

Burial Act 1857

1857 CHAPTER 81 20 and 21 Vict

An Act to amend the Burial Acts.

[25th August 1857]

Modifications etc. (not altering text)

- C1 Short title given by [Short Titles Act 1896 \(c. 14\)](#)
- C2 Preamble not relevant to unrepealed provisions of the Act
Act except section 25: powers transferred (1.7.1999) by virtue of [S.I. 1999/672, art. 2, Sch.1](#)
- C3 Act: enactments relating relating to burial grounds restricted (18.12.1996) by [Channel Tunnel Rail Link Act 1996 \(c. 61\), s. 39](#)
- C4 Act: enactments relating relating to burial grounds restricted (22.7.2008) by [Crossrail Act 2008 \(c. 18\), s. 41](#)
- C5 Act: enactments relating relating to burial grounds restricted (23.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\), ss. 27, 70\(1\)](#)

1—9^{F1}

Textual Amendments

- F1 Ss. 1–9, 11–22, 26–30 repealed by [Local Government Act 1972 \(c. 70\), Sch. 30](#)

10 Orders in Council may be made for regulating burial grounds, &c.

It shall be lawful for Her Majesty, by Order made by and with the advice of Her Privy Council, on the representation of one of Her Majesty's Principal Secretaries of State, from time to time to establish such regulations as to Her Majesty may seem proper for the protection of the public health, and for the maintenance of public decency, in respect of all burials in common graves^{F2} in any cemetery established under the authority of any local Act of Parliament; . . .^{F3} and all persons having the care of such cemeteries and burial grounds and places shall conform to and obey such regulations; and any such person who shall violate or wilfully neglect to observe any of such regulations shall, on summary conviction thereof before two justices of the peace, forfeit and pay any sum not exceeding [^{F4}level 1 on the standard scale]:Provided

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Burial Act 1857. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

always, that no such representation shall be made in relation to any cemetery or burial ground until ten days previous notice in writing of the intention to make such representation shall have been given to the person or one of the persons having the control or care of such cemetery or burial ground.

Textual Amendments

- F2** Words repealed by [Local Government Act 1972 \(c. 70\)](#), **Sch. 30**
F3 Words repealed by [Statute Law \(Repeals\) Act 1986 \(c.12\)](#), s. 1(1), **Sch. 1 Pt. XII**
F4 Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 46**

Modifications etc. (not altering text)

- C6** S. 10 repealed as to Greater London by [London Government Act 1963 \(c. 33\)](#), **Sch. 18 Pt. II**

11— ^{F5}
 22.

Textual Amendments

- F5** Ss. 1–9, 11–22, 26–30 repealed by [Local Government Act 1972 \(c. 70\)](#), **Sch. 30**

23 Orders in Council may be issued, on representation of Secretary of State, so as to prevent vaults, &c. being dangerous to health.

It shall be lawful for Her Majesty, upon the representation of one of Her Majesty's Principal Secretaries of State, by and with the advice of Her Privy Council, from time to time to order such acts to be done by or under the directions of the ^{F6} persons as may have the care of any vaults or places of burial, for preventing them from becoming or continuing dangerous or injurious to the public health; . . . ^{F7} and such . . . ^{F6} persons shall do or cause to be done all acts ordered as aforesaid, and the expenses incurred in and about the doing thereof shall be paid out of the poor rates of the parish: Provided always, that no such representation shall be made until ten days previous notice of the intention to make such representation shall have been given to the ^{F6} persons, or one of the . . . ^{F6} persons, having the care of the vaults or places of burial to which the representation relates.

Textual Amendments

- F6** Words repealed by [Local Government Act 1972 \(c. 70\)](#), **Sch. 30**
F7 Words repealed by [Statute Law \(Repeals\) Act 1986 \(c.12\)](#), s. 1(1), **Sch. 1 Pt. XII**

Modifications etc. (not altering text)

- C7** References to poor and other parochial rates, except in application of section to City of London and Temples to be construed as reference to general rate: [General Rate Act 1967 \(c. 9\)](#), **s. 116(2)**

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Burial Act 1857. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

24 Trustees of closed cemeteries empowered, with sanction of Secretary of State, to let, lease, or sell portions thereof which have not received interments.

