

**1992 No. 238****BURIAL****Burial Grounds Regulations (Northern Ireland) 1992**

*Made* . . . . . 27th May 1992

*Coming into operation* . . . . . 13th July 1992

*To be laid before Parliament under paragraph 3(3) of  
Schedule 1 to the Northern Ireland Act 1974*

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The Department of the Environment, in exercise of the powers conferred on it by section 181(a) of the Public Health (Ireland) Act 1878(b) and every other power enabling it in that behalf, after consultation with the district councils and other bodies appearing to the Department to be concerned and it appearing to the Department to be necessary or proper to include regulations 18 and 19 in consequence of the other provisions of these regulations, hereby makes the following regulations:

## PART I

## INTRODUCTORY

*Citation and commencement*

1. These regulations may be cited as the Burial Grounds Regulations (Northern Ireland) 1992 and shall come into operation on 13th July 1992.

*Interpretation*

2.—(1) In these regulations—

“the Act of 1878” means the Public Health (Ireland) Act 1878;

“an agreement” means an agreement made under regulation 11(5);

“burial” includes—

(a) the interment of cremated human remains;

(b) the interment of the bodies of still-born children or their cremated remains; and

(c) the placing in a vault of human remains, cremated human remains, the bodies of still-born children or their cremated remains;

(a) As substituted by Article 35 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 (S.I. 1985/1208 (N.I. 15))

(b) 1878 c. 52

- “burial ground” means a burial ground of a council including a place of reception of bodies previous to interment;
- “computer” means a device for storing and processing information;
- “council” means a district council;
- “Department” means the Department of the Environment;
- “grave” includes a walled grave, but (except as provided in regulation 11(4)) does not include a vault;
- “listed building” means a building as defined in Article 42(7) of the Planning (Northern Ireland) Order 1991(a);
- “memorial” means a memorial, monument, gravestone, tombstone or tablet and includes kerbs, cornerstones, fences, railings, chains, wall edges or other material marking or enclosing the site of a grave, surface fittings, flowers and plants, whether artificial or not or whether encased or not;
- “owner” includes a personal representative or successor in title;
- “register of burials” means a register of burials provided in a book or in a computer;
- “the Registrar” means the officer appointed by the council under regulation 6(2);
- “scheduled monument” means a monument as defined in section 7(1) of the Historic Monuments Act (Northern Ireland) 1971(b);
- “the specified circumstances” exist in respect of a person where a communication addressed to him at his last recorded address has been returned to the council as undeliverable or where his last recorded address is that of premises which no longer exist;
- “vault” means a chamber provided for the reception of human remains or cremated human remains, together with the access thereto.

(2) In these regulations any reference to a right under section 178 of the Act of 1878 includes a reference to a right under section 21 of the Burial Grounds (Ireland) Act 1856(c).

(3) For the purpose of these regulations any railings surrounding a grave, vault, or memorial shall be treated as forming part thereof.

## PART II

### FUNCTIONS OF A COUNCIL IN RELATION TO ITS BURIAL GROUNDS

#### *Repair and maintenance of burial grounds*

3.—(1) Subject to sub-paragraphs (3) and (4) a council shall keep in good order and repair burial grounds including all walls, fences and buildings other than vaults.

(a) S.I. 1991/1220 (N.I. 11)

(b) 1971 c. 17 (N.I.)

(c) 1856 c. 98

(2) Every burial ground shall be kept sufficiently fenced, and, where practicable, shall be underdrained to such a depth as will prevent water remaining in any grave or vault.

(3) The requirement in sub-paragraph (1) shall not apply to a historic monument which—

(i) is owned by or vested in or is in the guardianship of or is the subject of a protection order by, the Department by virtue of Part I or II or, as the case may be, section 9 of the Historic Monuments Act (Northern Ireland) 1971; or

(ii) is a scheduled monument.

(4) A council shall not carry out works for the demolition, alteration or extension of a listed building unless any authorisation required under Article 44 of the Planning (Northern Ireland) Order 1991 has been obtained.

