



Allhallows Staining Church Act 2010

CHAPTER v

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Allhallows Staining Church Act 2010

CHAPTER v

An act to remove certain restrictions relating to the use of land comprising the former church of Allhallows Staining, its churchyard, and other adjoining land in the City of London; to make provision for the removal of any human remains from the land and to enable its use for other purposes; and for connected purposes. [27th July 2010]

WHEREAS—

- (1) The livery company commonly known as The Clothworkers' Company has owned and occupied land adjacent to the site of the former church of Allhallows Staining ("the former church") in the City of London since the 15th century, on which land has been built its hall:
- (2) Provision was made by the Lady Slaney's (Trust) Estate Act 1869 (c. 8) and an ecclesiastical scheme dated 17 March 1870 to unite the benefices of Allhallows Staining and St. Olave Hart Street, for the removal of the church of Allhallows Staining (other than its tower), for the sale of the site of the former church, including its tower, and the adjoining curate's residence to The Clothworkers' Company, and for the vesting of the churchyard of Allhallows Staining ("the churchyard") in the incumbent for the time being of the united benefice:
- (3) Pursuant to that Act and scheme, the site of the former church, together with its tower and other adjoining land, was transferred to The Clothworkers' Company by a conveyance dated 18 May 1871 and that conveyance, amongst other things, obliged The Clothworkers' Company not to pull down the tower or otherwise build on the site of the former church, and to fence in the churchyard, landscape it and keep it in good order:

- (4) The Clothworkers' Company's hall and the churchyard were severely damaged by bombing in 1940 and 1941 but The Clothworkers' Company rebuilt its hall and, with the agreement of the incumbent of the united benefice (by then encompassing St. Olave Hart Street, Allhallows Staining and St. Katherine Coleman), restored, drained and paved the churchyard:
- (5) Provision was subsequently made by the Allhallows Staining Churchyard Act 1961 (c. viii) for the sale of the churchyard to The Clothworkers' Company by the incumbent of the united benefice and for its maintenance by The Clothworkers' Company as a private open space:
- (6) Pursuant to the Act of 1961, the churchyard was duly conveyed to The Clothworkers' Company by a conveyance dated 20 June 1961 which, amongst other things, included restrictive covenants, imposed on The Clothworkers' Company and for the benefit of the incumbent for the time being of the united benefice, in relation to use of the churchyard which were identical to those set out in the Act of 1961:
- (7) It is now expedient that the site of the former church, the churchyard, the curate's residence and other adjoining land should be freed from certain restrictions in order to permit its use so far as the law otherwise allows:
- (8) It is expedient that the other provisions contained in this Act with respect to the removal of any human remains, tombstones, memorials and monuments should be enacted:
- (9) It is expedient that the other provisions contained in this Act should be enacted:
- (10) A plan dated March 2010 showing the land to which the provisions of this Act apply has been deposited in the Office of the Clerk of the Parliaments, House of Lords, the Private Bill Office of the House of Commons, and the office of the Company.
- (11) The objects of this Act cannot be effected without the authority of Parliament:

May it therefore please your Majesty that it may be enacted, and be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Citation

This Act may be cited as the Allhallows Staining Church Act 2010.

2 Interpretation

In this Act—

“the 1871 conveyance land” means the land, comprising the site of the former church of Allhallows Staining including its tower and the site of the former curate's residence adjoining the church, transferred to the Company by conveyance dated 18 May 1871 in which the land was described as set out in Part 1 of the Schedule to this Act, and which is shown hatched and edged blue on the deposited plan;

- “the Act of 1961” means the Allhallows Staining Churchyard Act 1961 (c. viii);
- “the churchyard” means the churchyard which was the subject of the Act of 1961 which included the description set out in Part 2 of the Schedule to this Act, and which is shown hatched and edged green on the deposited plan;
- “the Company” means the Master, Wardens and Commonalty of Freemen of the Art or Mystery of Clothworkers of the City of London (commonly called “The Clothworkers’ Company”) and its successors in title to so much of the relevant land as is in the ownership of the Company;
- “the deposited plan” means the plan of the relevant land deposited as recited above;
- “the planning Acts” has the same meaning as in the Town and Country Planning Act 1990 (c. 8); and
- “the relevant land” means the land edged red on the deposited plan, including the 1871 conveyance land, the churchyard, and other land hatched and edged yellow on the deposited plan comprising parts of the sites of 7 and 9/10 Mark Lane.

