



Isle of Man

Ellan Vannin

AT 26 of 1986

BURIALS ACT 1986





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**Isle of Man***Ellan Vannin***BURIALS ACT 1986**

Received Royal Assent: 2 July 1986
Passed: 16 July 1986
Commenced: 1 January 1987

AN ACT to re-enact with amendments the Burials Acts 1881 to 1962 and related enactments.

GENERAL NOTES

1. The maximum fines in this Act are as increased by the *Criminal Justice (Penalties, Etc.) Act 1993 s 1*.
2. References in the annotations to this Act to GC192/86 are to GC192/86 as amended by GC376/86.

*Maintenance of burial grounds***1 Maintenance of burial grounds**

[V p110/19]

- (1) It shall be the duty of the churchwardens of every parish to maintain any parish burial ground in the parish.
- (2) The duty imposed by subsection (1) extends to every burial ground or part thereof in which burials have been discontinued.

2 Appointment and functions of sexton

[V p110/22 and 23]

- (1) The incumbent and churchwardens of a parish may appoint a proper person to be sexton of the parish burial ground, to hold office during the pleasure of the incumbent and churchwardens.
- (2) A sexton appointed under this section shall have charge of the burial ground under, and subject to the directions of, the incumbent and churchwardens, and shall be responsible for all graves and vaults being properly dug or opened and closed, but without prejudice to the duties of the churchwardens with respect to a parish burial ground.



- (3) Where no sexton of a parish burial ground is appointed, the functions of the sexton under subsection (2) shall be performed by the incumbent.
- (4) A parish burial ground shall be opened only with the consent of the incumbent.
- (5) Any person contravening subsection (4) shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

3 Grazing in burial grounds

[V p110/24; VII p268/11]

No animal except sheep shall be allowed to graze on any burial ground.

4 Inspection of burial grounds, and default powers

- (1) The Department of Environment, Food and Agriculture (in this Act called "the Department") may appoint a person to inspect a burial ground or burial grounds for the purpose of ascertaining —
 - (a) the state and condition of the burial ground; and
 - (b) whether the requirements of this Act or any other enactment relating to burial grounds have been complied with.¹
- (2) Any person who obstructs a person appointed under subsection (1) in the exercise of his functions shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.
- (3) If, after considering the report thereon of a person appointed under subsection (1), the Department are of opinion that a parish burial ground is not properly maintained, they may by notice in writing to the churchwardens of the parish require them to carry out such work, within such time, as may be specified in the notice.²
- (4) If the churchwardens fail within the time specified in a notice under subsection (3) to carry out the work so specified, the Department may itself carry out the work and recover from the churchwardens the reasonable expenses of so doing.³
- (5) The amount required to carry out any work specified in a notice under subsection (3), and the amount recoverable under subsection (4), shall not in either case exceed the amount at the date of such notice in the hands of the churchwardens and applicable to the maintenance of the burial ground.

*Closure of burial grounds***5 Closure of burial ground**

[V p110/4-7]

- (1) If it appears to the Department, in the interests of public health, that burials in a burial ground or part thereof should be discontinued, either wholly or subject to any exception or qualification, the Department may by order direct that, after such date as may be specified in the order, burials in that burial ground, or in a part thereof so specified, shall be discontinued, either wholly or subject to such exceptions or qualifications as may be specified.⁴
- (2) Not less than 3 months before making an order under this section, the Department shall give notice in writing of the proposed order —
 - (a) if the burial ground is a parish burial ground, to the incumbent of the parish in question, and to the incumbent of any other church or chapel appearing to the Department to be concerned;⁵
 - (b) if the burial ground is a private burial ground, to the owners thereof;

and shall cause notice thereof to be published in a newspaper published and circulating in the Island.⁶

- (3) On receipt of a notice under subsection (2)(a), the incumbent of the parish shall forthwith convene a vestry meeting of the parishioners, to be held within 14 days of receipt of such notice, and the vestry shall consider the proposed order and take such action thereon as it thinks fit.
- (4) Before making an order under this section, the Department shall consider any objections or representations made by any person to whom notice is given under subsection (2) or by a vestry, or by any other person.⁷
- (5) An incumbent who fails or refuses to convene a vestry meeting in compliance with subsection (3) shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.
- (6) Except as provided by this Act or any other enactment, or by an order under this section, it shall not be lawful to bury the dead in a burial ground or part thereof to which an order under this section relates, and any person contravening this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

6 Burials in closed burial ground etc

[V p110/8]

