

SAINT LUCIA**No. 11 of 2016**

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I ASSENT

[L.S.]

PEARLETTE LOUISY,
*Governor-General.**May 11, 2016.***SAINT LUCIA**

No. 11 of 2016

AN ACT to provide for the establishment of burial grounds, crematoriums and cremation pyre sites, regulation of burials and cremations and for related matters.

[17th May, 2016]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the Authority of the same, as follows:

PRELIMINARY**Short title**

1. This Act may be cited as the Burial and Cremation Act, 2016.

Interpretation

2. In this Act -

“authorized officer” means a public officer authorized in writing by the Permanent Secretary;

“burial ground” means a public burial ground or a private burial ground;

“cremation pyre site” means a site fitted for the purpose of burning human remains and includes everything incidental and ancillary;

“crematorium” means any building fitted for the purpose of burning human remains and includes everything incidental and ancillary;

“custodian” means the person appointed under section 16;

“human remains” means the body or parts of the body of a deceased person;

“licence” means a licence issued under section 25;

“licensee” means a person issued with a licence;

“local authority” means the governing body of a town, district, constituency or area within Saint Lucia;

“Minister” means the Minister responsible for local government;

“Permanent Secretary” means the Permanent Secretary in the Ministry responsible for local government;

“person” includes a body corporate, an unincorporated body or religious organization;

“private burial ground” means land registered as a private burial ground under section 9;

“public burial ground” means land designated as a public burial ground under section 4;

“religious organization” includes a church, mosque, synagogue, temple, nondenominational ministry, interdenominational and ecumenical body, mission body, faith-based social agency, and other entities whose principal purpose is the study, practice or advancement of religion.

Act binds the Crown

3. This Act binds the Crown.

PART I BURIAL GROUNDS Division 1 Public burial grounds

Designation of public burial ground

4. The Minister may, after consultation with the Head of the Physical Planning and Development Division, designate land situated in Saint Lucia as a public burial ground by notice published in the *Gazette*.

Division 2 Private burial grounds

Restriction on private burial ground

5.—(1) A person shall not use private land as a burial ground unless the land is registered as a private burial ground under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding two years.

Registration of existing private burial ground

6.—(1) A person who owns and operates a burial ground on private land before the commencement of this Act shall apply for registration within six months of this Act coming into force.

(2) This section does not apply to burials on private land before the coming into force of this Act.

Application for registration

7.—(1) A person may make an application to the Minister for the registration of land as a private burial ground.

(2) An application under subsection (1) —

- (a) must be in the prescribed form;
- (b) must be accompanied by a plan showing the prescribed particulars and the prescribed application fee.

Grant or refusal of application

8.—(1) The Minister may, after consultation with the Permanent Secretary, grant the application with or without conditions or refuse the application.

(2) Where the Minister grants the application with conditions or refuses an application, he or she shall state the reasons for the conditions or refusal.

Issue of certificate of registration

9. Where the Minister grants an application for registration under section 8, he or she shall issue a certificate of registration in the prescribed form upon payment of the prescribed registration fee.

Validity of registration

10. Unless revoked under section 13, registration remains valid for a period of two years.

Re-registration

11.—(1) Where the period of validity of registration expires, an application may be made for re-registration.

(2) An application under subsection (1) —

- (a) must be in the prescribed form;
- (b) must be accompanied by the prescribed re-registration fee.

(3) Where the Minister grants an application for re-registration,

he or she shall issue a certificate of registration under section 9.

(4) When renewing registration, the Minister may vary the conditions attached to the registration and may impose additional conditions.

Display of certificate of registration

12.—(1) A person to whom a certificate of registration is issued under section 9 shall exhibit in a prominent position at each place where the business of the private burial ground is conducted, a copy of the certificate of registration.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to a term of imprisonment not exceeding three months.