In all cases in which unconsecrated land or buildings is or are vested in trustee or trustees, either under any local Act or otherwise, for the purposes of a cemetery or burial ground, and burials in such cemetery or burial ground shall by Order in Council under the herein-before recited Acts or any of them have been ordered to be wholly or partially discontinued, it shall be lawful for the trustee or trustees for the time being of such cemetery or burial ground, from time to time, with the sanction of one of Her Majesty's Principal Secretaries of State to let, demise, or lease any part or parts, in which no interment shall have taken place, of such land or buildings, and to renew or accept surrenders of any leases or tenancies thereof, and to sell and absolutely dispose thereof for money in gross, or for any perpetual or other rent or rents to be made payable thereout, and by public auction or private contract, and to sell all or any such perpetual or other rent or rents for money in gross and in manner aforesaid, and for any of the purposes aforesaid to make and execute any contracts, conveyances, leases, or other assurances, and to take any measures and make any arrangements which may be deemed expedient; and upon any such lease or sale as aforesaid a grant or conveyance by such trustee or trustees alone shall be a sufficient assurance of the property thereby purported to be leased or sold, and the receipts of such trustee or trustees shall be effectual discharges for the monies therein expressed to have been received, and shall absolve any lessee or purchaser from having to see to or being answerable for the application of such monies; and the net monies to be received by such trustee or trustees under any of the preceding powers shall be applied by them in discharge of any incumbrances affecting such cemetery or burial ground, and any debts which such trustee or trustees may have properly incurred in their fiduciary capacity; and any residue of such monies shall, where such land or buildings shall have been held in trust for any parish, be applied in such manner, for the benefit of such parish, as the vestry of such parish shall direct; but where such land or buildings shall have been held in trust for the benefit of private persons, such residue shall be divided by such trustee or trustees rateably among the cestuisque trusts; and it shall be lawful for such trustee or trustees so to apply any reserved fund in his or their hands.

Modifications etc. (not altering text)

- C8** “the herein-before recited Acts” means the [Burial Act 1852 \(c. 85\)](#), the [Burial Act 1853 \(c. 134\)](#), the [Burial Act 1854 \(c. 87\)](#) and the [Burial Act 1855 \(c. 128\)](#)
- C9** Functions of vestry 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\(2\)](#)

[^{F8}25 Offence of removal of body from burial ground

- (1) It is an offence for a body or any human remains which have been interred in a place of burial to be removed unless one of the conditions listed in subsection (2) is complied with.
- (2) The conditions referred to in subsection (1) are—
 - (a) the body or remains is or are removed in accordance with a faculty granted by the court;

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Burial Act 1857. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (b) the body or remains is or are removed in accordance with the approval of a proposal under the Care of Cathedrals Measure 2011 (No. 1) by the Cathedrals Fabric Commission for England or a fabric advisory committee;
 - (c) unless the body or remains is or are interred in land which is subject to the jurisdiction of the court or its or their removal requires or require the approval of a proposal under the Care of Cathedrals Measure 2011, the body or remains is or are removed under a licence from the Secretary of State and in accordance with any conditions attached to the licence.
- (3) A person who removes a body or remains in contravention of subsections (1) and (2) is liable, on summary conviction, to a fine not exceeding level 1 on the standard scale.
- (4) In subsection (2)(a) and (c) “court” means
- [^{F9}(a)] the consistory court of the diocese or, in the diocese of Canterbury, the commissary court of that diocese [^{F10}, or
 - (b) any other court or body referred to in section 9, 16, 19 or 21 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 (Arches and Chancery Courts, Court of Ecclesiastical Causes Reserved, Commission of Review, Privy Council) and having jurisdiction to determine the matter.]]

Textual Amendments

- F8** S. 25 substituted (1.1.2015) by [Church of England \(Miscellaneous Provisions\) Measure 2014 \(No. 1\)](#), [ss. 2, 21\(2\)](#); S.I. 2014/2077, [art. 2\(2\)](#) (with [Sch. paras. 1,2](#))
- F9** S. 25(4)(a): words in s. 25(4) renumbered as s. 25(4)(a) (1.9.2018) by [Ecclesiastical Jurisdiction and Care of Churches Measure 2018 \(No. 3\)](#), [s. 99\(2\)](#), [Sch. 3 para. 1\(1\)\(a\)](#) (with [Sch. 4 Pt. 1](#)); S.I. 2018/720, [art. 2](#)
- F10** S. 25(4)(b): words in s. 25(4) substituted to become s. 25(4)(b) (1.9.2018) by [Ecclesiastical Jurisdiction and Care of Churches Measure 2018 \(No. 3\)](#), [s. 99\(2\)](#), [Sch. 3 para. 1\(1\)\(b\)](#) (with [Sch. 4 Pt. 1](#)); S.I. 2018/720, [art. 2](#)

Modifications etc. (not altering text)