- (1) Where immediately before the 14th April 1881 there existed any right of interment in or under, or in any vault of, any church or chapel, or any right of interment (whether exclusive or not) in a burial ground or part thereof affected by an order under section 5, the Department may, if it



considers that the exercise of such right would not be injurious to health, grant a licence for the exercise of such right during such time and subject to such conditions as the Department thinks fit.⁸

- (2) Where any person would, apart from an order under section 5, have been entitled to be buried in a parish burial ground affected by such an order, the Department may, if it considers that there are special circumstances and that the interment would not be injurious to health, grant a licence authorising the body of that person to be buried in such burial ground, during such time and subject to such conditions as the Department thinks fit.⁹

Improvement and extension of burial grounds

7 Works of improvement etc

[V p110/21; 1984/9/4/1]

- (1) The churchwardens of any parish may, with the consent of the vestry and with the approval of the Department carry out any of the following works: —
- (a) the provision of new or additional burial ground, including the acquisition of land for that purpose;
 - (b) enclosing, fencing and laying out such new or additional burial ground;
 - (c) the erection of a suitable chapel in a parish burial ground;
 - (d) subject to the provisions of a scheme under section 9, any works referred to in subsection (1) of that section; and
 - (e) any works of improvement or other works of a capital nature relating to a parish burial ground.¹⁰
- (2) An approval of the Department under subsection (1) may be given subject to such conditions as the Department thinks fit, including a condition requiring the approval of the Department to plans, specifications and estimates to any works.¹¹
- (3) The churchwardens may acquire land compulsorily for the purpose of providing new or additional burial ground.
- (4) A conveyance of new or additional burial ground shall be made to the incumbent and churchwardens for the time being of the parish, who for that purpose shall be treated as being a body corporate with perpetual succession.

8 Default powers

[V p110/10-12; VII p93/18]

- (1) If the Department is satisfied that by reason of the discontinuance of burials in a parish burial ground by virtue of an order under section 5 it is necessary that new or additional burial ground for the parish be provided, it may by order require the churchwardens of the parish to take such steps to provide new or additional burial ground as may be necessary.¹²
- (2) If no new or additional burial ground has been provided within 6 months of the making of an order under subsection (1), the Department may exercise the powers of the vestry and the churchwardens under sections 7 and 16 for that purpose.¹³
- (3) All powers which may be exercised by the Department under this section shall be exercised in the name and on behalf of the churchwardens.¹⁴
- (4) Any surplus in the hands of the Department, after payment of the expenses properly incurred by them, shall be paid to the churchwardens, to be applied in defraying, or in repaying any moneys borrowed to defray, any expenditure incurred under section 7(1).¹⁵
- (5) The powers conferred by this section may not be exercised if, pursuant to section 17 of the *Douglas Cemetery Act 1895*, the churchwardens have entered into arrangements with the Corporation, approved by the Department, for the burial of parishioners of the parish in the cemetery provided by the Corporation.¹⁶

9 Removal of kerbs, etc

- (1) The churchwardens of a parish may make a scheme as respects any parish burial ground or part thereof, including a burial ground or part thereof in which burials have been discontinued, for authorising such of the following works as are specified in the scheme to be carried out: —
 - (a) the removal and disposal of kerbs surrounding any grave (whether containing any commemorative inscription or not) and the foundations of such kerbs;
 - (b) the removal and disposal of any surface fittings (other than a gravestone or memorial) or any plants on a grave;
 - (c) the removal and disposal of any railings surrounding a grave or tombstone or memorial on a grave or grave space; and
 - (d) the levelling of the surface of any grave to the level of the adjoining ground.
- (2) After making a scheme under subsection (1) the churchwardens shall give notice of the scheme in accordance with subsection (3), and such notice shall —

