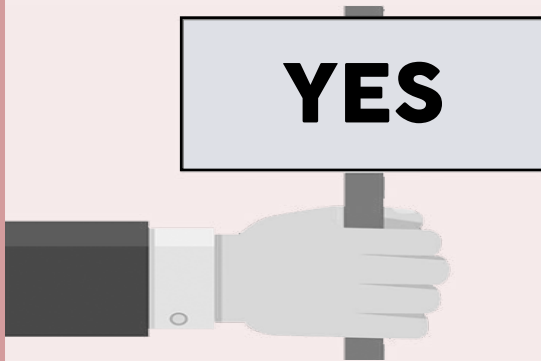


# BURIAL LAWS



**Do you have burial rights?**

**1**



Article 10 of the Constitution of Sri Lanka gives every person the freedom of thought, conscience and religion. This includes the freedom to have or to adopt a religion or belief of your choice. Article 12(2) of the Constitution states that all persons should be treated equally.

Therefore, burial rights should be extended to all persons, irrespective of their religion, language, ethnicity, gender etc and you cannot be denied burial rights based on your religion.

In addition to the Constitutional provisions mentioned above, the Cemeteries and Burial Grounds Ordinance No. 9 of 1899 is the law that specifically deals with cemeteries. Following are a few important points mentioned in this Ordinance.



The relevant authorities in charge of any issue relating to cemeteries are the Pradeshiya Sabha, Divisional Secretariat, Municipal Council or Urban Council in your area. (Section 6)

A keeper appointed by the Local Authority will also be responsible for the maintenance of the entire cemetery and for keeping a plan of the cemetery as well as the parts of the cemeteries that have been set aside for exclusive use. (Section 16 and 23)

**Are religious observances within the cemetery allowed?**

**3**



The Local Authority can give permission to build a chapel or any other building in which to perform burial services or cremation within the premises of the cemetery. (Section 9)

A religious priest or any other person can perform the rites and services of his/her religion if so requested. (Section 13)

**Can you obtain a portion of the cemetery for exclusive use?**

**4**

**EXCLUSIVE**

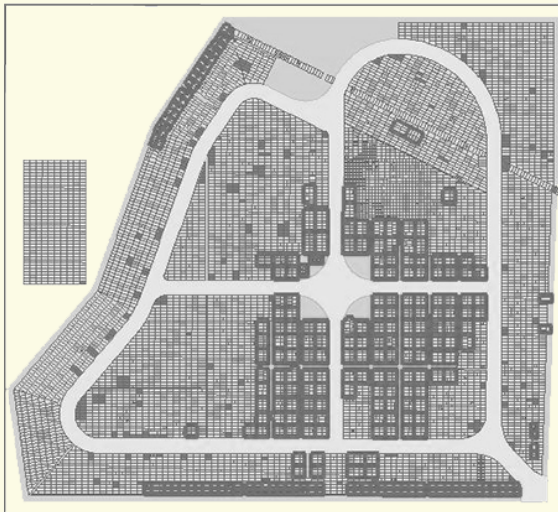
The relevant Local Authority can sell a portion of cemetery to a religious denomination which makes a request for a portion of the cemetery. Such a sale will be made through a Deed of Trust and the religious denomination will hold the cemetery in Trust. (Section 11(1))

Apart from this sale of a portion of the cemetery as said in Section 11, the relevant Local Authority can also set apart a portion of the cemetery through regulations for the purpose of cremation. (Section 17)

Further, apart from this sale of a portion of the cemetery as said in Section 11, the relevant authority can also sell or give as a free grant, a portion of the cemetery, with or without a time limit, subject to any conditions. The local authority can also sell or grant the right to erect a monument, place a gravestone, set up a tablet of inscription in the walls of the chapel within that portion of the cemetery etc. (Section 19)

**How do you request for a portion of the cemetery?**

**5**



When applying for a burial ground, a survey plan which clearly shows the position of the burial ground should be attached. (Section 33)

## What are the steps to obtain a burial ground?

6



1. Make a request to the Divisional Secretariat
2. Divisional Secretariat will consult with committees from the Divisional and District Secretariats
3. The Divisional Secretariat will also seek the opinion of other authorities such as the Environmental Authority
4. The approval of the Provincial Land Commissioner will be sought
5. The approval of the Land Commissioner General in Colombo will be sought
6. The land will be vested in the relevant Local Authority
7. The relevant Local Authority will gazette this

**If you bought a portion of the cemetery under Section 11, what are your duties?**

**7**



The religious denomination can appoint trustees who will have the following powers: (Section 11(2))

1. To appoint a caretaker, gravedigger or anyone else needed to care for that portion of the cemetery;
2. To grant an exclusive right of burial within that portion of the cemetery;
3. To erect a monument, place a gravestone, set up a tablet of inscription in the walls of the chapel within that portion of the cemetery etc;
4. To prohibit cremation within that portion of the cemetery.