- C10** S. 25 excluded (11.3.2015) by [The Dogger Bank Creyke Beck Offshore Wind Farm Order 2015 \(S.I. 2015/318\)](#), [arts. 1, 20\(14\)](#) (with [arts. 40, 41](#), [Sch. 12 Pt. 1 paras. 4, 9\(2\), 10](#), [Pt. 2 paras. 4\(2\)\(3\), 19](#), [Pt. 4 paras. 3, 4, 16](#))
- C11** S. 25 excluded (1.4.2015) by [The Knottingley Power Plant Order 2015 \(S.I. 2015/680\)](#), [arts. 1, 17\(14\)](#) (with [Sch. 8 para. 10](#))
- C12** S. 25 excluded (14.8.2015) by [The Progress Power \(Gas Fired Power Station\) Order 2015 \(S.I. 2015/1570\)](#), [arts. 1, 17\(14\)](#)
- C13** S. 25 excluded (26.8.2015) by [The Dogger Bank Teesside A and B Offshore Wind Farm Order 2015 \(S.I. 2015/1592\)](#), [arts. 1, 21\(14\)](#) (with [arts. 40, 41](#))
- C14** S. 25 excluded (19.11.2015) by [The Ferrybridge Multifuel 2 Power Station Order 2015 \(S.I. 2015/1832\)](#), [arts. 1\(2\), 20\(13\)](#)
- C15** S. 25 excluded (12.1.2016) by [The London Underground \(Bank Station Capacity Upgrade\) Order 2015 \(S.I. 2015/2044\)](#), [arts. 1, 35\(14\)](#)
- C16** S. 25 excluded (25.3.2016) by [The Thorpe Marsh Gas Pipeline Order 2016 \(S.I. 2016/297\)](#), [arts. 1, 19\(14\)](#) (with [art. 39](#))
- C17** S. 25 excluded (15.9.2016) by [The River Humber Gas Pipeline Replacement Order 2016 \(S.I. 2016/853\)](#), [arts. 1, 20\(14\)](#) (with [art. 43](#))
- C18** S. 25 excluded (27.9.2016) by [The Triton Knoll Electrical System Order 2016 \(S.I. 2016/880\)](#), [arts. 1\(2\), 14\(14\)](#) (with [arts. 39, 40](#), [Sch. 8 para. 19](#))

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Burial Act 1857. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- C19** S. 25 excluded (29.3.2017) by [The Glyn Rhonwy Pumped Storage Generating Station Order 2017 \(S.I. 2017/330\)](#), arts. 1, **28(14)** (with art. 31)
- C20** S. 25 excluded (14.12.2017) by [New Southgate Cemetery Act 2017 \(c. ii\)](#), ss. 1, **4(14)**
- C21** S. 25 excluded (12.10.2018) by [The Eggborough Gas Fired Generating Station Order 2018 \(S.I. 2018/1020\)](#), arts. 1, **16(13)** (with arts. 6, 42)
- C22** S. 25 excluded (25.10.2019) by [The Drax Power \(Generating Stations\) Order 2019 \(S.I. 2019/1315\)](#), arts. 1, **18(13)**
- C23** S. 25 excluded (4.3.2020) by [The Midland Metro \(Birmingham Eastside Extension\) Order 2020 \(S.I. 2020/141\)](#), arts. 1, **27(14)** (with arts. 47, 48, Sch. 10 para. 19)
- C24** S. 25 excluded (11.6.2020) by [The M42 Junction 6 Development Consent Order 2020 \(S.I. 2020/528\)](#), arts. 1, **48(16)** (with art. 37)
- C25** S. 25 excluded (18.6.2020) by [The A63 \(Castle Street Improvement, Hull\) Development Consent Order 2020 \(S.I. 2020/556\)](#), arts. 1, **36(13)** (with arts. 5, 44)
- C26** S. 25 excluded (22.7.2020) by [The Norfolk Vanguard Offshore Wind Farm Order 2020 \(S.I. 2020/706\)](#), arts. 1, **17(14)** (with arts. 41, 42, Sch. 16 para. 66)
- C27** S. 25 excluded (30.7.2020) by [The Manston Airport Development Consent Order 2020 \(S.I. 2020/716\)](#), arts. 1, **37(14)** (with arts. 5, 40)
- C28** S. 25 excluded (1.9.2020) by [The Immingham Open Cycle Gas Turbine Order 2020 \(S.I. 2020/847\)](#), arts. 1, **17(13)** (with Sch. 9 para. 144)
- C29** S. 25 excluded (15.10.2020) by [The Great Yarmouth Third River Crossing Development Consent Order 2020 \(S.I. 2020/1075\)](#), arts. 1, **55(17)**
- C30** S. 25 excluded (29.10.2020) by [The Southampton to London Pipeline Development Consent Order 2020 \(S.I. 2020/1099\)](#), arts. 1, **37(16)** (with art. 32, Sch. 9 para. 36)

26— **F11**
30.

Textual Amendments

F11 Ss. 1–9, 11–22, 26–30 repealed by [Local Government Act 1972 \(c. 70\)](#), **Sch. 30**

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Burial Act 1857. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- s. 25 excluded by [S.I. 2020/1297 art. 16\(17\)](#)