

Greater London Council (General Powers) Act 1975

CHAPTER xxx

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ELIZABETH II



1975 CHAPTER xxx

**An Act to confer further powers upon the Greater London Council and other authorities; and for other purposes.
[7th August 1975]**

WHEREAS—

(1) It is expedient that further and better provision should be made for the improvement, development, finance, safety and local government services of, and traffic management in, Greater London and that the powers of the Greater London Council (hereinafter called “the Council”) and of the London borough councils and the Common Council of the City of London should be extended and amended as provided in this Act:

(2) It is expedient that the Council should be empowered to specify warning signs to be exhibited and storage arrangements to be made in respect of any substances likely in the opinion of the Council to involve special hazard to persons engaged in operations for fire-fighting purposes:

(3) It is expedient that the council of the London borough of Southwark should be empowered to acquire the lands and buildings comprising the Nunhead (All Saints) Cemetery in the said borough and for that purpose a plan showing the lands which may be acquired compulsorily by that council for the purposes, and under the powers, of this Act together with a book of reference to the said plan containing the names of the owners and lessees or reputed owners and lessees and of the

occupiers of the said lands and describing the same, were duly deposited in the office of the Clerk of the Parliaments, in the Private Bill Office of the House of Commons, with the director-general and clerk to the Council and with the chief executive and town clerk of the London borough of Southwark, which plan and book of reference are in this Act referred to respectively as the deposited plan and the deposited book of reference:

(4) It is expedient that rights of interment in certain graves in the cemeteries known as the Camberwell Old Cemetery and the Camberwell New Cemetery in the London borough of Southwark should be extinguished and that the council of the said borough should be empowered to use those graves for other interments:

(5) It is expedient that the other provisions contained in this Act should be enacted:

(6) The purposes of this Act cannot be effected without the authority of Parliament:

(7) In relation to the promotion of the Bill for this Act the Council and the council of the London borough of Southwark have each complied with the requirements of section 239 of the

1972 c. 70.

Local Government Act 1972:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows, that is to say:—

PART I

PRELIMINARY

Short title. 1. This Act may be cited as the Greater London Council (General Powers) Act 1975.

Interpretation. 2. In this Act, except as otherwise expressly provided or unless the context otherwise requires—

1971 c. 78. “the Act of 1971” means the Town and Country Planning Act 1971;

1972 c. xl. “the Act of 1972” means the Greater London Council (General Powers) Act 1972;

1973 c. xxx. “the Act of 1973” means the Greater London Council (General Powers) Act 1973;

1972 c. xlv. “the Barrier Act” means the Thames Barrier and Flood Prevention Act 1972;

“borough” means London borough and “borough council” means London borough council;

“ the Council ” means the Greater London Council;

“ enactment ” means any enactment, whether public general or local, and includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

and any reference to an enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any subsequent enactment including this Act.

PART I
—cont.

PART II

PROVISIONS RELATING TO THE COUNCIL

3.—(1) This section applies to any substance which, in the opinion of the Council, is likely to involve special hazard to persons engaged in operations for fire-fighting purposes.

Protection for
fire brigade in
respect of
certain
substances.

(2) The premises to which this section applies are any building or place in Greater London used for the manufacture or storage of any substance to which this section applies (including any part of such a building or place) and any premises of which such a building or place forms a part.

(3) The Council may, in relation to any substance to which this section applies and in respect of any premises to which this section applies—

(a) prescribe—

(i) warning signs which indicate to such extent and in such manner as the Council think fit the nature and properties of the substance and the precautions to be taken in dealing with that substance in the event of fire; and

(ii) the size and colour of such warning signs and the materials from which they are to be made;

(b) subject to the provisions of this section, by notice given in writing require the occupier of any premises to which this section applies within such reasonable time (not being less than twenty-one days) as is specified in the notice to—

(i) affix and thereafter to keep fixed in such conspicuous position or positions in or on such premises as may be specified in the notice one or more of the warning signs which have been prescribed by the Council under the foregoing paragraph; and

(ii) arrange, to the satisfaction of the Council, for any such substance to be stored in such manner as the Council may require in the notice:

PART II
—cont.

Provided that the power of the Council to make requirements in respect of the manner of such storage shall extend only to requirements for the purpose of reducing any special hazard to which in the opinion of the Council persons engaged in operations for fire-fighting purposes may be subjected by reason of the nature and properties of any such substance or the proximity of any such substance to any other substance whether or not it is a substance to which this section applies and in making such requirements the Council shall have regard to good custom and practice and to the reasonable needs of any undertaking, trade or business carried on in those premises.

(4) The Secretary of State may give directions as to the warning signs to be prescribed by the Council under paragraph (a) of the last foregoing subsection and the Council, in exercising their powers under that paragraph, shall comply with any such directions for the time being in force.

(5) (a) Where requirements have been made under subparagraph (ii) of paragraph (b) of subsection (3) of this section in respect of any premises to which this section applies no alteration which results in a contravention of those requirements shall be made in the manner of storage therein of any substance to which this section applies.

(b) Where it appears to the Council that requirements made under subsection (3) of this section are no longer appropriate for the purpose for which they were made the Council may, from time to time, by notice given in writing, vary or revoke such requirements or make such further requirements as they consider necessary and any reference in this section to requirements made under the said subsection (3) shall include a reference to those requirements as varied under this paragraph or to any further requirements made by virtue of this paragraph.

