



OLD TOWN CEMETERY REGULATIONS

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Old Town Cemetery Regulations

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Contents

| | |
|---|-----------|
| Record of Revisions of the Source Document | i |
| 1 INTERPRETATION..... | 1 |
| 2 EXERCISE OF RIGHTS..... | 2 |
| 3 GRANT OF BURIAL RIGHTS AND RIGHTS TO ERECT MEMORIALS AND AGREEMENT FOR MAINTENANCE OF GRAVES AND MEMORIALS | 3 |
| 4 OFFENCES IN THE CEMETERY | 5 |
| 4.1 No person shall: | 5 |
| 5 PENALTIES | 5 |
| 6 ADMINISTRATIVE ARRANGEMENTS | 5 |
| 7 TABLE OF FEES AND CHARGES FOR 2009/10 | 7 |
| 7.1 Part 1 – Interments..... | 7 |
| 7.6 Part 2 - Exclusive Rights of burial in Earthen Grave..... | 8 |
| 7.9 Part 3 - Exclusive Rights of Burial in Walled Graves | 8 |
| 7.11 Part 4 – Monuments, Gravestones, Tablets and Monumental Inscriptions..... | 8 |
| 7.13 Miscellaneous Fees..... | 8 |
| Index..... | 10 |

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RECORD OF REVISIONS OF THE SOURCE DOCUMENT

| Nature of modifications | Section modified | Edition | Author |
|-------------------------|------------------|---------|--------|
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| | | date | |
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| No revisions to date | | | |

1 INTERPRETATION

1.1 In these Regulations, unless the context otherwise requires:

'The Act' means the Local Government Act 1972

'Burial' includes:

1.1.1 The interment of cremated human remains

1.1.2 The interment of the bodies of still-born children or the cremated remains thereof;

but does not include:

1.1.3 The placing in a vault of human remains, cremated human remains or the bodies of still born children, or the cremated remains thereof;

'Burial Authority' means the Council of the Isles of Scilly (The Council)

'Cemetery' means the Cemetery provided and maintained by the Council, known as 'Old Town Cemetery'

'Grave' includes a wall grave;

'The Orders of 1974 and 1977' mean the Local Authorities' Cemeteries Order 1974 and 1977

'Tombstone' does not include kerbs or railings

'Vault' means a chamber provided for the reception of human remains or cremated human remains, together with access thereto

'Walled Grave' means a grave, the sides of which are lined with walls.

1.2 For the purpose of these Regulations, subject to the provisions thereof, any power or right to provide anything includes a power or right to maintain it.

1.3 Any reference in these Regulations, to a right to place and maintain a tombstone or other memorial includes a reference to a right to place a tombstone or other memorial.

1.4 For any further interpretation of these Regulations, or in the event of any dispute arising from the interpretation or administration of the Cemetery, the Orders of 1974 and 1977 shall be used and adhered to.

2 EXERCISE OF RIGHTS

- 2.1 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 Council.
- 2.2 No body shall be buried in a grave in such manner that any part of the coffin is less than three feet below the level of any ground adjoining the grave.
- 2.3 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.
- 2.4 When any grave is reopened for the purposes of making another burial therein, no person shall disturb any human remains interred therein or remove therefrom any soil which is offensive.
- 2.5 Every walled grave shall be properly constructed of suitable materials.
- 2.6 Within twenty-four hours of any burial in a walled grave the coffin shall be:
 - 2.6.1 Embedded in concrete and covered with a layer of concrete not less than six inches thick or;
 - 2.6.2 Enclosed in a separate cell or compartment of brick, slate, stone flagging or pre-cast concrete slabs of a 1:2:4 mix, in any case not less than two inches thick, in such manner as to prevent, so far as may be practicable, the escape of any noxious gas from the interior of the cell or compartment.
- 2.7 The person to whose order a body is buried in a grave to which an exclusive right of burial has been granted shall, as soon as conveniently may be after subsidence of the earth has been completed, cause the surface of the grave to be covered with any tombstones or other memorial in respect of which a right has been granted by the Council or any predecessor of theirs, or with fresh turf. No trees, shrubs or plants shall be permitted to be planted on graves.
- 2.8 No uncoffined bodies shall be permitted by the Council to be interred.
- 2.9 No vaults shall be permitted to be constructed and no kerbs or railings shall be permitted to be constructed round a grave, tombstone or other memorial.
- 2.10 Persons permitted to be buried in the Cemetery shall be only those who were permanently resident on the Islands and whose only principal home was within the Islands at the time of death, or whose birth place was in the Islands, or who had a close relative already buried in the Cemetery or Old Town Churchyard. 'Close relative' meaning the husband or wife, parent, brother or sister, son or daughter.

