

## SCHEDULES

### SCHEDULE 20

Section 22

#### BURIAL GROUNDS

##### *Notice of removal of remains or monument*

- 1 (1) Before removing from the land in question any remains or any monument to the deceased, the nominated undertaker must—
  - (a) publish a notice complying with sub-paragraph (2) in each of two successive weeks in a newspaper circulating in the area where the land is situated, and
  - (b) at the same time leave such a notice displayed in a conspicuous place on or near the land.
- (2) A notice under sub-paragraph (1) must—
  - (a) identify the land to which it relates,
  - (b) set out in general terms the effect of paragraphs 2 to 7 (so far as relevant to remains to which sub-paragraph (1) applies),
  - (c) state where, and in what form, an application under paragraph 2(1) may be made, and
  - (d) state how the nominated undertaker proposes to carry out its functions under this Schedule with respect to the disposal of the remains or monument.
- (3) No notice is required under sub-paragraph (1) before the removal of any remains or any monument to the deceased where the Secretary of State notifies the nominated undertaker that the Secretary of State is satisfied—
  - (a) that the remains were buried more than 100 years ago, and
  - (b) that no relative or personal representative of the deceased is likely to object to the remains or monument being removed in accordance with this Schedule.
- (4) No notice is required under sub-paragraph (1) before the removal of any remains or any monument to the deceased if—
  - (a) a court has granted a faculty, in relation to the remains, to the nominated undertaker or a body corporate which is a member of the same group as the nominated undertaker, or
  - (b) on the passing of this Act, a licence under section 25 of the Burial Act 1857 (bodies not to be removed from burial grounds without licence of the Secretary of State) is in force in relation to the remains and the holder of the licence is the nominated undertaker or a body corporate which is a member of the same group as the nominated undertaker.
- (5) In sub-paragraph (4)—
  - “court” has the meaning given by section 25(4) of the Burial Act 1857;
  - “group” means a body corporate and all other bodies corporate which are its subsidiaries within the meaning given by section 1159 of the Companies Act 2006.

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*Status: This is the original version (as it was originally enacted).*

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### *Removal of remains under licence*

- 2 (1) In the case of remains in relation to which paragraph 1(1) applies, the nominated undertaker must issue a licence for the removal of the remains if—
- (a) it receives an application in writing from a relative or personal representative of the deceased, and
  - (b) the application is received before the end of the period of 56 days after the day on which notice relating to the remains is first published under paragraph 1(1)(a).
- (2) In the case of remains in relation to which paragraph 1(3) applies, the nominated undertaker must issue a licence for the removal of the remains if—
- (a) it receives an application in writing from a relative or personal representative of the deceased, and
  - (b) the application is received before the nominated undertaker has removed the remains under paragraph 4(1).
- (3) A licensee under this paragraph may remove the remains to which the licence relates and bury them elsewhere or cremate them.
- (4) The nominated undertaker must pay the reasonable costs of removal and reburial or cremation under this paragraph.

### *Removal of remains by nominated undertaker*

- 3 (1) In the case of remains in relation to which paragraph 1(1) applies, the nominated undertaker may remove the remains after the expiry of the period of 56 days referred to in paragraph 2(1)—
- (a) if no application under paragraph 2(1) has been received, or
  - (b) in a case where one or more applications under paragraph 2(1) have been received, if in the case of each application—
    - (i) a licence has been issued, and
    - (ii) at least 28 days have passed since the issue of the licence without the remains having been removed.
- (2) The nominated undertaker must within two months of the removal of remains under sub-paragraph (1)—
- (a) bury them in a place (whether or not consecrated) which is set apart for the purposes of burial, or
  - (b) cremate them in a crematorium.
- (3) If—
- (a) an application is made to the nominated undertaker under paragraph 2(1),
  - (b) the application is refused on the ground that the nominated undertaker is not satisfied that the applicant is a relative or personal representative of the deceased,
  - (c) within the period of 28 days beginning with the date of the notice of refusal the applicant has applied to the county court for a declaration that he or she is a relative or personal representative of the deceased (see paragraph 11(2)(b)), and
  - (d) that period of 28 days has elapsed without the court having determined the application made to it,

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the nominated undertaker may remove the remains and any monument to the deceased.

- (4) The nominated undertaker must, pending the court's determination, deal with any remains or monument removed under sub-paragraph (3) in such manner as the Secretary of State may direct.
- 4 (1) In the case of remains in relation to which paragraph 1(3) applies, the nominated undertaker may remove the remains—
- (a) if no application under paragraph 2(2) has been received, or
  - (b) in a case where one or more applications under paragraph 2(2) have been received, if in the case of each application—
    - (i) a licence has been issued, and
    - (ii) at least 28 days have passed since the issue of the licence without the remains having been removed.
- (2) The nominated undertaker must after the removal of remains under sub-paragraph (1)—
- (a) within 12 months or such longer period as the Secretary of State may direct in relation to the case—
    - (i) bury them in a place (whether or not consecrated) which is set apart for the purposes of burial, or
    - (ii) cremate them in a crematorium, or
  - (b) deal with them in such other manner, and subject to such conditions, as the Secretary of State may direct.
- (3) If—
- (a) an application is made to the nominated undertaker under paragraph 2(2),
  - (b) the application is refused on the ground that the nominated undertaker is not satisfied that the applicant is a relative or personal representative of the deceased,
  - (c) within the period of 28 days beginning with the date of the notice of refusal the applicant has applied to the county court for a declaration that he or she is a relative or personal representative of the deceased (see paragraph 11(2)(b)), and
  - (d) that period of 28 days has elapsed without the court having determined the application made to it,
- the nominated undertaker may remove the remains and any monument to the deceased.
- (4) The nominated undertaker must, pending the court's determination, deal with any remains or monument removed under sub-paragraph (3) in such manner as the Secretary of State may direct.
- 5 (1) In the case of remains in relation to which paragraph 1(4) applies—
- (a) the nominated undertaker may remove the remains, and
  - (b) if it does so, it is to be treated for the purposes of this Act as acting under this paragraph and not under the faculty or licence mentioned in paragraph 1(4).
- (2) The nominated undertaker must within two months of the removal of remains under sub-paragraph (1)—

