

Issuer:	Riigikogu
Type:	act
In force from:	01.07.2014
In force until:	30.06.2015
Translation published:	18.06.2014

Cemeteries Act

Passed 23.02.2011

Amended by the following acts

Passed	Published	Entry into force
19.02.2014	RT I, 13.03.2014, 4	01.07.2014

Chapter 1 General provisions

§ 1. Scope of application of this Act

(1) This Act establishes the requirements for interment in a cemetery and cremation of dead human bodies or human remains (hereinafter, 'deceased persons'), provides rules to govern the establishment, administration, use and closing for interment of cemeteries, and establishes the requirements for storage and transportation of deceased persons.

(2) The provisions of the Administrative Procedure Act apply to administrative procedures established in this Act without prejudice to the rules established in this Act.

(3) The Protection of War Graves Act applies to the establishment, administration and closing for interment of the cemeteries of the Defence Forces.

(4) The relevant special rules established in the Heritage Conservation Act are to be observed when establishing, administering or closing for interment any cemetery which is recognised as a cultural monument.

Chapter 2 Storage and transportation of deceased persons

§ 2. Storage of deceased persons

Deceased persons are stored in a room designed for that purpose in a hospital, morgue, crematorium or other relevant building.

§ 3. Transportation of deceased persons

(1) A deceased person is transported from the person's place of death to the morgue in a coffin or sealable plastic bag exclusively by a vehicle that is designed or adapted for this purpose.

(2) The transportation from Estonia to another country or from another country to Estonia of a deceased person must take place in a hermetically sealed zinc-lined coffin which is filled with a desiccant. For transportation, the zinc-lined coffin must be placed in a tightly closed wooden box. If the death was caused by an extremely dangerous communicable disease which is highly infectious (yellow fever, any viral haemorrhagic fever, smallpox, plague or anthrax), the dead body must first be wrapped in a shroud that is impregnated with an antiseptic solution.

Chapter 3

Requirements for cemeteries and their administration

§ 4. Establishment and expansion of cemeteries

(1) The establishment or expansion of a site intended for the interment of deceased persons and cremated human remains together with the requisite construction works (hereinafter, 'cemetery') is decided by the local authority. The establishment of a cemetery on a site that is owned by a religious association is decided by the local authority at the proposal of the religious association.

(2) A cemetery may not be established on, or expanded to a water intake sanitary protection zone. Where no sanitary protection zone has been created or the sanitary protection zone has been reduced, the cemetery may not be established or expanded such that it is closer to the water point than 50 metres.

(3) A cemetery may not be established on or expanded to a site that is sloping towards a water intake that is closer than 200 metres.

(4) When establishing or expanding a cemetery, the spatial plan must include a 50 metres wide zone around the external border of the cemetery. It is prohibited to erect any construction works in this zone, or allow any land use which may result in the spread of noise to the cemetery, except for civil engineering works which service the cemetery.

(5) When establishing or expanding a cemetery, it must be ensured that the bottom of the graves is at least 0.5 metres above the highest level of groundwater.

(6) Where a bore well is to be constructed in a cemetery, a 10 metres wide maintenance zone is planned around the well, in which no construction works may be erected and for which no land use may be allowed.

(7) The site for the establishment or expansion of a cemetery is determined in a comprehensive plan or a detailed plan following the procedure set out in the Planning Act.

§ 5. Requirements for cemeteries

(1) In accordance with good custom, conditions for the undisturbed use of the cemetery must be ensured at the cemetery.

(2) When establishing, using or expanding a cemetery, the following requirements must be observed:

- 1) it must be ensured that access to the cemetery is kept unobstructed and in good maintenance;
- 2) where a new cemetery is established, an enclosure must be built around it.

(3) When digging a new grave or erecting a new construction work in an existing cemetery, it must be ensured, where possible, that such a grave or construction work is not located closer than 10 metres to any bore well in the cemetery.

(4) Grave markers and grave plot enclosures are not regarded as small construction works within the meaning of the Building Act and are not subject to the requirements established for small construction works in that Act.

§ 6. Administrator of a cemetery

(1) A cemetery located on a site in the ownership of the local authority or the government is administered by the local authority.