#### *Map of burial ground*

4. A council shall maintain a map showing and allocating distinctive numbers to all graves and vaults in which burials have been made and all grave spaces subject to rights sold under section 178 of the Act of 1878.

#### *Rights of burial and rights to erect or place memorials, etc.*

5.—(1) Subject to paragraph (2), a person shall not cause or permit a body to be buried, or cremated human remains to be interred or scattered, in or over any grave or vault in which an exclusive right of burial for the time being subsists, except by, or with the consent in writing of, the owner of the right.

(2) Paragraph (1) shall not apply to the body or remains of any person specified in the grant of right, or in an endorsement made on that grant, at the request of the owner for the time being of the right, by the officer appointed for that purpose by the council.

(3) Rights under section 178 of the Act of 1878 shall be dealt with and exercisable subject to and in accordance with Parts I and II of Schedule 1.

(4) Where a council has granted a right to erect or place a memorial under section 178 of the Act of 1878, the council may permit any person who satisfies it—

(a) that he is a relative of the person buried in the grave or vault, or is acting at the request of that relative; and

(b) that it is impractical for him or that relative to trace the owner of the right described,

to erect or place a memorial, or to put an additional inscription on a memorial, on the grave space, grave or vault in which the right so described subsists.

(5) A council may at the request of a particular religious denomination prohibit the interring or scattering of cremated human remains in or over a part of the burial ground allotted for the use of that denomination.

#### *Register of burials*

6.—(1) A council shall maintain in a book or by means of a computer a register of all burials in its burial grounds.

(2) The register shall be kept by an officer (in these regulations called “the Registrar”) appointed by the council to do so.

(3) The register shall distinguish in what parts of a burial ground the bodies are buried.

#### *Registration and records of burials and exhumations*

7.—(1) Where, under regulation 6, the register of burials is maintained in a book, the book shall be of good and durable paper and be strongly bound and, if it is the second or any subsequent book, it shall be numbered accordingly.

(2) Subject to paragraph (3), the pages in which entries are to be made in the book shall be numbered and shall be printed in columns, including columns headed respectively—

Number/Date of burial/Date of death/Names in full/Age/Address/Grave or vault number/Part of burial ground body buried/Other particulars/  
Signature of person directing or making entry,

and in entry spaces of such uniform depth as the council shall consider sufficient.

(3) In a book provided within 12 months from the coming into operation of these regulations—

(a) the headings of any column of a page may be altered in manuscript so as to comply with paragraph (2); and

(b) the column headed “Other particulars” may be omitted.

(4) As soon as is reasonably practicable after any burial in the burial ground, the Registrar shall, in durable black ink, number an entry space in the book and register the burial therein, in accordance with the headings of the columns in the book.

(5) Where the burial is that of the body of a still-born child or its cremated remains the words “Still-born Child of ...” with the names of at least one of the parents shall be written in the column headed “Names in full”, the column headed “Age” shall be left blank and the address of the parents or parent shall be entered in the column headed “Address”.

(6) Where the burial is the interment of cremated remains the entry shall record that it is such.

(7) Where the burial is the re-interment of exhumed remains the entry shall also record that it is such and the previous place of burial.

(8) Where the register of burials is maintained by means of a computer, any document produced by the computer in relation to the registration of that burial shall contain the same information as would have been recorded if the burial had been registered in a book.

(9) A council shall maintain a record of any exhumations carried out in a burial ground after the coming into operation of these regulations, showing—

(a) the date of exhumation;

(b) the number of the grave or vault;

(c) the names, in full, of the person whose remains are exhumed;

- (d) the book, page and entry number of the entry of burial, or where the burial was entered in a computer, the number of the entry;
  - (e) particulars of the authority for exhumation; and
  - (f) if the remains are re-interred in the same burial ground, the number of the grave and the date of re-interment; or
  - (g) if the remains are to be re-interred elsewhere or cremated, the place and date of proposed re-interment or cremation.
- (10) The Registrar shall—
- (a) as soon as is reasonably practicable after any exhumation—
    - (i) complete the record as regards sub-paragraphs (a) to (e) and (g) of paragraph (9); and
    - (ii) where the burial was registered in a book, add to the entry in the register of burials, in durable ink of a colour readily distinguishable from black, a reference to such record; and
  - (b) as soon as is reasonably practicable after a re-interment in the same burial ground, complete the record as regards sub-paragraph (f) of that paragraph.