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- (a) bury them in a place (whether or not consecrated) which is set apart for the purposes of burial, or
  - (b) cremate them in a crematorium.
- (3) Sub-paragraph (2) does not apply if the Secretary of State is satisfied that the remains were buried more than 100 years ago; and in such a case the nominated undertaker must, after the removal of remains under sub-paragraph (1)—
- (a) within 12 months or such longer period as the Secretary of State may direct in relation to the case—
    - (i) bury them in a place (whether or not consecrated) which is set apart for the purposes of burial, or
    - (ii) cremate them in a crematorium, or
  - (b) deal with them in such other manner, and subject to such conditions, as the Secretary of State may direct.

#### *Removal of monuments*

- 6 (1) Where a licence to remove any remains is issued under paragraph 2(1) or (2), the licensee may remove from the land any monument to the deceased and re-erect it elsewhere or otherwise dispose of it.
- (2) The nominated undertaker must pay the reasonable costs of removal and re-erection under sub-paragraph (1).
- 7 (1) Where any remains are removed under a licence under paragraph 2(1) or (2), the nominated undertaker may remove from the land any monument to the deceased which is not removed by the licensee within 28 days of the issue of the licence.
- (2) Where the nominated undertaker removes any remains under paragraph 3, 4 or 5, it may also remove from the land any monument to the deceased.
- (3) Where any remains are removed (by a person other than the nominated undertaker) under a faculty or a licence under section 25 of the Burial Act 1857, the nominated undertaker may remove from the land any monument to the deceased which is not removed by the person to whom the faculty is granted or the licensee (as the case may be).
- (4) The nominated undertaker may move any monument removed under this paragraph to the place, if any, where the remains of the deceased are buried or to some other appropriate place.
- (5) The nominated undertaker must break and deface any monument removed under this paragraph which is not dealt with under sub-paragraph (4).

#### *Records*

- 8 (1) Where any remains in relation to which paragraph 1(1) applies are removed under this Schedule, or remains in relation to which paragraph 1(4) applies are removed under paragraph 5(2), the nominated undertaker must, within two months of the removal, provide the Registrar General with a certificate which—
- (a) identifies the remains, so far as practicable,
  - (b) states the date on which, and the place from which, the remains were removed, and
  - (c) states the date and place of reburial or cremation.

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- (2) Where any remains in relation to which paragraph 1(3) applies are removed under this Schedule, or remains in relation to which paragraph 1(4) applies are removed under paragraph 5(3), the nominated undertaker must, within 12 months of the removal or such longer period as the Secretary of State may direct in relation to the case, provide the Registrar General with a certificate which—
  - (a) identifies the remains, so far as practicable,
  - (b) states the date on which, and the place from which, the remains were removed,
  - (c) if at the time the certificate is provided the remains have been reburied or cremated, states the date and place of reburial or cremation, and
  - (d) if at that time the remains have not been reburied or cremated, states where and by whom they are kept.
- (3) Where any monument is removed under this Schedule, the nominated undertaker must, within two months of the removal—
  - (a) deposit with the local authority in whose area the monument was situated prior to the removal a record which—
    - (i) identifies the monument,
    - (ii) gives any inscription on it,
    - (iii) states the date on which, and the place from which, it was removed, and
    - (iv) states the place, if any, to which it was moved or how it was disposed of, and
  - (b) provide the Registrar General with a copy of the record deposited under paragraph (a).
- (4) The nominated undertaker may require any person who removes remains or a monument under this Schedule to provide it with any information about the remains or monument removed which it needs in order to comply with sub-paragraph (1), (2) or (3).
- (5) In sub-paragraph (3)(a), “local authority” means the unitary authority or, in a non-unitary area, the district council.

#### *Discharge of functions by nominated undertaker*

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- (1) Where the nominated undertaker removes remains in relation to the removal of which a licence has been granted under paragraph 2(1) or (2), it must carry out in accordance with the reasonable requests of the licensee—
    - (a) its functions under paragraph 3 or 4 with respect to disposal of the remains, and
    - (b) if it removes any monument to the deceased, the functions under paragraph 7 with respect to disposal of the monument.
  - (2) In a case where more than one licence is granted under paragraph 2(1) or (2) and the licensees make different reasonable requests for the purposes of sub-paragraph (1), the nominated undertaker must carry out the functions referred to in that sub-paragraph in accordance with directions given by the Secretary of State.
  - (3) Directions under sub-paragraph (2) may include directions that—
    - (a) a licensee may apply to the county court to determine how remains or a monument are to be disposed of, and

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- (b) how the remains or monument are to be dealt with pending the court's determination.
- 10 The Secretary of State may give such directions as the Secretary of State thinks fit with respect to the carrying out of any function of the nominated undertaker under this Schedule.

*Relatives and personal representatives*

- 11 (1) In this Schedule, references to a relative of the deceased are to a person who—
- (a) is a husband, wife, civil partner, parent, grandparent, child or grandchild of the deceased, or
  - (b) is, or is a child of, a brother, sister, uncle or aunt of the deceased.
- (2) For the purposes of this Schedule, a person is to be taken to be a relative or personal representative of the deceased if—
- (a) the nominated undertaker is satisfied that the person is a relative or personal representative of the deceased, or
  - (b) the county court, on the application of the person, has declared that the person is a relative or personal representative of the deceased.