

GOVERNMENT OF HUNGARY

Bill no. T/11212

on the amendment of Act XLIII of 1999 on cemeteries and burials

**Proposer: Dr. Sándor Pintér
Minister of the Interior**

Budapest, May 2013

Act ... of 2013 on the amendment of Act XLIII of 1999 on cemeteries and burials

Article 1

Article 3 of Act XLIII of 1999 on cemeteries and burials (hereinafter referred to as Ttv.) shall be amended with the following Paragraph j):

(Within the meaning of this Act)

j) "social burial: burial in coffin or by cremation performed with the personal contribution of the burier or any other person appointed by the burier, with the use of the requisites provided by the state, at a free burial place."

Article 2

Section (1) of Article 8 of Ttv. shall be replaced by the following provision:

"1) The rules pertaining to building structures in the cemetery shall be stipulated in the local construction regulations."

Article 3

Article 16 of Ttv. shall be replaced by the following provision:

"Article 16. The cemetery shall be operated in line with the provisions set forth in this Act, the relevant government decree, as well as cemetery rules or municipal regulations for public cemeteries, the public service agreement for funeral services. The operator shall be

- a) ensure the performance of funeral services, social burials and other entrepreneurial activities pursued in the cemeteries in conformance to the order of procedures as applicable to the given cemetery;
- b) provide for the conditions of burying (urn burying), including digging at the burial plot (grave digging) before the first burial in the burial plot, with the exception of social burials;
- c) establish the conditions of exercising reverence by the visitors of the cemetery, the opening hours;

- d) provide for the maintenance and operation of the mortuary, the post-mortem room facilities and the associated technical equipment, storage units and refrigerators, as well as the other public service facilities (infrastructure) of the cemetery;
- e) ensure the takeover of the deceased persons transported to the cemetery and the accessories required for their burial, and provide for the opening, closing of the cemetery;
- f) keep the books of records;
- g) provide information to the visitors of the cemetery;
- h) designate places for burials;
- i) act for the cleanliness of the cemetery and their facilities, the maintenance of roads, the removal of ice and snow from the roads;
- j) collect and remove wastes;
- k) ensure the proper observance and enforcement of the rules of the cemetery;
- l) coordinate the funeral service operations relating to the use of the cemetery facilities, in particular the mortuary, take organizational measures to facilitate the flawless implementation of burials and urn burials;
- m) provide for the reception of clients;
- n) control the proper observance of requirements pertaining to the location of and the determination of the sizes for the places of social burials; and
- o) provide the means needed for grave digging, coffin lowering and burying in the case of social burials."

Article 4

Ttv. shall be amended with the following Article 16/ A:

"Article 16/ A (1) The operator of the public cemetery shall ensure that the participants of social burials should become familiarized with the work protection, public health and epidemic regulations associated with burials.

(2) In the case of social burials, the operator of the public cemetery shall control the activities of the personal contributors in the cemetery. In the event of any non-observance of the provisions of the relevant legal regulations, the operator of the public cemetery shall warn the personal contributors to abide by the work protection, public health and epidemic regulations. In the case of any non-compliance, the operator of the public cemetery shall take the necessary measures to perform the tasks, while the related costs shall be borne by the personal contributors."

Article 5

(1) Section (2) of Article 21 of Ttv. shall be replaced by the following provision:

(2)

"(2) The urn with the ashes shall be released to the person obliged to act for the burial as required in the last will of the deceased person, the declaration of the person obliged to act for the burial made in the form of a fully conclusive private deed or public deed, or in the lack of such documents the declaration of the acceptance of the cemetery, memorial funeral place."

(2) Article 21 of Ttv. shall be amended with the following Section (4)-(6):

“(4) The declaration of the person obliged to act for the burial shall specify the name, place and date of birth of the person obliged to act for the burial, the mother’s name at birth, the address of residence as registered at the time of the declaration and the address planned to be used for the accommodation of the ashes.

(5) When the urn with the ashes is accommodated outside the cemetery, memorial funeral place, the person obliged to act for the burial shall make a commitment in the declaration that the urn should be stored in line with the circumstances demanded by proper reverence for the deceased, ensure the exercise of the right of reverence for the close relatives of the deceased person, and inform the close relatives of the deceased person in relation to any change in the place accommodating the urn.

(6) If the last will of the deceased person fails to provide for the handling of the ashes, or no last will has been made, when the ashes are scattered the declaration of the person obliged to act for the burial shall contain a statement that the close relatives of the deceased person agree with the place, time and form of the scattering of ashes.”