(11) The register of burials and records of exhumations shall at all reasonable times be available for inspection by any person free of charge.

*Provision of certified copies of entries in a register of burials*

8.—(1) A council may make searches in, and provide certified copies of entries in, a register of burials or a record of exhumations.

(2) For the purposes of paragraph (1), a document produced by a computer shall be deemed to be a certified copy of an entry in the register or record if it is accompanied by a certificate signed by the Registrar or some other person duly authorised in writing by the council to act on behalf of the Registrar—

- (a) identifying the document and describing the manner in which it is produced;
- (b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer; and
- (c) stating that—
  - (i) the document was produced by the computer during a period in which the computer was used regularly to store or process information for the purpose of maintaining burial records;
  - (ii) during that period there was regularly supplied to the computer information of the kind contained in the document or of the kind from which the information so contained was derived;
  - (iii) throughout the material part of that period the computer was operating properly or, if not, that any respect in which it was not operating properly or was out of operation during that part of the period was not such as to affect the production of the document or the accuracy of its contents; and

- (iv) the information contained in the document reproduces or is derived from information supplied to the computer by an officer of the council.

*Storage of records*

9. The following, namely—

- (a) the register of burials referred to in regulation 6;
- (b) any register of burials maintained in relation to the burial ground before the coming into operation of these regulations;
- (c) the record of exhumations maintained under regulation 7(9);
- (d) the register of rights maintained under paragraph 1 of Part II of Schedule 1; and
- (e) the records of memorials and inscriptions made and kept under paragraph 19 of Schedule 2,

shall be stored so as to preserve them from loss or damage and shall be in the charge of the Registrar.

*Recovery of cost of removal by a council of unauthorised memorials*

10. If a council removes from a burial ground any memorial placed there otherwise than in the exercise of a right granted by the council or any of its predecessors, or without permission so granted, the council may recover the cost of removal—

- (a) from the person to whose order the memorial was placed; or
- (b) within 2 years from the placing of the memorial, from the personal representative of such person,

as a simple contract debt in a court of competent jurisdiction.

*Maintenance of graves, etc., removal of memorials, levelling, etc.*

11.—(1) A council may put and keep in order any grave or vault or any memorial in a burial ground.

(2) Subject to Schedule 2, a council may carry out the following works—

- (a) remove from the burial ground and destroy—
  - (i) any memorial on a grave of which all material particulars are illegible or which is dilapidated by reason of long neglect;
  - (ii) any kerbs, cornerstones, fences, railings, chains or wall edges surrounding a grave (whether containing any commemorative inscription or not) together with the foundation slabs of such kerbs, cornerstones, fences, railings, chains or wall edges;
  - (iii) except as provided in paragraph (3) any memorial, not falling within paragraph (i) or (ii), on a grave;
  - (iv) any surface fittings not falling within paragraph (i), (ii) or (iii), or any flowering or other plants, on a grave;
- (b) alter the position of a memorial on a grave or re-erect or place it at another place in the burial ground or at some other place designated in writing by the council for that purpose;

- (c) level the surface of any grave to the level of the adjoining ground;
- (d) alter the position of any kerbs, cornerstones, fences, railings, chains, wall edges or other material surrounding a grave, vault, memorial or grave space;
- (e) re-erect or place at another place in the burial ground a memorial other than one on a grave or vault.

(3) Paragraph (2)(a)(iii) shall not apply where the owner of the right to erect or place the memorial in the burial ground has, before the date specified (as required by paragraph 7(1)(b) of Schedule 2) in the notice under paragraph 3 of that Schedule as the date before which the carrying out of the proposals will not be commenced, requested that it shall be re-erected in the burial ground or elsewhere.

