SCHEDULES

SCHEDULE 3

MAIN POWERS IN RELATION TO LAND OF THE HCA

PART 3

POWERS IN RELATION TO BURIAL GROUNDS AND CONSECRATED LAND ETC.

Burial grounds

19 (1) This paragraph applies in relation to any land of the HCA which consists in, or forms part of, a burial ground.

(2) The HCA may use the land in any way which accords with planning permission despite—

(a) anything in any enactment relating to burial grounds, or

(b) any obligation or restriction imposed under ecclesiastical law or otherwise in respect of burial grounds.

(3) But sub-paragraph (2) does not apply in relation to any land which has been used for the burial of the dead until prescribed requirements about the removal and reinterment of human remains and the disposal of monuments have been complied with in relation to the land.

Consecrated land other than burial grounds

20 (1) This paragraph applies in relation to any land of the HCA which—

(a) is consecrated land (whether or not including a building), and

(b) does not consist in, or form part of, a burial ground.

(2) The HCA or any other person may use the land in any way which accords with planning permission despite any obligation or restriction imposed under ecclesiastical law or otherwise in respect of consecrated land.

(3) But any such use of the land is subject to—

(a) prescribed requirements about the disposal of monuments, and

(b) prescribed provisions for prohibiting or restricting the use of the land while—

(i) any church or other building used, or formerly used, for religious worship remains on the land, or

(ii) any part of any such church or other building remains on the land.

(4) Prohibitions or restrictions prescribed under sub-paragraph (3)(b) may be absolute or until a prescribed consent is obtained.

Other land connected to religious worship

21 (1) This paragraph applies in relation to any land of the HCA which—

(a) is neither consecrated land nor land which consists in, or forms part of, a burial ground, and

(b) at the time of acquisition included—

(i) a church or other building used, or formerly used, for religious worship, or

(ii) the site of such a church or other building.

(2) Any use of the land is subject to prescribed requirements about the disposal of monuments.

Regulations: general

22 (1) Regulations under this Part of this Schedule must secure that any use of land which is subject to compliance with the regulations is (so far as possible) subject to an appropriate level of control.

(2) For the purposes of sub-paragraph (1) an appropriate level of control is the same control—

(a) as imposed by law in relation to a similar use authorised by an enactment not contained in this Part of this Act,

(b) as imposed by a Measure, or

(c) as it would be proper to impose on a disposal of the land concerned otherwise than in pursuance of an enactment or Measure.

(3) Regulations under this Part of this Schedule must impose such requirements in relation to the disposal of the land as the Secretary of State considers appropriate to secure that the requirements and other provisions in the regulations about the use of the land are complied with.

(4) Regulations made for the purposes of paragraphs 19 to 21 may, in particular, include incidental or consequential provision about the closing of registers.

Regulations about human remains and monuments

23 (1) Regulations under this Part of this Schedule about the removal and reinterment of human remains and the disposal of monuments must require the persons in whom the land is vested to publish notice of their intention to carry out the removal and reinterment of any human remains or the disposal of any monuments.

(2) Regulations under this Part of this Schedule about the removal and reinterment of human remains and the disposal of monuments must make provision for—

(a) enabling the personal representatives or relatives of any deceased person themselves—

(i) to undertake the removal and reinterment of the remains of the deceased, and

(ii) the disposal of any monument commemorating the deceased, and

(b) requiring the persons in whom the land is vested to meet the expenses of such removal, reinterment and disposal provided that they are not more than such amount as may be prescribed.

(3) Regulations under this Part of this Schedule about the removal and reinterment of human remains and the disposal of monuments must require compliance with such reasonable conditions (if any) as may be imposed, in the case of consecrated land, by the bishop of the diocese, in relation to—

(a) the manner of removal of any human remains,

(b) the place and manner of reinterment of any human remains, and

(c) the disposal of any monuments.

(4) Regulations under this Part of this Schedule about the removal and reinterment of human remains must require compliance with any directions given in any case by the Secretary of State in relation to the removal and reinterment of any human remains.

Disapplication of faculties

24 (1) No faculty is required for—

(a) the removal and reinterment of any human remains, or

(b) the removal or disposal of any monuments,

in accordance with regulations under this Part of this Schedule.

(2) Sub-paragraph (1) is subject to any provision to the contrary made by regulations under this Part of this Schedule.

Disapplication of section 25 of the Burial Act 1857

25 Section 25 of the Burial Act 1857 (c. 81) (which prohibits the removal of human remains without the licence of the Secretary of State except in certain cases) does not apply to a removal of human remains carried out in accordance with regulations under this Part of this Schedule.

Interpretation: Part 3

26 (1) In this Part of this Schedule—

"burial ground" includes any churchyard, cemetery or other ground (whether or not consecrated) which has at any time been set apart for the purposes of interment,

"monument" includes a tombstone or other memorial,

"prescribed" means prescribed by regulations made by the Secretary of State.

(2) Any power conferred by paragraph 19(2) or 20(2) to use land is to be read as a power to use the land, whether or not it involves—

(a) the erection, construction or carrying out of any building or work, or

(b) the maintenance of any building or work.