Revocation of registration

13.—(1) The Minister may revoke the registration in respect of a private burial ground where —

- (a) the private burial ground is being used contrary to any condition attached to the registration;
- (b) the private burial ground is a health hazard; or
- (c) the private burial ground has reached its capacity.

(2) If the Minister proposes to revoke the registration under subsection (1), the Minister shall give the person registered to use land as a private burial ground notice in writing of the proposed revocation and his or her reasons for the proposed revocation.

(3) A notice under subsection (2) must state that within twenty-one days the person may make representations in writing to the Minister why the registration should not be revoked, and the Minister shall not determine the matter without considering such representations.

(4) Where the Minister revokes the registration of a private burial ground, he or she shall state reasons for the revocation.

(5) Where the Minister revokes the registration under this section he or she shall close the burial ground.

(6) A person who buries human remains in any private burial ground in respect of which registration is revoked under subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding two years.

Exemption

14. The Minister may, by order published in the *Gazette*, exempt a religious organization from the payment of any fee under this Division.

Division 3 General

Control and management of burial ground

15. —(1) A local authority has the control and management of a public burial ground within the boundary of the town, district, constituency or area.

(2) A person who owns a private burial ground has the control and management of the private burial ground.

Officers of burial ground

16.—(1) The day to day affairs of a public burial ground or private burial ground must be under the control of a custodian appointed for the purpose.

(2) Officers of a public burial ground may be appointed to assist in the execution of this Act, and the provisions of any other enactment relating to the terms and conditions of employment of officers of a local authority apply in respect of the employment of persons appointed under this section.

Closure of burial ground

17.—(1) The Minister may close any burial ground or part of a burial ground where—

- (a) the burial ground has reached its capacity;

- (b) the burial ground has not been re-registered under section 11 or has been revoked under section 13; or
- (c) the burial ground is a health hazard.

(2) Where a burial ground is closed under subsection (1), the Minister shall give notice in the *Gazette* and a newspaper circulating in Saint Lucia prior to the effective date of closure.

(3) A person who buries human remains in any part of a burial ground which is closed under subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding two years.

Reopening of closed burial ground

18.—(1) The Minister may reopen a burial ground that is closed under section 17 if —

- (a) an application for re-registration is granted under section 11; or
- (b) a period of twenty-five years has elapsed since the burial ground was closed; and
- (c) the burial ground is not a health hazard.

(2) The reopening of a burial ground under subsection (1) must be published in the *Gazette*.

Places of burial

19.—(1) Subject to subsection (2), a person shall not bury human remains in any place except in a burial ground.

(2) The Minister may in special circumstances allow a burial to take place subject to such conditions as he or she thinks fit —

- (a) at sea; or
- (b) on land which is not a burial ground,

by notice published in the *Gazette*.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding two years.

Emergency burial ground

20.—(1) The Minister may, after consultation with the Head of the Physical Planning and Development Division and the Chief Medical Officer, declare a designated portion of land to be an emergency burial ground where —

- (a) there is a threat to public health;
- (b) a health epidemic exists; or
- (c) circumstances exist that may lead to a health epidemic.

(2) Notwithstanding section 16, an emergency burial ground must be controlled and managed by an authorized officer.

Offences

21.—(1) A person shall not -

- (a) behave disrespectfully during the burial of a body;
- (b) damage any building, fence, monument, tomb, tree or shrub;
- (c) leave any litter or deposit any filth;
- (d) play any game;
- (e) pluck any flower or remove branches of any tree or shrub of any kind without the permission of the custodian; or
- (f) tether in any way, graze or allow any animal to be at large,

within a burial ground.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction, to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding six months.

**PART II
CREMATION**

Restriction on crematorium or cremation pyre site

22.—(1) A person shall not establish or operate a crematorium or a cremation pyre site unless the person holds a valid licence to do so under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding two years.

Application for licence

23.—(1) A person may make an application in duplicate to the Minister for the issue of a licence to establish or operate a crematorium or a cremation pyre site.