(4) Any reference to a grave in sub-paragraphs (a), (b) or (c) of paragraph (2) or in Schedule 2 includes a reference to a vault constructed wholly or substantially below the level of the ground adjoining the vault.

(5) A council may agree with any person, on such terms and subject to such conditions as it thinks proper, to maintain any grave, vault, or memorial in a burial ground for a period not exceeding 100 years from the date of the agreement.

### PART III

#### ANCILLARY PROVISIONS

##### *Exhumation*

12. Subject to section 11(4) of the Coroners Act (Northern Ireland) 1959(a), a person shall not cause or permit a body or the remains of a body, other than the cremated remains, to be removed from one place of burial to another or to be exhumed unless that person—

- (a) first obtains the written consent of the Department; and
- (b) carries out the removal or exhumation in accordance with Part III of Schedule 1.

##### *Prohibition on being in a burial ground when it is closed*

13. A person shall not, without the consent of the council, enter or remain in a burial ground when it is closed to the public.

##### *Prohibition on use of metal detectors or digging*

14.—(1) A person shall not, without the consent of the council, use a metal detector in a burial ground.

(2) A person shall not, without the consent of the council, dig in a burial ground except—

- (a) for the purpose of maintaining a grave;
- (b) in pursuance of a right under section 178 of the Act of 1878; or



- (c) under section 16(1)(f) of the Historic Monuments Act (Northern Ireland) 1971.

*Burials in ground allotted to particular denominations*

15. Notwithstanding the allotment to a religious denomination of part of a burial ground for burials, burials may take place in that part without any religious service or with an orderly, religious service other than a service of that religious denomination.

*Offences*

16. A person who contravenes—

- (a) regulations 5(1) or (5), 12, 13, 14 or 17(4);  
(b) any provision of Part I of Schedule 1,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

*Commonwealth War Graves Commission*

17.—(1) In this regulation—

“the Commission” means the Commonwealth War Graves Commission;  
and

“Commonwealth war burial” means a burial of any member of the forces of His Majesty fallen in the war of 1914-1921 or the war of 1939-1947.

(2) A council may grant to the Commission the right to provide a structure, tree, plant, path or other feature approved by the council in or on any grave or vault owned or maintained by or on behalf of the Commission or containing a Commonwealth war burial.

(3) In its application to any right sold to the Commission under section 178 of the Act of 1878, paragraph (5) of regulation 11 shall have effect as if the words “for a period not exceeding 100 years from the date of the agreement” in that paragraph were omitted.

(4) Without prejudice to the requirements of regulation 12, a person shall not cause or permit a body or the remains of a body, other than the cremated remains of a body, to be removed or exhumed—

- (a) from any grave or vault owned by the Commission, unless that person has obtained consent in writing of the Commission; or  
(b) from any other grave or vault maintained by or on behalf of the Commission or containing a Commonwealth war burial, unless that person has given prior notice in writing to the Commission.

(5) Before its first exercise of the powers conferred by regulation 11(2) in relation to a burial ground containing any grave or vault owned or maintained by or on behalf of the Commission or containing a Commonwealth war burial, the council shall notify the Commission.

(6) The powers described in regulation 11(2) shall not be exercisable in respect of—

- (a) any grave, vault or memorial provided or maintained by or on behalf of the Commission; or
- (b) any other grave or vault containing a Commonwealth war burial, except with the consent in writing of the Commission.

## PART IV

## REPEALS AND REVOCATIONS

*Repeals*

**18.** The following are hereby repealed—

- (a) Section 191 of the Public Health (Ireland) Act 1878;
- (b) the words “rules or” in section 11(4) of the Coroners Act (Northern Ireland) 1959.

*Revocations*

**19.** The following are hereby revoked—

- (a) the Rules and Regulations for the Regulation of Burial Grounds dated 21st January 1870;
- (b) the Rules and Regulations made by the Local Government Board (Ireland), dated 6th July 1888(a) for the Regulation of Burial Grounds, &c;
- (c) the Order of the Local Government Board for Ireland dated December 23, 1919(b); and
- (d) the Public Health (Regulation of Burial Grounds) Regulations (Northern Ireland) 1953(c).