3 GRANT OF BURIAL RIGHTS AND RIGHTS TO ERECT MEMORIALS AND AGREEMENT FOR MAINTENANCE OF GRAVES AND MEMORIALS

3.1 The Council will grant upon application on such terms and subject to such conditions as they think proper at the time of application:

3.1.1 To any person:

3.1.1.1 The exclusive right of burial in any grave space or grave or the right to construct a walled grave together with the exclusive right of burial therein; or

3.1.1.2 The right to one or more burials to a maximum of three in any grave which is not subjected to any exclusive right of burial;

3.1.2 To the owner of a right described in 3.1.1.1 or 3.1.1.2 (or to any person who satisfies them that he is a relative of a person buried in the grave or vault, or is acting at the request of such relative and that it is impractical for him, or such relative, to trace the owner of the right so described), the right to place and maintain, or to put any additional inscription on a tombstone or other memorial on the grave space, grave or vault in respect of which the right so described subsists;

3.1.3 To any person, the right to place and maintain a memorial in the Cemetery, otherwise than on a grave space or grave in respect of which a right described in 3.1.1.1 has been granted, but:

3.1.3.1 In the case of the memorial to be placed in a chapel if so provided by the Council in accordance with Article 6(1)(b) of the Order of 1977 only at the request of persons appearing to the Council to be representative of the Church of England or other particular denomination or religious body at whose request the chapel was provided; and

3.1.3.2 In the case of any other memorial being an additional inscription on an existing memorial, only with the consent of the owner of the right to place and maintain such existing memorial.

3.2 Subject to paragraph 3, a right under paragraph 3.1 other than a right described in 3.1.1.2 shall subsist for the period specified in the grant being a period beginning with the date of the grant and not exceeding fifty years.

3.3 Where:

any exclusive right of burial in any grave space; or

any right of burial therein;

granted under paragraph 3.1 has not been exercised before the expiration of fifty years from the date of grant, the Council may serve notice on the owner of the right of its liability to determination under this paragraph, and the right

shall determine by virtue of the notice unless, within six months of the date of service, the owner of the right notifies the Council in writing of the intention to retain it.

Where the Council are entitled to serve a notice under this paragraph in respect of any right but the specified circumstances exist in respect of the owner of the right, they may instead:

- 3.3.1 Display the notice in conspicuous positions at the entrances to the Cemetery; and
 - 3.3.2 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 this paragraph shall then have effect as if the notice had been duly served on the date on which it was first published pursuant to item 3.3.2.
- 3.4 The Council may from time to time extend the period of any grant under paragraph 3.1 (subject, if they think fit, to any modification of its terms or conditions) for up to one hundred years from the date from which the extension is granted.
- 3.5 The Council may, at the expiration of the period of any grant under 3.1.2 or 3.1.3 or of any extension of such period:
- 3.5.1 Move to another place in the Cemetery; or
 - 3.5.2 Remove from the Cemetery for preservation elsewhere or for destruction a tombstone or other memorial which has not been removed from the Cemetery by the owner of the right to place and maintain it in the Cemetery.
- 3.6 No body shall be buried, or cremated, human remains interred or scattered in or over any grave for 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. This shall not extend to the body or the remains of:
- 3.6.1 The person who immediately before his death was the owner of the right; or
 - 3.6.2 Any other person specified in the deed of grant or in an endorsement thereon made at the request of the owner for the time being of the right by the officer appointed for that purpose by the Burial Authority.
- 3.7 The Council shall also have power to agree with any person, on such terms and subject to such conditions as they think proper, to maintain any grave, tombstone or other memorial in a Cemetery for a period not exceeding fifty years from the date of the agreement.

