area.

To the Superintendent of Public Health

Date.....

The undersigned.....*(besides the name and surname, the place of birth, the profession, trade, or other state, and the name of the father, must be stated)* and residing at.....(*name of the city or suburb),* No.....(*address)* requests the grant of the site for a grave, marked No ..... in the ..... (*East or West, as the case may be)* Division, Section ..... (*to be indicated by the letter),* Compartment ..... *(to be indicated by the letter),* on the plan of the Santa Maria Addolorata Cemetery existing in the office of the Superintendent of Public Health.

If, besides a site for a grave, the grant of another contiguous area is required, the following is to be added-

He further requests the grant of an area of ..... square meters, contiguous to the said site.

And the undersigned hereby pays in the said office, the sum of ..... namely for the site for a grave, and ..... for the contigous area on the basis of ..... per square metre.

Signature