Sealed with the Official Seal of the Department of the Environment on  
27th May 1992.

(L.S.)

*J. McCormick*

Assistant Secretary

## PART I

## CONDITIONS OF BURIAL

1. A person shall not, without the permission of the council, cause or permit—

- (a) a burial to take place;
- (b) cremated human remains to be scattered;
- (c) a memorial to be erected or placed in a burial ground; or
- (d) an additional inscription to be made on a memorial.

2. Subject to paragraph 3, a person shall not cause or permit—

- (a) a burial to take place in a burial ground; or
- (b) a body to be admitted to any place of reception of bodies previous to interment,

unless the body is enclosed in a coffin of wood or other sufficiently strong material.

3.—(1) A council may permit uncoffined burials only in an area of a burial ground designated by the council exclusively for that purpose.

(2) Where the council permits uncoffined burials, any reference in the following provisions of this Part to a coffin includes a reference to the wrappings of an uncoffined body.

4. A person shall not cause or permit to be buried—

- (a) a person over 12 years of age, in a grave space less than 2.7 metres long by 1.2 metres wide; and
- (b) a child of 12 years of age or under, in a grave space less than 1.8 metres long by 90 centimetres wide.

5.—(1) Subject to paragraph (2), a person shall not cause or permit a body to be buried in a grave in such a manner that any part of the coffin is less than 1 metre below the level of any ground adjoining the grave.

(2) A council may, where it considers the soil to be of suitable character, permit a coffin to be placed not less than 70 centimetres below the level of any ground adjoining the grave.

6. A person shall not cause or permit a body to be buried in a grave unless the coffin is effectively separated by means of a layer of earth not less than 15 centimetres thick from any coffin previously interred in the grave.

7. When a grave is re-opened for the purpose of making another burial in it, a person shall not disturb any human remains interred in it or remove from it any soil which is offensive.

8. A person shall cause or permit every walled grave or vault to be properly constructed of brick, slate or concrete or other suitable materials.

9. Within 24 hours of any burial in a walled grave or vault, a person shall cause or permit the coffin to be—

- (a) embedded in concrete, and covered with a layer of concrete not less than 15 centimetres thick; or
- (b) enclosed in a separate cell or compartment of brick, slate, stone flagging or precast concrete slabs of a 1:2:4 mix (cement: sand: aggregate), in any case not less than 5 centimetres thick, in such a manner as to prevent, as far as may be practicable, the escape of any noxious gas from the interior of the cell or compartment.

10. A person who causes or permits a body to be buried in a grave in respect of which an exclusive right of burial has been granted shall, as soon as convenient after the subsidence of the earth has been completed, cause the surface of the grave to be covered with a memorial in respect of which a right has been granted by the council or any of its predecessors, or with fresh turf, or, where the council permits, with flowering plants, or other suitable material.

11. In this Part, “walled grave” means a grave the sides of which are lined with walls.

## PART II

### REGISTER OF BURIAL AND OTHER RIGHTS, THEIR ASSIGNMENT AND TRANSMISSION

1.—(1) A council shall maintain a register of all rights sold by it or any of its predecessors under section 178 of the Act of 1878.

(2) The register shall show—

- (a) the date on which each such right was sold;
- (b) the name and address of the buyer;
- (c) the consideration for the sale; and
- (d) the place in which it is exercisable and its duration.

2. Rights to which paragraph 1 applies may be assigned in writing or bequeathed by will.

3. A council shall record in the register particulars of any assignment or transmission of any such right notified to it.

4. The register shall at all reasonable times be available for inspection by any person free of charge at the offices of the council or at the burial ground.

## PART III

### EXHUMATION PROCEDURES

1.—(1) The removal or exhumation of a body, or the remains of a body, shall be conducted with due care and attention to decency under the supervision of an environmental health officer appointed by the council and in accordance with such conditions as he may, after consultation with the Director of Public Health, impose with respect to matters affecting or likely to affect the public health.

