

THE UNITED REPUBLIC OF TANZANIA



No. 9 OF 1969

I ASSENT,

Julius K. Nyerere
President

6th FEBRUARY, 1969

An Act to provide for the Removal of Graves from land required for public purposes

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Graves (Removal) Act, 1969 and Short title shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint.

2. In this Act, unless the context otherwise requires—

Interpretation

“cemetery” means any area or place appointed or set aside as a cemetery by an appropriate authority under any written law;

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

“grave” includes a burial vault, tomb, mausoleum or coffin and any gravestone, tablet, inscription, monument or memorial to the dead associated therewith;

“Minister” means the Minister for the time being responsible for lands;

“persons interested” means—

(a) in the case of a war grave, the Commonwealth War Graves Commission;

(b) in the case of any other grave, the relatives of the deceased person whose dead body is buried therein;

“public purpose” means any of the purposes specified in section 4 of Acts 1967 the Land Acquisition Act, 1967; No. 47

“war grave” has the meaning ascribed to that term in the War Graves Cap. 236 Ordinance.

Power of
Minister to
cause
removal of
graves

3. Subject to the provisions of this Act, where any land on which a grave is situated is required for a public purpose the Minister may cause such grave and any dead body buried therein to be removed from the land and, in such case, shall take all such steps as may be requisite or convenient for the reinstatement of the grave and the re-interment of the dead body in a place approved by him for the purpose.

Notice of
intention
to remove
graves

4.—(1) If the Minister is satisfied that any land on which a grave is situated is required for a public purpose he shall, before causing a grave or dead body to be removed therefrom, give notice of his intention to do so and every such notice shall—

- (a) be served on such of the persons interested as shall, after reasonable enquiry, be known to him;
- (b) where the land is or forms part of a cemetery appropriated to the burial of members of a particular religious community, be served on the controlling body of the religious community concerned; and
- (c) be published in the *Gazette* as soon as may be practicable after the same has been served as aforesaid.

(2) Notwithstanding the provisions of subsection (1), where the President has certified that any land on which a grave is situated is urgently required for a public purpose he may direct that such notice of intention be dispensed with or be published in such manner or served on such persons as he may specify.

(3) A notice required by this section to be served on any person shall be served either personally or shall be left at his last usual place of abode or business, if any such place can after reasonable enquiry be found, and in case any such person is absent from the United Republic or if such person or his last usual place of abode or business after reasonable enquiry cannot be found, such notice shall be affixed upon some conspicuous part of the land in respect of which the notice is given.

(4) Where a notice under this section has been published in the *Gazette* the removal of a grave or a dead body buried therein from the land in respect of which the notice is given shall not be invalid by reason only of any irregularity in the service of the notice or by reason of it having been published prior to its service on the persons required to be served therewith.

Contents
of notice

5.—(1) Every notice under section 4 shall include—

- (a) a description of the land from which it is intended to remove the grave or dead body;
- (b) an address at which particulars of the graves and dead bodies concerned may be inspected;
- (c) the name or description of the cemetery or burial ground where it is proposed to re-inter such dead bodies and the manner in which it is proposed to reinstate such graves or any parts thereof;

(d) a statement as to the right of a person interested—

- (i) to lodge with the Minister an objection in writing to the intention or any proposal contained in the notice within such period as may be specified, being not less than twenty-one days from the date of publication of the notice in the *Gazette*;
- (ii) to notify the Minister in writing that the person interested will, subject to the approval of the Minister, himself undertake the removal of a grave or dead body within two months from the date of publication of the notice in the *Gazette*.

(2) Where any of the particulars specified in paragraph (b) of subsection (1) cannot, after reasonable enquiry, be ascertained, it shall be sufficient if such details are given in the notice as would enable the graves concerned to be identified.

6.—(1) At the expiration of such period as is specified in a notice under section 4 or on compliance with the terms of a direction under subsection (2) of that section, and after considering any objections which may have been lodged with him, the Minister may authorize any person to enter upon the land to which the notice or direction relates and to undertake the removal of any grave situated or dead body buried therein.

Minister may
authorize
removal of
graves

(2) Subject to the provisions of section 7, all persons either generally or specially authorized in this behalf by the Minister under this section shall be entitled to do all such acts and things as may necessary or requisite for the removal, transportation and reinstatement or re-interment of a grave or dead body.

(3) For the avoidance of doubt it is hereby declared that, for the purposes of the provisions of section 127 and section 128 of the Penal Code, the persons referred to in subsection (2)—

- (a) shall not be deemed to commit a trespass in any place of worship or in any place of sepulture or in any place set apart for the performance of funeral rites or as a depository for the remains of the dead;
- (b) shall be deemed to have lawful authority to disinter the dead body of a person.