(2) An application under subsection (1) must be made on the prescribed application form and be accompanied by —

- (a) the prescribed application fee;
- (b) a list of all the equipment used to operate the crematorium or cremation pyre site;
- (c) a plan of the land and dedicated buildings, where applicable; and
- (d) any other prescribed information.

Grant or refusal of application

24. —(1) The Minister may, on the recommendation of the Head of the Physical Planning and Development Division and the local authority, grant with or without conditions or refuse the application.

(2) Where the Minister refuses an application, he or she shall provide the reasons for the refusal to the applicant.

Licence

25.—(1) Where the Minister grants an application under section 24, he or she may issue a licence in the prescribed form.

(2) The issue of a licence to operate a crematorium or a cremation pyre site must be published in the *Gazette* and a newspaper circulating in Saint Lucia.

Validity of licence

26. Unless revoked under section 29, a licence remains valid for a period of two years beginning on the day when the licence is issued.

Renewal of licence

27.—(1) Where the period of validity of a licence expires, an application may be made for renewal of the licence.

(2) An application under subsection (1) must —

- (a) be in the prescribed form;
- (b) be accompanied by the prescribed renewal fee.

(3) Where the Minister grants an application for renewal, he or she shall issue a licence under section 25.

(4) When renewing a licence, the Minister may vary the conditions attached to the licence and may impose additional conditions.

Display of licence

28. —(1) A licensee shall exhibit the licence in a prominent position at the crematorium or cremation pyre site and place where the business of the crematorium or cremation pyre site is conducted.

(2) A licensee who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to a term of imprisonment not exceeding three months.

Revocation of licence

29.—(1) The Minister may revoke a licence in respect of a crematorium or cremation pyre site —

- (a) on any ground that would entitle the Minister to refuse an application for a licence; or

- (b) on the ground —
 - (i) that the person has been convicted of an offence under this Act or Regulations made under this Act,
 - (ii) that any other person has been convicted of an offence under this Act or Regulations made under this Act in respect of the crematorium or cremation pyre site,
 - (iii) that any condition attached to the licence in respect of the crematorium or cremation pyre site or obligation under this Act has not been complied with.

(2) If the Minister proposes to revoke a licence under subsection (1), the Minister shall give the licensee notice in writing of the proposed revocation and his or her reasons for the proposed revocation.

(3) A notice under subsection (2) must state that within twenty-one days the licensee may make representation in writing to the Minister why the licence should not be revoked and the Minister shall not determine the matter without considering such representations.

Closure of crematorium or cremation pyre site

30. —(1) Where the Minister revokes a licence under section 29, he or she shall close the crematorium or cremation pyre site.

(2) Where a crematorium or cremation pyre site is closed under subsection (1), the Minister shall give notice in the *Gazette* and a newspaper circulating in Saint Lucia prior to the effective date of closure.

(3) A person who cremates human remains in a crematorium or at a cremation pyre site which is closed under subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding two years.

(4) The Minister may reopen a crematorium or cremation pyre site that is closed under subsection (1) if —

- (a) an application for a licence is granted under section 24 or the renewal of a licence is granted under section 27 and the prescribed fee has been paid; and

- (b) the crematorium or cremation pyre site is not a health hazard.

(5) The reopening of a crematorium or cremation pyre site under subsection (4) must be published in the *Gazette*.

Location of crematorium or cremation pyre site

31.—(1) A licensee shall not construct a crematorium —

- (a) in the consecrated part of any burial ground;
- (b) within forty-five meters of any church; or
- (c) within ninety meters of any dwelling house.

(2) A licensee shall not construct a cremation pyre site —

- (a) in the consecrated part of any burial ground;
- (b) within forty-five meters of any church; or
- (c) within two kilometres from any dwelling house.

(3) Subsection (1) does not apply to a crematorium existing at the commencement of this Act.