(2) A cemetery located on a site in the ownership of a religious association is administered by the religious association.

(3) The administrator of the cemetery ensures that the requirements set out in section 5 of this Act are observed and that the cemetery is kept in good maintenance and performs other functions imposed on the administrator by legislation.

(4) The administrator of the cemetery ensures that neglected grave plots are registered and their re-use is authorised in accordance with the requirements set out in this Act and the cemetery rules.

(5) The local authority which administers the cemetery is entitled to enter into regulatory contracts in order to delegate functions relating to the administration of the cemetery.

§ 7. Cemetery rules

(1) The cemetery rules of a cemetery administered by a local authority are adopted by the council of the local authority.

(2) The cemetery rules of a cemetery administered by a religious association are adopted by the religious association.

- (3) The cemetery rules set out:
- 1) the terms and procedure for authorising the use of grave plots;
 - 2) the general term for the use of grave plots and the terms and procedure for extending that term, as well as the terms and procedure for premature termination of the right to use a plot;
 - 3) the procedure for interment;
 - 4) working hours of the cemetery;
 - 5) requirements concerning the maintenance of the cemetery;
 - 6) requirements and procedure for the maintenance of grave plots;
 - 7) the procedure for registering neglected grave plots and authorising their re-use;
 - 8) the procedure for installing, removing and reinstalling grave markers and grave plot enclosures;
 - 9) the procedure for placing urns in a columbarium (a construction work or part thereof designed for the storage of cremated human remains and urns);
 - 10) other conditions pertaining to the arrangements concerning the functioning of the cemetery.

(4) The cemetery rules may designate an area where cremated human remains may be scattered and an area where interment is permitted in accordance with special customs observed in the religion or culture of the deceased person.

(5) Where the cemetery is recognised as a cultural monument or where a cultural monument or a protected natural feature is located in the cemetery, the requirements arising from the Heritage Conservation Act and the Nature Conservation Act are included in the rules of that cemetery.

§ 8. Closing a cemetery for interment

(1) The closing for interment of a cemetery administered by the local authority is decided by the council of that authority. The closing for interment of a cemetery administered by a religious association is decided by the religious association, who informs the local authority of its decision at least one year in advance of the planned closing of the cemetery.

(2) The decision by which a cemetery is closed for interment may provide for the possibility of, and stipulate conditions for continuing the interment of cremated human remains (hereinafter, 'ashes') in the cemetery which has been closed for interment.

(3) The purpose of use of a cemetery that has been closed for interment may not be changed until 75 years have passed since the last interment. If, after 75 years, the purpose of use of the cemetery is changed, the person interested in changing the purpose of use must reinter the deceased persons and ashes interred in the cemetery and reinstall the grave markers elsewhere at its own expense. Where a closed cemetery is transformed into a park without changing the designated purpose of the land, the reinterment of the deceased persons and ashes elsewhere is not required.

(4) The provisions set out in subsection 3 of this section do not apply to cemeteries which are recognised as cultural monuments.

Chapter 4 Requirements for interment and cremation

§ 9. Interment

(1) A deceased person must be interred or cremated without undue delay. Interment or reinterment must be carried out in a dignified manner, having regard, where possible, to the religious and cultural affiliation of the deceased.

(2) A deceased person is interred on the basis of his or her death certificate. A stillborn child is interred on the basis of the medical certificate of death issued by a physician. A death certificate issued in a foreign country does not require legalisation or apostille certification (standard requirements for the legalisation of documents which are to be used in a foreign country). Where necessary, the administrator of the cemetery may require translation of the death certificate issued in a foreign country.

(3) The interment or cremation of an unknown deceased person is arranged by the local authority on whose territory the unknown deceased was found.

(4) The interment or cremation of a deceased person who died without close kin is arranged by the local authority on whose territory was located the last residence of the deceased person without close kin as registered in the population register.

(5) For the purposes of this Act, 'close kin' means the spouse of the deceased person, his or her parents, adult son or daughter, sister, brother or any other person who was close to the deceased person by virtue of his or her living arrangements.

(6) If the population register records no registered residence in respect of a deceased person who died without close kin, his or her interment or cremation must be arranged by the local authority on whose territory the last residence of the deceased person was located.

