

COMHAIRLE CHONTAE NA GAILLIMHE



**GALWAY COUNTY COUNCIL
(Environment Department)**



BURIAL GROUND POLICY

January 2018

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1.0 LEGISLATION

There are 233 burial grounds listed on the Council's Burial Ground Register, the details of which are set out in Appendix IX. Burial Grounds in Ireland are the responsibility of Local Authorities. The principal legislation governing Local Authorities in relation to the provision and management of burial grounds is as follows:

- Public Health (Ireland) Act 1878
Rules and Regulations for the Regulation of Burial Grounds 1888 - as amended (see Appendix I)
- Sanitary Services Act 1948 (see Appendix II)
- Local Government Act, 1994
- Local Government Act, 2001 (see Appendix III)

2.0 PROVISION OF NEW BURIAL GROUNDS

There are a number of standard procedures involved once agreement has been reached between Galway County Council and a landowner for the acquisition of land for the purpose of a new burial ground or a new burial ground extension.

1. Planning Permission must be received from Galway County Council (this is called a Part 8 planning application).
2. Trial holes must be dug and inspected by the Health Service Executive to ascertain if the land is suitable for use as a burial ground.
3. Where a new burial ground or a new proposed extension (or proposed works to a burial ground) is in or near a recorded site or monument, comments are sought from the National Monuments Section of the Department of Arts, Heritage, and the Gaeltacht in relation to the proposed works.
4. Where a new burial ground or a proposed extension (or proposed works to a burial ground) is in or near a Protected Structure or in an Architectural Conservation Area (ACA), comments are sought from the Conservation Officer.

The provision of new burial grounds or the extension of existing facilities is posing a serious problem for the Council. This arises from the high cost of land or where owners are not willing to sell. The Council is not able to pay building site prices for burial grounds. If communities wish to continue the tradition of having a burial ground almost in every parish or to maintain the existing number of burial grounds, they will have to assist the Council in the procurement of land, either free of charge or at agricultural land prices. In situations where the Council provides

land for new burial grounds/extensions to existing burial grounds, then this shall be undertaken on the basis that the parish/community council will have the responsibility for its development.

An alternative might be to provide a limited number of regional burial grounds where the economy of scale should make them more cost effective to provide and operate.

Galway County Council would be open to the operation of privately operated burial grounds and crematoriums in County Galway once statutory and legal requirements are met.

3.0 SALE OF PLOTS

The current policy of the Council in relation to the sale of burial plots is that plots (single or double only) are sold only as they are needed i.e., on bereavement. This policy was introduced in 1996 for the following reasons:

1. Land for the provision/extension of burial grounds is expensive and generally very difficult to acquire and the policy provides for the most orderly and efficient allocation of existing plots.
2. It ensures that plots are used in the proper order of sequence and tracts of unused and unmarked space does not occur, which over the years made it difficult to identify plots on the ground and difficult to establish ownership in many cases.
3. It avoids the scenario where people bought plots and then perhaps left the area and the space remained unused.
4. The policy facilitates easier record keeping for the caretakers.

The following are the current charges.

- Single Plot: €385
- Double Plot: €726

However, the following charges relate to Rinvilla Burial Ground Fees for internments from Galway City (with no link to the area):

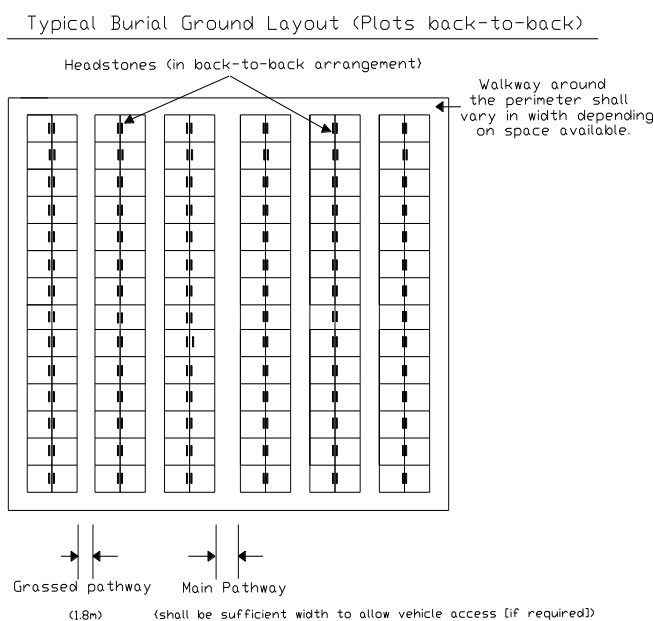
- Single Plot: €650
- Double Plot: €1,530

Note: Triple plots may be sold in very exceptional circumstances, subject to the prior approval of the Environment Department of Galway County Council. Cost of a triple plot in Rinvilla Burial Ground is €2,180. In all other burial grounds is €1,111.