Maintenance and operation

32. A licensee shall —

- (a) keep the crematorium or cremation pyre site in a clean and sanitary order;
- (b) maintain the crematorium or cremation pyre site in good working order and condition;
- (c) properly staff the crematorium or cremation pyre site with a sufficient number of attendants; and
- (d) open the crematorium or cremation pyre site during working hours for inspection by authorized officers and environmental health officers assigned by the Permanent Secretary in the Ministry responsible for health.

Restriction on cremation

33.—(1) The cremation of any human remains shall not take place except in a crematorium or cremation pyre site licensed under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding two years.

Request for cremation

34.—(1) A licensee may have any human remains cremated where a request is made by —

- (a) an administrator or executor of the estate of the deceased;
- (b) a person entitled to apply for letters of administration or probate in the estate of the deceased;
- (c) the spouse of the deceased.

(2) A request under subsection (1) must be —

- (a) in the prescribed form;
- (b) accompanied by —
 - (i) an Authority to Proceed Certificate issued by the Commissioner of Police,
 - (ii) a certificate of death in respect of the human remains issued by the District Registrar in accordance with the Civil Status Act, Cap. 4.02,
 - (iii) where the death occurred outside Saint Lucia, a certificate of death issued by the civil authority of the place where the death occurred.

Grant or refusal of request

35.—(1) A licensee may grant or refuse a request.

(2) A licensee shall not grant a request where —

- (a) it is known that the deceased left a written declaration to the contrary;

- (b) the human remains have not been properly identified; or
- (c) the provisions in this Act in relation to cremation have not been complied with.

Human remains to be reduced to ashes

36.—(1) Any human remains which are cremated must be reduced entirely to ashes by the licensee and disposed under section 37.

(2) A licensee who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year.

Disposal of ashes

37.—(1) Before the cremation of human remains, an agreement shall be made between the licensee and the person requesting the cremation concerning the disposal of the ashes after the cremation.

(2) Where the agreement stipulates that the ashes are to be disposed of by the person who requested the cremation, the ashes shall be collected from the licensee by that person.

(3) Where the person who requested the cremation does not collect the ashes under subsection (2), the licensee shall issue a notice to collect in the prescribed form within fourteen days of the cremation.

(4) Where the agreement stipulates that the person who requested the cremation does not collect the ashes, or the person who requested the cremation does not collect the ashes in accordance with the notice to collect under subsection (3), the ashes shall be retained by the licensee and must be interred —

- (a) in a burial ground; or
- (b) on land designated for the purpose.

(5) Notwithstanding subsection (4), a licensee may with the approval of a local authority dispose of ashes emanating from a cremation by —

- (a) throwing the ashes in the sea or at the mouth of a river in a place not less than half a kilometre from any public bathing beach; or

(b) burying it on private property.

(6) A person who disposes of any ashes emanating from a cremation of human remains contrary to this section commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year.

Importation of ashes

38. A person may import the ashes emanating from a cremation of human remains in accordance with the Public Health (Transportation of Human Remains) Regulations, Cap. 11.01.

Exportation of ashes

39. A person may export the ashes emanating from a cremation of human remains cremated under this Act in a container sealed to the satisfaction of the Chief Medical Officer.

Register of cremations

40.—(1) A licensee shall keep a record of all cremations carried out in a Register of Cremations.

(2) An entry must be made in sufficient detail to enable the identification of the deceased and the tracing of the documents presented under section 34(2)(b).

(3) The Register of Cremations may be kept —

(a) in a bound book; or

(b) by recording or otherwise storing the prescribed particulars in a register by mechanical, electronic or other means, but so that the particulars remain accurately stored and capable of being retrieved and reproduced in written form.

(4) The Register of Cremations must be open for inspection during working hours by an authorized person or the Commissioner of Police.

Documents to be retained

41.—(1) A file with a unique identification number shall be opened in respect of any human remains cremated by a licensee.