- (a) state where a copy of the scheme may be inspected free of charge at all reasonable hours; and
 - (b) state that objections to the scheme may be made in writing to the churchwardens at such address and within such time (not being less than 28 days from the first publication of the notice) as may be specified in the notice.
- (3) Notice under subsection (2) shall be given —
- (a) by displaying the same in a conspicuous position at the main entrance to the burial ground and at the main door of the parish church of the parish;
 - (b) by publishing the same in 2 newspapers published and circulating in the Island;
 - (c) by serving the same on the owner of every private burial place affected by the scheme, if the identity of such owner is known to or can reasonably be ascertained by the churchwardens; and
 - (d) in the case of a war grave affected by the scheme, by sending the same to the Commission.
- (4) If any objection is duly made to a scheme under subsection (1) within the time specified in the notice under subsection (2)(b) by —
- (a) any parishioner of the parish;
 - (b) any relative of a person buried in a grave affected by the scheme;
 - (c) the owner of any private burial place affected by the scheme;
 - (d) the Commission, in the case of a war grave affected by the scheme;
- and is not withdrawn, the works authorised by the scheme shall not be carried out without the consent of the Department.¹⁷
- (5) Where a kerb or other surface fitting containing a commemorative inscription is removed in pursuance of a scheme under subsection (1) and no other inscription relating to some person buried in the grave remains, the churchwardens shall place on the grave such memorial stone or tablet as they consider suitable.
- (6) The churchwardens shall make, and cause to be kept with the parish registers, a record of all works carried out in a burial ground in pursuance of a scheme under subsection (1), and a photographic record of all inscriptions so removed.
- (7) Where a scheme under subsection (1) has been made as respects a burial ground or part thereof, the power to erect a tomb or monument (other than a gravestone) conferred by the sale of a burial place under Schedule 3, or under any enactment repealed by this Act, shall be exercisable subject to the consent of the incumbent and churchwardens.

- (8) Nothing in this section affects such control as by law exists relating to monuments in churchyards or chapelyards.
- (9) In this section —
- “the Commission” means the Commonwealth War Graves Commission;
- “grave” includes a vault or tomb constructed below the level of the adjoining ground;
- “relative” means a husband, wife, child, grandchild, parent, step-parent, grandparent, brother, sister, half-brother, half-sister, uncle, aunt or a child of an uncle or aunt;
- “war grave” means a grave provided or maintained by the Commission, or a grave containing a burial of any member of the forces of His Majesty fallen in the war of 1914-1921 or 1939-1947.

Burial services

10 Form of burials

[V p110/30 and 31; VII p268/14]

- (1) Any burial in a parish burial ground may, at the option of the person having the charge of or being responsible for the burial, but subject to section 12, take place either without a religious service or with such religious service, and either at the grave or in a chapel provided at the burial ground exclusively for burial services, as that person may think fit.
- (2) Any person invited or authorised by the person having the charge of or being responsible for the burial may conduct such service or take part in any religious act thereat.
- (3) All burials at a parish burial ground, whether with or without a religious service, shall be conducted in a decent and orderly manner.
- (4) At any such burial all persons shall have free access to the burial ground.

11 Order in burial grounds

[V p110/24, 31 and 32; SI 77/204/18]

- (1) Any person who, at a burial at a parish burial ground, —
- (a) is guilty of any riotous, violent or indecent behaviour;
- (b) wilfully obstructs such burial or any such service;
- (c) delivers any address, not being part of or incidental to a religious service permitted by this Act, and not otherwise permitted by lawful authority;
- (d) under colour of any religious service or otherwise, wilfully endeavours to bring the religion, or the belief or worship, or the

members or any minister, of any church or denomination, into contempt or obloquy;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000, or on conviction on information to imprisonment for a term not exceeding one year or to a fine, or to both.

- (2) Any person who, in a parish burial ground, —
- (a) wilfully creates any disturbance;
 - (b) commits any nuisance;
 - (c) wilfully interferes with any grave or vault, any tombstone or other memorial, or any flowers or plants on any such grave, vault, tombstone or memorial; or
 - (d) plays at any game or sport;
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.
- (3) All powers and authorities for the preservation of order and for the prevention of disorderly behaviour in a burial ground may be exercised in the case of burials under this Act in like manner and by the same persons as in the case of burials according to the rites of the Church of England.

12 Notice for burial without C of E service etc

- (1) Any relative, friend or personal representative of a deceased person having the charge of or being responsible for burial of the body may give notice that it is intended that the burial shall take place in a burial ground without the performance of —
- (a) the service for the burial of the dead according to the rites of the Church of England; or
 - (b) the form of service required to be performed by any enactment or any trust deed or other instrument affecting the burial ground or the conduct of burials therein; or
 - (c) any form of service;
- as the case may be.
- (2) No incumbent or minister shall, after notice under subsection (1) is given, be liable to any censure or penalty for permitting a burial to take place as mentioned in subsection (1).
- (3) A right of interment shall, after notice under subsection (1) is given, be exercisable notwithstanding the non-performance of any such service as is mentioned in subsection (1) and subject to the performance of which any such right would, apart from this section, have been exercisable.