The keeper of the cemetery or the caretaker appointed by the religious denomination should keep a register of all the burials and cremations. (Section 15)



## When can an application be made to the Minister?

8



An application can be made in appeal to the Minister in the following circumstances:

1. If the local authority refuses to allow the erection of a chapel or building to perform burial services and cremation;
2. If the local authority refuses to sell a portion to a religious denomination which has so requested;
3. If the local authority demands an unreasonably high price for the sale of a portion of the cemetery.

## Where can you NOT bury?

9



A cemetery cannot be built within 50 feet of a place of residence/house unless the owner or whoever occupies that house agrees to have a cemetery built. (Section 8)

No burials can be made in a vault under a chapel or any other building within the cemetery or within 5 feet of the outer wall of any chapel or other building. (Section 18)

Can a corpse be exhumed?

10



Once a corpse is buried, it cannot be removed from that place of burial without the permission of the District Court judge, unless it has to be exhumed for criminal investigations. (Section 14 and 37)

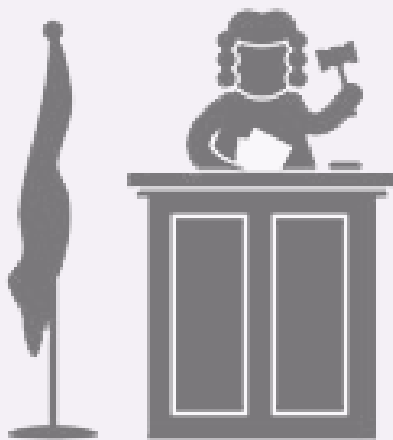


It is an offence to intentionally destroy, disfigure any part of the cemetery, put up any notices on the walls, destroy any gravestones, monuments, and the such like, or cause any damage to any part of the cemetery. (Section 28)

It is an offence to play within the cemetery, setoff fire-arms (unless it is a military funeral), disturb persons who have gathered in the cemetery for a burial or cremation, or commit a nuisance within the cemetery. (Section 29)

Which is the relevant court?

12



Magistrates' Courts have the jurisdiction over the offences committed under this Ordinance. (Section 42)

If any person commits an offence under this Ordinance, the person should be prosecuted within three months of the commission of the offence. (Section 43)

## Did you know



According to Section 292 of the Penal Code of Sri Lanka, the following are classified as offences, if done with the knowledge or intention of hurting the feelings of any person or insulting a religion:

1. trespassing on a place of burial/cremation or where funeral rites are performed etc;
2. disrespecting the corpse;
3. disturbing those who are gathered for a funeral ceremony.

Punishment can include:

1. a fine;
2. up to one-year imprisonment;
3. both fine and imprisonment.

**What are the steps you should take if you are not allowed to bury your loved one at a public cemetery?**

**13**



1. Lodge a complaint at the police station
2. Request the police to obtain an order from the Magistrate's Court allowing the burial to be carried out without interruption
3. Speak to the relevant local authority in your area and ask them to either:
  - i. Take measures to allow you to bury your loved one in the public cemetery
  - ii. Sell a portion of the public cemetery for your church/religion (under Section 11(1) of the Ordinance)
  - iii. Allocate a separate portion of the cemetery or a land that can be used exclusively by your religion (under Sections 17 and 19 of the Ordinance)

**What are the steps to be taken if there is violence against you when you bury your loved ones?**

**14**

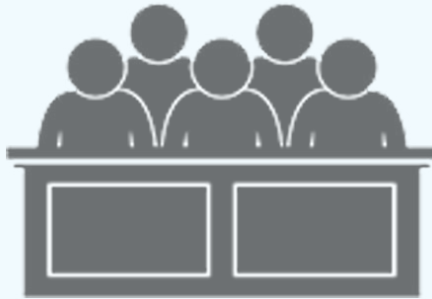


1. Lodge a complaint at the police station
2. The police can file a case in the Magistrate's Court under Section 29 of the Ordinance and/or under Section 292 of the Penal Code against those who use violence



**What are the steps you can take if the police and/or the relevant authority do not take action?**

**15**



1. File a complaint at the Human Rights Commission of Sri Lanka as soon as you can – the Human Rights Commission will then call the police or the relevant authority for an inquiry.
2. File a case (writ application) in the Court of Appeal in Colombo – by filing this case you can ask the Court of Appeal to order the police or the relevant authority to take necessary action and give you a solution.



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