

STATE OF SABAH

BURIALS ORDINANCE (Sabah Cap. 19)

ARRANGEMENT OF SECTIONS

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LIST OF AMENDMENTS

<i>Ordinance/ Enactment No.</i>	<i>Sections amended</i>	<i>Effective date of amendment</i>
24/1954	2, 1st Sch.	26-11-1954
G.N.S. 87/1965	2, 3 (1), (2), 5, 6 (1), 7, 11 (1), (2), 12 (1), 15, 16, 1st Sch., 5th Sch.	16-9-1963
11/1961 s. 109 (1) (b)	5th Sch.	1-1-1962
34/1963 s.2 (1)	5th Sch.	9-10-1963
11/1967	1st Sch. ("Kota Kinabalu" substituted for "Jesselton")	30-12-1967
Act 160	3 (1) (b), 4, 16	29-8-1975
20/1978	14, 15	1-1-1979
10/1983	1A, 12 (1), 13, 14, 15	1-1-1984

To regulate the use of burial and burning grounds.

[16th May, 1914.]

Short title.

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

Interpretation.

- 1A. In this Ordinance—

“President” shall have the same meaning as in the Local Government Ordinance, 1961.

Burial or burning ground to be licensed.

- *2. Except as hereinafter provided no place shall be used for the interment or burning of corpses except under a licence from the Yang di-Pertua Negeri† to be obtained through the Director of Lands and Surveys in the form prescribed and set forth in the First Schedule and upon such terms and conditions as the Yang di-Pertua Negeri may determine.

Conditions.

3. (1) Such licence shall be issued to the owner or the person having the control or charge of such burial or burning ground or, in the event of there being no such owner or person, to any other person or body of persons as the Yang di-Pertua Negeri may direct:

Provided that –

- (a) the issue of such licence to any person shall not be taken to convey or establish any title to land or to corroborate, qualify or bar any right thereto; and
- (b) the Yang di-Pertua Negeri may for special reasons in any particular case

* See G.N.S. 35/1953.

† Throughout this Ordinance "Yang di-Pertua Negeri" substituted for "Yang di-Pertua Negara" by virtue of Enactment No. 17 of 1976.

authorise in writing the interment of the corpse of any person named in such writing in any building or place, whether licensed or not, under such conditions as may be deemed necessary for the protection of the public health and upon payment of such fee not exceeding five hundred ringgit as may be considered reasonable in each case.

Burial within a church.

(2) No corpse shall be interred under or within the walls of any church, chapel or other place of worship:

Provided that for special reasons the Yang di-Pertua Negeri in any particular case may give authority in writing under his hand for such interment under such conditions as may be necessary for the protection of the public health.

Body unlawfully buried to be removed to licensed ground.

4. A Magistrate may by written order under his hand direct any person who has been convicted of an offence under section 2 or 3 to remove the corpse in respect of the unlawful interment of which he has been convicted from the place in which it has been buried to a licensed burial ground and any such person refusing or neglecting to obey such order shall for every such offence be liable to a penalty of fifty ringgit and a further sum not exceeding ten ringgit a day for every day during which such default shall continue and the Magistrate may proceed to carry the order into execution at the expense of such person and to hire and employ proper persons for that purpose and may recover such expenses in the manner provided by law.

Yang di-Pertua Negeri to sanction use of land for burial or burning grounds.

5. The Yang di-Pertua Negeri* may sanction the use of fitting places as burial or burning grounds having due regard to the nationalities and religious usages of the several classes of the community.

* See G.N.S. 35/1953.

Public and private burial or burning grounds.

6. (1) Every burial or burning ground in respect of which the Yang di-Pertua Negeri is satisfied on enquiry that its use is open without discrimination to all persons or to all members of a particular nationality or of a particular religious community or to all persons of a particular nationality who are also members of a particular religious community shall be deemed a public burial ground, and no fee shall be payable in respect of a licence issued for such burial or burning ground:

Provided that such licence shall state the classes to which the use of such burial ground is open.

(2) Every burial or burning ground other than a public burial or burning ground shall be deemed a private burial or burning ground. Fees as set out in the Fifth Schedule shall be payable in respect of every licence issued for a private burial or burning ground.

Yang di-Pertua Negeri's power to revoke licence.

7. The Yang di-Pertua Negeri* may on being satisfied that any licensed burial or burning ground is being used in contravention of the conditions of the licence or that the same cannot be further used without danger to the public health or comfort revoke the licence therefor.

Depth of grave.

8. No grave shall be less than six feet in depth.

Register of burials in Christian cemetery.

9. A register of burials shall be kept by the clergy of the respective sects provided for in a Christian cemetery and such register shall be in the form prescribed by the Second Schedule.

Fees.

10. The fees as prescribed and set forth in the Third Schedule shall be payable to and may

* See G.N.S. 35/1953

be demanded by the persons in charge of the respective cemeteries and any such fees not paid may be recoverable at law.