Article 6

Section (1) of Article 22 of Ttv. shall be replaced by the following provision:

“(1) With the exception of graves in national graveyards and places of burial for national heroes, the right of disposal over the burial place shall belong to the person who has paid for the burial place in question. Unless it is agreed otherwise, whenever there are more than one heir of identical legal standing, this right of disposal shall be exercised jointly.”

Article 7

Article 23 of Ttv. shall be replaced by the following provision:

„Article 23 Outside cemeteries, memorial funeral places and cremation facilities, the corpse may be laid out only with the permission of the administrative body of healthcare.”

Article 8

Chapter II of Ttv. shall be amended with the following Article 24/A-24/C and the preceding subchapter:

“Social burial

Article 24/A (1) In the case of social burials, the provisions of this Act shall be applicable with the deviations defined in the subchapter.

(2) Social burial may be demanded by the person obliged to act for the burial from the local government at the deceased person’s last place of residence.

(3) In the framework of social burial, the state shall provide for the mortuary refrigeration, transportation of the deceased person, as well as cremation if it is preferred by the person obliged to act for the burial. The state shall provide the grave, coffin, urn and grave marker for the purpose of social burial.

(4) In the cases defined in the relevant legal regulations, the maintainer of the public cemetery shall designate a social plot in the public cemetery. In cemeteries owned by religious communities, social plots shall be designated if in the given settlement the local government does not own a public cemetery. Only social burials may be performed in social plots.

(5) When social burial is requested, the person obliged to act for the burial shall not bear burial expenses, and such expenses may not be enforced as encumbrances on the estate of the deceased. If the person obliged to act for the burial violates the legal regulations pertaining to social burial in any way, the person obliged to act for the burial shall refund the costs of preparations for the burial, dressing, transportation, mortuary refrigeration, cremation if applicable, as well as the fee payable for the burial plot, the price of the coffin or urn used, the price of the grave marker to the cost-bearing organization.

(6) No social burial may be executed in case any contract has been made for the burial.

(7) When requesting social burial, the person obliged to act for the burial or his/her appointed person shall make a declaration to undertake to perform the following funeral services:

- a) preparation of the deceased person for the burial (washing, dressing), with the exception of cases defined in Section (1) and (2) of Article 24/B,
 - b) digging and earthing of the grave or urn grave,
 - c) carriage of the coffin, urn without a motor vehicle inside the cemetery, and
 - d) placement in the grave or urn burial
- (hereinafter collectively referred to as: personal contribution).

(8) The person obliged to act for the burial and the contributors of social burial shall further declare that

- a) in relation to the activities defined in Section (7), the person obliged to act for the burial may not offer, whereas the personal contributors may be accept counter-services,
- b) the operator of the cemetery with social plots shall inform them in relation to the rules of the performance of work, and with reference to any accident occurring during work the owner of the cemetery, the operator of the cemetery or the person obliged to act for the burial may not have any damage claim.

(9) The declarations defined Section (7) and (8) shall be presented by the person obliged to act for the burial to the operator of the cemetery with social plots prior to the commencement of work at the latest, and in the lack of such declarations the operator of the cemetery shall prevent the work from being started.

(10) If after the notification of the demand for social burial such a justifiable circumstance occurs that prevents the person having undertaken personal contributor from actually realizing that personal contribution, the person obliged to act for the burial may request another person, and inform the local government accordingly.

(11) If the person obliged to act for the burial has requested social burial, but is unable to provide for personal contribution, and has informed the local government

accordingly, the local government shall act for the burial of the deceased person in the form of burial at public costs. These costs may be enforced as encumbrances on the estate of the deceased.

Article 24/B (1) For persons deceasing in healthcare institutions and in the case of post mortem examinations, dressing may not be performed in person. After the post mortem examination, the healthcare institution executing the post mortem examination shall deliver the corpse on the basis of the certification of application for social burial, as restored and dressed with respect to demands of reverence.

(2) The physician issuing the post mortem certificate may prohibit direct contact with the corpse for the personal contributors of social burial with reference to public health, epidemic or reverence reasons.

(3) In the case of social burial, only the accessories defined in Section (3) of Article 24/A may be used.

(4) For social burial, the deceased person may as well be laid out, and the memorial service may be held at the grave.

(5) At the place of social burial, within 25 years following the first burial only urns may be placed in the framework of social burial.

(6) In the case of burials performed in conformance to the specific requirements of any religious community, the rules of social burial set forth in this subchapter shall not affect the religious activities and customs of the religious community.

Article 24/C (1) If in the framework of social burial cremation is performed, the costs of the cremation of the corpse shall be borne by the local government at the last place of residence of the deceased person.

(2) When social burial is performed, the costs of the storage and mortuary refrigeration of the corpse in the public cemetery shall be borne by the maintainer of the public cemetery.

