

SCHEDULE 2

Article 10

BURIAL RIGHTS, RIGHTS TO ERECT MEMORIALS, AND AGREEMENTS FOR MAINTENANCE OF GRAVES AND MEMORIALS

PART I

EXERCISE OF RIGHTS

1. No burial shall take place, no cremated human remains shall be scattered and no tombstone or other memorial shall be placed in a cemetery, and no additional inscription shall be made on a tombstone or other memorial, without the permission of the officer appointed for that purpose by the burial authority.

2. No body shall be buried in a grave in such a manner that any part of the coffin is less than three feet below the level of any ground adjoining the grave:

Provided that the burial authority may, where they consider the soil to be of suitable character, permit a coffin made of perishable materials to be placed not less than two feet below the level of any ground adjoining the grave.

3. No body shall be buried in a grave unless the coffin is effectively separated from any coffin interred in the grave on a previous occasion by means of a layer of earth not less than six inches thick.

4. When any grave is reopened for the purpose of making another burial therein, no person shall disturb any human remains interred therein or remove therefrom any soil which is offensive.

5. Every walled grave or vault shall be properly constructed of suitable materials.

6. Within 24 hours of any burial in a walled grave or vault, the coffin shall be—

(a) embedded in concrete, and covered with a layer of concrete not less than six inches 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, in any case not less than two inches 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.

7. Any person to whose order a body is buried in a grave in respect of which an exclusive right of burial has been granted shall, as soon as conveniently may be after the subsidence of the earth has been completed, cause the surface of the grave to be covered with any tombstone or other memorial in respect of which a right has been granted by the burial authority or any predecessor of theirs, or with fresh turf, or, where the burial authority permit, with such flowering or other plants, or in such other manner, as may be permitted.

8. Where the burial authority permit uncoffined burials, any reference in this Part to a coffin includes a reference to the wrappings of an uncoffined body.

PART II

PROVISION AS TO GRANTS, EXTENSION OF THE PERIODS THEREOF AND MATTERS CONCERNING RIGHTS

1.—(1) A grant under article 10 shall be in writing signed by the officer appointed for that purpose by the burial authority.

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(2) Any extension of the period of such a grant or of a grant made under article 9(1) of the order of 1974 or any enactment replaced by that provision shall also be in writing signed by such an officer.

2. A burial authority shall—

- (a) maintain a register of all rights granted by them or any predecessor of theirs under article 10(1) or under article 9(1) of the order of 1974, which shall show as respects each such right the date on which it was granted, the name and address of the grantee, the consideration for the grant, the place in which it is exercisable and its duration; and
- (b) subject to the provision of section 229 of the Act, preserve registers of the rights granted under section 33 of the Burial Act 1852, section 40 of the Cemeteries Clauses Act 1847, or a corresponding provision in any local Act, maintained by them before 1st April 1974 or transferred to them by any order made under section 254 of the Local Government Act 1972.

3. Rights to which paragraph 2 applies may be assigned by deed or bequeathed by will.

4. A burial authority shall, subject to such investigation as they think proper, record particulars of any assignment or transmission of any such right notified to them in the register maintained or preserved under paragraph 2.

5. A register under paragraph 2 shall at all reasonable times be available for inspection by any person free of charge.

6. A burial authority may charge such fees as they think proper for the making by them of searches in, and the provision of certified copies of entries in, a register under paragraph 2.

PART III

DETERMINATION OF CERTAIN RIGHTS AND AGREEMENTS

1.—(1) This paragraph applies to the following rights and agreements granted or entered into by a burial authority or any predecessor of theirs at a time before 1st April 1974 and to the rights and agreements made or entered into between 31st March 1974 and 28th June 1974 which were validated by article 7 of the Local Authorities etc. (Miscellaneous Provision) (No. 3) Order 1974—

- (a) all rights in respect of any grave space granted under a provision falling within paragraph 2(b) of Part II in perpetuity, or for a period exceeding 75 years from the date of the grant;
- (b) any other right to place and maintain a tombstone or other memorial so granted; and
- (c) any agreement to maintain a grave, vault, tombstone or other memorial in a cemetery either in perpetuity or for a period ending more than 100 years after the date of the agreement.

(2) Where any rights described in paragraph 1(1)(a) or (b) have not been exercised, the burial authority may, at any time after the expiration of 75 years beginning with the first day on which any such rights were granted, serve notice on the owner of the rights of their liability to determination under this paragraph, and the rights shall determine by virtue of the notice unless, within 6 months of the date of service, the owner notifies the authority in writing of his intention to retain them.

(3) In the case of any agreement described in paragraph 1(1)(c), the burial authority may at any time after the period of 100 years beginning with the date of the agreement serve a like notice on the person entitled to its benefit, and the agreement shall determine by virtue of the notice unless, within 6 months of the date of service, that person notifies the authority in writing of his intention that the agreement should continue in force.

2. Where a burial authority are entitled to serve a notice under sub-paragraph (2) or (3) of paragraph 1 in respect of any rights or agreement, but the specified circumstances exist in respect

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of the owner of the rights or, as the case may be, the person entitled to the benefit of the agreement, they may instead—

- (a) display the notice in conspicuous positions at the entrances to the cemetery; and
- (b) publish the notice in two successive weeks in the newspaper or newspapers which in their opinion would secure the best publicity in the area served by the cemetery,

and the sub-paragraph in question shall then have effect as if the notice had been duly served thereunder on the date on which it was first published pursuant to item (b) of this paragraph.