4.0 BURIAL GROUND LAYOUT

Burial plots are allocated as they are needed. Only single or double plots are allocated. This ensures that burial plots are allocated in the proper order and guarantees that they will be used. In the case of new burial grounds or new burial ground extensions, the Council uses a certain layout, a typical example of which is set out below. The following are the main points to be adhered to in relation to burial ground layout:

1. Burial Plots shall be laid out in a back-to-back arrangement (i.e., headstones shall be back-to-back as shown below)
2. A 1.8 metre grassed pathway shall be left between each double row of plots, wide enough to accommodate a small excavator.
3. Main pathways throughout burial ground shall be of sufficient width to allow for vehicular access (if required).
4. Double plots shall measure 2.75m x 2.75metres.
5. Single Plots shall measure 2.75m x 1.225metres.



Galway County Council provides the caretaker with a plot layout map for all new burial grounds or new burial ground extensions. The caretaker uses this map when allocating plots so that they are allocated in an orderly and efficient sequenced manner.

5.0 GUIDELINES ON PLOT DIMENSIONS, ERECTION OF HEADSTONES AND KERBING

The following are the general guidelines throughout County Galway.

The following guidelines will apply and are subject to the approval of the Area Engineer: -

1. All kerbing and headstones shall be erected to the satisfaction of the Area Engineer.
2. In general, only dressed stone kerbing will be allowed in the perimeter of grave spaces.
3. Headstones shall be of granite, limestone or marble and shall be either rough or polished.
4. Statues shall be of marble or stone only.
5. In certain circumstances, iron crosses and railing shall be allowed.
6. The foundations for all headstones must be a minimum 28'' width. The maximum depth shall be determined on site.
7. Concrete foundations for kerbs should be 2'0'' below surface level, reinforced where necessary. Concrete surfaces of foundations shall be not exposed.
8. Kerbing shall be a maximum of 5 inches high above ground level with corner stones a maximum of 8 inches high above ground level.
9. The following dimensions, for a burial plot, should be strictly adhered to:
 - Single Plot – 2.75 m x 1.225 m
 - Double Plot – 2.75 m x 2.75 m
10. Where headstones or statues are over 5'0'' high and where kerbing and cornerstones are over that which is permitted in Condition 8, special permission from the Area Engineer shall be first obtained. Forms are available from the local Area Office or at www.galway.ie (see Appendix V). These are to be returned to the Area Engineer when complete. Written permission or otherwise will then issue in due course.

The Area Engineer's permission (if granted) should then be presented to the Burial Ground Caretaker, who will direct as to correct siting, etc., of the headstone and kerb.

The only exception to the guidelines above is the new burial ground extension in Dunmore whereby it is a condition of their guidelines that '*Surround kerbs are not permitted*'.

Note: Requests by other burial ground committees to prohibit or restrict surround kerbing will be considered by the Area Engineer.

6.0 MAINTAINANCE OF BURIAL GROUNDS

The maintenance and general upkeep of Burial Grounds is carried out by Galway County Council Area Offices and/or local community groups. A limited amount of funding is allocated annually to the Area Offices for this work. The type of works carried out by the Area Offices includes repairing of damaged or dangerous walls, removal of dangerous overhanging trees, drainage works, laying of new pathways, emptying of skips in certain burial grounds and so on.

Galway County Council Area Offices provide bunkers in a small number of burial grounds throughout the County. The emptying of these bunkers and the removal of any rubbish which is discarded by the public in the burial grounds are taken out of the Area Offices limited burial ground budgets.

Many burial grounds do not have bunkers as bunkers tend to encourage the public to dump their burial ground waste in them. In burial grounds that do not have bunkers Galway County Council has found that the public remove their waste by themselves. Therefore, it is considered that bunkers in burial grounds encourage dumping, whereby the removal of bunkers would encourage the public to remove their own waste by themselves. Appropriate signage could be used to deter dumping once bunkers are removed.

In burial grounds where no bunkers are provided, the responsibility will be placed on the plot owner for the removal of any waste that is generated from the owner's plot. Any waste soil, stones, timbers, wreaths, flowers etc. that is generated from their plot shall be removed from the burial ground by the plot owner concerned.

Due to the large number of burial grounds in the County, and the cost involved in the maintenance of these, the Council encourages local communities to participate in their upkeep and in this regard, a Maintenance Grant is allocated to the groups to assist them in their work. A grant of between €300 - €600 is made available to successful groups in respect of each burial ground. The grant must be used for the purpose of purchasing trees, shrubs, brushes, shovels, grass cutting and other incidental items which are required to carry out maintenance works to the Burial Ground. Guidelines for the Conservation and Care of Graveyards and a recently produced document titled 'A Rich Depository - exploring and maintaining County Galway's graveyard heritage' must be adhered to.

