

Namibia

War Graves Control and Maintenance Ordinance, 1927

Ordinance 2 of 1927

Legislation as at 1 May 1930

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Republic of Namibia
Annotated Statutes

War Graves Control and Maintenance Ordinance, 1927

Ordinance 2 of 1927

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ORDINANCE

To provide for the control and maintenance of war graves.

(Afrikaans text signed by the Administrator)

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa as follows:-

1. Definitions

In this Ordinance -

“war grave” means -

- (a) the grave of any soldier or sailor of any of the belligerent powers in the war which commenced on the 4th August, 1914, who died as the result of wounds or injuries received or disease contracted during the war; or
- (b) the grave of any prisoner of war or interned civilian who was the subject of any of the said belligerent powers and died during such imprisonment or internment during the said war; or
- (c) the grave of any person who has died or may hereafter die in the defence of the Territory including the maintenance of constituted authority therein; and

“war grave cemetery” means any area of land containing a war grave or war graves.

2. Administrator may assume control of war graves

The Administrator may from time to time, by proclamation, vest in himself the control of any war grave or war grave cemetery.

3. Maintenance of war graves

The Administrator shall have all powers necessary or convenient for maintaining any war grave or war grave cemetery, the control of which is vested in him, in proper order and for beautifying the grave or cemetery, and, in particular, power to enclose the grave or cemetery and to erect and maintain thereon or therein gravestones, tablets or monuments of any description.

4. Compensation

Where a war grave is situated in or on private land, the Administrator shall before entering thereon give at least twenty-four hours' notice to the occupier, if any, and shall in the exercise of the powers conferred by this Ordinance, consider the convenience of the occupier as far as possible. The Administrator may pay to the occupier or the owner, out of moneys lawfully appropriated for the purpose, such sum of money as the Administrator considers reasonable, to compensate him for any actual damage caused to him by the exercise of the powers conferred upon the Administrator by this Ordinance; but the Administrator shall not incur any legal liability by reason of the exercise in good faith of any of the said powers.

5. Rights to graves other than war graves not affected

Nothing in this Ordinance shall affect the right of the owner of any grave in a war grave cemetery, not being a war grave, to have access to and maintain such grave, or confer on the Administrator any right to interfere with any such grave or any gravestone, tablet or monument thereon.

6. Public to have access

The public shall have the right of reasonable access to any war grave or war grave cemetery under the control of the Administrator.

7. Right of burial in war graves

No person shall, except with the consent of the Administrator, bury any body in any war grave or in any vacant space in any war grave cemetery, the control of which is vested in the Administrator.

8. Re-interment

Where the Administrator is of opinion that it is in the interests of the public health that the body should be removed from any war grave, or that by reason of its situation or for any other reason a war grave cannot be properly maintained in its present position, he may remove the body from the war grave and re-inter it in any place approved by him for the purpose: Provided that except where the removal takes place in the interests of the public health, he shall before removing a body, endeavour to obtain the consent of the widow, if any, of the deceased, or, if there is no widow, of one of his relatives, and shall not remove the body if he is of opinion that the removal will be against the wishes of the widow, or if there is no widow, of the relatives.

9. Administrator's power may be delegated

The Administrator may appoint any person or body of persons to exercise on his behalf any of the powers conferred upon him by this Ordinance, except the power conferred by section two.

10. Destruction of monuments, etc.

No person shall wilfully destroy, injure, defile, disfigure, remove, displace or deface any building, wall, fence, gate, tree, plant, monument, tablet, inscription or gravestone belonging to or under the control of the Administrator.

11. Disturbance of war graves

No person shall without the consent of the Administrator disturb the soil of any war grave under his control, or, subject to the provisions of section five, the soil of any war grave cemetery under his control.

12. Obstruction of Administrator in exercise of powers conferred by this Ordinance

No person shall obstruct the Administrator, or any servant or agent of the Administrator, or any person or persons appointed by him under section nine, or any servant or agent of any such person or persons working under his or their supervision in the exercise of the powers conferred by this Ordinance.

13. Penalty

Any person who contravenes any of the provisions of this Ordinance shall on conviction be liable to a fine not exceeding fifty pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding three months, or to both such fine and such imprisonment.

[A fine not exceeding fifty pounds is equivalent to a fine not exceeding N\$100.]

14. Exemption from taxation

No land tax and no rate or tax imposed by any municipality, village management board or roads board or any other local authority, which accrues in respect of any land the control of which is vested in the Administrator under the provisions of this Ordinance, after the control thereof is so vested, shall be payable by the owner thereof, and upon the transfer of any such land no transfer duty shall be payable in respect thereof.

15. Short title

This Ordinance may be cited for all purposes as the War Graves Control and Maintenance Ordinance, 1927.