(c) A notice served under the last foregoing paragraph which varies any requirement made under paragraph (b) of subsection (3) of this section or which makes further requirements shall specify a reasonable time (not being less than twenty-one days) within which the requirements of the notice shall be complied with.

(6) Any person who is aggrieved by any requirement made under paragraph (b) of subsection (3) of this section which relates to the manner of storage of any substance to which this section applies, may, within a period of twenty-one days beginning with the date on which such requirement is notified to him, require the Council to deliver to him a certificate stating the grounds for the making of such requirement and he may appeal to the Secretary of State within ten days after the receipt of the certificate.

(7) Every appeal to the Secretary of State under this section shall be made in writing asking that the requirement may not be made or may be modified in such manner and to such extent as may be set forth in the appeal, and shall be accompanied by the certificate of the Council given under the last foregoing subsection.

(8) Where an appeal is brought under this section the Secretary of State may confirm, vary or quash any requirement which is the subject of the appeal and his decision on the appeal shall have effect for the purpose of any requirement as if it had been made by the Council.

(9) Before determining any appeal made to him under this section, the Secretary of State may, if he thinks it necessary or desirable, cause an inquiry and report upon the matter to be made to him by such person as he may appoint for the purpose and shall afford to the appellant (whether in person or by counsel, solicitor or other representative) and to the Council, if either so desire, an opportunity of appearing before and being heard by the person so appointed.

(10) An officer of the Council authorised by the Council for the purposes of this section shall have the like powers of entering premises for the purposes of this section as are conferred upon authorised officers of councils by section 287 (which confers powers to enter premises) of the Public Health Act 1936 and 1936 c. 49. accordingly—

(a) that section shall have effect as if the references therein to an authorised officer of a council included references to an officer authorised by the Council for the purposes of this section and as if among the purposes specified in subsection (1) of that section there were included the purposes of obtaining information for the purposes of this section, taking samples of any substance stored on the premises, ascertaining whether the premises contain any substance to which this section applies and whether there is, or has been, any failure to comply with any provision of, or requirement of the Council under, this section;

(b) section 288 (which imposes penalties for obstructing execution of the Act) of the said Act of 1936 shall have effect as if a person acting in pursuance of the powers conferred by the said section 287 as extended and applied by this subsection were acting in the execution of that Act.

(11) (a) Any person who—

(i) fails within the time specified to comply to the satisfaction of the Council with a requirement of a notice under subsection (3) of this section; or

PART II
—cont.

(ii) alters the manner of storage in any premises to which this section applies of any substance contrary to paragraph (a) of subsection (5) of this section;

shall subject as hereinafter provided be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds and to a fine not exceeding twenty pounds for each day on which the offence is continued after conviction therefor:

Provided that no offence under sub-paragraph (i) of this paragraph which involves a failure to comply with such a requirement as is referred to in subsection (6) of this section shall have been committed by any person until the end of any period within which an appeal under this section may be made by him in respect of the requirement in question, and, where such an appeal is duly made, until seven days after the appeal has been withdrawn or determined.

(b) In any proceedings for an offence under this subsection, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(c) If in any case the defence provided by the last foregoing paragraph involves the allegation that the commission of the offence was due to the act or default of another person or to reliance on information supplied by another person, the person charged shall not, without the leave of the Court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the Council a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

(12) Any person who, without reasonable excuse, removes a warning sign which is for the time being affixed in or on any premises to which this section applies in accordance with a requirement made under subsection (3) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds.

(13) During such time as any substance to which this section applies is stored in any premises to which this section applies being premises which are for the time being regulated by or under—

(a) any of the relevant statutory provisions as defined in subsection (1) of section 53 of the Health and Safety at Work etc. Act 1974;

(b) the Radioactive Substances Act 1960; or

(c) Part III (Storage of flammable material) of the Greater London Council (General Powers) Act 1968;

and the manner of storage of that substance in those premises is controlled by or under any of those enactments, the provisions of this section shall not apply to that substance so far as they relate to its manner of storage.

1974 c. 37.

1960 c. 34.

1968 c. xxxix.

(14) (a) The foregoing provisions of this section shall not apply to any premises to which this section would otherwise apply if the interest of the occupier of those premises is a Crown interest or a Duchy interest, but if it appears to the Council that satisfactory arrangements for reducing any special hazard to persons engaged in operations for fire-fighting purposes may not have been made in or on any premises exempted from the said provisions by virtue of this subsection by the display of suitable, practicable and appropriate warning signs relating to any substance to which this section applies or by reason of the manner of storage of any such substance, they may report the circumstances to the appropriate authority who, if satisfied after due inquiry that there is cause for complaint, shall cause such arrangements to be made as the appropriate authority may consider to be practicable to make adequate provision in respect of the matters aforesaid.

(b) The fact that there subsists in any premises to which this section applies a Crown interest or a Duchy interest shall not prevent or affect the application of this section to those premises or to anything done thereon so long as that interest is not the interest of the occupier of the premises and the provisions of this section shall have effect accordingly in relation to those premises and anything done thereon, and that and all other interests therein.

