

ST HELENA

REVISED EDITION OF THE LAWS, 2017

LAND OWNERSHIP & USE

BURIAL GROUNDS ORDINANCE, 1895¹

*Ordinance 6 of 1895
In force 21 August 1895*

*Amended by Ordinances 7 of 1944, 2 of 1955, 2 of 1989, 6 of 2003, 4 of 2020
and L.N. 4/1967*

Subsidiary legislation:

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*Legal Notices 11/1953, 12/1993, 6/1994 and 13/1997
Amended by L.N. 17/2010, L.N. 15/2013, L.N. 2/2020*

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BURIAL GROUNDS ORDINANCE, 1895

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AN ORDINANCE to regulate the use of burial grounds in St Helena.

Short title

1. This Ordinance may be cited as the Burial Grounds Ordinance, 1895.

¹ Under section 10 of the Revised Edition of the Laws Ordinance, 1999 this text is authoritative and is the sole authentic edition in respect of the law contained in it as at 19 August 2022.

New cemeteries

2. The Governor in Council may at any time by Proclamation² declare any Crown land, and, with the consent of the owner, any private land to be a cemetery.

Existing cemeteries

3. The cemetery at Half-Tree-Hollow³, the Roman Catholic Cemetery near Plantation, the cemetery between St Paul's Churchyard and the Roman Catholic Cemetery, and every cemetery proclaimed under this Ordinance, is vested in the Governor.

Governor may make rules

4. The Governor in Council may make rules -
- (a) regarding the digging of graves;
 - (b) for all other matters relating to the burial of the dead in any cemetery vested in the Governor;
 - (c) for the general management and control of any such cemetery;
 - (d) for the allotting of graves and the erection of monuments in them and other matters connected with graves;
 - (e) fixing the payments to be made for vaults, graves, burials, monuments and any other matter connected with any cemetery, and the persons to whom such payments are to be made.

Places where burials are lawful

5. (1) It is not lawful to bury any human body in any other place than one of the following grounds, that is to say—

- (a) the New Cemetery;
- (b) St Paul's Churchyard;
- (c) St Matthew's Churchyard;
- (d) the Baptist Churchyard at Knollcombe;
- (e) the Roman Catholic Cemetery near Plantation;
- (f) the cemetery between St Paul's Churchyard and the Roman Catholic Cemetery;
- (g) the churchyard of the Church of St Helena and the Cross (a private cemetery, the consecrated area);
- (h) any cemetery proclaimed under this Ordinance.

(2) A person burying or assisting to bury any body contrary to this Ordinance commits an offence.

Penalty: A fine of £50.

Burial

² Parcel 435 of the Alarm Forest Registration Section proclaimed as cemetery as extension of New Cemetery by Gazette Notice No. 111 of 28 June 2019 (Gazette No. 63).

Parcel 51 of the Rupert's Valley Registration Section proclaimed as the Liberated African Cemetery by Gazette Notice No. 197 of 19 August 2022 (Gazette No. 85)

³ Declared to be a disused cemetery by L.N. 9/1985

6. (1) Except with the approval of a medical officer, the relatives or other person responsible for the burial of the body of a dead person must ensure that burial takes place as soon as is reasonably practicable, and in any case within 7 days, after death.

(2) A person who fails to comply with subsection (1) commits an offence.
Penalty: A fine of £100.

Closing burial grounds

7. The Governor in Council may order that, after a time specified in the order, burials in any ground are to be discontinued wholly, or subject to any exceptions or qualifications, and the ground thereupon becomes a disused burial ground.

Disused grounds

8. All the burial grounds in Jamestown are declared to be disused burial grounds.

Use of disused burial grounds

9.⁴ (1) A Council Committee may at any time give directions for any disused burial ground which has been a churchyard, or an extension of a churchyard, to be laid out, altered or embellished, but no person may erect any buildings on that ground except -

- (a) a church, chapel or other place of worship, to be used by the religious body formerly in control of the disused burial ground; or
- (b) an enlargement of such church, chapel or other place of worship.

(2) If a disused burial ground has not been a churchyard, or an extension of a churchyard, the Council Committee may at any time give directions -

- (a) for it to be laid out, altered or embellished;
- (b) for the erection on it of any church, chapel or other place of worship, to be used by the religious body formerly in control of the burial ground (if it was controlled by such a body);
- (c) for the erection of any school or dwelling house; or
- (d) for it to be used for any other purpose which the Council Committee, with the approval of the Governor in Council, from time to time declares to be a public

purpose

(3) Before there is erected on a disused burial ground any building, other than a church, chapel or other place of worship as provided in subsection (2)(b) -

- (a) the Council Committee must cause public notice of the proposed erection to be given for a period of not less than 21 days; and
- (b) if any objection is received from a religious body formerly in control of the disused burial ground, or from any other person claiming to have an interest in the disused burial ground, the matter must be enquired into by a commission to be appointed by the Governor under the Commissions of Enquiry Ordinance, 1926, consisting of 3 members one of whom must be nominated by the religious body (if any) formerly in control of the disused burial ground.

⁴ Section 9 amended by Ord. 4 of 2020

BURIAL GROUNDS ORDINANCE, 1895

NEW CEMETERY RULES, 1953

(Section 4)

1. These Rules may be cited as the New Cemetery Rules, 1953.
- 2.⁵ The Director of Infrastructure and Transport will decide how the cemetery is to be laid out, and graves will be dug in consecutive order as marked on wooden posts.
- 3.⁶ When a grave is required, application should be made at the office of the Post and Customer Services Centre, where the Register of Graves will be kept. Particulars of the deceased's full names, age, and date of birth and death will be required, together with a copy of the Burial Order. A fee of £80.00 will be charged for each grave.
- 4.⁷ No official grave-digger will be provided at the New Cemetery, but the names of persons prepared to dig graves may be obtained at the Post and Customer Services Centre in Jamestown. It will be the responsibility of the person applying for a grave to make the necessary arrangements for a grave digger.
5. No grave may be less than 6 feet deep and no coffin may be nearer the surface of the ground than 4 feet.
- 6.⁸ A plot of ground 7 feet (2150 mm) by 2 feet 5 inches (750mm) will be reserved for each grave with a space of 2 feet between graves. Persons desiring to place concrete curbs around graves should conform to a standard size, particulars of which can be obtained from the office of the Chief Engineer. Applications to erect headstones should be submitted to the Chief Engineer with particulars and dimensions, together with a rough sketch.

BURIAL GROUNDS ORDINANCE, 1895

LIBERATED AFRICAN CEMETERY RULES, 2022

(Section 4)

Citation

1. These Rules may be cited as the Liberated African Cemetery Rules, 2022.

Interpretation

2. In these Rules, "the cemetery" means the Liberated African Cemetery.

⁵ Rule 2 amended by L.N. 2 of 2020

⁶ Rule 3 amended by L.N. 2 of 2020

⁷ Rule 4 amended by L.N. 2 of 2020

⁸ Rule 6 amended by L.N. 2 of 2020

Use of cemetery

3. (1) The cemetery is to be used solely for the reburial or reinternment of unearthed Liberated African human remains.

(2) The mass grave for the human remains that have been unearthed is to be 14 metres by 8 metres and must be 1.7 metres deep to accommodate two tiers of caskets.

(3) The layout and technical specifications of graves within the cemetery for the reburial or reinternment of other Liberated African human remains that are discovered and unearthed from known sites connected with the Liberated Africans must be determined by a suitably qualified engineer engaged by the St Helena Government.

(4) A monument or monuments may be erected at the cemetery, the design and dimensions of which must be approved by the Governor in Council.