3.8 Rights granted under paragraph 3.1 shall be exercisable subject to and in accordance with the provisions of Part 1 of schedule 2 of the Order of 1977 as set out under Article 5 of these Regulations. The provisions of Part 3 of the said Schedule have effect for the purpose of enabling the Council to terminate the rights and agreements described in paragraph 3.1 thereof.

4 OFFENCES IN THE CEMETERY

4.1 No person shall:

- 4.1.1 Wilfully create any disturbance in the Cemetery;
- 4.1.2 Commit any nuisance in the Cemetery;
- 4.1.3 Wilfully interfere with any burial taking place in the Cemetery;
- 4.1.4 Wilfully interfere with any grave, any tombstone or other memorial, or any flowers such matter; or
- 4.1.5 Play at any game or sport in the Cemetery.

4.2 No person not being an officer or servant of the Council or other person so authorised by or on behalf of the Council shall enter or remain in the Cemetery at any hour when it is closed to the public.

5 PENALTIES

5.1 Any person who contravenes:

- 5.1.1 Article 2;
- 5.1.2 Article 3 (6); or
- 5.1.3 Article 4;

shall be liable on summary conviction to a fine not exceeding £100 and in the case of a continuing offence to a fine not exceeding £10 for each day during which the offence continues after conviction thereof.

6 ADMINISTRATIVE ARRANGEMENTS

- 6.1 All fees and charges must be paid at the Town Hall, St. Mary's, Isles of Scilly on giving the required notice, and before the work is begun in respect of which they are payable, unless prior arrangement has been made for payment to be made upon the rendering of the account.
- 6.2 Notice of interment delivered at the office must be given in the form provided for that purpose which will be supplied on application at the Town Hall two days previous to any interment, except in special cases. If insufficient notice be given an extra charge will be made.

- 6.3 All funerals must take place between the hours of 09:30 a.m. and 15:30 p.m. on Mondays to Fridays, and 09:30 a.m. and 10:30 a.m. on Saturdays, except with the approval of the Council and subject to double fees. No funerals will be allowed on Sundays, Good Friday, Christmas Day or Bank Holidays.
- 6.4 No grave for which the exclusive right of burial has been purchased shall be opened without the consent, in writing, of the owner or his representatives.
- 6.5 No grave may be dug, or bricked grave constructed, except by the officer appointed by the Council for such purposes or under his direction and superintendence. The charge for a walled grave will include removal of all superfluous earth and refuse materials remaining after a walled grave has been made. The owner of such grave will be responsible for any injury done in the progress of the work to any adjoining grave, to the walk, walls, memorials or shrubs. Walled graves shall not be made, nor metallic coffins used, except in purchased graves.
- 6.6 A person shall not in any part of the Cemetery cause or suffer one body to be buried at any one time in a grave, except in the case of two or more bodies of persons who are members of the same family, to a total maximum of three.
- 6.7 A drawing with dimensions of every tombstone or other memorial or fencing of grave spaces intended to be erected, and a copy of the proposed inscription must first be submitted to and approved by the Council before such stone or other memorial or fencing can be placed in the Cemetery. The number of the grave corresponding with the interment book must be placed on every gravestone or other memorial. Subsequent inscriptions must also be submitted for approval to the Council. No hewing or dressing of stone will be permitted in the Cemetery without permission from the Council. Every gravestone or other memorial brought in to the Cemetery shall forthwith be fixed in its proper place. Work in connection with the erection of fixing of any gravestone or other memorial shall cease at 14:00 p.m. on a Saturday.
- 6.8 Every gravestone, or other memorial, must be kept in repair by the owner or his representative, and the Council reserves its right to remove any such gravestone or other memorial when this Regulation or number (7) above is not complied with.
- 6.9 No glass shades or other similar ornamental memorial will be allowed to be placed on a grave.
- 6.10 No planting and cultivation of the surface of the grave spaces is permitted except with the approval of the Council, who reserves the right to cut down, dig up, and remove all trees, shrubs, or plants so placed on any grave. Cut flowers, wreathes and temporary memorials must be removed from the graves when faded or decayed. No bottles with mourning cards therein are allowed on any grave.
- 6.11 The crown or mound of all graves shall be made up of the surface soil and turfed over.
- 6.12 All persons using the bier or other conveyance belonging to the Council shall be responsible for any damage it may sustain while under the control of such persons.