(7) If the last residence of a deceased person cannot be determined, the interment or cremation of the deceased person must be arranged by the local authority on whose territory the body of the deceased person without close kin was found.

(8) The costs of interment or cremation of a deceased person must be borne by the close kin of the deceased person. Where the local authority has arranged the interment or cremation of a deceased person, it is entitled to recover the costs of such interment or cremation from the heir who has accepted the estate of the deceased person.

(9) In the cases specified in subsections 3, 4, 6 and 7 of this section and subsection 11 of section 10 of this Act, the administration of the municipality or city, as the body arranging the funeral, may, following the procedure set out in the State Funeral Benefits Act, apply for the funeral benefit to compensate the costs incurred in arranging the interment or cremation of the deceased person.

(10) In the case of coffin interment, the depth of the grave must be 1.5–2 metres from the ground surface. In the case of urn interment, the burial depth must be at least 1 metre. If previously interred human remains are revealed when digging the grave, these must be placed in a small pit dug in the bottom of the same grave, whereas a coffin which remains intact is to be left undisturbed.

(11) When re-using a burial spot for a coffin interment, at least 20 years must have passed since the last interment in the same spot.

(12) For re-using a burial spot, the written consent of the user of the grave plot is required. Where a grave plot is declared neglected pursuant to the cemetery rules established by the administrator of the cemetery, the written consent of the user of the grave plot is not required.

(13) For the purposes of this Act, the user of a grave plot is the person who has been authorised by the administrator of the cemetery to use the grave plot. The authorisation must be in writing or in a format that allows reproduction. When the user of the grave plot dies, the close kin of the user of the grave plot have precedence over other applicants seeking the use of the plot.

(14) Before declaring a grave plot neglected, the administrator of the cemetery must place on the grave plot a marker which identifies the plot as one that the administrator intends to declare neglected. A grave plot is not to be declared neglected before at least one year has passed after the placing of the marker on the grave plot and provided that no one has tended the plot in the meantime.

(15) The reinterment of a deceased person takes place by agreement with the administrator of the cemetery. The reinterment is arranged by the administrator of the cemetery.

(16) If a deceased person is interred in sandy soil by coffin interment, the person may be reinterred when a year has passed since his or her previous interment. If a deceased person is interred in wet soil by coffin interment, the person may be reinterred when three years have passed since his or her previous interment.

§ 10. Cremation

(1) Cremation must be carried out in a dignified manner, having regard, where possible, to the religious and cultural affiliations of the deceased.

(2) A deceased person is cremated on the basis of his or her death certificate. A stillborn child is cremated on the basis of the medical certificate of death issued by a physician. A death certificate issued in a foreign country does not require legalisation or apostille certification. Where necessary, the administrator of the cemetery may require translation of the death certificate issued in a foreign country.

(3) Before cremation, the person commissioning the cremation and the cremator must execute an agreement which sets out:

- 1) the first name and surname and the personal identification code or the date of birth of the deceased person;
- 2) the time of death and the time of registration of the death;
- 3) the registration number of the death certificate or medical certificate of death;
- 4) any voluntarily given information regarding the creed of the deceased person;
- 5) the first name and surname and the personal identification code or the date of birth of the person who commissions the cremation;
- 6) the declaration of the person who commissions the cremation that to his or her knowledge the dead body does not contain any substances prone to explode, any cardiac pacemaker or any prostheses made from silicone or from any other material prone to explode;

7) the term during which the cremator undertakes to preserve the ashes and the obligation of the person who commissions the cremation to take possession of the ashes at an agreed time.

(4) For the purposes of this Act, the cremator means an undertaking which is a legal person or a self-employed natural person and which cremates deceased persons.

(5) If the cremation of a deceased person is not immediately possible, the cremator ensures the preservation of the deceased person in a cold storage room designed for that purpose.

(6) Any remains, other than ashes, which are left behind after cremation must undergo additional processing. Prostheses and other artificial objects which were part of the deceased person's body are separated from the ashes and destroyed by the cremator, unless otherwise stipulated in the agreement concluded between the person who commissioned the cremation and the cremator.

