



Burial Act 1853

1853 CHAPTER 134 16 and 17 Vict

E+W

An Act to amend the Laws concerning the Burial of the Dead in England beyond the Limits of the Metropolis and to amend the Act concerning the Burial of the Dead in the Metropolis. [20th August 1853]

Modifications etc. (not altering text)

- C1 Short title given by [Short Titles Act 1896 \(c. 14\)](#)
- C2 Preamble omitted under authority of [Statute Law Revision Act 1892 \(c. 19\)](#)
Act: powers transferred (1.7.1999) by virtue of [S.I. 1999/672, art. 2, Sch.1](#)

1 On representation of Secretary of State, Her Majesty in Council may restrain the opening of new burial grounds, and order discontinuance of burials in specified places. E+W

In case it appear to her Majesty in Council, upon the representation of one of her Majesty's Principal Secretaries of State, that . . . ^{F1} burials in any city or town, or within any other limits, or in any burial grounds or places of burial, should be wholly discontinued, or should be discontinued subject to any exception or qualification, it shall be lawful for her Majesty, by and with the advice of her Privy Council, to order . . . ^{F1} that after a time mentioned in the Order burials in such city or town, or within such limits, or in such burial grounds or places of burial, shall be discontinued wholly, or subject to any exceptions or qualifications mentioned in such Order, and so from time to time as circumstances may require: Provided always, that notice of such representation, and of the time when it shall please her Majesty to order the same to be taken into consideration by the Privy Council, shall be published in the London Gazette, and shall be affixed on the doors of the churches or chapels of, or on some other conspicuous places within, the parishes affected by such representation, one month before such representation is so considered: Provided also, that no such representation shall be made in relation to the burial ground of any parish until ten days previous notice of the intention to make such representation shall have been given to the incumbent and the vestry clerk or churchwardens of such parish.

Changes to legislation: There are currently no known outstanding effects for the Burial Act 1853. (See end of Document for details)

Textual Amendments

F1 Words repealed by [Local Government Act 1972 \(c. 70\)](#), [Sch. 30](#)

Modifications etc. (not altering text)

C3 S. 1 applied by [Local Government Act 1972 \(c. 70\)](#), [Sch. 26 para. 15](#)

C4 Functions of vestry and churchwardens now exercisable by parochial church councils: [Parochial Church Councils \(Powers\) Measure 1921 \(No. 1\)](#), [s. 4\(1\)\(i\)](#) and [Parochial Church Councils \(Powers\) Measure 1956 \(No. 3\)](#), [s. 4\(1\)\(ii\)\(c\)](#)

2 **Order not to extend to burial grounds of Quakers or Jews, unless expressly included.** **E+W**

No such Order in Council as aforesaid shall be deemed to extend to any burial ground of the people called Quakers, or of the persons of the Jewish persuasion, used solely for the burial of the bodies of such people and persons respectively, unless the same be expressly mentioned in such Order; and nothing in this Act shall prevent the burial in any such burial ground in which for the time being interment is not required to be discontinued of the bodies of such people and persons respectively; and no such Order in Council as aforesaid shall be deemed to extend to any non-parochial burial ground being the property of any private person, unless the same be expressly mentioned in such Order.

3 **Burial not to take place after Order in Council for discontinuance.** **E+W**

It shall not be lawful, after the time mentioned in any such Order in Council for the discontinuance of burials, to bury the dead in any church, chapel, churchyard, or burial place, or elsewhere, within the parts to which such Order extends, or in the burial grounds or places of burial (as the case may be) in which burials have by any such Order been ordered to be discontinued, except as in this Act or in such Order excepted; and every person who shall, after such time as aforesaid, bury any body, or in anywise act or assist in the burial of any body contrary to this enactment, shall be guilty of a misdemeanor.

Modifications etc. (not altering text)

C5 S. 3 excluded (18.6.2020) by [The A63 \(Castle Street Improvement, Hull\) Development Consent Order 2020 \(S.I. 2020/556\)](#), arts. 1, [36\(14\)](#) (with arts. 5, 44)

C6 S. 3 excluded (8.9.2022) by [The Manston Airport Development Consent Order 2022 \(S.I. 2022/922\)](#), arts. 1, [37\(15\)](#) (with arts. 5, 40)

C7 S. 3 excluded (4.11.2022) by [The A47/A11 Thickthorn Junction Development Consent Order 2022 \(S.I. 2022/1070\)](#), arts. 1, [41\(14\)](#) (with arts. 4, 52, Sch. 9 para. 82)

4 **Saving of certain rights to bury in vaults, &c.** **E+W**

Provided always, that notwithstanding any such Order in Council, where, by virtue of any faculty legally granted, or by usage or otherwise, there is at the time of the passing of this Act any right of interment in or under any church or chapel affected by such Order, or in any vault of any such church or chapel, or of any churchyard or burial ground affected by such Order, and where any exclusive right of interment in any such

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burial ground has been purchased or acquired before the passing of this Act, it shall be lawful for one of her Majesty's Principal Secretaries of State from time to time, on application being made to him, and on being satisfied that the exercise of such right will not be injurious to health, to grant licence for the exercise of such right during such time and subject to such conditions and restrictions as such Secretary of State may think fit; but such licence shall not prejudice or in anywise affect the authority of the ordinary, or of any other person who, if this Act had not been passed, might have prohibited or controlled interment under such right, nor dispense with any consent which would have been required, nor otherwise give to such right any greater force or effect than the same would have had if this Act had not been passed.

5 Not to extend to cemeteries established by Act of Parliament, or new burial grounds, &c. E+W

The provisions of this Act shall not extend to authorize the discontinuance of burials, or to prevent the burial of the body of any person, in any cemetery established under the authority of any Act of Parliament, or in any burial ground or cemetery to be hereafter provided with the approval of one of her Majesty's Principal Secretaries of State, as herein mentioned.

Modifications etc. (not altering text)

C8 S. 5 excluded by [Local Government Act 1972 \(c. 70\)](#), **Sch. 26 para. 15(a)**

6—8 ^{F2} E+W

Textual Amendments

F2 Ss. 6-8 repealed by [Local Government Act 1972 \(c. 70\)](#), **Sch. 30**

9 ^{F3} E+W

Textual Amendments

F3 S. 9 repealed by [London Government Act 1963 \(c. 33\)](#), **Sch. 18 Pt. II**

10 Extent of Act. E+W

This Act shall not extend to Scotland or Ireland.

Changes to legislation:

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