- 6.13 The Cemetery shall be open to the public daily, including Sundays' from 08:00 a.m. to sunset. Children will not be admitted except in the care of a responsible person and all visitors will be expected to keep on the walks and invariably refrain from touching any shrubs or flowers and observe perfect decorum in all aspects. Smoking in the Cemetery is expressly prohibited and dogs are not allowed to enter. No carriages, vehicles or perambulators may be allowed beyond the main carriage drive.
- 6.14 A plan of the Cemetery, showing the situation number of each grave space, and the special area designated for the interment of cremated remains, shall be kept at the Town Hall.
- 6.15 A Register of Interments will be kept at the Town Hall where, at all reasonable times, searches may be made and certified extracts obtained on payment of the prescribed fees. No fees shall be payable for searching the register for the entry of any interment within six months after the same has taken place.

7 TABLE OF FEES AND CHARGES FOR 2010/11

Fees and Charges are fixed and settled under Schedule 26 of the Act by the Council as the Burial Authority for the Cemetery and operative from 8 October, 1980 and reviewed for the beginning of the financial year. The fees, payments and sums for 2010/11 set out below apply where the person to be interred or in respect of whom the right is granted is, or immediately before his death was, an inhabitant of the area of the Council of the Isles of Scilly, or, in the case of a stillborn child, where the parents (or one of them) are, or at the time of interment were, such inhabitants.

7.1 Part 1 – Interments

The fees indicated for the various head of items 7.2, 7.3 and 7.4;

- 7.1.1 Include the digging of a grave;
- 7.1.2 Apply only where the interment is made between the hours of 09:30 a.m. and 15:30 p.m. on a weekday, or 09:30 a.m. and 10:30 a.m. on a Saturday, or on the certificate of a coroner or registered practitioner that immediate interment is necessary. In any other case fees will be doubled.
- 7.1.3 Apply provided that the interment is made within 30 minutes of the time arranged with the appropriate officer of the Council. If not so made an additional £15.00 is payable.
- 7.2 For the interment, in an earthen grave:
- | | | |
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| 7.2.1 | Of the body of a still-born child or of a child whose age at the time of death did not exceed 1 month | £85.60 |
| 7.2.2 | Of the body of a child whose age at the time of death exceeded 1 month but did not exceed 12 years | £171.50 |
| 7.2.3 | Of the body of a person whose age at the time of death exceeded 12 years (weekdays) | £263.00 |

- 7.2.4 Of the body of a person whose age at the time of death exceeded 12 years (Saturdays) £313.50
- 7.3 For any interment in a walled grave actual labour and materials cost.
The fees indicated for the various heads of this item apply where interment is at a depth not exceeding 8 feet.
- 7.4 For the interment of cremated remains in a grave in respect of which an exclusive right of burial has been granted and in which a person has been previously buried £44.90

7.5 Part 2 - Exclusive Rights of burial in Earthen Grave

- 7.6 For the exclusive right of burial for 50 years in an earthen grave not exceeding 6 feet in depth and with a superficial grave space 4 feet wide and not exceeding 6 feet 6 inches in length;
- 7.6.1 Site selected in rotation £86.00
- 7.7 For the exclusive right of burial of cremated remains for 50 years in an earthen grave 3 feet long by 3 feet wide by 3 feet deep;
- 7.7.1 Site selected in rotation £74.00

7.8 Part 3 - Exclusive Rights of Burial in Walled Graves

- 7.9 For the right to construct and for the exclusive right of burial for 50 years in a walled grave 4 feet wide and not exceeding 8 feet in depth;
- 7.9.1 Site selected in rotation £86.00

The fees indicated in Parts 2 and 3 include the Deed of Grant and all expenses thereof.