- (4) A notice under subsection (1) shall be given in writing, not less than 48 hours before the intended burial, to the incumbent or officiating minister of the parish or the person appointed by him to receive such notices, or to the person having charge of the burial ground, as the case may be, and shall state —
- (a) the name and address of the person giving the notice;
 - (b) the name, address and date and place of death of the deceased;
 - (c) the burial ground in which and the date and time at which the burial is intended to take place; and¹⁸
 - (d) that the burial is intended to take place without the service according to the rites of the Church of England, or without any service, or as the case may be.
- (5) If —
- (a) the time of intended burial stated in a notice under subsection (1) is inconvenient on account of some other service having been appointed to take place in the burial ground or the church or chapel connected therewith; or
 - (b) the day so stated is a Sunday, Good Friday or Christmas Day and the burial ground is a churchyard or chapelyard,
- the person receiving the notice may within 12 hours of receipt of the notice (unless some other day or time is mutually arranged) in writing notify the person giving the notice of the time when the burial may take place, or leave such notification at the place where the body is lying.
- (6) The time specified in a notification under subsection (5) shall be a time on the same day as that stated in the notice under subsection (1), unless subsection (5)(b) applies, in which case it shall be a time on the following day.
- (7) No burial shall take place in pursuance of a notice under subsection (1) or a notification under subsection (5) except during the hours of 9 a.m. and 6 p.m. in the months of April to September, or 9 a.m. and 4 p.m. in the months of October to March unless the person to whom the notice under subsection (1) is given consents to such burial.

13 Registration of burials

[V p110/34]

- (1) When any burial has taken place at a parish burial ground in pursuance of section 12, the person having the charge of or being responsible for the burial shall within 24 hours of the burial send a certificate in the form in Schedule 1 to the incumbent or officiating minister of the parish in which the burial ground is situated.
- (2) The incumbent or minister shall enter such burial in the register of burials of the parish, and such entry shall, instead of stating by whom the

burial was performed, state by whom it was certified under subsection (1).

- (3) Any person who —
- (a) fails to send, or makes a false statement in a certificate under subsection (1); or
 - (b) neglects to enter a burial in the register under subsection (2);
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.

Financial provisions

14 Rating

- (1) The Treasury shall in every parish in each accounting year, levy and collect a rate of the prescribed amount on all real estate within the parish liable to be rated according to the valuation of real estate for the time being in force for rating purposes.¹⁹
- (2) In subsections (1), (4) and (5), “the prescribed amount” means, in relation to any parish, the sum of —
- (a) such amount as the Department of Infrastructure (having regard, in the case of the parish of Braddan or Onchan, to subsection (4) or (5) as the case may be) certifies as being required to pay interest accruing on any moneys properly borrowed by the churchwardens, and by the wardens in charge of a district burial ground for whose upkeep the parish is liable, for the purposes of this Act, and falling due in the relevant accounting year, and any sums required to be paid under section 16(2)(a) or (b) in the relevant accounting year; and²⁰
 - (b) such further amount, not exceeding the amount determined by order of the Department of Infrastructure with respect to the parish, as the churchwardens may before the 1st March in the relevant accounting year by resolution determine.²¹
- (3) The Treasury shall, subject to section 65 of the *Rating and Valuation Act 1953*, pay to the relevant churchwardens in relation to each parish the amount of the rate levied by them under this section in respect of that parish.²²
- (4) The Corporation shall on or before the 1st April in each year pay out of the borough fund to the churchwardens of the parish of Braddan an amount equal to two and two thirds of such amount as would be produced by a rate of the prescribed amount levied on real estate within the parish of Braddan.

- (5) The Corporation shall on or before the 1st April in each year pay out of the borough fund to the churchwardens of the parish of Onchan an amount equal to one thirty-second of such amount as would be produced by a rate of the prescribed amount levied on real estate within the parish of Onchan.
- (6) For the purpose of securing that, after any alteration in the boundaries of the borough of Douglas, the expenses of the churchwardens of the parishes of Braddan and Onchan under this Act are borne fairly by the inhabitants of those parishes and the inhabitants of the borough, the Department of Infrastructure may by order amend subsection (4) or (5) in such manner as appears to it to be appropriate in consequence of any such alteration, but no such order shall have effect unless it is approved by Tynwald.²³
- (7) The relevant churchwardens in relation to every parish shall apply the amounts paid to them under this section as follows —
- (a) in payment of the expenses of the inspection of their accounts under this Act;²⁴
 - (b) in making the payments referred to in subsection (2)(a) and due from them;
 - (c) in payment of the expenses of maintaining any parish burial ground maintainable by them;
 - (d) in payment to the wardens in charge of a district burial ground for whose upkeep the parish is liable of such amount as may be agreed by the churchwardens and such wardens, or in default of agreement determined by the Department of Infrastructure, as necessary to make the payments referred to in paragraphs (a), (b) and (c) in relation to that ground.²⁵