The following works are prohibited:

- Cutting of hedgerow vegetation between March 1st & August 31st (Wildlife (Amendment) Act, 2000)
- Removal of ivy from old church structures or ruins
- Use of pesticides, herbicides, or fertilizers
- Laying of new pathways

Before approving a grant, the Council must be satisfied that the applicant is a bona fide group, representative of the area to which the applicant relates and that any improvement will be available to the public and not just a particular section or group. The Burial Ground Maintenance Grant Eligibility and Conditions is included in Appendix IV.

7.0 DUTIES OF CARETAKER AND REGISTRAR OF BURIAL GROUNDS

A Caretaker is appointed to each burial ground where possible. The following are the duties to be carried out:

1. To take charge of and to be responsible to Galway County Council for the general care of the Burial Grounds.
2. To acquaint himself/herself thoroughly with the Burial Ground Rules and Regulations for Burial Grounds made by the Local Government Board on 6th July 1888, as amended, and to ensure that they are fully observed.
3. To report immediately to the Environment Department, Galway County Council, or County Council Area Executive Engineer, any breach of the said Regulations. (A copy of the Regulations shall be kept affixed to the Register of Interments).
4. To be present at the opening of graves and interments to ensure that the Regulations are observed.
5. To keep the Register of Interments in accordance with the said Regulations and to keep in his/her custody a map of the Burial Grounds showing the division into the grave spaces.
6. To allocate and set out grave spaces to applicants for same.
7. To collect and receive fees where such are chargeable, to issue a receipt in the proper form for each fee so received, and to lodge forthwith any monies so received, to the credit of Galway County Council.
8. To keep the gates of the Burial Grounds closed and locked when not required to be open, and to have custody of the keys. To have custody of any tools or other articles supplied by the County Council, and to have them available as and when required.
9. To prevent trespass on the Burial Grounds and to carry out minor repairs to fences and gate as required.
10. To supervise the erection of headstones and kerbs and to ensure that these comply with the County Council Regulations.
11. To ensure that no burial takes place in a Burial Ground or part of a Burial Ground closed by order of the Minister for Local Government to further interments, except on production of written evidence that the Minister has granted an exemption in respect of the deceased person.
12. To perform such other duties appropriate to his employment as the Galway County Council may assign to him.
13. To always maintain the Burial Ground in reasonable condition. Pathways and walkways shall be kept clear of weeds and grass.

Note: The allocation of burial plots is as they are needed and involves a single or double plot only. This ensures that burial plots are allocated in the proper order and guarantees that they will be used.

8.0 RESTRICTIONS ON PLACES IN WHICH BODIES MAY BE BURIED.

Part VI of the Local Government (Sanitary Services) Act, 1948 (see appendix II) refers to the disposal of bodies and restrictions on places in which bodies may be buried.

9.0 AMENDMENT TO BURIAL GROUND REGULATIONS TO ALLOW BURIALS OUTSIDE OF COFFINS IN DESIGNATED AREAS OF GRAVEYARDS.

The Department of Environment, Community and Local Government informed all County & City Managers on the 7th of May 2013 in Circular Letter LGCS 01/13 of the amendment of burial ground regulations to allow burials outside of coffins in designated areas of graveyards. This required a change to Rule V of the Rule and Regulations for the Regulation of Burial Grounds, 1888, which will come into operation on 1st June 2013.

The current Rule V states that no internment shall be permitted unless the body be enclosed in a coffin of wood or other sufficiently strong material.

Following discussions with the HSE, EPA and CCMA it has been agreed to amend the rule to allow un-coffined burials to take place in an area of a burial ground designated exclusively for this purpose. It should be noted that this can be overruled by the relevant sanitary authority or medical officer of health of the sanitary authority.

Summary of the changes:

- the main thrust of the existing rule requiring bodies to be buried in a coffin remains.
- un-coffined burials are allowed in an area of a burial ground designated exclusively for that purpose.
- there is no obligation for the provision of such a designated area in all burial grounds.
- the sanitary authority or medical officer of health can direct that such un-coffined burials should not be carried out (e.g., in situations where there would be a health or environmental risk arising);
- the penalty of £2 sterling for “any person presenting a body for internment in violation of this rule” is increased to €125. Based on the original penalty converted to euro and applying the multiple figures outlined in Section 9 of the Fines Act, 2010.

Texts of the existing and new Rule are attached in Appendix VIII.

10.0 SPREADING OF ASHES

The Health Service Executive (Seamus Mitchell, Senior Environmental Health Officer) confirmed on the 7th of June 2013 that there are no public health concerns in relation to the scattering of ashes.

The Environment Department of Galway County Council are unaware of any legislation in Ireland that specifically relates to this issue. The international literature indicates that once a body has been cremated it no longer poses a health risk or risk to the environment so it would not be considered an issue under the Waste Management Act or Litter Act. However, it is worth recommending that people follow general etiquette and refrain from scattering ashes:

- in areas where there are a lot of people such as a crowded beach or park,
- along trails where people would be walking
- near drinking water intake points if discharging to a waterway. The Environment Department of Galway County Council should be contacted if there is uncertainty about a particular area on a waterway.