(3) The free provision of the burial plot and accessories for the purpose of social burial may not be regarded to be the provision of gifts, and therefore it may not be taken as grounds for public duty payment obligations."

Article 9

Section (3) of Article 25 of Ttv. shall be replaced by the following provision:

"(3) Within the meaning of this Act, the definition of funeral services shall be extend to

- a) urn burial in cemeteries owned by religious communities, memorial funeral place, within the framework of any religious ceremony by religious communities,
- b) laying out at any inpatient healthcare service provider with operating perform for the provision of hospice palliative service for adults or children, and
- c) performance of funeral service elements listed in Section (7) of Article 24/A, and performed by a relative or his/her appointed person in the course of the social burial."

Article 10

Article 26 of Ttv. shall be amended with the following Section (3) and (4):

“(3) The funeral service provider shall publish the price list of the offered services and accessories at its own website and funeral registration office in a clearly legible and comprehensible manner. From the prices published at the time of ordering the accessories or services, no deviation may be made to the detriment of the client.

(4) For the takeover of the accessories made available by the clients, the funeral service provider may not charge any separate fee.”

Article 11

(1) Section (1) of Article 27 of Ttv. shall be replaced by the following provision:

“(1) Outside the cemetery, the cremation facilities and the memorial funeral place, the funeral service provider may perform

a) the registration of the requested burial, the preparation of the deceased person for the burial and the provision of the accessories needed for the burial as parts of the funeral services, as well as

b) the mortuary refrigeration of the deceased person and the storage of the hearse in the course of the funeral services

only at the site of the funeral service provider.”

(2) Article 27 of Ttv. shall be amended with the following Section (3):

“(3) No site for the provision of funeral services may be established and operated within the 200-meter range of inpatient healthcare institutions.”

Article 12

Section (1) of Article 29 of Ttv. shall be replaced by the following provision:

“(1) Persons engaged as public employees by healthcare institutions in the form of public employment, labour relation or any other legal relation for work for the handling and delivery of deceased persons, or their relatives living in the same households may not be private entrepreneurs, one-man companies, senior officers, employees, members - with the exception of public limited companies - of business entities performing funeral services.”

Article 13

Paragraph a) and e) of Section (2) of Article 30 of Ttv. shall be replaced by the following provisions:

(The authority issuing permission for the performance of funeral services shall permit the pursuance of funeral service activities to)

“b) those confirming the availability of the property collateral that is defined in the government decree issued for the enforcement of this Act,

e) those having by themselves or by way of any employee - in the case of business entities - personally participating in funeral service activities the professional qualification defined, and comply with the conditions set forth in the relevant government decree.”

Article 14

Article 34 of Ttv. shall be replaced by the following provision:

„Article 34 (1) If the authority permitting the performance of funeral services finds that the funeral service provider fails to comply with the conditions prescribed in relation to its activities in the relevant legal regulations, or the conditions of the issuance of the permit are not in place any longer, the permit shall be withdrawn immediately.

(2) If in the course of its supervisory activities, the authority has ascertained that the funeral service provider fails to comply with the obligations required by the authorities, and within 30 days following the receipt of the authority resolution demanding the proper observation of the obligations the service provider does not act in conformance to the notice, the authority permitting funeral services – with respect to the weight, nature and any repeated occurrence of the violation – may impose of fine ranging from HUF 100,000 to HUF 1,000,000. If within 60 days following the receipt of the authority resolution demanding the proper observation of the obligations the funeral service provider fails to restore operations complying with the relevant legal regulations and authority resolutions, the authority permitting funeral services shall withdraw the permit for the given activities, site or both of them.”

Article 15

Article 35 of Ttv. shall be amended with the following Section (3):

“(3) In the case of any carriage between 1 March and 30 September, or when the duration of the carriage is longer than 90 minutes, outside the cemetery, memorial funeral place and cremation facility the corpse may be transported in a hearse only at or under +18 °C.”

Article 16

Article 37 of Ttv. shall be replaced by the following provisions:

“Article 37 (1) A cremation facility may be constructed, converted or reconditioned as required in the local construction regulations, in possession of a building permit.

(2) For the given upcoming 6-monthly calendar period, the cremation facility is obliged to publish its prices for the cremation and other services associated with cremation, thus in particular the transportation charges for unit kilometers, the prices payable for the cremation caskets, urns and urn insets it distributes until 1 December and 1 June, respectively. The published prices shall be equally applicable to all the funeral service providers.

(3) In connection with the use of its services, the cremation facility may not make payments to the funeral service provider.