(c) The provisions of this section shall have effect in relation to any premises to which this section applies which are occupied for the service of a visiting force as if the interest of the occupier of those premises were a Crown interest and those premises were under the control of the appropriate authority by arrangement with whom those premises are occupied.

(15) In this section—

“the appropriate authority”, “Crown interest” and “Duchy interest” have the meanings assigned to them in subsection (7) of section 266 of the Act of 1971;

“fire-fighting purposes” has the same meaning as in the Fire Services Act 1947; 1947 c. 41.

“the Secretary of State” means the Secretary of State for Employment;

“visiting force” means any such body, contingent or detachment of the forces of any country as is a visiting force for the purposes of any of the provisions of the Visiting Forces Act 1952, and includes any headquarters 1952 c. 67. or organisation for the time being designated by an Order in Council under section 1 of the International Headquarters and Defence Organisations Act 1964, 1964 c. 5. for the purposes of that Act; and

“warning sign” includes a warning symbol or notice.

PART II
—cont.Extension of
time for
compulsory
purchase of
lands.

1957 c. xxxv.

4.—(1) The period now limited by—

- (a) paragraph (a) of subsection (3) of section 5 (Power to acquire lands) of the Barrier Act for the exercise by the Council of powers for the compulsory purchase of lands in the boroughs of Greenwich and Newham for the purposes of that Act; and
- (b) the Act of 1972 for the exercise of powers for the compulsory purchase of lands in the city of Westminster for the purposes of paragraph (a) of subsection (1) of section 5 (Power to acquire lands) of the London County Council (General Powers) Act 1957;

is hereby extended, or further extended, except as regards the lands in the enclosures numbered 3, 9 to 19 (inclusive), 30 and 32 in the city of Westminster on the plans deposited in connection with the Bill for the said Act of 1957, until 31st December, 1978, in each case.

(2) In paragraph (b) of subsection (3) of section 5 (Power to acquire lands) of the Barrier Act, for the reference to 31st December, 1975, there shall be substituted a reference to 31st December, 1978.

(3) Notwithstanding anything in subsection (1) of this section if, at any time before 1st April, 1978, the owner or lessee of any land to which this section relates gives to the Council notice in writing requiring them forthwith to decide whether or not they will proceed with the purchase of his estate or interest in any such land which is specified in the notice, the powers referred to in the said subsection (1) shall not extend so as to enable the Council to purchase compulsorily the estate or interest of such owner or lessee in the land so specified, or in any part of such land, in pursuance of a notice to treat served later than six months after the receipt by the Council of the first-mentioned notice.

(4) If the Council give notification in writing to the owner or lessee of any land, being land to which this section relates and which is specified in the notification, that they do not intend to proceed with the purchase of the estate or interest of such owner or lessee in the land so specified, the powers referred to in this section, so far as they authorise the compulsory purchase of such estate or interest, shall cease forthwith.

Amendment
of Barrier
Act and Act
of 1973.

5.—(1) The Barrier Act shall have effect subject to the following amendments:—

- (a) in paragraph (b) of subsection (5) of section 25 (Provision as to dredging, etc.) for the words from “ the majority ” to the end of that paragraph there shall be substituted the words—

“ so far as can reasonably be ascertained at the time of such nomination, the majority of the total number

of persons who are either owners or occupiers of land which has a frontage on to that part of the river to which subsection (3) of this section applies and which is in use for such access of vessels or the provision of such facilities as are referred to in that subsection.”;

(b) in section 40 (Misuse of barrier, etc.) for the words “on indictment” there shall be substituted the words “on conviction on indictment”;

(c) in sub-paragraphs (b) and (c) of paragraph (14) of section 49 (For protection of Port Authority and river users) for the word “section” in each place in which it occurs there shall be substituted the word “paragraph”;

(d) in subsection (1) of section 68 (Closing of flood dams) after the words “This section” there shall be inserted the words “(except subsection (10) thereof)”.

(2) The Act of 1973 shall have effect subject to the following amendments:—

(a) in section 2 (Interpretation)—

(i) after the definition of “the Council” there shall be inserted—

“‘daily fine’ means a fine for each day on which an offence is continued after conviction therefor;”;

(ii) after the definition of “general rate” there shall be inserted—

“‘land’ includes land covered by water and any interest in land and any easement or right in, to or over land;”;

(iii) the definition of “proper officer” shall be deleted;

(b) in section 3 (Interpretation of sections 3 to 20 of Act)—

(i) the definition of “land” shall be deleted;

(ii) in the definition of “landing place”, for the word “land” there shall be substituted the words “the landward side”;

(c) in section 19 (Separate accounts) for the words “sections 4 to 16” there shall be substituted the words “sections 4 to 18”;

(d) in subsection (7) of section 30 (Closure of insanitary food premises and stalls) after the word “liable” there shall be inserted the words “on summary conviction”;

PART II
—cont.

(e) in section 31 (Provision as to self-operated laundries)—

(i) in paragraph (d) of subsection (2), after the word “liable” there shall be inserted the words “on summary conviction”;

(ii) in subsection (4) after the definition of “premises” there shall be inserted—

“ ‘proper officer’ means any officer appointed by a borough council for the purposes of this section; ”.

Division of
carriageway.