11.0 EXHUMATION

Applications for an exhumation license are received by the County Council on appropriate application forms (see appendix VI) and forwarded to the Health Service Executive for approval. A license is then issued based on the HSE requirements.

12.0 ENCROACHMENT OF A HEADSTONE OR KERBING ONTO AN ADJACENT PLOT

Although the phrase 'buying' a burial plot is used, no transfer of ownership takes place, and in reality, the Local Authority gives to the family a right to inter remains in the plot. This would include undertaking works over ground including erection of headstones and kerbing.

From time-to-time disputes develop in respect of adjoining plots. In general, if the encroachment is over ground only, for example if a headstone or kerbing encroaches onto an adjacent plot, then this is a matter between the owners of both plots.

However, if the actual grave encroaches onto an adjacent plot, then the County Council may have a liability in this case if the encroachment was facilitated by the Council.

13.0 HEALTH AND SAFETY

Employers, employees, and self-employed shall adhere to The Safety, Health and Welfare at Work Act, 2005 for all applicable works at Graveyards and Cemeteries. This Act takes a preventative approach to reducing accidents and ill health at work (see www.irishstatutebook.ie).

The following press release in relation to grave digging by family members and friends was released by the Health and Safety Authority on March 31st, 2011.

HSA Clarifies Position in Relation to Grave Digging Activity

March 31st, 2011

The Health and Safety Authority (HSA) has today, Thursday 31st March, issued clarification in relation to work activity at graveyards and cemeteries under the control of Local Authorities.

Contrary to some recent reports, the Health and Safety Authority has not prohibited in any way the traditional custom of family members assisting with the digging of a loved one's grave. The digging of graves by family members and friends is clearly not done as employees and does not come under the remit of the HSA. The HSA has not issued any new guidance which could restrict this practice.

The HSA has recently developed, in conjunction with the Local Authority Safety Advisors Group (LASAG), a safe system of work plan for employers and employees when working in graveyards and cemeteries. This primarily deals with construction work which often takes place in these locations. The system was developed solely for employers and employees and not for any other parties, including relatives and loved ones of the deceased.

According to Paula Gough, Programme Manager with the HSA, "In working with the Local Authorities, our aim is to support them in having safe places of work for their employees. We are surprised that any Local Authority would take what are designed to be workplace safety measures for employees and apply them to members of the public. The Health and Safety Authority has had no role to play in these developments."

The "Safe System of Work Plan for Graveyards and Cemeteries" for employers and employees as mentioned above is available from the Health and Safety Authority at a cost of €4 by phoning 1890 289389. This publication is only available in hard copy format.

14.0 ARCHAEOLOGY AND CONSERVATION

Many burial grounds, in particular older burial grounds are Recorded or National Monuments and are afforded protection under the National Monuments Acts (see Appendix VII). Ministerial approval must be sought for any works to a burial ground that is a Recorded or National Monument that is in the ownership of a Local Authority.

It should also be noted that there is usually a zone of archaeological potential around such monuments and this area is also afforded protection.

Graveyards may also be afforded protection under Part IV of the Planning and Development Act, 2000 (see www.irishstatutebook.ie). Where an adjacent church or other structure is listed in the Record of Protected Structures (RPS), the graveyard may be included as part of its cartilage or setting. Alternatively, a feature or structure contained within the graveyard may have its own independent protection under the Act. It is important to note that some medieval graveyards and structures are also protected by this Act. For further information on Protected Structures contact the Architectural Conservation Officer, Galway County Council at 091-509197, or email: conservation@galwaycoco.ie. A list of all graveyards, burial places and churches can be found online at: <http://www.galway.ie/en/Services/Conservation/RecordofProtectedStructures/>. They are also on Google. Entries on this list may be added or deleted from time to time, so check with the Conservation Officer to ensure the information is up to date.

Graveyards may also be protected as an architectural conservation area (ACA) which protects the special character of the place. A declaration may be requested by the owner in order to identify what aspect is of special importance and how to proceed with works in the case of a Protected Structure. This service is free of charge.

The website link <http://www.buildingsofireland.ie/Resources/DOEHLGPublications/> is a useful link to Government issued Advice Series documents for conservation works concerning access, iron or ruins at graveyards. The relevant documents are:

- Access - improving the accessibility of historic buildings and places.
- Iron - **the** repair of wrought and cast ironwork.
- Ruins - **the** conservation and repair of masonry ruins

A recently produced document titled 'A Rich Depository - exploring and maintaining County Galway's graveyard heritage' is a useful source of information in relation to the built and natural heritage of the graveyard, legislation, care and maintenance of graveyards and recording/mapping of graveyards.

15.0 DIGITAL MAPPING PROJECT

Galway County Council in partnership with local community groups and the LEADER Companies are engaged in digitally mapping the graveyards of the county. Each memorial is photographed, and the memorial inscriptions are put onto a database. A Cartographer produces

a very detailed map of each graveyard. A map board is placed at the entrance to each graveyard to assist people visiting find their family plot.