(7) The ashes are placed in a sealable container or urn. A label is attached to the sealable container or urn, showing the particulars of the cremated person and the date of cremation.

(8) The cremator must collect and preserve the following data regarding the cremation:

- 1) the first name and surname and the personal identification code or date of birth of the cremated person;
- 2) the time of death of the cremated person;
- 3) any voluntarily given information regarding the creed of the cremated person;
- 4) the time of cremation;
- 5) the particulars of the person who commissioned the cremation (first name and surname, personal identification code, contact details).

(9) The processing of data must take place in accordance with requirements set out in the Personal Data Protection Act.

(10) If, within the term specified in the cremation agreement, the ashes are not handed over to the person who commissioned the cremation, the cremator must preserve the ashes at least for one year after the expiration of the term specified in the agreement.

(11) After the expiration of the term specified in subsection 10 of this section, the interment of the ashes must be arranged by the local authority on whose territory was located the cremated person's last residence as registered in the population register. If the population register records no registered residence concerning the cremated person, his or her interment must be arranged by the local authority on whose territory the cremated person's last residence was located. If the last residence of the deceased person who died without close kin cannot be determined, the interment of the ashes must be arranged by the local authority on whose territory the body of the deceased person without close kin was found.

§ 11. Information collected in respect of the cemetery

(1) Administrators of cemeteries must collect the information specified in subsections 2–4 of this section in respect of the persons interred in the cemeteries which they administer, the grave plots in those cemeteries and the users of those grave plots.

(2) Particulars of deceased persons:

- 1) first name and surname and personal identification code or date of birth;
- 2) time of death;
- 3) any voluntarily given information regarding the creed of the deceased person;
- 4) the registration number of the death certificate or medical certificate of death and the name of the body or person who issued the death certificate or medical certificate of death;
- 5) date of interment.

(3) Particulars of the users of grave plots:

- 1) first name and surname of the user of the grave plot;
- 2) personal identification code or date of birth;
- 3) contact details (telephone number, e-mail address).

(4) Particulars of grave plots:

- 1) sector;
- 2) row/section;
- 3) address;
- 4) status (historical monument, artistic monument, in use, free);
- 5) type on interment (coffin or urn interment);
- 6) urn or coffin material;
- 7) short description of the grave markers and enclosures found on the grave plot.

(5) Where a columbarium is located on the territory of the cemetery, the administrator of the cemetery must collect the following information in respect of the persons whose ashes are placed in the columbarium:

- 1) first name and surname and personal identification code or date of birth;
- 2) time of death;
- 3) any voluntarily given information regarding the creed of the cremated person;
- 4) time of cremation.

(6) The processing of data must take place in accordance with requirements set out in the Personal Data Protection Act.

§ 12. State supervision

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

(1) Where established requirements are not observed in the use of a cemetery located on the territory of a local authority, the competent body of the local authority is entitled to issue an enforcement order. In the case of failure to comply with the enforcement order, the body who issued the order may apply substitutive enforcement or impose a penalty payment following the procedure set out in the Substitutive Enforcement and Penalty Payment Act. The ceiling limit for the penalty payment is 640 euros.

(2) In the cases specified in Chapter 2 of this Act, in preventing the spread of the extremely dangerous communicable diseases listed in section 3(2), government supervision is exercised by the Health Board in accordance with the Communicable Diseases Prevention and Control Act.

Chapter 5 Implementing provisions

§ 13. Use of graveyard plots

A graveyard plot that is in use at the moment of entry into force of this Act remains in the possession of the user for at least ten years from the moment of entry into force of this Act, unless the user and the administrator of the cemetery have agreed otherwise before the entry into force of this Act.

§ 14. Application of this Act

The establishment or expansion of a cemetery which was started before the entry into force of this Act is to be completed in accordance with the legislation which was in force at the time of the establishment or expansion of the cemetery.

§ 15. Amendment of the Public Health Act

Point 21 of subsection 2 of section 8 of the Public Health Act (RT I 1995, 57, 978; 2010, 44, 262) is hereby repealed.

§ 16. Entry into force of this Act

This Act enters into force on 1 January 2012.

Ene Ergma
Speaker of the Riigikogu