

London Local Authorities Act 2007

2007 CHAPTER ii

PART 5

MISCELLANEOUS

74 Power to disturb human remains

- (1) Where a burial authority has extinguished—
 - (a) a right of burial in a grave space under section 6 (power to extinguish rights of burial in cemetery lands) of the Act of 1969; or
 - (b) a right of interment in respect of a grave under section 9 of the Act of 1976, the burial authority may disturb or authorise the disturbance of human remains interred in the grave for the purpose of increasing the space for interments in the grave.
- (2) No human remains may be disturbed under this section if they have been interred for a period of less than 75 years.
- (3) Any human remains disturbed under subsection (1) above must be reinterred in the grave.
- (4) Before disturbing any human remains under this section the burial authority shall—
 - (a) publish a notice of their intention to do so once in each of two successive weeks in a newspaper circulating in Greater London with an interval between the dates of publication of not less than six clear days;
 - (b) display a like notice in a conspicuous position at every entrance to the cemetery;
 - (c) serve a notice thereof upon the registered owner of—
 - (i) the right of burial (if the right has not yet been extinguished),
 - (ii) the right of interment (if the right has not yet been extinguished);
 - (iii) any relevant tombstone,at that owner's registered address; and
 - (d) serve a notice thereof on the Commonwealth War Graves Commission.

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- (5) Each of the notices referred to in subsection (4) above shall—
- (a) contain full particulars of the burial authority's proposals including a specification of the registered number or other description of all graves in which it is proposed that the human remains are to be disturbed;
 - (b) specify the date after which it is intended that the work should be undertaken, which shall not be earlier than six months after the date of the later of the two publications, the date on which the notice is first displayed, or the date on which the notice is served whichever is the last; and
 - (c) state the effect of subsection (7) below.
- (6) A single notice may be used for the purposes of this section and—
- (a) subsection (3) of section 6 of the Act of 1969; or
 - (b) subsection (4) of section 9 of the Act of 1976,
- (which provide for the giving of notice and making of objections in the case of the proposed extinguishment of rights of burial and interment and the proposed removal of tombstones), as the case may be.
- (7) If notice of objection to the proposed disturbance of human remains is given to the burial authority before the date specified in paragraph (b) of subsection (5) above by—
- (a) the registered owner of the right of burial or interment, as the case may be;
 - (b) the registered owner of a relevant tombstone;
 - (c) a relative of the person whose remains are proposed to be disturbed,
- and that objection is not withdrawn, the burial authority may not exercise its powers under this section for a period of 25 years, beginning with the date of the publication of the first notice under subsection (4)(a) above.
- (8) The burial authority shall comply with any directions given by the Secretary of State with respect to the removal and reinterment of any human remains in any case other than a case falling within subsection (10).
- (9) Nothing in this section shall in any way affect the jurisdiction of the consistory court of the diocese over consecrated land which is used, or is available for use, for the interment of human remains.
- (10) Where the burial authority proposes to disturb any human remains in consecrated land the burial authority may not exercise its powers under this section without first obtaining a faculty, with or without conditions attached to it, from the consistory court of the diocese in which the land is situated, and any objection to the proposed disturbance of human remains from consecrated land by any person under subsection (7) above shall be heard and determined by that consistory court.
- (11) The provisions of section 25 of the Burial Act 1857 (c. 81) (prohibition of removal of human remains without the licence of the Secretary of State except in certain cases) shall not apply to a removal carried out in accordance with the provisions of this section.
- (12) In this section—
- “the Act of 1969” means the [City of London \(Various Powers\) Act 1969 \(c. xxxix\)](#);
- “the Act of 1976” means the [Greater London Council \(General Powers\) Act 1976 \(c. xxvi\)](#);
- “burial authority” means—

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- (a) a borough council;
- (b) the Court of Common Council of the City of London;
- (c) a joint committee appointed under section 102 of the Local Government Act 1972 (c. 70) and authorised to exercise powers under section 214 of and Schedule 26 to that Act, or under any other enactment relating to the provision and maintenance of cemeteries, being a joint committee any member of which is appointed by a borough council; or
- (d) a burial or cemetery board established under any enactment and—
 - (i) authorised to exercise such powers as are mentioned in paragraph (c) above; and
 - (ii) of which at least one of the constituent authorities is a borough council;

“civil partner” has the same meaning as in the Civil Partnership Act 2004 (c. 33) and includes former civil partner;

“registered owner”—

- (a) in relation to any right of burial or interment, means the person at the time in question named in the register of grants of rights of burial or interment, as the case may be, maintained by the burial authority under the Cemeteries Clauses Act 1847 (c. 65) or otherwise;
- (b) in relation to any relevant tombstone means the person at the time in question named in the said register as the person to whom the right to erect or place that tombstone has been granted, or, if no such person is named, the registered owner of the right of interment or burial in the grave in or on which the tombstone is erected or placed;

“registered address” means any address of the registered owner contained in the said register;

“relative”, in relation to any person, means any of the following—

- (a) his spouse;
- (b) his civil partner;
- (c) any lineal ancestor, lineal descendant, brother, sister, aunt, uncle, nephew, niece or first cousin of his or his spouse or civil partner;

“relevant tombstone” means a tombstone erected or placed in or on a grave in respect of which the powers of this section are intended to be exercised, whether or not the tombstone is itself intended to be disturbed;

“spouse” includes former spouse.