Where 2 or more parishes are liable for the upkeep of a district burial ground, the amount referred to in paragraph (d) shall be apportioned between those parishes in such manner as may be agreed by the churchwardens concerned, or in default of agreement determined by the Department of Infrastructure.²⁶

- (8) In this section —

“district burial ground” means a burial ground specified in column 1 of Schedule 2, the parish liable for its upkeep being that specified in column 2 of that Schedule;

“parish” means an ancient ecclesiastical parish, excluding any part of such a parish comprised in the borough of Douglas;²⁷

“relevant accounting year” means the accounting year immediately preceding that in which the rate is levied;²⁸

“the relevant churchwardens” means the churchwardens of the ecclesiastical parish which is designated for the purpose of this section in relation to the parish in question by a scheme under section 4 of the Churchwardens Measure (Isle of Man) 2013.²⁹

15 Maintenance of St George’s churchyard, Douglas

- (1) The Corporation shall pay to the churchwardens of the parish of Saint George and All Saints, Douglas the expenses reasonably incurred by them in maintaining the churchyard of the parish church of the parish.³⁰
- (2) Any question arising under subsection (1) shall in default of agreement be determined by the Department of Infrastructure.³¹
- (3) The Corporation and the said churchwardens may enter into an agreement for the maintenance of the said churchyard by the Corporation on behalf of the churchwardens.

16 Borrowing powers, and funds

- (1) The churchwardens may, with the consent of the Department of Infrastructure, borrow money on the security of the rates to be levied on their behalf, or the payments to be made to them under section 14(7)(d), as the case may be, for the purpose of defraying any capital expenditure incurred by them, at such rate of interest and repayable over such period as the Department of Infrastructure may direct.³²
- (2) Where the churchwardens have borrowed money under subsection (1), they shall either –
 - (a) establish a sinking fund and pay annually or otherwise into that fund such amounts as will ensure that the amount borrowed will be repaid at the end of the period of the loan, or
 - (b) with the consent of the lender and of the Department of Infrastructure, repay annually or otherwise any portions of the amount borrowed.³³
- (3) Payment into a sinking fund established under subsection (2)(a) shall be by way of annuity instalments and the rate of interest on which the annuity is calculated shall not exceed 5 per cent in the case of yearly instalments or such other rate as the Department of Infrastructure may either generally or in any particular case direct.³⁴
- (4) The churchwardens may, with the consent of the Department of Infrastructure, establish a reserve fund, and such a fund may, subject to the approval of the Department of Infrastructure, be applied to defray any expenditure properly incurred by the churchwardens.³⁵



- (5) Any moneys standing to the credit of a sinking fund or a reserve fund established under this section may be invested in like manner as a trustee may by law invest trust funds in his hands.
- (6) In this section “capital expenditure” means expenditure incurred in carrying out any works referred to in section 7(1).
- (7) For the avoidance of doubt, it is hereby declared that the churchwardens are a borrowing authority for the purposes of the *Isle of Man Loans Act 1974*.

17 Accounts

- (1) The churchwardens must, in every accounting year, prepare for the burial grounds of each ancient parish, accounts of their income and expenditure in the preceding accounting year.
- (2) The accounts must be inspected in accordance with the *Audit Act 2006*.
- (3) Once inspected, the accounts must be sent to —
 - (a) the Department of Infrastructure;
 - (b) every local authority within which there are hereditaments on which rates are chargeable in respect of a burial ground to which the accounts relate.
- (4) In the case of the ancient parishes of Braddan or Onchan a copy of the accounts and the inspector’s report must also be sent to the Corporation.
- (5) Nothing in subsection (3) or (4) limits the Treasury’s power to give directions under section 13 of the *Audit Act 2006* (which may for example, require the publication of the accounts and the inspector’s report in other ways).³⁶

18 [Repealed]³⁷

19 Altering of purpose of funds

- (1) The churchwardens of any parish may, with the consent of the appropriate authority and of the vestry, apply any money or property in their hands or receivable by them for any purpose relating to the maintenance or improvement of a parish burial ground or any grave, vault, memorial or monument therein to any other such purpose.
- (2) In this section “the appropriate authority” means —
 - (a) in relation to money or property received or receivable by virtue of any gift, bequest, devise or trust, howsoever arising, the Attorney General;
 - (b) in any other case, the Department of Infrastructure.³⁸

20 Sale of burial places

Schedule 3 shall have effect for the purpose of enabling portions of a burial ground to be sold as private burial places.

