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**Changes to legislation:** Local Government Act 1972, Cross Heading: Discharge of functions of burial authorities is up to date with all changes known to be in force on or before 28 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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## SCHEDULES

### SCHEDULE 26

#### CEMETERIES AND CREMATORIA

##### *Discharge of functions of burial authorities*

- 1 In relation to a cemetery or crematorium maintained immediately before 1st April 1974 by a burial board, joint burial board or committee which ceases to exist by virtue of section 214 above the functions conferred by the said section 214 and this Schedule shall, subject to the provisions of any order made under section 254 above, be exercised on and after that date by whichever of the following burial authorities is relevant:—
- (a) where the area of the board or committee becomes wholly comprised on that date in a parish or community having a parish or community council, whether separate or common, that council;
  - (b) where that area becomes comprised in two or more such parishes or communities, the councils of those parishes or communities, acting jointly;
  - (c) where that area becomes wholly comprised in a parish not having a parish council, the parish meeting of the parish;
  - (d) where that area becomes wholly comprised in two or more parishes not having parish councils, the parish meetings for those parishes acting jointly;
  - (e) where that area becomes wholly comprised in two or more parishes of which one or more have, and one or more have not, parish councils, the parish council or councils and the parish meeting or meetings of the parish or parishes not having parish councils, acting jointly;
  - (f) where that area becomes wholly comprised in a community not having a community council or in two or more such communities, the council of the district in which that community or those communities become comprised or, where they become comprised in different districts, the councils of those districts acting jointly;
  - (g) where that area becomes wholly comprised in two or more communities of which one or more have, and one or more have not, community councils, the community council or councils and the council or councils of the district or districts in which the community or communities not having community councils become comprised, acting jointly;
  - (h) in the case of an area in England none of which becomes comprised in a parish, the council of the district in which it becomes comprised or, where it becomes comprised in two or more districts, the councils of those districts acting jointly;
  - (i) where that area becomes comprised partly in a parish or parishes and partly in an area which is not a parish, the parish council or councils or parish meeting or meetings, as the case may be, of that parish or those parishes and the council or councils of the district or districts in which it becomes comprised, acting jointly.

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- 2 Where by virtue of paragraph 1 above the functions conferred by section 214 above and this Schedule become exercisable by two or more burial authorities, then, unless a joint board is established under section 6 of the <sup>M1</sup>Public Health Act 1936 to exercise those functions, it shall be their duty to make arrangements under Part VI of this Act for the discharge of those functions by a joint committee of those authorities.

#### Marginal Citations

**M1** 1936 c. 49.

- 3 Section 6 of the <sup>M2</sup>Public Health Act 1936 (establishment of joint boards to perform the functions of local authorities under the Public Health Acts) shall have effect as if the provisions of the <sup>M3</sup>Cremation Acts 1902 <sup>M4</sup> and 1952, section 214 above and this Schedule were part of that Act and as if the reference to local authorities and their districts—
- (a) so far as those sections relate to functions with respect to cemeteries, included references to burial authorities and their areas; and
  - (b) so far as those sections relate to functions with respect to crematoria, included references to burial authorities, other than parish meetings, and the areas of such authorities.

#### Marginal Citations

**M2** 1936 c. 49.

**M3** 1902 c. 8.

**M4** 1952 c. 31.

- 4 Where in pursuance of paragraph 2 above two or more burial authorities make arrangements under Part VI of this Act for the discharge of their functions by a joint committee, and if any of those authorities wish, and one or more of the others do not wish, to alter the arrangements, the arrangements may be changed or ended—
- (a) where those authorities are the councils of parishes <sup>F1</sup> . . . or groups of parishes <sup>F1</sup> . . . situated in the same district, by the council of that district;
  - [<sup>F2</sup>(aa) where those authorities are the councils of communities or groups of communities situated in the same principal area, by the council of that principal area;]
  - (b) in any other case, by the Secretary of State.

#### Textual Amendments

**F1** Words in Sch. 26 para. 4(a) repealed (1.4.1996) by 1994 c. 19, s. 66(5)(8), Sch. 15 para. 65(2), **Sch. 18** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

**F2** Sch. 26 para. 4(aa) inserted (1.4.1996) by 1994 c. 19, s. 66(5), **Sch. 15 para. 65(2)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

- 5 In the following provisions of this Act, that is to say, sections 101 to 106, 111, 112, 124, 125, 139 and Part I of Schedule 13 so far as they relate to functions conferred by section 214 above and this Schedule, any reference to a local authority or a parish

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- council shall include a reference to a parish meeting or, as may be appropriate, the parish trustees of a parish, and section 109 above shall not apply to those functions.
- 6 Notwithstanding anything in section 150 above, a parish or community council or parish meeting may by resolution declare any expenses incurred by them in the discharge of functions under section 214 above and this Schedule to be chargeable only on such part of their area as may be specified in the resolution, and any such resolution may be varied or revoked by a subsequent resolution of the council or meeting, as the case may be.
- 7 If the constituent local authorities of a joint committee of burial authorities are unable to purchase by agreement and on reasonable terms suitable land for the purpose of enabling the committee to exercise their powers under section 214 above and none of those authorities is a district council [<sup>F3</sup>or Welsh principal council], the committee may represent the case to the council of the district [<sup>F4</sup>or Welsh principal area] in which their area or any part of it is situated, and thereupon section 125 above shall apply as if the committee were a parish or community council and their area were a parish or community.

#### Textual Amendments

- F3** Words in Sch. 26 para. 7 inserted (1.4.1996) by 1994 c. 19, s. 66(5), **Sch. 15 para. 65(3)** (with ss. 54(5) (7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F4** Words in Sch. 26 para. 7 inserted (1.4.1996) by 1994 c. 19, s. 66(5), **Sch. 15 para. 65(3)** (with ss. 54(5) (7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

- 8 The district council [<sup>F5</sup>or Welsh principal council] in making and the Secretary of State in confirming an order under that section as applied by paragraph 7 above shall take account of the needs of the whole area of the committee even if it is partly outside the district [<sup>F6</sup>or (as the case may be) principal area].

#### Textual Amendments

- F5** Words in Sch. 26 para. 8 inserted (1.4.1996) by 1994 c. 19, s. 66(5), **Sch. 15 para. 65(4)** (with ss. 54(5) (7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**
- F6** Words in Sch. 26 para. 8 inserted (1.4.1996) by 1994 c. 19, s. 66(5), **Sch. 15 para. 65(4)** (with ss. 54(5) (7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

- 9 Land acquired in pursuance of paragraph 7 above shall be conveyed to one or more of, or of the bodies qualified to hold land on behalf of, the constituent local authorities.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 80(3B) omitted by [2021 asc 1 Sch. 2 para. 1\(3\)\(c\)](#)
- s. 101(6ZA) inserted by [2023 c. 55 Sch. 12 para. 2](#)
- s. 123(2C) inserted by [2023 c. 55 s. 75](#)
- s. 131(2)(n) and word inserted by [2023 asc 3 Sch. 13 para. 16](#)