3 Repeal

Section 4(2)(b) to (e) of the Act of 1961 is repealed.

4 Discharge of restrictions and power to use relevant land for other purposes

- (1) Subject to subsections (2), (3) and (4), and section 5 (removal of human remains)—
- (a) the relevant land is freed and discharged from any restrictions in any enactment, and from all rights and interests of any person who is an heir, executor or administrator or relative of any deceased person whose remains are interred in the relevant land, and from all trusts, uses, obligations, disabilities and restrictions imposed under ecclesiastical law or otherwise which immediately before the passing of this Act attached to the relevant land by reason of any part of it being consecrated land, a burial ground, a disused burial ground within the meaning of the Disused Burial Grounds Acts 1884 (c. 72) and 1981 (c. 18), or open space; and
 - (b) it shall be lawful at any time to use, develop, deal with or dispose of the relevant land or any part of it for any purpose as if no part of it had ever been used or set apart for the interment of human remains.
- (2) Nothing in this Act shall operate to affect prejudicially any private right or easement (not being a right in respect of a grave) over the relevant land, or any part of it, which attached to it immediately before the coming into force of this Act.
- (3) The provisions of the planning Acts and any restrictions or powers imposed or conferred by them in relation to land continue to apply to the relevant land.
- (4) Nothing in this section permits interference with land forming part of the public highway without the consent of the highway authority.

5 Removal of human remains

- (1) Before undertaking any work to the relevant land which will involve the removal of the remains of any deceased person, the Company must—
 - (a) publish in each of two successive weeks in a newspaper circulating in the City of London; and
 - (b) display in a conspicuous place upon or near to the relevant land, a notice complying with subsection (2).
- (2) Notice under subsection (1) must contain—
 - (a) a description of the relevant land;
 - (b) the address at which any particulars of the deceased persons whose remains it is proposed to remove may be inspected;
 - (c) the name of the burial ground or crematorium where it is proposed to reinter or cremate the remains;
 - (d) a statement as to the right of the personal representatives or relatives of any deceased person, on notice in writing given to the Company within the period mentioned in subsection (3), themselves to undertake the removal and reinterment or cremation of the remains of the deceased within two months from the date of the notice;
 - (e) a statement of any directions given by the Secretary of State with respect to the removal and reinterment or cremation of human remains; and of the intentions of the Company with respect to the manner of removal and the place and manner of reinterment or cremation of any human remains; and
 - (f) a statement that the Company is required by this section to pay the reasonable expenses of such removal and reinterment or cremation.
- (3) At any time within two months from the first publication of a notice under subsection (1), any person who is a personal representative or relative of any deceased person whose remains are interred in the relevant land may give notice in writing to the Company of that person's intention to undertake the removal of such remains, and if such remains can be identified, that person may then, subject to subsection (5) cause such remains—
 - (a) to be removed and reinterred in any burial ground or cemetery in which burials may legally take place (but, in the case of a churchyard, only with the consent of the incumbent of the benefice concerned), or
 - (b) to be removed to and cremated in any crematorium.
- (4) Immediately following any reinterment or cremation pursuant to subsection (3), the personal representative or relative who gave notice under that subsection in respect of it must provide to the Company a certificate for the purpose of enabling compliance with subsection (9).

