
Report To:	Environment and Regeneration Committee	Date:	30 October 2014
Report By:	Acting Corporate Director Environment, Regeneration & Resources	Report No:	ERC/ENV/IM/14/209
Contact Officer:	Ian Moffat	Contact No:	01475 715910
Subject:	Cemeteries Management Rules		

1.0 PURPOSE

1.1 The purpose of this report is to:

- request the Committee's approval of the draft Cemeteries Management Rules as appended here;
- request the Committee's authority to proceed with the required statutory public consultation; and
- advise the Committee that following the consultation process there will be a further report to the Committee on the outcome of that process.

2.0 SUMMARY

2.1 As local authority, the Inverclyde Council (the Council) has power to make management rules regulating the use of and conduct of persons while on or in any land or premises owned, occupied, managed or controlled by the Council to which the public have access, in terms Section 112 of the Civic Government (Scotland) Act 1982 (the Act).

2.2 Prior to making management rules, the Council must conduct a statutory public consultation, in terms of which it is required to:

- advertise that it intends to make such rules;
- make copies of the proposed rules available for public inspection throughout that period;
- allow a period of at least one month from the date of the first advertisement for objections; and
- before the management rules are made, take into account any objection received and give any objector the opportunity to be heard by the Council.

2.3 Management rules come into force when they are approved and formally executed by the Council, and unless revoked continue in force for a period of 10 years.

3.0 RECOMMENDATIONS

3.1 It is recommended that the Committee approve the draft Cemeteries Management Rules for the purposes of statutory public consultation.

3.2 It is recommended that the Head of Environmental & Commercial Services be authorised by the Committee to implement the statutory public consultation procedure in connection with the proposed management rules.

Ian Moffat
Head of Environmental and Commercial Services

4.0 BACKGROUND

- 4.1** The Cemeteries Management Rules have been drawn up in exercise of the powers conferred on Inverclyde Council by Section 112 of the Civic Government (Scotland) Act 1982, which applies to Cemeteries & Crematorium, to regulate the use of the facilities and the conduct of the people using them.
- 4.2** A local authority may, but is not required to, set management rules to regulate the use of and the conduct of persons while on or in any land or premises which is owned, occupied or managed by the authority or is otherwise under their control and to which the public have access, whether on payment or not. Inverclyde Council previously set Cemeteries & Crematorium Management Rules in 2004 and said rules now require to be renewed as they expire after a period of 10 years.
- 4.3** At least one month before making management rules, a local authority is required to give notice of:
- their intention to do so;
 - the general purpose of the proposed rules;
 - the place where a copy of the proposed rules may be inspected;
 - the fact that and time within which objections may be made;
 - the address to which objections may be sent;
 - advertise in a newspaper or newspapers circulating in the area of the local authority intimating the intention to make management rules; and
 - make copies of the proposed rules available for public inspection without payment at their offices and so far as the authority consider practicable at the land or premises to which the rules are to apply.
- 4.4** Any person may, within one month after notice has first been given by a local authority, notify in writing their objection and the ground of their objection to the authority. Before making management rules, a local authority is required take into consideration any objections timeously received by them and give any objector an opportunity to be heard by them.
- 4.5** If any objections are made during the consultation process, officers will enter discussion with objectors to discuss the nature of their concerns, the reasoning behind the rules and, where any appropriate steps that may be taken to address such concerns. Following this process, if any objectors wish to maintain their objections, it will be necessary to make arrangements to allow them to be heard by the Committee as part of the consultation process.
- 4.6** Before the Cemeteries Management Rules are made, they will require to be remitted by this Committee, subject to such amendments as are approved by the Committee following the consultation process, for formal approval by the Inverclyde Council. Following such formal approval, they will be made by execution by a Proper Officer.
- 4.7** Management rules shall come into force on the date of their execution or on such later date as may be specified in the rules and shall, unless revoked, continue in force for a period of 10 years from that date.
- 4.8** Management rules made by a local authority shall, together with a notice stating where copies of the rules may be obtained, be displayed at the entrance to the land or premises to which they apply or elsewhere so that they may be seen by members of the public intending to have access to the land or premises.
- 4.9** Copies of management rules shall be open to public inspection without payment and a copy of them shall on application be furnished to any person on payment of such reasonable charge as the local authority may determine.