Licence to exhume corpse.

11. (1) The Yang di-Pertua Negeri* may on due cause being shown and upon payment of the fees prescribed in the Fourth Schedule authorise and require by licence in writing the licensee of any burial ground licensed and registered under the provisions of this Ordinance to exhume or permit the exhumation by the person named in such licence of any corpse buried in such burial ground.

Applicant to enter into a bond.

(2) The Yang di-Pertua Negeri* may require as a condition precedent to the issue of such licence any person applying for the same to enter into a bond with or without sureties and in such sum as he may think fit for the due observance by such applicant of any conditions imposed generally by any rules under this Ordinance or specially in such written licence.

Burial licences unnecessary for old native graves.

12. (1) Nothing hereinafter contained shall be deemed to render it necessary to obtain a burial licence in the case of old native graves on State land or on land held under customary tenure whether the same shall be isolated or not:

Provided nevertheless that all such graves shall be properly fenced and the fences maintained in a state of good repair and the enclosure so fenced be kept clean of such weed or undergrowth as might, in the opinion of the District Officer or the President be a source of danger or disease to neighbouring cultivations.

No compensation unless properly maintained.

(2) No grave or burial ground in respect of which the provisions of subsection (1)

* See G.N.S. 52/1948

* See G.N.S. 52/1948.

shall not have been observed shall be deemed to be a "native right" within the meaning of the Land Ordinance [Cap. 68.] and no court shall take cognizance of any claim for compensation for damages to or desecration of the same.

Native burial grounds to be fenced.

(3) All native burial grounds licensed under this Ordinance shall be fenced and maintained in the manner provided by subsection (1).

District Officer or President may authorise repair, etc., to be done.

13. The District Officer or the President may authorise the owner of any land near to any grave or burial ground not fenced and maintained as required by section 12 to do all such repairs and cleaning as are required thereby and the owner or licensee of any such grave or burial ground shall be liable for the expenses so incurred in addition to any other penalty prescribed in such behalf by this Ordinance.

District Officer or President may order exhumation in certain cases.

14. The District Officer or the President may by an order in writing direct the exhumation of the corpse from any native grave in respect of which no burial licence shall have been issued, whether upkept or not, on the same being certified by a government medical officer to constitute a danger to the public health, and may order that such corpse be re-interred in a duly licensed burial ground.

Delegation of powers.

15. The Yang di-Pertua Negeri may under such conditions as he may think fit delegate* any of the powers conferred on him by this Ordinance to the Director of Medical Services, or within the area subject to such officer's control to any District Officer or the President or Medical Officer.

* See G.N.S. 52/1948, G.N.S. 35/1953.

Power to make rules.

16. The Yang di-Pertua Negeri may make rules† for more effectually carrying out the purposes of this Ordinance, due regard being had to such religious usages of the several classes of the community as are not contrary to public policy, and any person offending against any of the provisions thereof shall commit an offence and shall be liable to a fine of one hundred ringgit.

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† See G.N. 143/1914, 102/1932.

FIRST SCHEDULE

LICENCE FOR A BURIAL OR BURNING GROUND

(Section 2)

1. Description of lands
2. Owner's name
3. Nationality
4. Religion

Subject to the laws relating to burials the piece of land above referred to and more particularly described in the plan hereto attached is declared a ground for the use of members of and no others.

Reference to the Yang di-Pertua Negeri's approval

Registered as No.

Vol. Fol.

Land Office,

Kota Kinabalu 19.....

.....

Director of Lands and Surveys.

SECOND SCHEDULE

REGISTER OF CHRISTIAN BURIALS

(Section 9)

No.	When died			Christian name	Surname	Age	Quality Trade or Profession , etc.	When buried			Cause of death	Signature by whom buried
	Year	Mth	Day					Year	Mth	Day		

I do hereby certify that the foregoing numbered to are true and faithful copies of all entries in the Register of burials kept in as therein entered and made between the day of and the day of 19..... inclusive.

Witness my hand this day of 19.....

THIRD SCHEDULE

FEEES FOR INTERMENT IN A CHRISTIAN CEMETERY

(Section 10)

					RM
1.	For each interment	2.00
2.	For extract from register50

FOURTH SCHEDULE

LICENCES TO EXHUME

(Section 11)

	RM
For a licence to exhume a corpse within three years from the date of burial	...50.00
For a licence to exhume after three years from the date of burial1.00

FIFTH SCHEDULE

FEES FOR LICENCE FOR A PRIVATE BURIAL OR BURNING GROUND

(Section 6)

If the ground is situated within any urban area, RM500.

If the ground is situated outside any urban area but within 5 miles of the boundary of any such area, a fee not exceeding RM500 nor less than RM100, at the discretion of the Yang di-Pertua Negeri.

If the ground is situated more than 5 miles from the boundary of any urban area, a fee not exceeding RM100, at the discretion of the Yang di-Pertua Negeri.

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