

SCHEDULES

SCHEDULE 11

Section 39.

BURIAL GROUNDS: REMOVAL OF HUMAN REMAINS AND MONUMENTS

Notice of removal

- 1 (1) Before removing from the land in question any remains or any monument to the deceased, the nominated undertaker shall—
- (a) publish 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 displayed in a conspicuous place on or near the land, a notice complying with sub-paragraph (2) below.
- (2) A notice under sub-paragraph (1) above shall—
- (a) identify the land to which it relates,
 - (b) set out in general terms the effect of paragraphs 2 to 5 below,
 - (c) state where, and in what form, an application under paragraph 2(1) below 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 shall be required under sub-paragraph (1) above before the removal of any remains or any monument to the deceased where the Secretary of State notifies the nominated undertaker that he is satisfied—
- (a) that the remains were interred 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 shall be required under sub-paragraph (1) above before the removal of any remains or any monument to the deceased if—
- (a) there is in force under section 25 of the Burial Act 1857 (bodies not to be removed from burial grounds without licence of the Secretary of State) a licence relating to the remains, and
 - (b) 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)(b) above, “group” means a body corporate and all other bodies corporate which are its subsidiaries within the meaning of the Companies Act 1985.

Removal of remains

- 2 (1) In the case of remains in relation to which paragraph 1(1) above applies, the nominated undertaker shall 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

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- (b) the application is received before the end of 56 days after the day on which notice relating to the remains is first published under paragraph (a) of that provision.
- (2) In the case of remains in relation to which paragraph 1(3) above applies, the nominated undertaker shall 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 3(1) below.
- (3) For the purposes of sub-paragraphs (1) and (2) above, a person shall be taken to be a relative or personal representative of the deceased if the nominated undertaker is satisfied that he is or the county court has declared that he is.
- (4) A licensee under this paragraph may remove the remains to which the licence relates and reinter them elsewhere or cremate them.
- (5) The reasonable costs of removal and reinterment or cremation under this paragraph shall be paid by the nominated undertaker.
- (6) An application for a declaration for the purposes of sub-paragraph (3) above shall be made to the county court for the district in which the remains are interred.
- (7) In this paragraph, references to a relative of the deceased are to a person who—
 - (a) is a husband, wife, 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.
- 3 (1) In the case of remains in relation to which paragraph 1(1) or (3) above applies, the nominated undertaker may remove the remains unless—
 - (a) it is required under paragraph 2(1) or (2) above to issue a licence for their removal, or
 - (b) not more than 28 days have passed since the issue under that provision of such a licence.
- (2) In the case of remains in relation to which paragraph 1(4) above applies, the nominated undertaker may remove the remains and, if it does so, shall be treated for the purposes of this Act as acting under this paragraph and not under the licence under the Burial Act 1857.
- (3) The nominated undertaker shall reinter any remains removed under this paragraph in a burial ground or cremate them in a crematorium.

Removal of monuments

- 4 (1) Where a licence to remove any remains is issued under paragraph 2(1) or (2) above, the licensee may remove from the land any monument to the deceased and re-erect it elsewhere or otherwise dispose of it.
- (2) The reasonable costs of removal and re-erection under sub-paragraph (1) above shall be paid by the nominated undertaker.
- 5 (1) Where the nominated undertaker removes any remains under paragraph 3 above, it may also remove from the land any monument to the deceased.

- (2) Where any remains are removed under a licence under paragraph 2(1) or (2) above, 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.
- (3) Where any remains are removed under 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 licensee.
- (4) The nominated undertaker may remove any monument removed under this paragraph to the place, if any, where the remains of the deceased are interred or to some other appropriate place.
- (5) The nominated undertaker shall break and deface any monument removed under this paragraph which is not dealt with under sub-paragraph (4) above.

Records

- 6 (1) Where any remains are removed under this Schedule, the nominated undertaker shall, 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 reinterment or cremation.
- (2) Where any monument is removed under this Schedule, the nominated undertaker shall, 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) above.
- (3) 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 to comply with sub-paragraph (1) or (2) above.
- (4) In sub-paragraph (2)(a) above, “local authority” means a district or London borough council or the Common Council of the City of London.

Supplementary

- 7 (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) above, it shall carry out in accordance with the reasonable requests of the licensee—

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- (a) its functions under paragraph 3 above with respect to disposal of the remains, and
 - (b) if it removes any monument to the deceased, its functions under paragraph 5 above with respect to disposal of the monument.
- (2) The Secretary of State may give such directions as he thinks fit with respect to the carrying out of any function under this Schedule.
- (3) No licence shall be required under section 25 of the Burial Act 1857 for the removal under this Schedule of any remains.
- (4) Nothing in any enactment relating to burial grounds and no obligation or restriction imposed under ecclesiastical law or otherwise shall have effect to prohibit, restrict or impose any condition on the removal under this Schedule of any remains or monument.