

DEPARTMENT OF CONSTITUTIONAL AFFAIRS

NOTES ON ORDERS REQUIRING THE DISCONTINUANCE OF BURIALS IN CHURCH OF ENGLAND CHURCHYARDS.

ORDERS

1. These notes concern Orders made by Her Majesty in Council, under Section 1 of the Burial Act 1853, in response to representations by the Secretary of State for the Department for Constitutional Affairs. An Order may require the discontinuance of burials in a particular churchyard, either entirely or with exceptions - e.g. to allow further burials in particular vaults or graves (see para. 4 below). In the view of the Department, an Order does not, however, prohibit the interment of cremated remains provided that this can be done without disturbing human remains.

APPLICATIONS

2. An application for an Order should be made by letter to Coroner's Division, Department for Constitutional Affairs, Ground Floor, 4 Abbey Orchard Street, London SW1P 2HT (coroners@dca.qsi.gov.uk) is usually made by the Incumbent or by the Secretary of the Parochial Church Council, and should set out in full the grounds on which an Order is sought. The Department is not normally prepared to consider applications relating to parts only of churchyards.

GROUND FOR CONSIDERATION

3. The Department will wish to be satisfied that an Order can be sought on at least one of the following grounds:-
 - a) Further burials would constitute a public health risk;
 - b) Further burials would be contrary to decency;
 - c) Discontinuance of burials would prevent or mitigate nuisance;
 - d) There is no proper room for new graves.

A wish to transfer responsibility for maintenance to the local authority is not a ground for seeking an Order.

EXCEPTIONS

4. If the Department considers there is a prima facie case for making an Order it will ask applicants whether they want the Order to provide for further burials to take place:-
 - a) In existing walled graves or vaults which have room for further interments, provided each coffin is adequately enclosed by brickwork or stonework; or
 - b) In existing family earthen graves which have sufficient space for further interments, provided the top of every coffin is at least one metre below the level of the ground adjoining the grave, or
 - c) In any unused earthen grave space which has been reserved, provided the top of every coffin is at least one metre below the level of the ground adjoining the grave.

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CONSULTATION WITH LOCAL AUTHORITIES

5. The Department will ask the council of the district or London Borough and, if there is one, the parish council for the area, for observations on the grounds supporting the application.

PUBLICITY

6. After the Department has considered any observations from the local authorities, it will ask applicants to publish, in a local newspaper, notice of the Secretary of State's intention to apply for an Order. in accordance with Section 1 of the Burial Act 1853.

CONSIDERATION OF OBJECTIONS

7. The Department may send copies of objections received to interested parties; it can often meet individual objections by proposing exceptions, or further exceptions, to the proposed Order where these are acceptable to the applicants and local authorities.

NOTICE OF INTENTION TO APPLY FOR AN ORDER

8. If there are no objections, or if after consideration of any objections the Department is satisfied that an Order would be justified, it will give the incumbent and churchwardens ten days notice of the Secretary of State's intention to apply for an Order in accordance with section 1 of the Burial Act 1853.

CONSIDERATION BY THE PRIVY COUNCIL

9. After the Privy Council Office has received the Secretary of State's application it will publish in the London Gazette notice of the date on which Her Majesty in Council has ordered the application to be considered, and will send copies of the notice to the church and local authorities concerned. The church authorities will be required to post the notice on church or chapel doors, or in other conspicuous places in the parish, for at least one month before the date of consideration. If the Privy Council approves the application it will in due course advise Her Majesty to make an Order. Copies of the Order will subsequently be sent to the church and the local authorities.

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