CHAPTER 18

ADDOLORATA CEMETERY ORDINANCE*

To make certain provisions respecting the Cemetery of the Addolorata.

26th July, 1870

ORDINANCE II of 1870, as amended by Ordinances V of 1876 and XIX of 1921; Legal Notice 4 of 1963; and Acts XI of 1977, XIII of 1983, XIII of 2005 and Legal Notice 407 of 2007 and Act XVII of 2019.

Short title.

1. The short title of this Ordinance is the Addolorata Cemetery Ordinance.

Corpses or urns containing cremated remains conveyed to cemetery for burial without licence. *Amended by: XVII.2019.42.*

2. Every corpse or urn containing cremated remains conveyed to the Santa Maria Addolorata Cemetery for burial without the licence of the Police, shall be placed in the room appointed for the purpose, and shall, unless otherwise ordered by the Police or by a court of justice, be kept under the care of the chaplain or other person employed in the cemetery, until the said licence be obtained.

Amended by: XVII.2019.42.

3. Such licence shall contain the following particulars:

(*a*) the date of the licence;

(*b*) the name, surname, profession, trade or other status, and the age, place of birth, and that of the last abode of the deceased;

(*c*) the name and surname of each of the parents of the deceased, and whether they are living or dead;

(*d*) the name and surname of the husband or wife of the deceased, and whether the deceased was married or was a widower or a widow;

(*e*) the hour, the day, the month, and the year when, and the place where, the deceased died;

(*f*) the cause of the death;

(*g*) whether the corpse or urn containing cremated remains is to be buried in a common or in a private grave, with an indication, in the latter case, of the number of the grave, and the division, article, and compartment of the cemetery where such grave is situated, and of the title of the deceased to be buried in it:

Provided that, before issuing the said licence, the Police may ask the applicant to produce a written statement showing such title.

Powers of officer issuing licence.

Cap. 16.

4. For the purpose of collecting or ascertaining the particulars mentioned in the last preceding article, the officer charged with the duty of giving out the licence, shall have the same powers as are under article 302 of the Civil Code vested in the officer charged with the duty of drawing up acts of death.

*See also the Burials Ordinance (Chapter 17) and Part VI of the Code of Police Laws (Chapter 10).

Where officer fails to obtain satisfactory information as to any particular.

5. If, after a careful inquiry, the officer charged with the duty of giving out the licence, fails to obtain satisfactory information as to any of the particulars mentioned in article 3, he shall state in the proper place in the said licence, that such particular is not known to him:

Provided that in such case he shall, within twenty-four hours from the drawing up of the act of death, transmit a copy of such act to the officer of the cemetery who shall have received the licence aforesaid.

Right of sepulture. *Amended by: XIII. 2005.11.*

6. Respecting the rights of a deceased over a private grave, the following provisions shall, in default of proof to the contrary, be observed:

(*a*) all descendants of the person to whom a grave in a church or chapel was granted and for which, according to the provisions of the Burials Ordinance, Cap. 17., another grave in the cemetery has been substituted, shall be presumed to possess an equal right to be buried in the latter;

(*b*) every person is presumed to possess the right to be buried in the grave which has been substituted for another existing in a church or chapel, and in which any one of his blood relations, as of his own right, was buried;

(*c*) a wife or a husband may be buried in the grave of his or her family, or in that of the respective spouse or of his or her family.

Graves substituted for others unnumbered. *Amended by: XIX.1921.3.*

7. A person having a right over a private grave which was substituted for another existing in a church or chapel, but without indication of the number of the latter, shall be buried in one of the graves situated in the western division, section Z, compartment A**,** of the said cemetery, and marked with numbers 1 to 30, or in one of the graves appointed by the Superintendent of Public Health for such purpose.

Certificate proving title. *Amended by: V.1876.1.*

8. (1) A certificate from the parish priest or other superior of a church or chapel declaring the deceased to be a descendant of a person to whom a particular grave had been granted in that church or chapel, or a blood relation of a person buried in that church or chapel, and in which the number of such grave is indicated, or in which it is stated that such grave is not numbered, or, as the case may be, that it is not certain in which particular grave the said relation was buried, shall be deemed sufficient for the Police to indicate in the licence, according to the provisions of the foregoing articles, the grave in the cemetery in which the deceased is to be buried.

Signing of certificate.

(2) The certificate mentioned in subarticle (1) shall not have the required effect as regards the consanguinity of the deceased person with the person to whom a grave had been granted, or who was buried in a church or chapel, unless such certificate is signed or countersigned by a parish priest or other ecclesiastic having the cure of souls.

9. In default of the certificate aforesaid, or of other proofs of the right over a private grave, the deceased shall be buried in one of the common graves:

Default of proof of title.
Amended by: XIX.1921.2, 3; XIII.1983.5; L.N. 407 of 2007.