(4) The cremation facility shall keep a book of records to specify the

- a) serial number,
- b) date of cremation,

- c) name of the deceased person, place and date of birth, mother's name at birth,
- d) place and date of death,
- e) name, address of the service provider transporting the deceased person to the facility, the registration number of the transportation vehicle, the date and time of takeover,
- f) the time, date and form of the delivery of the urn, the identifying data of the delivery, or the name, address and signature of the receiving person.

(5) When accommodated outside cemeteries, memorial funeral places, the book of records shall register the place of the accommodation of the ashes, the name of the person acting for the burial and making the declaration, his/her place and date of birth, the mother's name at birth, and the copy of this declaration shall be kept.

(6) The book of records and the declarations held by the cremation facility shall be kept until the end of the operation of the facility. When the operation of the cremation facility is discontinued, the owner of the cremation facility shall provide for the deposition of the book of records and declarations in the archives. If the ownership of the cremation facility changes, the new owner is obliged to continue the book of records, as well as keep the earlier books of records and declarations.

(7) The data entered in the book of records and declarations may be inspected only by the authority supervising the funeral services and the person having ordered the cremation. The cremation facility shall inform the persons intending to exercise the rights of reverence in relation to the place of the accommodation of the ashes."

Article 17

(1) Section (1) of Article 40 of Ttv. shall be replaced by the following provision:

"(1) The owner of the cemetery or - in the case of public cemeteries - the local government may impose the obligation to rely on the services of professional personnel and equipment within the cemetery to perform the mortuary refrigeration of deceased persons, their carriage in dedicated vehicles, the scattering of ashes with the use of specific means, as well as tasks associated with urn burial, grave digging, the opening of graves, the lowering of coffins in graves and the earthing of graves (hereinafter referred to as: services provided by the operator)."

(2) Article 40 of Ttv. shall be amended with the following Section (6):

"(6) The operator of the cemetery may not charge any other fees, but ones stipulated in the regulations. No fees may be collected for visits in the cemetery, the use of roads in the cemetery and the maintenance of burial plots."

Article 18

(1) Paragraph b) of Section (1) of Article 41 of Ttv. shall be replaced by the following provision:

(The Government shall be authorized to issue a decree to stipulate the requirements for)

“b) rights and obligations relating to the performance of funeral services and the operation of cemeteries, burial at the costs of the public, transportation of deceased persons in Hungary and abroad, rules pertaining to the domestic burial and cremation of non-Hungarian citizens, as well as the contents and substances of declarations needed for the release of ashes;”

(2) Section (1) of Article 41 of Ttv. shall be amended with the following Paragraph i)-k):

(The Government shall be authorized to issue a decree to stipulate the requirements for)

“i) maximum prices for cremation in connection with social and public burials; j) the differing rules pertaining to social burial plots, detailed rules of the use of social burials;

k) detailed rules pertaining to the mortuary refrigeration of the corpse in a healthcare institution in the case of social burial.”

Article 19

Ttv. shall be amended with the following Article 44 and 45:

„Article 44. The provisions of Section (3) of Article 27 shall be applicable to sites operated for the purpose of funeral service as of 1 January 2014

a) from 1 January 2015 in case the funeral service provider is the owner of the property used as the service site,

b) from 1 July 2014 in case the funeral service provider has the right to use the property as the service site under any other legal title.

Article 45. This Act has been adopted for compliance with Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market.”

Article 20

In Ttv.

a) the wording “administrative area” in Paragraph a) of Article 3 shall be replaced by “area of public administration”, and the wording “intended for building development” shall be replaced by the wording “intended or not intended by building development”,

b) the wording “also cemetery” in Paragraph b) of Article 3 shall be replaced by “cemetery or cemetery section”,

c) in Paragraph c) of Section (1) of Article 41 the wording “operating” shall be replaced by “establishing, operating”,

d) in Paragraph b) of Section (3) of Article 41 the wording “use of the cemetery” shall be replaced by “use of the cemetery, mortuary”,

e) Paragraph e) of Section (3) of Article 41 the wording “redemption fee” shall be replaced by “fee of redemption and extension”, whereas the wording “by the entrepreneurs” shall be replaced by “and the services provided by the operator”,

f) in Paragraph f) of Section (3) of Article 41 the wording “and” shall be replaced by “social burial and”.

Article 21

In Ttv., the following parts shall be repealed:

- a) wording “parking of the area of the cemetery as appropriate for the given function and characteristics of the location” in Paragraph g) of Section (1) of Article 9,
- b) Paragraph e) of Section (1) of Article 25, and
- c) Section (2) of Article.

Article 22

- (1) With the exception of the provisions of Section (2) herein, this Act shall enter effect on 1 January 2014.
- (2) Article 15 shall enter effect on 1 January 2015.
- (3) This Act has been adopted for compliance with Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market.