Miscellaneous and supplemental

21 Restrictions relating to burials

[V p110/9]

- (1) It shall not be lawful to bury the dead —
 - (a) in any church or chapel, to which this paragraph applies, or within 12 feet of the walls thereof;
 - (b) in any ground to which this paragraph applies; or
 - (c) in any burial ground nearer than 3 feet to the surface, except in an existing vault or a vault constructed in a parish burial ground to the satisfaction of the incumbent and churchwardens.
- (2) Paragraph (a) of subsection (1) applies to —
 - (a) any church or chapel erected after the 14th April 1881; and
 - (b) a church or chapel specified in Part I of Schedule 4.
- (3) Paragraph (b) of subsection (1) applies to the grounds specified in Part II of Schedule 4.
- (4) Any person who contravenes subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.

22 Removal of human remains

- (1) Subject to subsection (2), no person shall remove any body, or the remains of any body, interred in a burial ground —
 - (a) without the licence of the Department; or³⁹
 - (b) otherwise than in accordance with any directions of the Department with respect to the manner of removal, and (except where subsection (2)(a) applies) the place and manner of reinterment or disposal, of the body or remains.⁴⁰
- (2) Subsection (1)(a) does not apply to —
 - (a) the removal of a body from consecrated ground to consecrated ground by faculty of the ordinary; or
 - (b) the exhumation of a body by direction of a coroner of inquests;but where any such faculty or direction is granted or given, the ordinary or coroner of inquests, as the case may be, shall in writing notify the Department thereof.⁴¹

- (3) Any person who contravenes subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

23 Filing of orders, etc

A copy of each of the following documents shall be filed in the Diocesan Registry: —

- (a) an order under section 5;
- (b) a scheme under section 9;
- (c) an order under section 14(2)(b) or (6);
- (d) [Repealed]⁴²
- (e) an order under paragraph 1(2) of Schedule 3.

24 Interpretation

[V p110/2]

- (1) In this Act —

“**accounting year**” means the period beginning on 1 April in one year and ending on 31 March in the following year;⁴³

“**the Board**” [Repealed]⁴⁴

“**burial ground**” includes any churchyard or chapelyard or cemetery, and any burial place in or under a church or chapel, and any place ordinarily used for interments;

““**the Corporation**” means the Mayor, Aldermen and Burgesses of the Borough of Douglas;⁴⁵

“**churchwardens**” means the churchwardens of the parish in which a parish burial ground is situate and, except in section 14, includes the wardens of any church or chapel, not being a parish church, with which a burial ground is connected;

“**the Department**” means the Department of Environment, Food and Agriculture;⁴⁶

“**incumbent**” means the rector or vicar of a parish, or the incumbent, minister, chaplain or curate of any church (not being a parish church), chapel or district in or in connection with which there is a parish burial ground;

“**inspection**”, in relation to any accounts, is to be construed in accordance with the definition of “inspect” in section 21 of the *Audit Act 2006*;⁴⁷

“**maintain**”, in relation to a burial ground, means keep in order, and includes the repair of the walls, fences and gates of the burial ground and any chapel therein;

“**parish**”, except in section 14, means an ecclesiastical parish, and includes a parochial district;

“**parish burial ground**” means any burial ground in a parish, not being a private burial ground;

“**parishioners**”, in relation to a parochial district, means the inhabitants of the district;

“**private burial ground**” means a burial ground in which the parishioners of the parish in which it is situated have no right of interment, whether vested in private persons, trustees or a corporation or company, and whether or not attached to any place of worship, but does not include a private burial place in a parish burial ground.

- (2) References in this Act to a burial ground provided under this Act include references to a burial ground provided under the *Burials Act 1881*.
- (3) References in this Act to an order under section 5 include references to an order under section 4 of the *Burials Act 1881*.

25 Amendments

- (1) The enactments specified in Schedule 5 are amended in accordance with that Schedule.
- (2) [Repealed]⁴⁸

26 Short title and commencement

- (1) This Act may be cited as the Burials Act 1986.
- (2) This Act shall come into operation on such day as the Department may by order appoint.⁴⁹



SCHEDULE 1

CERTIFICATE OF BURIAL

Section 13(1)

I of the person having the charge of or being responsible for the burial of A.B. of deceased, aged , hereby certify that the said deceased was buried in the churchyard [or graveyard] of parish [or district] of on the day of 19 .
To the Rector [or Vicar] of .

SCHEDULE 2

DISTRICT BURIAL GROUNDS

Section 14(8)[Sch 2 amended by SD938/04.]