When finished the graveyards are added to the Galway County Council website and can be accessed by clicking on the name of the graveyard on the left of the page. The Graveyards can be searched by plot number (from the map board) or Surname. Hover over the photos to see the transcription details for that headstone. If you have Google earth installed, you can view the Layout of the graveyard by clicking on the Google Earth Icon

Accessing the memorials that are now online and graveyard survey guidelines can be found on the following link: <http://www.galway.ie/en/Services/Heritage/Archaeology/Graveyards>

Appendix I

RULES AND REGULATIONS

FOR THE REGULATION OF BURIAL GROUNDS

6TH JULY 1888, AS AMENDED BY ORDERS DATED

23RD DECEMBER 1919 AND 12TH MARCH, 1929

- I. Every burial ground shall be kept sufficiently fenced and, if necessary, shall be under drained to such a depth as will prevent water remaining in any grave or vault.
- II. The area to be used for graves shall be divided into grave-spaces, to be designated by convenient marks, so that the position of each grave-space may be readily ascertained. A corresponding map or maps of the burial ground shall be constantly kept in some convenient place at or near the burial ground and shall be open to the inspection of all persons. On such map or maps, every grave-space shall be shown with its distinctive mark inscribed thereon.
- III. The grave-spaces for the burial of persons above twelve years of age shall be at least nine feet long by four feet wide; and those for the burial of children under twelve years of age shall be at least six feet long by three feet wide.
- IV. (i) Each grave, when opened for the first interment therein, shall be sunk to the perpendicular depth of eight feet at the least, or in case the nature of the sub-soil will not permit of the grave being sunk to such depth, then to such lesser depth as the medical officer of health of the sanitary authority shall certify in writing to be sufficient for the protection of public health, but in such case not more than one interment shall be permitted in such grave without the written authorization of the medical officer of health of the sanitary authority.

(ii) Every person who shall inter a body in a grave in contravention of the foregoing rule shall be liable to a penalty of two pounds sterling.
- V. No interment shall be permitted in any burial ground, nor shall any dead body be admitted into any place of reception of bodies before interment, unless the body be enclosed in a coffin of wood or other sufficiently strong material. Any person presenting a body for interment in violation of this rule shall be liable to a penalty of two pounds sterling.
- VI. One body only shall be buried in a grave at one time, unless the bodies be those of members of the same family; and every person interring any body in violation of this rule shall be

liable to a penalty of two pounds sterling.

- VII. No unwalled grave shall be re-opened within fourteen years after the burial of a person above twelve years of age, or within eight years after the burial of a child under twelve years of age, unless to bury another member of the same family, in which case a layer of earth not less than one foot in depth shall be left undisturbed above the previously buried coffin; but if on re-opening any grave the soil be found to be offensive, such soil shall not be disturbed. In no case shall human remains be removed from a grave. Every person acting in violation of this rule shall be liable to a penalty of two pounds sterling.

- VIII. No coffin shall be buried in any unwalled grave, unless the lid or upper surface thereof shall be sunk to a depth of at least four feet below the ordinary level of the ground; and every person acting in violation of this rule shall be liable to a penalty of two pounds sterling.

- IX. Any person unlawfully preventing or attempting to prevent the interment of any person in a burial ground, or unlawfully preventing or disturbing the celebration of funeral rites over any person, shall be liable to a penalty of five pounds sterling.

- X. No grave, in which any body has been interred, shall be opened, save for the purpose of interment or the erection of a tombstone or headstone, without the written order of a coroner or justice of the peace of the county, to be previously produced to and left with the registrar. Any person violating this rule shall be liable to a penalty of ten pounds sterling.

- XI. No body, nor the remains of any body, shall be removed from one place of burial to another, or exhumed (except under the conditions set forth in Rule X) without a licence from the Local Government Board, and with such precautions as such Board may prescribe as the condition of such licence; and any person who shall remove or assist in removing any such body or remains contrary to this rule, or who shall neglect to observe the precautions prescribed as the condition of the licence for removal, shall be liable to a penalty of ten pounds sterling.

- XII. A proper registry book (hereinafter referred to as the registry book) made of parchment or vellum or other durable material, with strong binding and suitable printed paging's, and ruled in columns with proper printed headings, shall be constantly kept in some convenient place at or near the burial ground, and shall be open for inspection at all reasonable times; but no person except the person having the care and management of the burial ground and in these rules called the registrar, shall be permitted to write in the registry book save as hereinafter mentioned.

A printed copy of these rules shall be kept constantly affixed to the registry book.

Any registrar refusing to give inspection of the registry book, as required by this rule, shall

be liable to a penalty of five pounds sterling, and any person whatever unlawfully writing in, defacing, altering, or mutilating the registry book, shall be liable to a penalty of five pounds sterling.