6.—(1) Without prejudice to the provisions of section 65 (which authorises the construction of works for dual carriageways and roundabouts) of the Act of 1959, where, by virtue of an order under section 6 (which authorises the making of traffic regulation orders in Greater London) or 9 (which authorises the making of experimental traffic orders) of the Act of 1967, the use by vehicles of any part of the carriageway of any highway maintainable at the public expense in Greater London is prohibited, except by vehicles of a certain class or classes, either throughout the day or during particular periods, the Council may, in or on that carriageway, carry out and maintain works under, and subject to, the following provisions of this section for the purpose of dividing the said part of the carriageway from the remainder of the carriageway.

(2) The Council shall not carry out any works under this section in or on the carriageway of any highway—

(a) so as to prevent or hinder the passage of vehicles to or from any part of the carriageway of that highway the use of which is not prohibited in the manner described in the foregoing subsection—

(i) from or to any other highway at cross roads or other junctions; or

(ii) from or to any means of vehicular access, being lawful access as defined in section 212 (5) of the Act of 1971, to premises adjoining that highway; or

(b) which would have the effect of leaving no reasonable facilities for the loading and unloading from vehicles of goods for delivery at or collection from any premises (other than a house, a flat or a part of a building which is occupied or intended to be occupied as a separate dwelling) which adjoin or front on to the part of the carriageway the use of which is prohibited in the manner described in the foregoing subsection and in relation to which there exists at the time when the order under the

said section 6 or 9 of the Act of 1967 to which the works relate is made a substantial and continuing need for such facilities:

PART II
—cont.

Provided that nothing in this subsection is to be construed as authorising the doing of anything in contravention of an order made under the said section 6 or 9 of the Act of 1967.

(3) The Council may alter or remove any works carried out by them under this section and shall make good any damage caused to the highway by such alteration or removal.

(4) The Council shall remove any works carried out under this section not later than the expiry of the period of two years beginning with the day on which the installation of the works was completed:

Provided that, at the request of the Council, the Secretary of State may from time to time direct that the date by which the Council are required to remove any works by virtue of this subsection shall be postponed for a further period not exceeding two years from the said date.

(5) Except with the consent of the highway authority, the Council shall not—

(a) carry out any works under this section; or

(b) alter any works carried out under this section;

in or on the carriageway of a highway for which they are not the highway authority.

(6) The Secretary of State may give directions as to the type and specification of the works which may be carried out under this section and the Council, in exercising their powers under this section, shall comply with any such directions for the time being in force.

(7) Where any works have been carried out under this section in or on the carriageway of a highway for which the Council are not the highway authority—

(a) the highway authority or any other authority having power to maintain that highway may temporarily remove, alter or otherwise interfere with those works for the purpose of maintaining the highway or of carrying out any other works in the highway and shall replace, repair or otherwise reinstate the said works carried out under this section to the reasonable satisfaction of the Council; and

(b) the Council shall pay to the highway or other authority the reasonable expenses incurred by that authority in

PART II
—cont.

removing, altering and interfering with and replacing, repairing or reinstating the said works in accordance with the foregoing paragraph.

(8) (a) Where the Council are the highway authority for a highway in or on the carriageway of which works have been carried out under this section, the works shall be treated as having been carried out by the Council as highway authority.

(b) Where any such works have been carried out by the Council in or on the carriageway of a highway for which they are not the highway authority, the Council shall be deemed to be the highway authority for that highway for the purposes only of the maintenance of those works and the works shall be treated as having been carried out by the Council in that capacity.

(9) Any obligation on any person having power to break open a highway, in or on the carriageway of which works have been carried out under this section, to make good any damage to it or otherwise to reinstate it shall include an obligation to make good any damage to or otherwise reinstate those works to the reasonable satisfaction of the Council.

(10) (a) For the purposes of Part I of the Act of 1950 (which regulates the works of undertakers by means of the street works code), the Council shall be one of the authorities or managers concerned (as defined in section 2 (1) of that Act) in respect of any highway for which the Council are not the highway authority and in or on the carriageway of which works have been carried out under this section and where the undertakers' works which have been executed or are proposed to be executed include interference with the said works carried out under this section.

(b) In relation to any works carried out under this section, being works to which, apart from this paragraph, the provisions contained in Part II of the Act of 1950 (which regulate the relations between an authority carrying out road alterations and undertakers whose apparatus is affected thereby) would not apply, the said provisions shall apply as if the works were executed for road purposes by an authority mentioned in section 21 (1) of that Act and were included in the works mentioned in paragraph (a) of the said section 21 (1).

(11) In relation to any works carried out under this section in the carriageway of a highway for which the Council are not the highway authority the highway authority for that highway may pay to the Council a contribution equal to the whole or part of the expenditure incurred by the Council in connection with the construction, maintenance, alteration or removal of the works.

(12) (a) Where the Council carry out works under this section, they shall be liable to pay compensation to a person who sustains damage by reason of the carrying out by them of those works.

(b) Section 267 of the Act of 1959 shall apply in relation to any claim for compensation under this subsection as if that claim were made under the Act of 1959.

(13) Where any works are carried out and maintained in or on the carriageway of a highway under this section—

(a) the works shall be treated as not constituting an obstruction to the highway; and

(b) a highway authority shall not be treated as being in breach of their duty to maintain the highway by reason only of the presence of the works.