<i>Churchyard</i>	<i>Parish(es)</i>
St. Jude's, Andreas	Andreas
St. Luke's, Baldwin	Braddan
St. Paul's, Foxdale	Patrick, Marown and Malew
St. Mark's, Malew	Malew

SCHEDULE 3

SALE OF BURIAL PLACES

Section 20⁵⁰

1. (1) The incumbent and churchwardens may sell any portion of a burial ground to which this Schedule applies as a private burial place
 - (2) The consideration for any sale under this Schedule shall be not less than the amount prescribed by order of the Department of Infrastructure for the purposes of this sub-paragraph.⁵¹
 - (3) An order under sub-paragraph (2) shall not have effect unless it is approved by Tynwald.⁵²

2. A sale of a burial place under this Schedule shall confer on the purchaser power to make a grave therein, or a stone or brick vault therein, to erect a tomb or monument thereon (subject to section 9(7) and to such control as by law exists as to the erection of monuments in churchyards or chapelyards), and from time to time to open such grave or vault for the purpose of interment therein.

3. (1) The churchwardens shall cause the portion of a burial ground set aside for private burial places to be set out in plots for graves or burial places, and shall

cause such ground and plots to be delineated on a map, to be signed in duplicate by the incumbent and churchwardens, on which each plot shall be numbered.

(2) One duplicate of such map shall be deposited in the Diocesan Registry and the other shall be kept with the parish registers.

(3) In any sale or transfer of a burial place it shall be sufficient to refer to the plot by its number on the said map.⁵³

4. (1) A sale under this Schedule may be effected by a deed in the following form, or a form substantially to the like effect, and any deed to give effect to such a sale shall be valid if signed by the incumbent and a majority of the churchwardens:

“Form of Sale of Burial Place

By virtue of the *Burials Act 1986*, We, the vicar and churchwardens of the parish of in consideration of the sum of £ paid to us by A.B. of , do hereby grant and sell to the said A.B. and his heirs, a parcel of ground, part of the burial ground of the said parish, feet long and feet wide, numbered on the plan made in pursuance of that Act, to be used as a private burial place in accordance with and subject to the provisions contained in that Act, and for no other purpose.

In witness etc.”.

(2) No burial place sold under this Schedule may be resold or transferred without the consent of the Bishop.

(3) A transfer of a burial place may be effected by a deed in the following form, or a form substantially to the like effect: —

“Form of Transfer of Burial Place

I, A.B. of , in consideration of the sum of £ paid to me by C.D. of , and with the consent of the Right Reverend Lord Bishop of Sodor and Man, testified by his executing these presents, do transfer to the said C.D. and his heirs the parcel of ground, part of the burial ground of the parish of numbered on the plan made in pursuance of the *Burials Act 1986*, and all my right, estate and interest in and to the said parcel of ground.

In witness etc.”.

(4) Any deed purporting to be signed in accordance with sub-paragraph (1), and any deed requiring the consent of the Bishop and purporting to be signed by him, shall be prima facie evidence of the due execution thereof and of the official character of the persons executing the same.⁵⁴

5. The churchwardens shall keep a separate account of all money received for the sale of private burial places, and the amount received therefrom shall be applied in defraying, or in repaying any money borrowed to defray, any expenditure incurred under section 7 or credited to a reserve fund established under section 16(4), and subject thereto, applied towards the maintenance of the burial ground.⁵⁵

6. This Schedule applies to —

- (a) the parish burial grounds of the parishes of Patrick, Lonan, Braddan, Malew and Rushen; and



- (b) a burial ground provided under this Act.

SCHEDULE 4

RESTRICTIONS RELATING TO BURIALS

Section 21

PART I – CHURCHES WITHIN WHICH BURIALS ARE PROHIBITED⁵⁶

The parish church of each of the following parishes: —

Andreas	Michael
Jurby	Marown
Ballaugh	Bride
Lonan	Braddan
Onchan	Foxdale
Lezayre	South Ramsey
Arbory	

PART II – GROUNDS IN WHICH BURIALS ARE PROHIBITED⁵⁷

1. The land forming the site of the parish church of the parish of Braddan comprised in a deed dated the 14th April 1870.
2. The land forming the site of the cathedral church of St. German comprised in two deeds dated, the 15th August 1879 and the 13th January 1889.

SCHEDULE 5
CONSEQUENTIAL AMENDMENTS

Section 25(1)

[Sch 5 amends the following Acts —

Douglas Cemetery Act 1895 q.v.

Rating and Valuation Act 1953 q.v.

