



# Highgate Cemetery Act 2022

## 2022 CHAPTER i

An Act to confer powers upon the Friends of Highgate Cemetery Trust to operate, maintain and conserve Highgate Cemetery and to extinguish rights of burial and disturb human remains in Highgate Cemetery for the purpose of increasing the space for interments and the conservation of Highgate Cemetery; and for connected purposes. [24 March 2022]

### WHEREAS—

- (1) The London Cemetery Company (“LCC”) was incorporated by an Act of the sixth and seventh years of the reign of His Majesty King William the Fourth, entitled “An Act for establishing Cemeteries for the Interment of the Dead, Northward, Southward, and Eastward of the Metropolis, by a Company to be called “The London Cemetery Company” (“the 1836 Act”) and, under the powers of that Act, purchased lands formerly in the urban district of Saint Pancras, in the county of Middlesex, and now in the London Borough of Camden (“the Borough”) and constructed a cemetery (“the cemetery”) on a portion of the said lands:
- (2) Further provisions were made with regard to the cemetery and further powers were conferred on LCC by an Act of the sixth year of the reign of Her Majesty Queen Victoria, entitled “An Act for amending the Act establishing “The London Cemetery Company” and the London Cemetery Company Act 1911:
- (3) The cemetery is situated on that portion of the lands purchased by LCC under the 1836 Act which lies on the east and west sides of Swains Lane in the Borough:
- (4) The Friends of Highgate Cemetery Trust (“the Trust”) is now the registered proprietor of the cemetery, and operates and manages the cemetery as a public burial ground in accordance with the Trust's charitable objects:
- (5) In order that better use may be made of the land in the cemetery for burials, it is expedient that the Trust be authorised to extinguish certain rights of burial granted in graves in the cemetery and to disturb, or authorise the disturbance of, human remains interred in such graves and also in graves where no rights of burial exist, for the purpose of increasing the space for further interments in such graves and conserving the cemetery and to use appropriately or remove altogether from the cemetery memorials on such graves:
- (6) It is expedient that the other provisions contained in this Act should be enacted:
- (7) The objects of this Act cannot be attained without the authority of Parliament:

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May it therefore please your Majesty that it may be enacted, and be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## **1 Citation and commencement**

This Act may be cited as the Highgate Cemetery Act 2022 and comes into force at the end of 28 days beginning with the day on which this Act is passed.

## **2 Interpretation**

In this Act—

“the 1836 Act” means the Act of the sixth and seventh years of the reign of His Majesty King William the Fourth, entitled “An Act for establishing Cemeteries for the Interment of the Dead, Northward, Southward, and Eastward of the Metropolis, by a Company to be called “The London Cemetery Company”;

“burial” includes the interment of cremated remains and “right of burial” includes “right of interment” accordingly;

“the burial authority” means the Trust or another person to whom any or all of the benefit of the provisions of this Act and such related statutory rights have been transferred;

“the cemetery” means Highgate Cemetery referred to in the preamble to this Act, constructed under the 1836 Act;

“civil partner” includes former civil partner;

“Commonwealth war burial” means a burial of any member of the armed forces of His Majesty who died in the war of 1914 to 1921 or in the war of 1939 to 1947 or of any other person for whose burial the Commonwealth War Graves Commission is responsible;

“Commonwealth war memorial” means any memorial erected, owned or maintained by the Commonwealth War Graves Commission;

“expired”, in relation to a right of burial, means that the right has ceased to exist, whether by reason of any fixed period for which the right was granted having ended or the right having been surrendered, forfeited or otherwise determined, or for any other reason other than the right having been extinguished in accordance with the provisions of section 4;

“grave” includes any grave space and any crypt, vault, catacomb, arch, brick grave, mausoleum, columbarium or other place of interment;

“the LCC” means the London Cemetery Company established under the 1836 Act;

“memorial” means any monument, headpiece, headstone, flatstone, slab, footstone, borderstone, kerbstone, tombstone or tablet, and includes any wall, kerb or railing protecting, enclosing or marking a grave or grave space or memorial (including any permanent covering thereon), or any other commemorative object placed in the cemetery including vases, flower containers or other similar objects;