(14) Nothing in this section shall be taken as imposing on a highway authority who have given their consent pursuant to subsection (5) of this section any liability for injury, damage or loss resulting from the failure by the Council to maintain works carried out by the Council under this section in or on the carriageway of a highway for which the Council are not the highway authority.

(15) In this section—

“the Act of 1950” means the Public Utilities Street Works Act 1950; 1950 c. 39.

“the Act of 1959” means the Highways Act 1959; 1959 c. 25.

“the Act of 1967” means the Road Traffic Regulation Act 1967; 1967 c. 76.

“carriageway” and “highway maintainable at the public expense” have the same meanings as in the Act of 1959;

“Secretary of State” means the Secretary of State for the Environment;

and the reference to vehicles of a certain class or classes shall be construed as a reference to vehicles of a class or classes defined by reference to any characteristics of the vehicles or to any other circumstances whatsoever; and any reference to the carrying out of works includes a reference to the placing or installation of objects or devices (whether fixed or portable) and any reference to works includes such a reference to objects or devices.

(16) This section shall cease to have effect on 31st December, 1980.

PART III

PROVISIONS RELATING TO THE COUNCIL AND TO BOROUGH COUNCILS, ETC.

7.—(1) The powers of the Council, a borough council and the Common Council of the City of London under subsection (1) of section 112 of the Housing Act 1957 to make byelaws for the Byelaws as to parking, etc., on housing estates.

1957 c. 56.

PART III
—cont.

management, use and regulation of houses provided by them shall extend so as to enable them to make byelaws prohibiting or regulating the parking or use of vehicles on any land held by them for the purposes of Part V of that Act, not being a highway.

(2) Where the Council, a borough council or the Common Council of the City of London have reasonable cause to believe that an offence against byelaws made under the said section 112 has been committed in respect of the parking of a vehicle the provisions of section 17 (Duty to give information in certain cases) of the Act of 1972 shall apply to such parking as they apply under that section to the use of a vehicle notwithstanding that the said parking may be outside the area of the local authority.

(3) In this section, “vehicle” has the same meaning as in section 17 of the Act of 1972.

Power to
establish
foreign loans
reserve fund.

1972 c. 70.

8.—(1) The Council or a borough council may (if they think fit) provide a foreign loans reserve fund (in this section referred to as “the reserve fund”) for the purposes specified in subsection (2) of this section by setting aside from time to time from the revenue moneys in any loans fund established or maintained by them under paragraph 15 of Schedule 13 to the Local Government Act 1972 (in this section referred to as a “loans fund”) such amounts as they may determine and investing the same in accordance with the provisions of this section.

(2) The purposes for which the reserve fund may be provided shall be—

(a) the defraying of expenditure incurred by the Council or the borough council in the purchase of foreign currency in connection with—

(i) the repayment or redemption of any money which they are authorised to borrow and which has been raised in any foreign currency (in this section referred to as a “foreign loan”) in so far as such expenditure is in excess of the amount in sterling received by the Council or the borough council when the foreign loan was raised; and

(ii) the payment of interest on any foreign loan in so far as such expenditure is in excess of the amount in sterling which would have been required to make that payment if foreign currency for that payment had been purchased at the rate at which the currency comprising that loan was converted into sterling; or

(b) the defraying of expenditure incurred by the borough council in the repayment of any money which they have borrowed from the Council or from another borough council, in so far only as such expenditure is required

to meet any expenditure which is incurred by the Council or by that other borough council, as the case may be, and for the defraying of which the reserve fund authorised by the foregoing subsection may be provided by the Council or by that other borough council;

PART III
—cont.

but for no other purpose.

(3) Any moneys in the reserve fund may be—

- (a) invested in a similar manner and subject to the same restrictions as property belonging to any fund maintained by the Council or a borough council, as the case may be, for the purposes of local government superannuation under the statutory powers for the time being in force;
- (b) used from time to time, subject to the provisions of any enactment for the time being in force relating to exchange control, for the purchase of foreign currency in advance of requirements for the purposes specified in subsection (2) of this section, if it appears to the Council or a borough council advantageous so to do;

and any income or other gain from investments or purchases made in accordance with the provisions of this subsection shall be paid into the reserve fund.

(4) The Council or a borough council may if it appears to them to be desirable—

- (a) from time to time reduce the size of the fund by transferring such amounts as they consider appropriate; or
- (b) close the fund and transfer any balance therein;

to a loans fund or to any capital fund established or maintained by them under paragraph 16 of Schedule 13 to the Local Government Act 1972.

1972 c. 70.

PART IV

PROVISIONS RELATING TO SOUTHWARK COUNCIL

9. In sections 9 to 26 of this Act—

“ the Act of 1836 ” means the Act 6 & 7 Wm. IV chapter cxxxvi;

Interpretation
of sections 9
to 26 of Act.

“ the Act of 1961 ” means the Land Compensation Act 1961;

1961 c. 33.

“ the Act of 1965 ” means the Compulsory Purchase Act 1965;

1965 c. 56.

“ the bishop ” means the Bishop of Southwark for the time being and during a vacancy in the see of Southwark includes the guardian of the spiritualities thereof;

PART IV
—cont.