Charities Act 1962 q.v.

Civil Registration Act 1984 q.v.]

SCHEDULE 6⁵⁸



ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

- ¹ Subs (1) amended by GC192/86 and by SD155/10 Sch 3.
- ² Subs (3) amended by Statute Law Revision Act 1997 Sch 1.
- ³ Subs (4) amended by GC192/86.
- ⁴ Subs (1) amended by GC192/86.
- ⁵ Para (a) amended by GC192/86.
- ⁶ Subs (2) amended by GC192/86.
- ⁷ Subs (4) amended by GC192/86.
- ⁸ Subs (1) amended by GC192/86.
- ⁹ Subs (2) amended by GC192/86.
- ¹⁰ Subs (1) amended by GC192/86.
- ¹¹ Subs (2) amended by GC192/86.
- ¹² Subs (1) amended by GC192/86.
- ¹³ Subs (2) amended by GC192/86.
- ¹⁴ Subs (3) amended by GC192/86.
- ¹⁵ Subs (4) amended by GC192/86.
- ¹⁶ Subs (5) amended by GC192/86.
- ¹⁷ Subs (4) amended by GC192/86.
- ¹⁸ Para (c) amended by Statute Law Revision Act 1997 Sch 1.
- ¹⁹ Subs (1) amended by Statute Law Revision Act 1997 Sch 1 with effect from 1/4/1998 and by Audit (Amendment) Act 2015 Sch.
- ²⁰ Para (a) amended by SD155/10 Sch 5.
- ²¹ Para (b) amended by SD155/10 Sch 5.
- ²² Subs (3) amended by SD435/13.

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- ²³ Subs (6) amended by SD155/10 Sch 5.
- ²⁴ Para (a) amended by Audit (Amendment) Act 2015 Sch.
- ²⁵ Para (d) amended by SD155/10 Sch 5.
- ²⁶ Subs (7) amended by SD155/10 Sch 5 and by SD435/13.
- ²⁷ Definition of “parish” amended by SD435/13.
- ²⁸ Definition of “relevant accounting year” substituted by Audit (Amendment) Act 2015 Sch.
- ²⁹ Definition of “the relevant churchwardens” inserted by SD435/13.
- ³⁰ Subs (1) amended by SD 2014/0334.
- ³¹ Subs (2) amended by SD155/10 Sch 5.
- ³² Subs (1) amended by SD155/10 Sch 5.
- ³³ Para (b) amended by SD155/10 Sch 5.
- ³⁴ Subs (3) amended by SD155/10 Sch 5.
- ³⁵ Subs (4) amended by SD155/10 Sch 5.
- ³⁶ S 17 substituted by Audit (Amendment) Act 2015 Sch with transitional provision and saving in relation to the change in the accounting year for churchwardens’ burial ground accounts (see SD2015/0403).
- ³⁷ S 18 repealed by SD2014/0108.
- ³⁸ Para (b) amended by SD155/10 Sch 5.
- ³⁹ Para (a) amended by GC192/86.
- ⁴⁰ Para (b) amended by GC192/86.
- ⁴¹ Subs (2) amended by GC192/86.
- ⁴² Para (d) repealed by SD2014/0108.
- ⁴³ Definition of “accounting year” inserted by Audit (Amendment) Act 2015 Sch.
- ⁴⁴ Definition of “the Board” repealed by GC376/86.
- ⁴⁵ Definition of “the Corporation” inserted by Audit (Amendment) Act 2015 Sch.
- ⁴⁶ Definition of “the Department” inserted by GC192/86 and amended by SD155/10 Sch 3.
- ⁴⁷ Definition of “inspection” inserted by Audit (Amendment) Act 2015 Sch.
- ⁴⁸ Subs (2) repealed by Statute Law Revision Act 1992 Sch 2.
- ⁴⁹ Subs (2) amended by GC192/86.
- ADO (whole Act) 1/1/1987 (GC382/86).
- ⁵⁰ V p110/12
- ⁵¹ Subpara (2) amended by SD155/10 Sch 5.
- ⁵² V p110/13
V p110/16
- ⁵³ V p110/13, 14 and 18
- ⁵⁴ V p110/15
- ⁵⁵ V p110/13-18
- ⁵⁶ I p356/5; I p360/4; II p23/6; II p24/5; II p26/5; II p36/6; II p58/6; II p172/6; III p474/11 V p55/5; VII p481/4
- ⁵⁷ IV p1/4; V p442/3



⁵⁸ Sch 6 repealed by Statute Law Revision Act 1992 Sch 2.