5.0 PROPOSALS

5.1 Subject to the Committee's approval of the above recommendations, officers will:

- conduct the consultation process as outlined at 4.3 and 4.4; and
- in due course, report back to the Committee providing an update on the feedback from and progress of the consultation, and providing further recommendations.

6.0 IMPLICATIONS

6.1 Training

Inverclyde Council burial grounds and crematorium staff will be required to implement and where necessary enforce the management rules once they are adopted. In-house training will take place to ensure that the relevant staff have the required knowledge and skills for the purpose. The Management Rules as proposed are largely the same as the ones that have been in force for the past 10 years, so the training necessary will be minimal.

6.2 Financial

There will be costs associated with the supply of new signage and one public notice to be placed in the local press. Costs in question will be contained within existing budgets.

Cost Centre	Budget Heading	Budget Year	Proposed Spend this Report	Virement From	Other Comments
Burial Ground & Crematorium	Supplies & Services	2014/2015	£500		Signage & Public Notices

6.3 Human Resource

There are no human resources implications associated with the making of these management rules.

6.4 Legal

The Legal implications are as set out in the body of the report..

6.5 Equalities & Diversity

There are no direct issues associated with the making of these management rules.

6.6 Repopulation

There are no issues associated with the making of these management rules.

7.0 CONSULTATIONS

7.1 Finance Services have been consulted on this report.

7.2 Legal and Property Services have been consulted in the terms of this report. The statutory process that requires to be followed to make management rules is set out in the Civic Government (Scotland) Act 1982 and is explained in the body of the report.

8.0 BACKGROUND PAPERS

8.1 None.

The Inverclyde Council constituted under the Local Government etc. (Scotland) Act 1994 (hereinafter referred to as “the Council”) have made the following Rules for the Management of Cemeteries and Crematoria in Inverclyde in terms of Section 112 of the Civic Government (Scotland) Act 1982 which will apply to all cemeteries under the control of the Council.

1 Interpretation

In these Rules:

- a “Cemetery” means any cemetery or churchyard under the ownership or control of the Council, and includes a crematorium as defined below.
- b “Crematorium” means any crematorium under the ownership or control of the Council.
- c “Certificate” means the Certificate of the Exclusive Right of Burial granted by the Council to the “Owner”.
- d “Owner” means the person who purchases the Exclusive Right of Burial to the Lair and to whom the Certificate is granted and his/her successors in terms of Rule 2 below, who are registered as the Owner in the Lair Register maintained by the Council.
- e “Lair” means the piece of ground in which the Exclusive Right of Burial is granted by the Council.
- f “Appropriate Officer” means the Burial Grounds Officer or any other officer employed by the Council in connection with the management or operation of any Cemetery.
- g “Memorial” means any gravestone or other monument erected at the head of the “Lair”.
- h “Burial Grounds Officer” means such officer of the Council as is from time to time appointed or authorised by the Council with responsibility for the day to day management of cemetery or cremation service throughout Inverclyde.
- i “Funeral Director” means the agent appointed by the next of kin or executors of a deceased to undertake the arrangement of the burial or cremation of that deceased.
- j “Crematorium Attendant” means an officer of the Council employed by the Council to carry out cremation duties.