- “ the burial lands ” means the lands numbered 2 on the deposited plan;
- “ the Camberwell cemetery lands ” means the lands in Forest Hill Road and Brenchley Gardens in the borough of Southwark and known respectively as the Camberwell Old Cemetery and the Camberwell New Cemetery;
- “ the cemetery ” means the Nunhead (All Saints) Cemetery in the borough of Southwark comprising the lands and buildings delineated on the deposited plan and described in the deposited book of reference;
- “ the Commission ” means the Commonwealth War Graves Commission;
- “ Commonwealth war burial ” means an interment of any officer or man of the naval, military or air forces of His Majesty fallen in the war of 1914 to 1921 or in the war of 1939 to 1947;
- “ the company ” means United Cemeteries Limited or other the successor in title as owner of the cemetery to the London Cemetery Company incorporated by the Act of 1836;
- “ date of possession ” means the date on which the Southwark Council either enter on and take possession of the cemetery by virtue of a notice served under subsection (1) of section 11 (which relates to powers of entry) of the Act of 1965, or acquire the cemetery, whichever is the earlier;
- “ grave ” includes any grave space and any vault, catacomb, arch, brick grave, mausoleum or other place of interment;
- “ nature reserve ” has the same meaning as in section 15 of the National Parks and Access to the Countryside Act 1949;
- “ the open space lands ” means the lands numbered 1 on the deposited plan;
- “ registered owner ” in relation to—
- (a) any right of interment—
- (i) in the cemetery, means the person who, at the time in question, is named in the Entry or Memorial entered in the book kept in pursuance of section XI of the Act of 1836 as the person to whom the Grant or Assignment of that right of interment has been made; and

(ii) in the Camberwell cemetery lands, means the person at the time in question registered as the owner in the register of grants of rights of interment maintained by the Southwark Council; and

(b) any tombstone—

(i) in the cemetery, means the person who, at the time in question, is named in the Entry or Memorial entered in the said book as the person to whom the Grant or Assignment of the right to erect or place that tombstone has been made; and

(ii) in the Camberwell cemetery lands, means the person who, at the time in question, is named in the said register as the person to whom the right to erect or place that tombstone has been granted; or, if no such person is named, the registered owner of the right of interment in the grave in or on which the tombstone is erected or placed;

and “registered address” means any address of the registered owner contained in the said book or register, as the case may be;

“the registrar” means the registrar of the consistory court of the diocese of Southwark;

“the Secretary of State” means the Secretary of State for the Home Department;

“the Southwark Council” means the council of the borough of Southwark;

“tombstone” includes a monument or other memorial of a deceased person and any kerb or railings surrounding a grave;

and any reference to a right of interment includes a reference to a right of burial.

10.—(1) Part I of the Act of 1965 (except section 4, subsection (5) of section 24 and section 27 thereof, and paragraph 3 (3) of Schedule 3 thereto), in so far as it is applicable for the purposes of sections 11 (Correction of errors in deposited plan and deposited book of reference) and 12 (Acquisition of cemetery) of this Act and is not inconsistent with the provisions thereof, shall apply to the compulsory acquisition of land under the said sections of this Act as it applies to a compulsory purchase to which the provisions of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946 apply and as if those sections were a compulsory purchase order under the said Act of 1946.

Application of
Part I of
Act of 1965.

1946 c. 49.

(2) The Lands Clauses Consolidation Act 1845 shall not apply to the acquisition of land under the said sections 11 and 12 of this Act.

1845 c. 18.

PART IV
—cont.

Correction of errors in deposited plan and deposited book of reference.

11.—(1) If the deposited plan or the deposited book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the Southwark Council, after giving not less than ten days' notice to the owner, lessee and occupier of the land in question, may apply to two justices or a metropolitan stipendiary magistrate having jurisdiction in the place where the land is situated for the correction thereof.

(2) If on any such application it appears to the justices or the magistrate as the case may be that the misstatement or wrong description arose from mistake or inadvertence they or he shall certify the fact accordingly and shall in their or his certificate state in what respect any matter is misstated or wrongly described.

(3) The certificate shall be deposited in the office of the Clerk of the Parliaments, and a copy thereof in the Private Bill Office of the House of Commons and with the director-general and clerk to the Council and with the chief executive and town clerk of the borough of Southwark and thereupon the deposited plan and the deposited book of reference shall be deemed to be corrected according to the certificate, and it shall be lawful for the Southwark Council to take the land in accordance with the certificate.

(4) A person with whom a copy of a certificate is deposited under this section shall keep it with the other documents to which it relates.

Acquisition of cemetery.

12.—(1) The Southwark Council may enter upon, take and use the cemetery for or in connection with the purposes of section 13 (As to use of cemetery) of this Act.

(2) (a) The powers of the Southwark Council for the compulsory purchase of the cemetery under this section shall not be exercised after 31st December, 1978.

(b) The power to acquire compulsorily any land shall for the purposes of this subsection be deemed to have been exercised if, on or before 31st December, 1978, notice to treat has been served in respect of that land.

As to use of cemetery.