- ΚΙΙΙ. Before the interment of any person in a burial ground, or before admission into such place of reception as afore-said, the registrar shall, after due inquiry as to the facts from some relative of the deceased, or from the person having the direction and management of the interment, cause an entry to be made in the registry book, in plain and legible characters, under its proper headings, and in numerical order, of the christian and surnames, time of death, sex, age, religious persuasion and occupation or rank in life, of the deceased, together with his or her last place of residence, and condition, as whether “married” or “single”, “widower” or “widow”, or “the child of A.B, of,” etc. After the interment due entry shall be made under its proper heading of the distinctive mark of the grave and the signature of the person having the management of the interment shall be affixed in the last column but one, in token of the accuracy of the foregoing statements; and such signature shall be attested by the signature of the registrar in the last column. Any such person willfully refusing to give to the registrar information as to the matters aforesaid, or to affix his signature as aforesaid, shall be liable to a penalty of five pounds sterling.

Appendix II

LOCAL GOVERNMENT (SANITARY SERVICES) ACT, 1948

PART VI - DISPOSAL OF BODIES

Restriction on places in which bodies may be buried.

44.— (1) Subject to the provisions of subsection (4) of this section a person shall not, without the consent of the Minister, bury the body of a deceased person in a place which is not a burial ground for the purposes of this section.

(2) The following (and no other) places shall be burial grounds for the purposes of this section—

- (a) a place which is in lawful use as a burial ground and which was, immediately before the commencement of this section, in lawful use as a burial ground,
- (b) a place as respects which the Minister has, after the commencement of this section, given his approval to its being used as a burial ground,
- (c) a burial ground provided by a burial board under the Acts.

(3) Subject to the provisions of subsection (4) of this section a person shall not bury the body of a deceased person within the limits in which burials have by order under section 162 of the Act of 1878 been ordered to be discontinued in violation of the provisions of such order.

(4) Nothing in subsection (1) or (3) of this section shall prevent the burial of a clergyman in or adjacent to a church.

(5) A person who contravenes subsection (1) or subsection (3) of this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds or, at the discretion of the Court, to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

Maintenance by burial board of grave.

45.—Where a person requests a burial board under the Acts, to maintain in proper order, either in perpetuity or for a limited period, a grave in a burial ground provided by the board, the board may, in consideration of such payment or payments as they consider reasonable, make and carry out an agreement for that purpose with such person.

Restriction on exhumations.

46.— (1) The Minister may grant a licence for the exhumation of the body of a deceased person.

(2) The Minister may attach to a licence under this section such conditions as he thinks proper including, in particular—

- (a) conditions requiring re-interment at a specified place or within a specified period,
- (b) conditions for securing that the exhumation and any re-interment

required by the conditions shall be carried out with due care and decency and in such a manner as not to endanger public health.

(3) A licence under this section may be granted in respect of a particular body or in respect of all or any of the bodies buried in a particular place.

(4) A person shall not exhume from a burial ground the body of a deceased person save under a licence granted under this section or pursuant to an order of the Minister for Justice under [section 15](#) of the [Coroners \(Amendment\) Act, 1927](#) (No. 1 of 1927).

(5) A person who contravenes subsection (4) of this section or who, on or after the exhumation of a body under the authority of a licence under this section, does not comply with a condition attached to the licence, shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds or, at the discretion of the Court, to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

(6) A person shall not be entitled solely by reason of a licence granted under this section to carry out any exhumation or reinterment.

Disposal of bodies otherwise than by burial.

47.— (1) The Minister may make regulations in relation to the disposal of human remains otherwise than by burial.

(2) Regulations under this section may apply to any statutory or other enactment, relating to the burial of bodies of deceased persons, to the disposal of such bodies otherwise than by burial and may so apply the enactment either with or without modifications.

(3) A person who contravenes any regulation under this section shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds or, at the discretion of the Court, to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

(4) Compliance with regulations under this section shall not of itself render lawful the disposal of the body of a deceased person.

Appendix III

Local Government Act, 2001

Joint
burial
boards. **230.—** (1)
 In this
 section—

“Relevant local authority” means—

- (a) where 2 county councils contribute to the funding of the specified body, the county council in whose county the burial ground is situated,
- (b) where a county council and any other local authority so contribute, subject to *paragraph (c)*, the county council in whose county the burial ground is situated,
- (c) where the county council and the other local authority concerned each declare by resolution passed within 6 months of the making of an order referred to in *subsection (2)* but before the transfer day that the said other local authority shall be the relevant local authority, such other local authority as is so declared;

“Specified body” means a joint burial board or a cemetery joint committee specified in an order made under this section.