- (5) If the Company is not satisfied that a person giving notice under subsection (3) is a personal representative or relative of the deceased person or that the remains in question can be identified, the question shall be determined, on the application of either party, by the county court, and the court shall have power to make an order specifying who shall remove the remains and as to the payment of the costs of the application.
- (6) The Company must pay the reasonable expenses of the removal and reinterment or cremation of remains by others under this section, subject to a limit of such sum as would be incurred by the Company in the removal and reinterment or cremation of those remains.
- (7) If—
 - (a) within the said period of two months no notice under subsection (3) has been given to the Company in respect of any remains in the relevant land; or
 - (b) such notice is given and no application is made under subsection (5) within two months from the giving of the notice but the person who gave the notice fails to remove the remains within a further period of two months; or
 - (c) within two months of any order made by the county court under subsection (5) any person, other than the Company, specified in the order fails to remove the remains; or
 - (d) it is determined that the remains to which any such notice relates cannot be identified,

the Company may remove the remains and cause them either to be reinterred in such burial ground or cemetery in which burials may legally take place as the Company thinks suitable for the purpose (but, in the case of a churchyard, only with the consent of the incumbent of the benefice concerned), or cremated in such crematorium as the Company thinks suitable for the purposes.

- (8) If any personal representative or relative has given notice under subsection (3) and the Company or, as the case may be, the court is satisfied as to the person's status as a personal representative or relative and that the remains in question can be identified but that person does not remove the remains, the Company must comply with any reasonable request the person may make in relation to the removal and reinterment or cremation of the remains, provided such request is received by the Company within the two month period prescribed by subsection (7)(b) and (c) for removing the remains.
- (9) Upon the reinterment or cremation of any remains under this section, the Company must send a certificate of reinterment or cremation to the Registrar General giving the date of reinterment or cremation and identifying the place from which the remains were removed and the place in which they were reinterred or cremated.
- (10) The removal of the remains of any deceased person under this section shall be carried out in accordance with any directions that may be given by the Secretary of State.
- (11) Any jurisdiction or power conferred on the county court by this section may be exercised by the district judge of the court.

- (12) Section 25 of the Burial Act 1857 (c. 81) does not apply to a removal carried out in accordance with this section.

6 Tombstones, memorials, monuments, etc.

- (1) Any tombstone, memorial or monument within the relevant land may be removed to and be re-erected at such other place as may be determined in accordance with this section.
- (2) Before any tombstone, memorial or monument is removed from any part of the relevant land the Company must—
- (a) publish in each of two successive weeks in a newspaper circulating in the City of London; and
 - (b) display in a conspicuous place upon or near to the relevant land, a notice complying with subsection (3).
- (3) Notice under subsection (2) must contain—
- (a) a description of the relevant land;
 - (b) the address at which particulars of the tombstones, memorials or monuments it is proposed to remove may be inspected;
 - (c) the manner in which it is proposed to deal with the tombstones, memorials or monuments;
 - (d) a statement as to the right of the personal representatives or relatives of any deceased person to whom a tombstone, memorial or monument relates, on notice in writing given to the Company within the period mentioned in subsection (4), to request the re-erection of the tombstone, memorial or monument; and
 - (e) a statement that the Company is required by this section to pay the reasonable expense of removing and re-erecting any tombstone, memorial or monument.
- (4) If at any time within two months after the first publication of a notice under subsection (2), a person who is a personal representative or relative of any deceased person to whom the tombstone, memorial or monument relates gives notice to the Company requesting the re-erection of the tombstone, memorial or monument, subject to subsection (5) it is to be re-erected at such other place as the parties may agree.
- (5) In default of an agreement under subsection (4), or if the Company is not satisfied that a person giving notice under subsection (4) is a personal representative or relative of the deceased person to whom the tombstone, memorial or monument relates, the matter may be referred, by the application of either party, to the county court which may make an order specifying where the tombstone, memorial or monument must be re-erected.
- (6) If within the period of two months referred to in subsection (4) no notice has been given to the Company under that subsection, the tombstone, memorial or monument within the relevant land may be removed to and be re-erected at such other place as the Company may determine.
- (7) The reasonable expense of removing and re-erecting any tombstone, memorial or monument under this section must be paid by the Company.

- (8) Where any tombstone, memorial or monument is removed from the relevant land, the Company must within two months from the date of removal—
- (a) deposit with the City of London Corporation a record which—
 - (i) identifies the tombstone, memorial or monument;
 - (ii) gives any inscription on it;
 - (iii) states the date and manner of its removal and disposal; and
 - (iv) states the place (if any) to which it is transferred; and
 - (b) send to the Registrar General a copy of the record deposited under paragraph (a).
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