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STATUTORY INSTRUMENTS

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**2005 No. 120**

**The Merseytram (Liverpool City Centre to Kirkby) Order 2005**

**PART 2**

**WORKS PROVISIONS**

*Supplemental powers*

**Removal of human remains**

**28.**—(1) In this article “the specified land” means the land in the City of Liverpool numbered 433 and 434 on the works and land plans.

(2) Before Merseytravel begins to use any part of the specified land for the construction of any of the authorised works therein it shall remove, or cause to be removed, from that part of the specified land the remains of all deceased persons interred therein in accordance with the following provisions of this article.

(3) Before any such remains are removed from the specified land Merseytravel shall give notice of such intended removal, describing the specified land and stating the general effect of the following provisions of this article, by—

- (a) publishing it once in each of two successive weeks in a newspaper circulating in the City of Liverpool; and
- (b) displaying it in a conspicuous place upon or near to the specified land.

(4) Forthwith after the first publication of a notice under paragraph (3) Merseytravel shall send a copy of the notice to the Library Records Office, Central Library, William Brown Street, Liverpool L3 8EW.

(5) At any time within 56 days after the first publication of a notice under paragraph (3) any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to Merseytravel of his intention to undertake the removal of such remains, and thereupon, if such remains can be identified, he shall be at liberty to cause such remains to be removed and reinterred in any burial ground or cemetery in which burials may legally take place, or to be removed to, and cremated in, any crematorium, and forthwith after such reinterment or cremation shall provide to Merseytravel a certificate for the purpose of enabling compliance with paragraph (10).

(6) If any person giving such notice as aforesaid fails to satisfy Merseytravel that he is such personal representative or relative as he claims to be, or that the remains in question can be identified, the question shall be determined on the application of either party in a summary manner by the county court, and the court shall have power to make an order specifying who shall remove the remains and as to the payment of the costs of the application.

(7) Merseytravel shall defray the reasonable expenses of the removal and reinterment or cremation of such remains.

(8) If—

- (a) within the said period of 56 days no notice under paragraph (5) has been given to Merseytravel in respect of any remains in the specified land; or
- (b) such notice is given and no application is made under paragraph (6) within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days thereafter; or
- (c) within 56 days after any order is made by the county court under paragraph (6) any person, other than Merseytravel, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice relates cannot be identified;

subject to paragraph (9) Merseytravel shall remove the remains and cause them to be reinterred in such burial ground or cemetery in which burials may legally take place as Merseytravel thinks suitable for the purpose and so far as possible remains from individual graves shall be reinterred in individual containers which shall be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(9) If any personal representative or relative has given notice under paragraph (5) and has satisfied Merseytravel that he is such personal representative or relative as he claims to be, and that the remains in question can be identified, but does not remove the remains, Merseytravel shall comply with any reasonable request he may make in relation to the removal and reinterment or cremation of the remains.

(10) Upon the reinterment or cremation of any remains under this article—

- (a) a certificate of reinterment or cremation shall be sent to the Registrar General by Merseytravel giving the date of reinterment or cremation and identifying the place from which the remains were removed and the place in which they were reinterred or cremated; and
- (b) a copy of the certificate of reinterment or cremation and the record mentioned in paragraph (8) shall be sent to the Library Records Office mentioned in paragraph (4).

(11) The removal of the remains of any deceased person under this article shall be carried out in accordance with any directions which may be given by the Secretary of State.

(12) Any jurisdiction or power conferred on the county court by this article may be exercised by the district judge of the court.

(13) Section 25 of the Burial Act 1857<sup>(1)</sup> shall not apply to a removal carried out in accordance with this article.

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(1) 1857 c. 81.