(2) In sub-paragraph (1) “Director of Public Health” means the Director of Public Health(a) of the Health and Social Services Board for the area in which the removal or exhumation takes place.

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(a) See S.I. 1991/114 (N.I. 1) Article 32(1)

2. The sub-divisional commander of the Royal Ulster Constabulary sub-division in which the burial ground is situated shall be notified of the date and time of the exhumation by the person who applied for the written consent of the Department.

## SCHEDULE 2

Regulations 9(e) and  
11(2) to (4)

**Removal of Memorials, Levelling, Etc.***Restrictions on exercise of powers*

1. No council shall carry out any of the works mentioned in regulation 11(2)—

- (a) contrary to the terms of the agreement, in respect of any grave, vault or memorial which the council is bound by agreement to maintain under regulation 11(5);
- (b) within the time, whether in perpetuity or as a limited period, specified in a sale under section 178 of the Act of 1878, in respect of any memorial erected or placed in pursuance of such a sale;
- (c) in respect of any other memorial permitted to be erected or placed in the burial ground (otherwise than under a permission expressed to be revocable),

except with the consent in writing of the person entitled to the benefit of the agreement to maintain, the right to erect or place the memorial or permission to erect or place the memorial.

2. No council shall carry out any of the works mentioned in regulation 11(2)—

- (a) in relation to a monument of historic interest which—
  - (i) is owned by or vested in or is in the guardianship of or is the subject of a protection order by, the Department by virtue of Part I or II or, as the case may be, section 9 of the Historic Monuments Act (Northern Ireland) 1971(a); or
  - (ii) is a scheduled monument;
- (b) a listed building unless any authorisation required under Article 44(2) of the Planning (Northern Ireland) Order 1991(b) has been obtained.

*Notification of exercise of powers*

3. Before exercising a power authorised in regulation 11(2) a council shall—

- (a) display a notice of its intention to do so in a conspicuous position at the entrances to the burial ground and, if the powers are to be exercised only in an area of the burial ground, in conspicuous positions in or adjoining such area;
- (b) publish the notice in 2 successive weeks in the newspaper or newspapers which in its opinion would secure the best publicity in the area served by the burial ground;
- (c) send a copy of the said notice to the Department;
- (d) where the area of the burial ground in which the power is to be exercised has been allotted for the use of a particular religious denomination, notify the appropriate minister of that religious denomination, and where such minister within 3 months from the notification makes any representations to it, consider such representations with him.

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(a) 1971 c. 17 (N.I.)

(b) S.I. 1991/1220 (N.I. 11)

4.—(1) Subject to paragraph 6, where this paragraph applies, a council, before exercising the said powers in relation to any grave on or surrounding which there is a memorial, shall serve copies of the said notice and of paragraphs 9 to 12, 15, 18, 20 and 21 on the owner of the right to erect or place it or (if it has a record of his name and address) on the person granted permission to erect or place it.

(2) This paragraph applies where—

- (a) a burial in the grave has taken place; or
- (b) the right to erect or place, or the permission to erect or place, the memorial has been granted or renewed; or
- (c) the right, or permission, to place an additional inscription on the memorial has been granted; or
- (d) notification of an assignment or transmission of the right to erect or place the memorial, or of the addresses of the owner of such right or of the person granted permission to place it, has been given, to the council,

within the 30 years preceding the first display of the notice under paragraph 3(a).

5.—(1) Subject to paragraph 6, where this paragraph applies, a council, before exercising the powers described in regulation 11(2)(c) in respect of any grave other than one on which there is a memorial shall serve copies of the notice and of paragraphs 13, 14, 17 and 20 on the owner of a right under section 178 of the Act of 1878 in respect of the grave.

(2) This paragraph applies where—

- (a) a burial in the grave has taken place in exercise of a right under section 178 of the Act of 1878; or
- (b) notification of any assignment or transmission of such right has been given to the council,

within the 30 years preceding the first display of the notice under paragraph 3(a).