2 The Exclusive Right of Burial

- a The Exclusive Right of Burial in a Lair will, subject to these Rules, be granted to the Owner and his/her successors (as described in Rule 2) in perpetuity subject to Rule 3 below. The Owner of a Lair owns only the Exclusive Right of Burial in the Lair. The Lair in which the right is exercised remains wholly within the ownership of the Council. The Appropriate Officer will furnish the Owner with a Certificate describing the location of the Lair to which he/she has an Exclusive Right of Burial. An Owner, duly registered in the books of the Council, will have Exclusive Right of permitting the Lair to be opened and the production of the Certificate and suitable proof of identification will be held as sufficient authority. One person only will be registered as the Owner of the Exclusive Right of Burial in a Lair or Lairs subject to parts (c) and (d) of this Rule 2. The Owner will not be entitled to sell, transfer or assign the Exclusive Right of Burial without the agreement of the Burial Grounds Officer, and such agreement will only be provided in the case of a transfer or assignation to a family member or relation of the transferring/assigning Owner. The Owner will not be entitled to transfer or assign the Exclusive Right of Burial to another in exchange for payment. The Owner will not be entitled to inter anyone in the Lair to which they have the Exclusive Right of Burial in exchange for payment. The Owner will be given a copy of these Rules at the time of purchase or transfer of the Lair and will be required to sign a receipt agreeing that they have read the Rules and agree to comply with them.
- b The Owner will not be entitled to use the Lair until any outstanding burial dues are paid. Purchased Lairs will be allocated in rotation at the discretion of the Appropriate Officer of the Council. Only such Lairs as are numbered on the Cemetery Plans will be allocated.
- c On the death of the Owner, the Lair will pass to the individual nominated on the application for interment. In such cases, a memorandum of entry may be engrossed upon the original Lair Certificate or a new one may be issued. No new Certificate will be granted until the original Certificate is produced or accounted for satisfactorily. The new Owner will indemnify the Council against any subsequent claims resulting from their registration as the new Owner.
- d The next of kin or executors of the registered Owner can, on production of the Certificate in the name of the registered Owner, instruct the burial of the said registered Owner in the Lair, subject always to the terms of these Rules.
- e No new Lair will be sold by the Council without an interment taking place at that time. Purchase should be transacted through the Funeral Director undertaking the funeral arrangements.

3 Forfeiture

Failing interment in or transfer of a Lair for a period of 100 years, the Council may terminate the Exclusive Right of Burial therein, provided that such notice of intention to terminate will be advertised once in a national newspaper and twice in two local newspapers and a period of twelve months allowed to elapse, following the publication of the last advertisement. Whereupon, failing any claimant, the Council may, by simple resolution duly minuted, declare such Right of Burial to be terminated and may grant the Exclusive Right of Burial of the Lair anew if no persons are interred in the Lair.

4 Notice of Burial

- a All burials must be authorised by the Appropriate Officer prior to funeral arrangements being publicly announced.
- b Notice of interment must be submitted to the Council's Burial Grounds Office in Greenock Cemetery at least two working days (excluding Saturdays, Sundays and Public Holidays) before any proposed interment. Such notice should include the following information about the deceased:
- Name & address
 - Age
 - Date of death
 - Relationship of the deceased to the Lair Owner (if any)
 - Residence at the time of death
 - Proposed day and hour of the interment
 - Any other such information deemed necessary by the Council from time to time.

If the deceased was the registered Owner, notice should be given as to the individual who is to be registered as the new Owner. Upon checking the Lair Register, the order for digging the grave will then be issued.

- c No Owner will be entitled to have the Lair opened to a greater depth than 2.0 metres, and no interment will be made without there being at least 900mm of soil between the ordinary surface of the ground and the upper side of the coffin. In a Lair excavated to a depth of 2.0 metres, not more than three standard sized adult coffins may be interred, subject to Rule 4d below. A standard sized coffin is deemed to be not more than 300mm in depth. The number of interments permitted in any Lair may be reduced if the coffin chosen exceeds the standard depth. Only persons authorised by the Appropriate Officer will excavate graves and carry out the laying of foundations for monuments.
- d Ground conditions at each Cemetery are variable, therefore the number of interments possible will be determined by the ground conditions discovered at the time of opening. In cases of all new lairs and interments, the depth will be recorded after each burial.
- e A coffin containing an infant, stillborn baby or non-viable foetus interred in a full sized adult Lair will be counted as one full interment and recorded as such in the Lair Register.
- f Any Lair that has had the maximum number of interments possible, subject to Rule 4d above, will not be opened again for interment except in the case of cremated remains.
- g The Council will keep registers in which will be entered every interment, specifying the Lair, the depth of the grave, the date of interment, the name and age of the deceased and all other requisite particulars.
- h A plan of the Cemetery and a Table of Interment Fees and other charges will be kept at the Burial Grounds Office in Greenock Cemetery. All fees and charges in connection with interments, Lair Certificates, etc., will be acknowledged on official printed receipt forms.
- i The Funeral Director is responsible for the provision of sufficient bearers to convey the coffin reverently from the hearse to the graveside and for lowering the coffin into the grave.