- (2) (a) The Minister may by order fix a day (in this section referred to as the “transfer day”) in respect of a specified body upon which the body is dissolved and ceases to exist and the relevant local authority shall for all purposes become and be the successor of that specified body.
- (b) The transfer day fixed by order shall not be less than 6 months after the order is made.
- (3) With effect from the transfer day the following are transferred to the relevant local authority—
 - (a) all land and other property (and all rights relating to such land and other property) held or enjoyed immediately before that day by the specified body,
 - (b) all liabilities incurred before that day by the specified body which had not been discharged before that day,

and, accordingly as and from that day without any further conveyance, transfer, or assignment—

(i) that property, real and personal, vests in the relevant local authority for all the estate, term, or interest for which, immediately before that day, it was vested in the specified body, but subject to all trusts and equities affecting the property and capable of being performed,

(ii) those rights are to be enjoyed by the relevant local authority, and

(iii) those liabilities are liabilities of that authority.

(4) All moneys and securities transferred to the relevant local authority by this section that, immediately before the transfer day are standing in the name of the specified body are to be transferred into its name upon request of the relevant local authority.

(5) On or after the transfer day every right and liability transferred to the relevant local authority by this section may be sued on, recovered or enforced by or against the relevant local authority in its own name and it is not necessary for the authority to give notice of the transfer to the person whose right or liability is transferred by this section.

(6) Every contract or agreement made between a specified body or any trustee or agent of the body acting on its behalf, and any other person, which is in force immediately before the transfer day continues in force on and after that day and shall—

(a) be read and have effect as if the relevant local authority were substituted in the contract or agreement for the specified body or, as the case may be, its trustee or agent acting on its behalf, and

(b) be enforceable against that relevant local authority.

(7) Where, immediately before the transfer day, any legal proceedings are pending in any court or tribunal and the specified body or any trustee or agent of a specified body acting on its behalf, is a party to the proceedings, the name of the relevant authority shall be substituted in the proceedings for that of the specified body, or as the case may be, such trustee or agent of the specified body, and the proceedings shall not abate by reason of such substitution.

Appendix IV

National Monuments (Amendment) Act 2004

Section 14 Consents

SECTION 14

5.—The Principal Act is amended by substituting the following sections for section 14:

“Prohibition of
injury to a monument, etc.

14.— (1) In respect of a national monument of which the Minister or a local authority are the national owners or the guardians or in respect of which preservation order is in force, it shall not be lawful for any person to do any of the following things in relation to such national monument:

(a) to demolish or remove it wholly or in part or to disfigure, deface, alter, or in any manner injure or interfere with it, or

(b) to excavate, dig, plough or otherwise disturb the ground within, around, or in proximity to it, or

(c) to renovate or restore it, or

(d) to sell it or any part of it for exportation or to export it or any part of it,

without the consent referred to in subsection (2) of this section or otherwise than in accordance with such consent.

(2) (a) In respect of a national monument to which subsection (1) relates and at the discretion of the Minister, the Minister may grant consent in writing to the doing to such monument of one or more of the matters specified in paragraphs (a) to (d) of subsection (1) of this section (in this subsection referred to as the ‘carrying out of works’).

(b) (i) The Minister shall consult in writing with the Director of the National Museum of Ireland before granting a consent under paragraph (a) of this subsection.

(ii) The period for consultation under subparagraph (i) of this paragraph shall be not more than 14 days from the day the consultative process was commenced by the Minister, or such other period as may, in any particular case, be agreed to between the Minister and the Director of the National Museum of Ireland.

(c) A consent granted under paragraph (a) of this subsection to the carrying out of works shall be subject to such conditions and restrictions as the Minister may determine and specify in the consent.

(d) The Minister in exercising discretion under paragraph (a) of this subsection is not restricted to archaeological considerations but is entitled to consider the public interest in allowing the carrying out of works notwithstanding that such works may involve—

(i) injury to or interference with the national monument concerned,
or

(ii) the destruction in whole or in part of the national monument concerned.

(3) Without prejudice to the generality of subsection (2) of this section, the Minister in exercising discretion under that subsection in respect of a national monument may have regard to the following to the extent that they appear to the Minister to be relevant in exercising discretion in any particular case:

(a) the preservation, protection, or maintenance of the archaeological, architectural, historical or other cultural heritage or amenities of, or associated with, the national monument.

(b) the nature and extent of any injury or interference with the national monument.

- (c) any environmental, cultural, social, recreational, or economic benefit that would accrue to the State or area in which the national monument is situated as a result of the carrying out of works.
- (d) any matter of policy of the Government, of the Minister or of any other Minister of the Government.
- (e) the need to collect or disseminate information on national monuments or in respect of heritage generally.
- (f) the cost implications (if any) that would, in the Minister's opinion, occur from either granting or not granting a consent under subsection (2)(a) of this section.

(4) Where the Minister has granted a consent to a person under this section, then—

- (a) any further consent under any other provision of the *National Monuments Acts 1930 to 2004*, or
- (b) a licence under any provision of the *National Monuments Acts 1930 to 2004*, other than a licence under section 25 (as amended by the *National Monuments (Amendment) Act 1994*) of this Act,

is not required to be held or obtained by such person or by any person acting as the first-mentioned person's employee, agent or servant in respect of any act or thing done in accordance with the consent and the conditions and requirements (if any) attached to the consent so granted.