6. Paragraphs 4 and 5 shall not apply in relation to a person where the specified circumstances exist in respect of him.

7.—(1) The notice referred to in paragraph 3 shall—

- (a) contain brief particulars of the proposed works and where further particulars of the works are provided specify an address at which they may be obtained free of charge;
- (b) subject to sub-paragraph (2) specify a date before which the carrying out of the proposed works will not be commenced, being a date not less than 3 months following the completion of the requirements specified in paragraph 3; and
- (c) indicate that particulars as to—
  - (i) the objections which can be made to the proposed works;
  - (ii) requests for the re-erection of memorials; and
  - (iii) the removal of memorials,

are obtainable free of charge from a specified address.

(2) Where the proposed work is to be carried out to a scheduled monument sub-paragraph (1)(b) shall have effect as if for the words “not less than 3 months” there were substituted the words “6 months or such lesser period as may be agreed in writing by the Department, but not less than 3 months”.

### *Objections*

8. The council shall consider all objections made to the proposed works.

9. Subject to paragraph 10, if notice of objection, and of the grounds thereof, to the proposed works in respect of any memorial erected or placed on a grave in pursuance of a right under section 178 of the Act of 1878 is given by—

- (a) the owner of such right; or
- (b) a relative of any person buried in the grave,

to the council before the date specified in the notice in pursuance of paragraphs 7(1)(b) or 7(2) as the case may be, the works shall not be carried out in respect of that memorial unless the objection is withdrawn.

10. If the grave has been neglected, the council may make representations to the Department, and, if the Department approves, the proposed works may be carried out in respect of the memorial after the expiration of 2 months from notification of the Department's approval by the council to the objector.

11. Subject to paragraph 12, if notice of objection and of the grounds thereof, to the proposed works in respect of a memorial erected or placed on a grave in the exercise of a permission not expressed to be revocable is given by—

- (a) the person to whom permission was granted; or
- (b) a relative of any person commemorated by the memorial,

to the council before the date specified in the notice in pursuance of paragraphs 7(1)(b) or 7(2) as the case may be, the proposed works shall not be carried out in respect of that memorial unless the objection is withdrawn.

12. Where the objection is not withdrawn, the council may make representations to the Department, and, if the Department approves, the proposed works may be carried out in respect of the memorial after the expiration of 2 months from notification of the Department's approval by the council to the objector.

13. Subject to paragraph 14, if notice of objection, and of the grounds thereof, to the levelling under regulation 11(2)(c) of any grave on which there is no memorial erected or placed in pursuance of a right or in exercise of a permission not expressed to be revocable, is given by—

- (a) the owner of a right under section 178 of the Act of 1878 in respect of the grave; or
- (b) a relative of any person buried in the grave,

to the council before the date specified in the notice under paragraph 3, the grave shall not be levelled unless the objection is withdrawn.

14. Where the objection is not withdrawn, the council may make representations to the Department, and, if the Department approves, the grave may be levelled after the expiration of 2 months from notification of the Department's approval by the council to the objector.

#### *Removal of memorials*

15.—(1) Where the council proposes to re-erect or place at another place in the burial ground or elsewhere, or to remove from the burial ground and destroy, any memorial, the owner of the right to erect or place, or the person granted permission to erect or place the memorial, may, whether or not he gives notice of objection under paragraph 9 or 11, claim the memorial.

(2) A claim under sub-paragraph (1) shall be made before the date specified in the notice in pursuance of paragraph 7, or, where the memorial is to be removed with the

approval of the Department, within the period of 2 months from the notification required by paragraph 9 or 11.

(3) The memorial shall be removed by the person claiming it at such date as may be arranged between him and the council or if the council gives notice to him that it has been removed from the ground or dismantled, and is available for removal from the burial ground, within 1 month of such notice.

#### *Identification of graves*

16. Before levelling the surface of any grave or removing any memorial or other identification from a grave, the council shall ensure that the situation of the grave is clearly distinguished in the register of burials in accordance with regulation 6(3).