13.—(1) Subject to the provisions of sections 9 to 25 of this Act, as from the date of possession, the Southwark Council shall hold and may improve, lay out and maintain—

(a) the open space lands as an open space or partly for that purpose and partly for one or more of the following purposes, namely:—

(i) as a nature reserve;

(ii) for the purposes of gymnasiums or centres for the use of clubs, societies or organisations having athletic, social or educational objects, as if the lands had been acquired by them for those purposes under the Physical Training and Recreation Act 1937; or 1937 c. 46.

PART IV
—cont.

(iii) as an access road to the burial lands;

as if no part of those lands had ever been used or set apart for the purpose of the interment of human remains;

(b) the burial lands for the purposes of section 214 (which relates to cemeteries and crematoria) of the Local Government Act 1972, as if the lands had been acquired for those purposes; 1972 c. 70.

as the Southwark Council may think fit.

(2) Notwithstanding the provisions of any other enactment the Southwark Council may from time to time resolve that any part of the open space lands held for any of the purposes of paragraph (a) of the foregoing subsection shall be held for such other of those purposes as they think fit.

14.—(1) The powers of the Southwark Council to improve, lay out and maintain the open space lands in pursuance of the provisions of section 13 (As to use of cemetery) of this Act shall without prejudice to the provisions of any other enactment, include power— Powers as to tombstones.

(a) to level or raise the surface of any part of the open space lands notwithstanding that there may be graves or tombstones therein, and to lower any tombstone to the level of the ground or cover the same with soil;

(b) to remove and, if they think fit, use, sell or otherwise dispose of any tombstones therein;

(c) to alter the position of any tombstone therein;

(d) to put and keep in order any tombstone therein:

Provided that any tombstone removed by the Southwark Council in pursuance of paragraph (b) of this subsection, and not re-erected, shall be broken and defaced before being used, sold or otherwise disposed of.

PART IV
—cont.

(2) (a) Before exercising a power referred to in paragraph (a), (b) or (c) of the foregoing subsection which does not necessitate the disturbance of the remains of any deceased person interred in the open space lands, the Southwark Council shall—

- (i) publish a notice of their intention to do so once in each of two successive weeks in a newspaper circulating in Greater London with an interval between the dates of publication of not less than six days;
- (ii) display a like notice in a conspicuous place in the part of the open space lands concerned; and
- (iii) where a right of interment in any part of the open space lands concerned has been exercised since 1st January, 1945, serve a copy of a like notice on the owner of such right of interment and on the registered owner of each tombstone affected, or, in so far as the names and addresses of such owners cannot be ascertained on reasonable enquiry, on a relative or the personal representatives of each person whose remains were interred in the graves affected after 1st January, 1945, whose names and addresses are ascertainable on such enquiry.

(b) Each of the notices referred to in the last foregoing paragraph shall—

- (i) contain brief particulars of the Southwark Council's proposals and specify an address at which full particulars can be obtained unless the brief particulars are of proposals incapable of further statement; and
- (ii) specify a date as being that on which it is intended that the Southwark Council will begin to carry out the proposals, which shall be a date not less than three months after the date of the earlier of the two publications or after the date on which the notice in the cemetery is first displayed; and
- (iii) state the effect of the next following subsection.

(3) (a) At any time before the date specified in a notice under the last foregoing subsection in relation to any tombstone relating to the remains of any deceased person, any person who is a personal representative or relative of the deceased person may give notice in writing to the Southwark Council of his intention to undertake the removal of that tombstone and thereupon, subject to the provisions of paragraphs (b) and (c) of this subsection, he shall be at liberty to remove that tombstone from the open space lands and the reasonable expenses of such removal up to but not exceeding the sum of twenty pounds shall be paid by the Southwark Council.

(b) If any person giving such notice as aforesaid shall fail to satisfy the Southwark Council that he is such personal representative or relative as he claims to be, the question shall be determined on the application of either party by the registrar who shall have power to make an order specifying who shall remove the tombstone and as to the payment of the costs of the application.

(c) If such person shall not have removed such tombstone from the open space lands within two months after the service by him of a notice under paragraph (a) of this subsection, or, if application shall have been made to the registrar under paragraph (b) of this subsection, within two months after the making of an order under that paragraph, the Southwark Council may exercise the powers referred to in the notice published by them under the last foregoing subsection.

(4) Where a tombstone is covered up or removed by the Southwark Council in pursuance of a power referred to in paragraph (a) or (b) of subsection (1) of this section, the Southwark Council may, if they think fit, at their own expense erect or fix in an appropriate position on the grave in substitution therefor a memorial stone or tablet.

(5) The Southwark Council shall cause a record to be made of every tombstone covered up or removed by them in pursuance of a power referred to in paragraph (a) or (b) of the said subsection (1) containing—

- (i) a copy of any legible inscription on it; and
- (ii) a statement of the place, if any, to which it has been removed;

and shall deposit a copy of the record with the Registrar General.

15.—(1) Notwithstanding anything to the contrary contained in any enactment, but subject to the provisions of this Act, the Southwark Council may as from the date of possession—

As to closing,
etc., of open
space lands.

- (a) for such period or periods and subject to such conditions as they may deem necessary or expedient, enclose or otherwise prohibit or restrict entry by any person on to any part of the open space lands which is to be laid out as an open space until it has been so laid out and is in a condition suitable for use by the public for that purpose; and
- (b) demolish, reconstruct, extend, seal up or fill in any building or structure (not being a tombstone) or any crypt, vault, catacomb or mausoleum on or in the open space lands.