(5) A person who contravenes subsection (1) of this section is guilty of an offence and is liable—

- (a) on summary conviction, to a fine not exceeding €3,000 or, at the discretion of the Court, to imprisonment for a term not exceeding 6 months or to both, or
- (b) on conviction on indictment, to a fine not exceeding €10,000,000 or, at the discretion of the Court, to imprisonment for a term not exceeding 5 years or to both.

(6) (a) Where a person is convicted of an offence under this section the Court by whom the person is so convicted may, at the time of such conviction and in addition to any penalty imposed under this section, order such person—

- (i) to pay to the Minister, where—
 - (I) the Minister is the owner or the guardian of the national monument in respect of which the offence was committed, or
 - (II) a preservation order is in force in respect of such monument,

or

- (ii) to pay to a local authority, where the local authority are the owners or guardians of the national monument in respect of which the offence was committed,

such sum as the Court shall fix as the reasonable cost of repairing the damage done to such monument by the commission of the offence.

- (b) The sum referred to in paragraph (a) of this subsection shall be recoverable by the Minister or such local authority (as the case may be) as if such sum were a civil debt and such order were a judgment of the Court for the payment of a civil debt, and every such sum when recovered by the Minister or such local authority shall be applied by the Minister or the local authority (as the case may be) in repairing the damage referred to in the said paragraph (a).

(7) Nothing in this section shall operate—

- (a) to authorise the doing of any act in relation to a national monument not owned by the Minister or a local authority which, if this section had not been enacted, could not lawfully be done without the consent of the person or all the persons for the time being seized or possessed of such monument, or

(b) to deprive any person, who is so seized or possessed of such monument, of any legal remedy which, if this section had not been enacted, that person would have had in respect of the doing of such act without that person's consent.

Supplementary provisions to section 14 and road development.

14A – (1) The consent of the Minister under section 14 of this Act and any further consent or licence under any other provision of the *National Monuments Acts 1930 to 2004* shall not be required where the works involved are connected with an approved road development.

.....¹
.....

Ministerial direction
Under section 14A and
function of An Bord Pleanála

14B.— (1) Where the Minister has issued directions to a road authority under section 14A(4)(d) of this Act, the road authority shall inform An Bord Pleanála (in this section referred to as the 'Board') of those directions and of any change to the approved road development, which it is satisfied is necessitated by the Minister's directions.

.....
.....

Grant of consent
in interests of
public health or
safety.

14C.—(1) Where the Minister considers it expedient to do so in the interests of public health or safety and upon being requested to grant consent under section 14 of this Act, the Minister may grant consent under subsection (2)(a) of that section without having regard to or considered matters which, if it were not expedient to do so in the interests of public health or safety, the Minister would have had regard to or considered. Any consent to the carrying out of works to which this section relates shall be subject to such conditions and restrictions as the Minister may determine and specify under section 14(2)(c) of this Act.

(2) Where the Minister has granted a consent to a person to whom this section relates, then—

(a) any further consent under any other provision of the *National Monuments Acts 1930 to 2004*, or

(b) a licence under any provision of the *National Monuments Acts 1930 to 2004*, other than a licence under section 25 (as amended by the *National Monuments (Amendment) Act 1994*) of this Act, is not required to be held or obtained by such person or by any person acting as the first-mentioned person's employee, agent or servant in respect of any act or thing done in accordance with the consent and the conditions and requirements (if any) attached to the consent so granted.'.

¹ The complete text of Sections 14A and 14B has not been included as it is not relevant to this note.

Appendix V

The current Rule Number V. of the “Rules and Regulations for the Regulation of Burial Grounds, 1888”:

“V. No interment shall be permitted in any burial ground, nor shall any dead body be admitted into any place of reception of bodies previous to interment, unless the body be enclosed in a coffin of wood or other sufficiently strong material. Any person presenting a body for interment in violation of this rule shall be liable to a penalty of two pounds sterling.”

The updated Rule Number V. of the “Rules and Regulations for the Regulation of Burial Grounds, 1888” which will come into operation on 1 June 2013:

- “
- V.
- (i) Subject to (ii), no interment shall be permitted in any burial ground, nor shall any dead body be admitted into any place of reception of bodies previous to interment, unless the body be enclosed in a coffin of wood or some other sufficiently strong material. Any person presenting a body for interment in violation of this rule shall be liable to a penalty of €125.
 - (ii) Uncoffined burials may be permitted, unless a direction has been issued not to do so by the relevant sanitary authority or medical officer of health of the sanitary authority, in an area of a burial ground designated exclusively for that purpose. Where an uncoffined burial is permitted, any reference in these provisions to a coffin includes a reference to the wrappings of the uncoffined body.”