#### *Identification marks and substitute memorials*

17. In respect of any grave levelled by it in exercise of the powers conferred on it by regulation 11(2)(c), the council may, and shall if so requested in writing by—

(a) the owner of a right under section 178 of the Act of 1878 in respect of the grave; or

(b) a relative of any person buried in the grave,

within a year from the date specified in the notice in pursuance of paragraph 7 (whether such owner or relative made objection under paragraph 13 or not), provide at its own expense such identification mark as it considers adequate.

18. Where the council removes from a grave either the whole of an existing memorial or the part of it containing any material particulars it may, and shall if so requested by—

(a) the owner of the right to erect or place or the person granted permission (not expressed to be revocable) to erect or place, the memorial; or

(b) a relative of any person buried in the grave,

within a year from the date specified in the notice in pursuance of paragraph 7 (whether or not such owner or relative made objection under paragraph 9 or 11), erect or place on the grave at its own expense a suitable memorial.

#### *Records of memorials*

19. The council shall make and keep—

(a) a record of the memorials removed by it from graves, showing whether they have been destroyed or re-erected or replaced by it in the burial ground or elsewhere and, if so re-erected or replaced, of the positions in which they have been re-erected or replaced; and

(b) a photographic or other record of all legible inscriptions on the memorials destroyed, in such manner that the material particulars of those inscriptions may be readily ascertained.

#### *Interpretation*

20.—(1) In this Schedule—

“material particulars” means particulars relating to names and dates;

“relative” means, in relation to any person buried in a grave—

a husband or wife;

a child or grandchild;

a grandparent;



a parent or step-parent;  
a brother or sister or half-brother or half-sister;  
an uncle or aunt or a child thereof.

(2) In this Schedule, any reference to a permission to erect or place a memorial includes a reference to permission granted by the council or any of its predecessors and any reference to the person granted such a permission includes a reference to his personal representatives.

*General saving*

21. Nothing in regulation 11(2) or this Schedule shall affect any right of burial under section 178 of the Act of 1878.

## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

The regulations are in 4 parts and make provision as follows:—

Part I is introductory.

Part II relates to the functions of a district council regarding council burial grounds. Regulation 3 requires councils to repair and maintain their burial grounds. Regulation 4 requires a council to maintain a map of each of their burial grounds and under regulation 6 a register must be kept of all burials in a book or computer. Regulation 5 requires the consent in writing of the owner of the burial right before a body is buried or cremated human remains are scattered or interred in a grave or vault in which there is an exclusive right of burial.

Regulation 7 details the information to be maintained in the register of burials and regulation 8 enables councils to provide certified copies of entries in the register and in the record of exhumations. Regulation 9 describes the documents which relate to burial grounds and which are to be stored to preserve them from loss or damage.

Regulation 10 relates to recovery of costs for the removal by councils of unauthorised memorials. Regulation 11 empowers councils to maintain graves and to remove memorials and level the surface of graves.

Part III contains ancillary provisions. Regulation 12 prohibits the removal or exhumation of a body or the remains of a body, other than cremated remains, without the consent of the Department.

Regulation 13 prohibits a person from being in a burial ground when it is closed to the public. Regulation 14 prohibits the use of a metal detector or digging in a burial ground without the consent of the council. Regulation 15 provides for burials in ground allotted to a religious denomination. Regulation 16 provides that any person who contravenes certain regulations or any provision of Part I of Schedule 1 shall be guilty of an offence and liable on summary conviction to a maximum fine of £100. Regulation 17 provides for the safeguarding of rights of the Commonwealth War Graves Commission in relation to Commonwealth war burials.

Part IV repeals section 191 of the Public Health (Ireland) Act 1878, words from section 11(4) of the Coroners Act (Northern Ireland) 1959 and also revokes earlier regulations.

The Regulations contain 2 Schedules. Schedule 1 imposes conditions as to burials (Part I), requires the district council to keep and make available for public inspection a register of burial and other rights (Part II) and details exhumation procedures (Part III). Schedule 2 specifies the restrictions imposed on councils in relation to the exercise of their powers of removal and levelling of memorials and graves and requires councils to keep a record of memorials removed by them.