



Consecration of Churchyards Act 1867

1867 CHAPTER 133 30 and 31 Vict

An Act relating to the Consecration of Churchyards.

[20th August 1867]

Modifications etc. (not altering text)

C1 Preamble omitted under authority of [Statute Law Revision Act 1893 \(c. 14\)](#)

Commencement Information

I1 Act wholly in force at Royal Assent

1 Power for bishop to sign instrument of consecration at churchyard without presence of chancellor, &c.

Where any ground adjoining to an existing churchyard has been or is added thereto, the bishop of the diocese may, if he thinks fit, at the churchyard or in the church to which it belongs, by his own hand, or by the hand of any bishop of the [^{F1}Church of England] lawfully appointed as his commissary, sign an instrument declaring or recording the consecration of such ground, without the presence of the chancellor or registrar of the diocese being necessary; and the signature of the bishop to such instrument shall be attested by the chancellor, or by a surrogate, or by any two clergymen of the diocese, and shall be in the following form, endorsed on a plan of the ground so added: I, A. B., Bishop of , do hereby declare and record the ground added to the churchyard of , as on the within plan, to be consecrated ground and part of the said churchyard; and such instrument, so signed and attested, on being deposited in the registry of the diocese, shall have the same effect as a sentence of consecration.

Textual Amendments

F1 Words substituted by virtue of [Irish Church Act 1869 \(c. 42\), s. 69](#)

2 No officer attending to take fee.

No officer of the bishop or of the diocese shall receive any fee for attendance at such consecration, or any allowance for travelling or for attendance.

Status: Point in time view as at 01/06/1992.

Changes to legislation: There are currently no known outstanding effects for the Consecration of Churchyards Act 1867. (See end of Document for details)

3 F2

Textual Amendments
F2 S. 3 repealed by Ecclesiastical Fees Measure 1962 (No. 1), Sch. Pt. I

4 **Powers given in School Sites Acts for conveyance of land to apply to conveyances under this Act.**

And whereas by the ^{M1}School Sites Act 1841 and by the ^{M2}School Sites Act 1849 powers are given to persons being seised in fee simple, fee tail, or for life of and in any manor or lands of freehold, copyhold, or customary tenure, and having the beneficial interest therein, to grant, convey, or enfranchise, by way of gift, sale, or exchange, in fee simple or for term of years, any quantity not exceeding one acre of such land as a site for a school; and it is expedient that the same powers should be extended to persons willing to grant land for the enlargement of churchyards or burial places in England or Wales: the said Acts shall be deemed to apply to all persons desirous of granting land for the purpose of such enlargement, in the same way as if the said land had been granted as a site for a school: Provided nevertheless, that no such grant shall be made otherwise than in fee simple, and may be made in the form herein-after provided; and that every such grant made by any person seised only for life shall be valid without the concurrence therein of the person next entitled in remainder in fee simple or fee tail . . . ^{F3}

Textual Amendments
F3 Words repealed by Charities Act 1960 (c. 58), Sch. 7 Pt. II

Marginal Citations
M1 1841 c. 38.
M2 1849 c. 49.

5 **Form of conveyance of lands for addition to existing churchyards.**

Any lands or hereditaments adjoining any churchyard or burial place may be conveyed for the purpose of adding thereto by a deed in the form following, with such variations (if any) as the circumstances of the case may require:

“I [*or We, or the corporate title of a corporation,*] under the authority of the Consecration of Churchyards Acts 1867 do hereby freely and voluntarily give, grant, and convey [*or, as the case may be, do hereby, in consideration of the sum of to me, or us, or the paid, grant and convey*] unto the person or persons, or corporation sole or aggregate, in whom the churchyard or the burial place known as of is now vested, his or their heirs or successors, all [*describing the hereditaments to be conveyed*], and all right, title, and interest in the same and every part thereof, to be held for ever as part of the said churchyard or burial place”:

And every such conveyance shall be valid and effectual in the law to all intents and purposes.

Status: Point in time view as at 01/06/1992.

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6 Deed of gift, &c. not to be subject to stamp duties.

...^{F4} No deed of gift, or grant, security, contract, agreement, deed, or conveyance, or other instrument, made for the purposes of this Act, or for the carrying into execution any of the powers, authorities, or provisions of this Act, shall be subject to any of the duties upon stamped vellum, parchment, or paper, anything in any Act or Acts of Parliament to the contrary notwithstanding.