5 Areas for the Interment of Cremated Remains

- a Designated areas for the interment of cremated remains will be provided in some cemeteries. Each Lair will be one metre square and capable of holding up to six caskets of cremated remains. The Exclusive Right of Burial in a Lair for cremated remains will be sold with the right to erect a memorial. The base of the memorial may contain a flower vase holder. No other forms of memorials, vases or planting will be allowed on the Lair space.
- b The Exclusive Right of Burial for the interment of cremated remains will be sold subject to these Rules insofar as not inconsistent with this Rule 5.
- c Application for the interment of cremated remains must be made in the same manner and providing the same information as in Rule 4, above.
- d Cremated remains may not be scattered in any part of a Cemetery without the permission of the Appropriate Officer and the appropriate documents being completed and recorded.

6 Areas for the Interment of Stillborn Babies and Non-Viable Foetuses

- a A maximum of five interments will be permitted in a Rankin Memorial Garden Lair, in Greenock Cemetery. A central memorial feature will be provided. There will be no Exclusive Right of Burial in the said communal Lair only a Right of Burial.
- b Application for the interment of stillborn babies and non-viable foetuses must be made in the same manner and providing the same information as in Rule 4, above.

7 Memorials

- a The erection of memorials will be permitted only on Lairs where an Exclusive Right of Burial has been granted and only by a monumental mason registered with the Council. No headstone or any other memorial may be erected in a Cemetery without the express written permission of the Appropriate Officer. Memorial permits must be made available for inspection when entering a Cemetery to carry out these works and before any works commence. Memorials must consist of natural stone or terrazzo and contain no wood, plastic or glass.
- b A registered Owner will be entitled to have a memorial erected at the head of the Lair but such memorial will not protrude in any way over that part of the Lair to be opened for burial and will be restricted to at least 100mm less in width than the width of the Lair. Wooden crosses, plastic flowers, windmills, teddy bears, kerbs, copes, railings, fences, gravel, corner stones etc. will not be permitted around or over the Lair. The said Owner is liable for any damage or injury caused by the state of repair of the memorial erected on the Lair. Only one flower vase will be allowed on each Lair and must be placed in the space provided at the head of each Lair, i.e. the crownhead or on the base of the memorial. The Council will not be responsible for any loss or damage to such vase or memorial.

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- c The Owner will keep the memorial in a neat and proper condition, of which the Appropriate Officer will be the sole judge. Upon failure by the registered Owner to comply with this Rule, within twenty one days of being given written notice of any failures at the owner's last known address, the Council will be entitled either to repair the memorial or to have the memorial removed. If said memorial is in a state that the Appropriate Officer considers dangerous the Council will be entitled to, without notice, take action as necessary to make it safe. Any costs incurred by the Council will be recovered from the Owner and until the cost of such repairs or removal is paid, the Right of Burial in the Lair will be withheld.
- d Any unauthorised planting will be removed.
- e All memorials must be constructed and erected in accordance with such recommendations formulated by the National Association of Monumental Masons from time to time.
- f The application for the erection of a memorial or additional inscription on a memorial must be approved by the Appropriate Officer and must conform to the requirements of the Council, as are stated on the application form.
- g The Council will not be responsible for any loss or damage to memorials.
- h The section and number of the Lair must be cut plainly upon the side of the memorial at the expense of the person erecting the memorial.
- i No memorial or part thereof will be removed from the Cemetery by the registered Owner or their agents without prior written notification to the Council.
- j No works of any kind will be permitted inside the grounds of the Cemetery without a permit and the sanction of the Appropriate Officer, who must be satisfied that the authority of the registered Owner has been obtained before work commences.
- k A permit must be obtained for the installation of a small marker. A charge will be applied, but should a headstone be erected at a later date no charge will be made for the 2nd permit issued.

8 Memorial Benches

- a The installation of memorial benches in Knocknairshill Cemetery will be permitted only in areas designated and mapped out for placement of memorial benches. Installation of memorial benches within all other cemeteries will be at the discretion of the Appropriate Officer.
- b Application to have a memorial bench placed within a Cemetery must be put in writing to the Appropriate Officer.
- c Subsequent to the application being accepted, the memorial bench must be purchased through the Appropriate Officer. The memorial bench, once installed, will become the property of Inverclyde Council and be available for use by visitors to the Cemetery. Maintenance, as considered appropriate, will be assessed and carried out by Inverclyde Council.