Provided that in such case, it shall be lawful for any person, without the necessity of declaring his own interest, and upon depositing, in the office of the said Superintendent of Public Health, the sum of sixteen euros and thirty-one cents (16.31) (representing the cost of the grave and the notarial and other expenses in connection with the acquisition thereof), to demand that the corpse be provisionally buried in a particular grave not yet granted to others; and if, within two years from the day of burial, it shall, at the suit of the said person, be declared by the court that the deceased had a right to be buried in a private grave, the corpse shall, upon the demand and at the expense of the said person, be, at the proper time, removed to such grave.

10. Upon the removal of the corpse as provided in the last preceding article, the depositor may withdraw from the Superintendent of Public Health the sum as above deposited.

Withdrawal of deposit.
Amended by: XIX.1921.3.

11. Where the declaration of the court as to the right of the deceased over a private grave as provided in article 9 is not obtained within the time established in that article, or, where such declaration having been obtained, the corpse is not removed to such grave within one month from the day of the said declaration, or, in case such declaration is obtained before the expiration of one year from the day of the burial, within one month from the date of a notification by the Superintendent of Public Health, the sum deposited shall be forfeited in favour of the Government, as compensation for the grave occupied as provided in the said article:

When deposit lapses.
Amended by: XIX.1921.3.

Provided that in such case, the grave shall be considered as if it had been acquired by the person making the deposit, who shall have a right to demand that the requisite act of grant of the same grave be made.

12. Where, for the reason stated in article 12(2) of the Burials Ordinance, a corpse has been put in deposit in the place appointed by the Government for the purpose, the Superintendent of Public Health, when the time has come for the corpse to be removed to its own grave, shall give notice thereof to any of the relations or heirs of the deceased, at his choice; and if the relation or heir fails to effect the removal of the corpse within one month from the date of such notice, it shall be lawful for the Superintendent of Public Health to order its removal at the expense of the Government, and the Superintendent of Public Health shall claim reimbursement of such expense from the person to whom the notice aforesaid has been addressed, saving always the right of the latter to have the amount refunded to him by the heirs of the deceased, or, if he himself be one of the heirs, by his co-heirs.

Removal of corpses from place of deposit to respective graves.
Amended by: XIX.1921.3.
Cap. 17.

13. If a person possesses rights over two or more private graves, the selection of the grave in which he desires to be buried may be made even orally; and on his death, such selection shall be deemed to be proved even by the mere oral declaration of the

Choice of grave by person having rights over two or more graves.

husband or wife, the parent, the son or daughter, or any other near relation of the deceased, or by a similar declaration made by the ecclesiastic or physician by whom the person aforesaid shall have been assisted during his last illness.

Disposing of right of sepulture in a particular grave.

14. A person having a right of sepulture in a particular grave, may demand that any disposition made by him respecting the said right, whether such disposition is to the effect that no other corpse of any other person should be buried in that grave, or that his right should, after his death, pass to the persons appointed by him, be registered in the books kept in the cemetery or in any other public office, in which private graves are registered.

Exceptions.

15. (1) Any disposition as provided in the last preceding article shall have no effect unless it be made by public deed.

(2) It shall neither have effect, if, the grave being possessed by two or more persons, it is not made by all of such persons.

In the absence of special provision, right of sepulture to pass, on death of owner, to his blood relations.

16. In default of any other special provision, the right of sepulture in a particular grave, passes, on the death of the person having that right, to his blood relations in the order in which they are called by law to succeed *ab intestato,* notwithstanding that they be not his heirs.

Power of Minister responsible for public health to make regulations.
Amended by: L.N. 4 of 1963; XI.1977.2.
Cap. 17.

17. The Minister responsible for public health may make regulations respecting the time and manner of conveying corpses to the cemetery, respecting the burial of corpses, and for the good order in such cemetery, provided that nothing in such regulations contained shall be contrary to the provisions contained in this Ordinance or in the Burials Ordinance.

Penalties.
Amended by: XI.1977.2; XIII.1983.5; L.N. 407 of 2007.
Cap. 9.

18. (1) Any person who shall infringe any regulation made under the last preceding article, shall be liable, on conviction, to the punishments established in the Criminal Code for contraventions.

(2) Where the offence is committed in the cemetery by a person under fourteen years of age, who shall have entered the cemetery under the care of another person over eighteen years of age, it shall be lawful for the court, in respect of such offence, to sentence the latter to a fine (*ammenda*) not exceeding two euros and thirty-three cents (2.33).

(3) Any person who signs or produces to the Police any statement required under the provision of the proviso to article 3(*g*) knowing that such statement is false or that it contains a false declaration shall be liable, on conviction, to a fine (*multa*) not exceeding four hundred and sixty-five euros and eighty-seven cents (465.87) or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.