7.10 Part 4 – Monuments, Gravestones, Tablets and Monumental Inscriptions

- 7.11 For the right to erect or place on a grave in respect of which an exclusive right of burial has been granted;
- 7.11.1 A headstone not exceeding 2 feet and 6 inches in height £45.90

The fees indicated for the various heads of this Part 4 include the first inscription. For each inscription after the first a fee of £6.65 is payable.

7.12 Miscellaneous Fees

- 7.13 Officiating Ministers
- 7.13.1 Burial of cremated remains on date subsequent to that of service in some other Parish £18.40

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| 7.13.2 | Where the burial in the Cemetery immediately follows a service in a Church of the Parish | £14.10 |
| 7.13.3 | Where no service in the Church of the Parish has been held immediately before the burial in the Cemetery | £34.40 |
| 7.14 | Certificate of Burial | £1.80 |
| 7.15 | Searching Registers, any searches after 6 months of interment | £6.00 |
| 7.16 | For the scattering in the Cemetery of Cremated Remains | £11.00 |
| 7.17 | Removal of Debris | £25.70 |

INDEX

B

| | |
|--------------------|---------------------|
| Bank Holidays..... | 6 |
| Braille..... | i |
| bricked grave..... | 6 |
| burial..... | 2, 3, 4, 5, 6, 8, 9 |

C

| | |
|-----------------------------|------------------------------|
| Cemeteries Order..... | 1 |
| Cemetery..... | 1, 2, 1, 2, 3, 4, 5, 6, 7, 9 |
| Church of England..... | 3 |
| close relative..... | 2 |
| consent..... | 3, 4, 6 |
| cremated human remains..... | 1, 2 |
| Cut flowers..... | 7 |

D

| | |
|------------------------------|---|
| drawing with dimensions..... | 6 |
|------------------------------|---|

E

| | |
|--------------------------------|------------------|
| exclusive right..... | 2, 3, 4, 6, 8, 9 |
| exclusive right of burial..... | 3 |

F

| | |
|-----------------------|---|
| Fees and Charges..... | 7 |
|-----------------------|---|

G

| | |
|------------|---------|
| grant..... | 3, 4, 5 |
|------------|---------|

H

| | |
|----------------------------------|---|
| headstone..... | 9 |
| hewing or dressing of stone..... | 6 |

I

| | |
|-------------------|---------------|
| inscription..... | 2, 3, 6, 9 |
| inscriptions..... | 6 |
| interment..... | 1, 6, 7, 8, 9 |

M

| | |
|-----------------------|------------------|
| maximum of three..... | 3, 6 |
| memorial..... | 1, 2, 3, 4, 5, 6 |

N

| | |
|------------------|------|
| No funerals..... | 6 |
| notice..... | 4, 6 |
| noxious gas..... | 2 |

O

| | |
|--------------|---|
| offence..... | 5 |
|--------------|---|

P

| | |
|-------------------------------|---|
| persons permitted..... | 2 |
| planting and cultivation..... | 7 |

R

| | |
|-----------------------------|------|
| railings..... | 1, 2 |
| Register of Interments..... | 7 |

| | |
|----------------------------------|------------|
| Regulations..... | 1, 2, 1, 5 |
| Removal of Debris..... | 9 |
| reopened..... | 2 |
| repair..... | 6 |
| resident on the Islands..... | 2 |
| responsible for any injury..... | 6 |
| right to place and maintain..... | 1, 3, 4 |

S

| | |
|--------------------------|---|
| Smoking..... | 7 |
| still born children..... | 1 |
| summary conviction..... | 5 |

T

| | |
|--|------------------|
| terminate the rights and agreements..... | 5 |
| tombstone..... | 1, 2, 3, 4, 5, 6 |

V

| | |
|------------|------|
| vault..... | 1, 3 |
|------------|------|

W

| | |
|-------------------|------------|
| walled grave..... | 2, 3, 6, 8 |
| wreathes..... | 7 |