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- d If the memorial bench is vandalised or damaged beyond economical repair, the bench will be removed and disposed of at the discretion of the Appropriate Officer. Inverclyde Council will not be responsible for replacement of the damaged bench. The applicant will be notified of the removal at their last known address.
- e Applications will be dealt with in date order, and the applicant given the choice of available sites for the memorial bench.

9 General

- a Cemetery opening hours will be:

April to August: 8.00 a.m. - 9.00 p.m.

September to October: 8.00 a.m. - 6.00 p.m.

November to March: 8.00 a.m. - 5.00 p.m.

The Council may, by notices posted at or near the place to which it refers, close to the public any part of any Cemetery for such time as it may consider necessary.

- b No persons may enter or leave any Cemetery except by the entrances and exits provided for that purpose.
- c No persons may enter or wilfully remain within any cemetery except during the opening hours, as intimated at part (a) above.
- d Children under 14 years of age must be accompanied by a parent, guardian or a responsible adult when entering any Cemetery.
- e Old memorial wreaths and floral decorations will be removed and disposed of at the discretion of the Appropriate Officer.
- f It is not appropriate to walk dogs within a cemetery only for the purposes of exercise

Dogs are not permitted in a Cemetery **unless** they are kept at all times:

- under proper control;
- on a short lead of no more than 2 metres length;
- off Lairs or any other grass areas within a cemetery;
- only on paved roads or paths; and
- out of sight and earshot of funeral services.

Fouling must be removed by the person in charge of the dog and disposed of properly. Dogs are not permitted to enter waiting rooms, toilets, crematoriums, or any buildings in a cemetery, however exceptions for guide dogs or similar may be granted at the discretion of the Appropriate Officer. Failure to comply with any part of this Rule will result in the person in charge of the dog being expelled from the Cemetery and persistent offenders may be excluded from entering the Cemetery in future.

10 Vehicles

- a Car parking facilities provided by the Council for the convenience of patrons will only be available during such times as the facilities of the Cemetery are being used. In all cases, the direction of the Appropriate Officer must be complied with and all vehicles must be driven at a speed not exceeding 15 miles per hour and with due care and attention. The Council will not be held responsible for any damage to vehicles or other property left in the car parking facilities.
- b Vehicles conveying memorials or goods into any Cemetery grounds will be allowed entry only with the consent of the Appropriate Officer. The person or persons in charge of such a vehicle must comply with the directions of the Appropriate Officer as to the route to be followed within the grounds.
- c The Appropriate Officer may instruct the removal of parked vehicles at his/her discretion if he/she considers that they interfere or may interfere with access or egress to the Cemetery or Crematorium. Removal means towed away or otherwise removed to a compound, all costs associated with same will be borne by the vehicle owner.

11 Prevention of Nuisance

No person will:

- a Use any profane or offensive language or behave in an offensive, disorderly or insulting manner whilst in any Cemetery.
- b Wilfully or carelessly, obstruct any Officer or Servant of the Council in the exercise of their duties or in the execution of any work associated therewith.
- c Wilfully or improperly interfere with any other person using the facilities provided by the Council in any Cemetery, or behave in such a manner as to endanger their own safety or the safety of others.
- d Ignore any proper instructions given by any member of the Cemetery staff to ensure the safety of all persons using the Cemetery.
- e Bring into any Cemetery any object or objects which may be considered by any member of the Cemetery staff to be dangerous.
- f In any Cemetery, climb upon any tree, shrub, wall, fence or railing, or upon any monument, fountain, statue, building or other structure.
- g. Wilfully or carelessly break, damage, deface, disfigure, tamper with or improperly soil any tree, shrub, wall, fence, monument, fountain, statue, building, Lair, other structure, or any property owned by the Council in the Cemetery.
- h. Place memorial plaques or other forms of memorialisation on land, walls, trees, or benches within the Cemetery or Crematorium grounds. The Appropriate Officer will have the discretion to remove unauthorized memorials without further notice. Inverclyde Council will not be held responsible for any damage or loss arising out of the removal. Removed memorials not uplifted by their owners within a period of 3 months from the date of removal will be disposed of.

12 Disputes

Should any difference or dispute arise as to the interpretation of these Rules or in relation to the Tables of Fees and Charges, the same will be clarified by the Burial Grounds Officer, whose decision will be final.

