



# New Southgate Cemetery Act 2017

## 2017 CHAPTER ii

### 3 Power to extinguish rights of burial

- (1) Subject to subsection (2), where in respect of any grave space in the cemetery a right of burial has not been exercised for 75 years or more from the date of the latest burial in the grave space or, if there has been no burial in the grave space, from the date of the grant of the right of burial in the grave space, the burial authority may, in accordance with the provisions of this section, extinguish the right of burial in that grave space.
- (2) No right of burial granted after the passing of this Act for any period longer than 75 years is to be extinguished under this section.
- (3) The power of the burial authority under subsection (1) to extinguish a right of burial in any grave space includes the power to remove any memorial in or on the grave space.
- (4) Before extinguishing a right of burial or removing any memorial under the powers of this section, the burial authority must—
  - (a) publish a notice of their intention to do so once in each of two successive weeks in a newspaper circulating in the borough, with an interval between the dates of publication of not less than six clear days;
  - (b) display such a notice in a conspicuous position at each of the principal entrances to the cemetery; and
  - (c) serve such a notice upon—
    - (i) the registered owner of the right of burial at that person's registered address;
    - (ii) the Commonwealth War Graves Commission; and
    - (iii) the Historic Buildings and Monuments Commission for England.
- (5) Each of the notices must—
  - (a) contain full particulars of the burial authority's proposals including a specification of the registered number or other description of all grave spaces in respect of which it is proposed that rights of burial should be extinguished and stating whether it is proposed that any memorials should be removed;
  - (b) specify the date on which it is intended that the rights should be extinguished and any memorial removed, which date must not be earlier than six months

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*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

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after the date of the later of the two publications, or the date on which notice is first displayed, or the date on which notice is served, whichever is the last; and

- (c) state the effect of subsections (6) to (9).
- (6) If notice of objection to the extinction of a right of burial in any grave space is given to the burial authority before the date specified under subsection (5)(b) by the registered owner of the right of burial and that objection is not withdrawn, the right of burial to which the objection relates must not be extinguished under this section, and if notice of any other objection to the extinction of any rights of burial or to the removal of any memorial, and of the ground of any such objection, is given to the burial authority before the date specified under subsection (5)(b) and is not withdrawn, any rights or memorial to which such last mentioned objection relates must not be extinguished or removed without the consent of the Secretary of State.
- (7) Any memorial removed by the burial authority under this section remains the property of the owner of it, but if such owner does not claim it within a period of six months after the date specified under subsection (5)(b), the burial authority may put the memorial to such use as the burial authority considers appropriate or the burial authority may destroy it.
- (8) As compensation for any right of burial extinguished under this section the burial authority must, on a claim being made by the registered owner of the right of burial within six months from the extinguishment of that right, pay to the owner such sum representing the value of that right as may be agreed between the burial authority and the owner or, in default of agreement, determined by arbitration.
- (9) In any arbitration under subsection (8) the reference must be to a single arbitrator to be appointed by agreement between the parties or, in default of agreement, to be appointed by the President of the Royal Institution of Chartered Surveyors on the application of either party after giving notice in writing to the other party.
- (10) The powers conferred by this section must not, except with the prior written agreement of the Commonwealth War Graves Commission, be exercised by the burial authority in respect of—
- (a) any grave in which there is a Commonwealth war burial, or
  - (b) any grave space in or on which there is a Commonwealth war memorial.