7.—(1) The removal, transportation and reinstatement or re-interment of a grave or dead body authorized under this Act shall be undertaken: —

Conditions
of removal
of graves

- (a) as far as is possible, with due regard to the views of the persons interested and the religious susceptibilities of the members of the religious community to which the person belonged whose grave or dead body it is;
- (b) with due solemnity and respectful treatment of the dead;
- (c) so far as is practicable, without unnecessary damage to the grave and the dead body;
- (d) so that a dead body which is disinterred is transported and re-interred without undue delay;

- (e) under such conditions of privacy as ensures that no dead body is exposed to public view;
- (f) in a manner which is not injurious to public health;
- (g) in accordance with such directions as may be given by a public officer appointed by the Minister to supervise the undertaking.

(2) The Minister shall appoint a public officer to supervise the undertaking referred to in subsection (1) and such public officer may, in addition to any other powers which may be conferred upon him by or under this Act—

- (a) permit the removal and re-interment of a dead body to be accompanied by such religious rites or ceremonies as are appropriate to the religious community to which the person belonged whose dead body is removed;
- (b) direct that a dead body which is disinterred shall, instead of being re-interred, be cremated in the manner customary among the members of the religious community to which the person belonged whose dead body is removed.

(3) No direction under paragraph (b) of subsection (2) shall be given except on an application in that behalf made by the persons interested or, in the absence of such persons, the controlling body of the religious community concerned.

Approval
of places
to which
graves
may be
removed

8.—(1) The Minister may approve places to which graves or dead bodies may be removed under this Act and where he proposes to approve a cemetery as such a place he shall, before approving the cemetery, consult the authority which appointed or set aside the area as a cemetery as to its suitability for that purpose.

(2) Notwithstanding any other written law, where the Minister has approved a place for the purposes of subsection (1) no permission or approval of an authority referred to in that subsection and no permit of any other person shall be required for the re-interment of a dead body in such place in accordance with the provisions of this Act.

Compensa-
tion payable
in certain
cases

9.—(1) Where the removal of a grave or dead body is undertaken by a person interested, the Minister may, on behalf of the Government, pay in respect thereof, out of moneys provided for the purpose by Parliament, such compensation as may be agreed upon or determined in accordance with the provisions of this section.

(2) The compensation payable under this section shall be limited to the reasonable expenses incurred in the removal, transportation, reinstatement and re-interment of the grave or dead body and any placatory or expiatory rites or other ceremony accompanying such removal and re-interment.

(3) A claim for compensation may be made by a person interested where he has duly notified the Minister that he himself would undertake the removal of the grave or dead body and such undertaking has been approved by the Minister and carried out in accordance with the provisions of this Act and any directions given thereunder.

(4) Every claim for compensation shall be submitted in writing by the person interested to the public officer appointed under subsection (2) of section 7 who may, after requiring the production of any evidence in support thereof or otherwise satisfying himself that such claim is reasonable, agree the same.

(5) If any dispute or disagreement arises as to the right of any person to claim compensation, the amount of compensation or the apportionment of compensation between the persons entitled thereto where there is more than one person interested, such dispute or disagreement shall be determined by the Minister whose decision shall be final and conclusive.

10. Any person who wilfully hinders or obstructs any person duly authorized by the Minister from entering upon any land in pursuance of the provisions of this Act or exercising any of the rights or powers conferred by section 6, or who molests, hinders or obstructs any person carrying out any of the duties imposed upon him by or under this Act, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding four thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment. ^{Penalty for obstruction}

11.—(1) The Minister may make regulations for the better carrying out of the purposes of this Act and, without prejudice to the generality of the foregoing, may make regulations— ^{Minister may make regulations}

- (a) prescribing forms of notices, objections, applications and claims to be given or made under this Act;
- (b) providing for the approval of places to which graves and dead bodies may be removed pursuant to the provisions of this Act and for the upkeep and maintenance of such places;
- (c) in relation to any matter provided for in subsection (1) of section 7;
- (d) prescribing the powers and duties of a public officer appointed under subsection (2) of section 7.

(2) There may be annexed to the breach or contravention of any regulation made under subsection (1) a penalty not exceeding a fine of two thousand shillings or imprisonment for a term of one year or both such fine and imprisonment.

12.—(1) Section 8 of the War Graves Ordinance is amended by adding immediately after subsection (3) thereof the following subsection: — ^{Amendment of Cap. 236 and saving of powers thereunder}

“(4) The provisions of this section shall not apply to a duly authorized person doing any act or thing in accordance with any power conferred or duty imposed upon him by or under the Graves (Removal) Act, 1969.”.

(2) Nothing in this Act, apart from the provisions of subsection (1), shall be construed as derogating from—

(a) the powers conferred on the President;

(b) the powers, rights and control of any war grave or place of land which have been or may be conferred on or vested in the Commonwealth War Graves Commission,

by or under the War Graves Ordinance.

Passed in the National Assembly on the tenth day of January, 1969.


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Clerk of the National Assembly