13 Right of Amendment

The Council will be at liberty to alter these Rules or any part of them from time to time as they may see fit and make and enforce such others as they may consider necessary for Legal or for Statutory requirements or for the proper or better management of the Council's Cemeteries.

14 Cremations

- a Cremations must be conducted strictly in accordance with the legal requirements from time to time applying to them.
- b Application for cremation must be made to the Burial Grounds Officer, 1 South Street, Greenock, PA16 8UG, between the hours of 8.30 a.m. and 4.30 p.m. Mondays to Thursdays and 8.00 a.m. to 4.15 p.m. Fridays and 8.00 a.m. - 12 noon Saturday and at least 24 hours before the proposed hour for cremation. No Cremations will take place on Saturday afternoons, Sundays or local holiday Mondays.
- c Cremation Services may take place only between the Hours of 9.00 a.m. and 3.00 p.m. Mondays to Fridays and 9.00 a.m. to 11.00 a.m. Saturdays.
- d Arrangement may be made for Cremation at other times in special circumstances at the discretion of the Appropriate Officer.
- e Funeral Directors are responsible for ensuring that any coffin brought for Cremation bears the Name, Age, and Date of death of the deceased contained therein. If there appears to be any discrepancy regarding the details recorded on the coffin against those in the application for cremation, the Appropriate Officer will refuse the coffin access until he/she is satisfied the correct details are contained thereon.
- f Any service or demonstration in connection with a funeral shall be subject in all things to the control of the Crematorium Attendant.
- g All persons admitted to the Crematorium shall abide by these rules. The Crematorium Attendant will have the full power to exclude or remove from the Crematorium any member of the public as he/she thinks appropriate. All persons attending the funeral shall leave the building, car park and environs immediately after the conclusion of the service, in order to permit subsequent services to take place.
- h The public may obtain permission to inspect the building, this at the discretion of the Appropriate Officer when no cremation is proceeding, by appointment only.
- i For the disposal of the ashes, the written authority of the applicant is required, subject to part (k) of this Rule.

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- j The ashes from each cremation shall be reduced and placed in separate containers whilst awaiting final disposal on instruction given by relatives. Specimens of urns may be seen on application to the Appropriate Officer, and provision of same is included in the fees.
- k The urn containing the ashes may only be stored at the Crematorium for a period of seven days pending instruction for their disposal. In event of no instructions being received by the Appropriate Officer, at the end of one month, the ashes will be strewn in the Garden of Remembrance.
- l A body will not be accepted for Cremation unless it is enclosed in a coffin of the traditional type normally accepted. Details of any such type of coffin or container proposed must be referred to and approved by the Appropriate Officer at the time when initial reservation of service is made.

15 Contravention

The following provisions apply to a contravention by any person of these Rules

- a Should an Appropriate Officer of the Council have reasonable grounds for believing that any person has contravened, is contravening or is about to contravene any of the foregoing Management Rules, they may expel that person from the Cemetery. Any person who fails to leave the Cemetery on being so expelled or attempts to re-enter the Cemetery, will be guilty of an offence and liable on summary conviction to a fine not exceeding Level 1 on the standard scale
- b The Council may decide that a person who has persistently contravened or attempted to contravene the foregoing Management Rules and is, in their opinion likely to contravene them again, be made the subject of an Exclusion Order and they will give any person subject to an Exclusion Order notice of their decision
- c The said notice will contain a statement of the reasons for the decision and a statement as to the right to make representations subject to part (e) of this Rule.
- d Such Exclusion Order will take effect upon a person on such date as the Council may decide which will not be less than 14 days after their decision to make the Exclusion Order.
- e Any person who has been made the subject of an Exclusion Order will be entitled to make written or oral representation to the Council at any time up to the date when the Order will take effect in terms of part (d) of this Rule. The Council will suspend the effect of their decision, consider the representations and decide whether to confirm their decision or to revoke or amend it.
- f An Exclusion Order will have effect for such a period, not exceeding one year, as the Council may determine and the Council may at any time reduce the period of, or revoke, an Exclusion Order made by them.
- g Any person who, being a person subject to an Exclusion Order, enters or attempts to enter the Cemetery or Cemeteries to which the Exclusion Order relates will be guilty of an offence and liable, on summary conviction, to a fine not exceeding Level 1 on the standard scale.