(2) A request, certificate and other document relating to any cremation must be kept in the file referred to under subsection (1) and identified with the corresponding number on the Register of Cremations and must be properly secured.

(3) A document filed under this section may be electronically filed.

(4) A document filed under this section must be open for inspection during working hours by an authorized person or the Commissioner of Police.

Disposal of documents

42.—(1) Where a crematorium or cremation pyre site is closed the licensee shall deliver the register and any documents relating to the cremations which have taken place to the Ministry responsible for local government.

(2) The Minister may, after consultation with the Commissioner of Police and the Registrar of Births and Deaths, make the register or any document referred to in subsection (1) available for inspection by any person upon payment by the person of the prescribed inspection fee.

(3) The Ministry responsible for local government may keep electronic copies of the register and any document delivered under subsection (1).

**PART III
MISCELLANEOUS****Register**

43.—(1) The Minister shall cause to be compiled and maintained a register showing in respect of each registration or licence such particulars as may be prescribed.

(2) The register shall be kept in the office of the Minister and shall at all times be available for inspection by any person upon payment of the prescribed fee.

(3) The register may be compiled and maintained —

(a) in a bound book; or

(b) by recording or otherwise storing the prescribed particulars in the register by mechanical, electronic or other means, but so that the particulars remain accurately stored and capable of being reproduced in written form.

Exhumation of human remains

44.—(1) A person shall not exhume human remains which have been interred in a burial ground without a removal permit issued under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding two years.

(3) A person may make an application to the Minister for a removal permit.

(4) An application under subsection (3) must —

(a) be in the prescribed form;

(b) be accompanied by the prescribed fee;

(c) include any prescribed information.

(5) Before issuing a removal permit the Minister shall consult with the Chief Medical Officer and the Commissioner of Police.

(6) The Minister may grant with or without conditions or refuse an application for a removal permit.

(7) Where the Minister grants a removal permit, he or she shall issue a removal permit in the prescribed form upon payment of the prescribed permit fee.

(8) Notwithstanding subsection (1), a person may exhume any

human remains which have been interred in a burial ground—

- (a) by the order of the Chief Medical Officer;
- (b) on the authority of a court order; or
- (c) under section 27 of the Coroners Act, Cap. 2.16.

Waiver of custom duty and service charge

45. Customs duty or customs service charge is not payable on the importation of human remains.

Opening hours

46. The Minister may, by order published in the *Gazette*, specify the hours during which—

- (a) a cremation by pyre method may be performed;
- (b) a public burial ground may remain open;
- (c) a person may be buried.

Regulations

47.—(1) The Minister may make Regulations to give effect to this Act.

(2) Without limiting the generality of subsection (1), the Minister may make Regulations to —

- (a) prescribe fees for the purposes of this Act;
- (b) prescribe forms for the purposes of this Act;
- (c) granting exclusive use of designated plots in a burial ground;
- (d) grant the right to construct vaults in a burial ground;
- (e) maintain a burial ground;
- (f) regulate the position, depth and maintenance of graves;
- (g) regulate the construction of tombes;
- (h) administer a crematorium or cremation pyre site.

(3) Regulations made under this section may provide that the contravention of any provision constitutes an offence and may specify penalties for any offence on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding two years.

Bye-laws

48. Notwithstanding section 47 and any other law, a local authority may make bye-laws, in respect of the matters specified in section 47(2) (a) to (g) relating to public burial grounds.

Repeal

49. The Cemeteries Act, Cap. 11.11 is repealed.

Savings

50. —(1) The Cemeteries Rules, Cap. 11.11 remain in force unless inconsistent with this Act or revoked.

(2) A reference to the Governor General in the Cemeteries Rules, Cap. 11.11 is deemed to be a reference to the Minister.

Passed in the House of Assembly this 29th day of April, 2016.

PETER I. FOSTER,
Speaker of the House of Assembly

Passed in the Senate this 10th day of May, 2016.

CLAUDIUS J. FRANCIS,
President of the Senate.