Textual Amendments

F4 Words repealed by [Statute Law Revision Act 1893 \(c. 14\)](#)

7 Application of the provisions of Act of 3G. 4. c. 72. s. 29. to lands so added.

From and after the expiration of five years after the conveyance of any lands or hereditaments for such addition to any churchyard or burial place and the inclosure of the same within one boundary fence, although the same shall not have been consecrated and although no burial shall have been had within the same during that period of time, the said lands and hereditaments shall, for the purposes of this Act, become and be and remain absolutely vested in the person or persons or corporation in whom the churchyard or burial place to which they are added is vested, free from all demand or claim of any person or persons or corporation whatsoever, and without being thereafter subject to any question as to any right, title, or claim thereto, or in any manner affecting the same.

8 Saving provisions of former Acts.

Except as is by this Act expressly enacted, nothing therein contained shall affect the provisions of any Act of Parliament with reference to lands or hereditaments conveyed as sites for churchyards or to the conveyances thereof.

9 Exclusive right of burial in a portion of the land added to a churchyard may be secured to the giver thereof.

Whenever any land shall be so added to a consecrated churchyard, and such land shall have been the gift of any person, whether resident or not in the parish or ecclesiastical district in which such churchyard is situated, it shall be lawful for the giver of such land to reserve the exclusive right in perpetuity of burial and of placing monuments and gravestones in a part of the land so added, [^{F5}not exceeding one sixth part of the whole of the said land]; and the part in which such exclusive right is reserved shall be shown and coloured on the plan endorsed on the instrument declaring or recording the consecration of the land added to the churchyard; and a memorandum in the form following shall be written on the said instrument, and signed by the incumbent and churchwardens of the parish or ecclesiastical district in which the same is situated:

We, *A.B.*, [Rector, Vicar, or Incumbent,] and *C.D.* and *E.F.* Churchwardens, of, declare the piece of land [*here insert the description and measurement*], and coloured on this plan, to be the burial place of *G.H.*, the giver of the land added to the churchyard of, his heirs and assigns.

Signed *A.B.*,

C.D.,

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E.F.,

in the presence of *J.K.*

Dated this day of .

And the memorandum so signed shall, after such land shall have been declared to have been consecrated, operate as an exclusive right in perpetuity in the land therein referred to; and the expenses of preparing and executing such memorandum shall be borne by the person by whom the reservation is made.

Textual Amendments

F5 Words substituted by [Consecration of Churchyards Act 1868 \(c. 47\), s. 1](#)

Modifications etc. (not altering text)

C2 S. 9 excluded by [Church Property \(Miscellaneous Provisions\) Measure 1960 \(No. 1\), s. 7\(4\)](#)

10 Conditions attending such grant of exclusive right of burial.

The exclusive right of burial and of placing monuments and gravestones as aforesaid shall be considered to be the real estate of the giver, his heirs and assigns, and no body shall be buried or monument or gravestone placed in the land in which such rights have been granted except by consent of the owner thereof for the time being; but no such reservation shall give the right to bury the body of any person not entitled to be buried in consecrated ground; and the bishop of the diocese, and all persons acting under his authority, shall have the same right and powers to object to the placing and to procure the removal of any monumental inscription within the ground so reserved as he has to object to or procure the removal of any monumental inscription in any consecrated ground: Provided always, that the consent of the owner for the time being shall not be required for the burial of a deceased owner, or of a wife or widow of any deceased owner who has been buried or shall be about to be buried in such ground.

11 As to closing of reserved portions.

Such reserved portion shall not be included in any Order in Council under the Burial Acts for closing the churchyard to which it belongs, but it may be closed under a separate Order founded on a special report that the ground is in such a state as to render any further interments therein prejudicial to the public.

^{F6}**12**

Textual Amendments

F6 [S. 12](#) repealed (Provinces of Canterbury and York except Channel Islands and Isle of Man) (1.6.1992) by [Church of England \(Miscellaneous Provisions\) Measure 1992 \(No. 1\), s. 17\(2\), Sch. 4 Pt.I](#);Instrument dated 27.5.1992 made by [Archbishops of Canterbury and York](#).

Status: Point in time view as at 01/06/1992.

Changes to legislation: There are currently no known outstanding effects for the Consecration of Churchyards Act 1867. (See end of Document for details)

13 Short title.

This Act may be cited as “The Consecration of Churchyards Act 1867.”

Status:

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