4. CHURCHES, BUILDINGS FOR RELIGIOUS WORSHIP, ETC.

The Town and Country Planning (Churches, Buildings for Religious Worship and Burial Grounds) (Scotland) Regulations, 1948

1948 No. 1780 (S. 156)

Made - - - -	*28th July*, 1948
Laid before Parliament	*29th July*, 1948
Coming into Operation	*16th August*, 1948

In exercise of the powers conferred on me by subsection (2) of section 27 of the Town and Country Planning (Scotland) Act, 1945(**a**), as having effect by virtue of section 109 of the Town and Country Planning (Scotland) Act, 1947(**b**), and of all other powers enabling me in that behalf I hereby make the following Regulations:—

1.—(1) These Regulations may be cited as the Town and Country Planning (Churches, Buildings for Religious Worship and Burial Grounds) (Scotland) Regulations, 1948, and shall come into operation on the 16th day of August, 1948.

(2) In these Regulations unless the context otherwise requires—

" the land " means any land consisting of a church or other building used or formerly used for religious worship or the site thereof or a burial ground or part of a burial ground which has been acquired by a purchasing authority under Part III of the Town and Country Planning (Scotland) Act, 1947, or which has been appropriated by a local planning authority as mentioned in subsection (1) of section 18 of the Town and Country Planning (Scotland) Act, 1945; and " the persons in whom the land is vested " means, in relation to such land, such purchasing authority or such local planning authority.

(3) The Interpretation Act, 1889(**c**), shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

2.—(1) The Persons in whom the land is vested shall before removing and re-interring any human remains or disposing of any tombstones monuments or other memorials or fixtures or furnishings in or upon the land, publish a notice of their intention so to do at least once during each of two successive weeks, with an interval between each publication of at least six days, in a newspaper circulating in the district in which the land is situated.

(2) The notice referred to in the last preceding paragraph of this Regulation shall, so far as may be appropriate in any particular case, specify—

(*a*) the land to which the notice relates;

(*b*) the place where a list of the names and dates of death, where known, of any deceased persons whose remains it is proposed to remove from the land and re-inter, and descriptions of any tombstones monuments or other memorials or fixtures or furnishings in or upon the land of which it is proposed to dispose may be inspected at all reasonable hours;

(**a**) 8 & 9 Geo. 6. c. 33. (**b**) 10 & 11 Geo. 6. c. 53.
(**c**) 52 & 53 Vict. c. 63.

(*c*) the burial ground where it is proposed to re-inter such remains and the manner in which it is proposed to dispose of such tombstones monuments or other memorials or fixtures or furnishings in or upon the land;

(*d*) that the personal representatives or relatives of any deceased person may themselves undertake the removal from the land and re-interment of the remains of the deceased, and the disposal of any tombstone monument or other memorial in or upon the land commemorating the deceased, within the time specified in paragraph 2 of Regulation 3 hereof;

(*e*) any directions given by the Secretary of State, either generally or in any particular case (after consultation with the church authority in the case of a church or churchyard), with respect to the manner of removal and the place and manner of re-interment of any human remains and the disposal of any tombstones monuments or other memorials or fixtures or furnishings in or upon the land; and

(*f*) the extent to which the persons in whom the land is vested are required by paragraph (1) of Regulation 3 hereof to defray the expenses of such removal, re-interment or disposal.

3.—(1) The personal representatives or relatives of any deceased person whose remains are interred in the land may, on giving notice in writing to the persons in whom the land is vested within one month of the date of last publication of the notice referred to in the last preceding Regulation, themselves remove from the land and re-inter any such remains and may dispose of any tombstone monument or other memorial commemorating the deceased, and the persons in whom the land is vested shall defray the expenses of such removal, re-interment or disposal, as respects the remains removed from any one grave, up to the sum of fifteen pounds; as respects the disposal of any tombstone or monument, up to the sum of fifteen pounds; and as respects the disposal of any other memorial, up to the sum of fifteen pounds.

(2) If the removal, re-interment or disposal, as the case may be, referred to in the last preceding paragraph of this Regulation, has not been carried out by the personal representatives or relatives of the deceased person in accordance with the provisions of that paragraph within two months from the date of the notice given thereunder, the persons in whom the land is vested may carry out the removal, re-interment or disposal as if such notice had not been given.

4.—(1) Any human remains interred in the land which have not been removed and re-interred by the personal representatives or relatives of the deceased person within the time prescribed by paragraph (2) of Regulation 3 of these Regulations shall, on removal from the land by the persons in whom the land is vested, be re-interred in the burial ground specified in the notice, and the persons in whom the land is vested shall, in carrying out such re-interment, have due regard to the setting apart of any portion of such burial ground for burial in connection with any particular religious denomination.

(2) Any tombstone monument or any other memorial on the land commemorating any deceased person whose remains are re-interred in accordance with the provisions of the last preceding paragraph of this Regulation may, where reasonably practicable, be removed and re-erected by the persons in whom the land is vested over the grave in the burial ground where the remains are re-interred or on some other appropriate site.

5. Subject to the provisions of Regulations 6 and 8 of these Regulations, any tombstone monument or other memorial not disposed of by the personal representatives or relatives of a deceased person or re-erected by the persons in whom the land is vested in accordance with the provisions of the last preceding Regulation shall, before being disposed of by the persons in whom the land is vested, be broken and defaced.

6. Before disposing of any tombstone monument or other memorial the persons in whom the land is vested shall, if so required by the Secretary of State, submit particulars thereof to the Royal Fine Art Commission for Scotland for a report, and shall forward a copy of such report to the Secretary of State, and where the Secretary of State has so required such submission the persons in whom the land is vested shall not dispose of the tombstone monument or other memorial except in accordance with such directions as may be given by the Secretary of State.

7. The disposal of any register or record of burials in or upon the land shall be subject to such directions as may be given by the Secretary of State either generally or in any particular case.

8. Notwithstanding anything contained in these Regulations the manner of removal and the place and manner of re-interment of any human remains and the disposal of any tombstone monument or other memorial or fixtures or furnishings in or upon the land shall be subject to such directions as may be given by the Secretary of State (after consultation with the church authority in the case of a church or churchyard) either generally or in any particular case.

Dated this 28th day of July, nineteen hundred and forty-eight.

Arthur Woodburn,

One of His Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh 1.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

Section 27 of the Town and Country Planning (Scotland) Act, 1945, as amended by the Town and Country Planning (Scotland) Act, 1947, enables land consisting of a church or other building used for religious worship or a burial ground, which has been acquired or appropriated under those Acts, to be used for other purposes provided that certain requirements with respect to the removal of human remains and the disposal of tombstones or other memorials are complied with. The Regulations prescribe those requirements.