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“protected grave” means a grave designated as a protected grave by the burial authority under section 6(3);

“public or common grave” means a grave in respect of which no right of burial has been acquired by or granted to, or has otherwise vested in, any individual or body other than a local authority or the burial authority;

“register of grants” means the register of grants of exclusive rights of burial, and of rights to erect or place memorials, maintained by the burial authority;

“registered address” means an address registered in the register of grants;

“registered number” means a number registered in the register of grants;

“registered owner”—

- (a) in relation to any right of burial means the person at the time in question named as the owner in the register of grants;
- (b) in relation to any memorial 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 memorial has been granted or if no such person is named, the registered owner of the right of burial in the grave in or on which the memorial is erected or placed; and
- (c) in relation to any right that has expired or been extinguished, means the last person so registered;

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

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

“spouse” includes former spouse; and

“the Trust” means the Friends of Highgate Cemetery Trust, a charitable trust with the company number 03157806.

### **3 Power to operate and maintain the cemetery**

Subject to the provisions of this Act, the burial authority may do all such things as it considers necessary or desirable for the proper management, regulation and control of the cemetery.

### **4 Power to extinguish rights of burial**

- (1) Subject to subsection (2) and section 6, where in respect of any grave space in the cemetery a right of burial has not been exercised for 75 years or more from the date of the latest burial in the grave space or, if there has been no burial in the grave space, from the date of the grant of the right of burial in the grave space, the burial authority may, by notice given in accordance with the provisions of this section, extinguish the right of burial in that grave space.
- (2) No right of burial granted after the passing of this Act for any period longer than 75 years is to be extinguished under this section.
- (3) For the purposes of subsection (2), any right of burial granted by the LCC having effect as if granted by the Trust under section 9 is not to be taken as having been granted after the passing of this Act.

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- (4) The power of the burial authority under subsection (1) to extinguish a right of burial in any grave space includes the power to remove any memorial in or on the grave space.
- (5) Before extinguishing a right of burial or removing any memorial under the powers of this section, the burial authority must—
- (a) publish a notice in a newspaper of their intention to do so once in each of two successive weeks, with an interval between the dates of publication of not less than six clear days;
  - (b) publish such a notice and maintain that notice until the date specified under subsection (6)(b)—
    - (i) on the burial authority's website; or
    - (ii) by using a means of electronic publication that the burial authority considers equivalent for the purposes of drawing attention to the burial authority's proposals;
  - (c) display such a notice in a conspicuous position—
    - (i) at each of the principal entrances to the cemetery; and
    - (ii) so far as is reasonably practicable, at or near the grave; and
  - (d) serve such a notice upon—
    - (i) the registered owner of the right of burial at that person's registered address;
    - (ii) if different, the registered owner of any memorial proposed to be removed at that person's registered address;
    - (iii) the Commonwealth War Graves Commission; and
    - (iv) the Historic Buildings and Monuments Commission for England.
- (6) Each of the notices must—
- (a) contain full particulars of the burial authority's proposals including a specification of the registered number or other description of all grave spaces in respect of which it is proposed that rights of burial should be extinguished and stating whether it is proposed that any memorials should be removed;
  - (b) specify the date on which it is intended that the rights should be extinguished and any memorial removed, which date must not be earlier than six months after the date of the last of the publications, or 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 subsections (9) to (11), (13) and (14).
- (7) A notice under subsection (5)(b) must contain the name, where known, of the registered owner of the right of burial or memorial.
- (8) A notice under subsection (5)(a), (c) or (d) must include details of where the notice under subsection (5)(b) may be found and a statement that the notice under subsection (5)(b) contains the information described in subsection (7).
- (9) If notice of objection to the extinguishment of a right of burial in any grave space is given to the burial authority before the date specified under subsection (6)(b)—
- (a) by the registered owner of the right of burial and that objection is not withdrawn, the right of burial to which the objection relates must not be extinguished under this section, or