PART IV
—cont.

(2) (a) Before exercising the power referred to in paragraph (b) of the foregoing subsection which does not necessitate the disturbance of the remains of any deceased person interred in the open space lands, the Southwark Council shall—

- (i) publish a notice of their intention to do so once in each of two successive weeks in a newspaper circulating in Greater London with an interval between the dates of publication of not less than six days;
- (ii) display a like notice in a conspicuous position in the open space lands; and
- (iii) where a right of interment in any crypt, vault, catacomb or mausoleum affected has been exercised since 1st January, 1945, serve a copy of a like notice on the owner of such right of interment, or, in so far as the names and addresses of such owners cannot be ascertained on reasonable enquiry, on a relative or the personal representatives of each person whose remains were interred in the said crypt, vault, catacomb or mausoleum after 1st January, 1945, whose names and addresses are ascertainable on such enquiry.

(b) Each of the notices referred to in the last foregoing paragraph shall—

- (i) contain brief particulars of the Southwark Council's proposals and specify an address at which full particulars can be obtained unless the brief particulars are of proposals incapable of further statement; and
- (ii) specify a date as being that on which it is intended that the Southwark Council will begin to carry out the proposals, which shall be a date not less than three months after the date of the earlier of the two publications or after the date on which the notice in the cemetery is first displayed.

Discon-
tinuance of
interments,
etc.

16.—(1) As from the date of possession interments in the open space lands shall be wholly discontinued.

(2) Any person who at the date of the passing of this Act possesses a right of interment in a grave in the open space lands, and whose right is extinguished by virtue of the provisions of the foregoing subsection, shall (in pursuance of an application in writing made by him to the Southwark Council for the purpose) be entitled to be paid compensation by the Southwark Council for the extinction of that right, and such compensation shall, in default of agreement, be determined in accordance with the provisions of the Act of 1961:

Provided that no compensation shall be payable to any person in pursuance of the provisions of this subsection—

PART IV
—cont.

- (i) in respect of a right of interment purchased or acquired on or after 27th November, 1974; or
- (ii) before the date of possession.

17. As from the date of possession the open space lands shall be freed from—

Lands freed from consequences of consecration, etc.

- (i) the effects of consecration;
- (ii) all trusts, uses, obligations, disabilities and restrictions whatsoever which immediately before that date attached thereto under ecclesiastical law or by reason of those lands being a disused burial ground, or otherwise; and
- (iii) (subject to the provisions of sections 9 to 25 of this Act) all rights and interests of any person who is an heir, personal representative or relative of any deceased person whose remains are interred in those lands:

Provided that nothing in sections 9 to 25 of this Act shall operate to affect prejudicially any private right or easement (not being a right in respect of a grave) over the said lands or any part thereof which attached thereto immediately before the passing of this Act.

18.—(1) Before the Southwark Council in pursuance of the provisions of sections 9 to 25 of this Act or of their powers under any other enactment, carry out any work on any part of the open space lands which necessitates the disturbance of the remains of any deceased person interred in such part, the Southwark Council shall, in accordance with the provisions of this section, remove or cause to be removed therefrom the remains of all deceased persons interred in such part.

Removal of human remains.

(2) (a) Before proceeding to remove any such remains, the Southwark Council shall give notice of their intention so to do by publishing a notice in manner provided in paragraph (b) of this subsection in at least two newspapers circulating in Greater London and shall display a like notice in a conspicuous place in the part of the open space lands referred to in subsection (1) of this section, and shall serve a copy of such notice on a relative or the personal representatives of any deceased person whose remains were interred after 1st January, 1945, in such part of the open space lands in so far as the names and addresses of such relative or personal representatives can be ascertained on reasonable enquiry.

PART IV
—cont.

(b) The notice referred to in paragraph (a) of this subsection shall have embodied in it the substance of subsections (3) to (6) and (8) of this section and shall be published in each of four successive weeks by publication in at least one newspaper in the first and third of those weeks and in at least one other newspaper in the second and fourth of those weeks.

(3) At any time within three months after the first publication of such notice, any person who is a personal representative or relative of any deceased person whose remains are interred in such part of the open space lands may give notice in writing to the Southwark Council of his intention to undertake the removal of such remains and, subject in the case of a Commonwealth war burial to the provisions of subsection (4) of section 23 (For protection of Commonwealth War Graves Commission) of this Act, thereupon he shall be at liberty without any faculty or licence for the purpose, but subject as hereinafter mentioned and to any regulations made by the bishop, to cause such remains to be removed to and reinterred in any burial ground or cemetery in which interments may legally take place, but in the case of reinterment in a churchyard only with the consent of the incumbent of the benefice concerned, or to be removed to and cremated in any crematorium.

(4) If any person giving such notice as aforesaid fails to satisfy the Southwark Council that he is such personal representative or relative as he claims to be, the question shall be determined on the application of either party by the registrar who shall have power to make an order specifying who shall remove and reinter or cremate the remains and as to the payment of the costs of the application.

(5) The reasonable expenses of a removal and reinterment or cremation (not exceeding in respect of remains removed from any one grave the sum of one hundred and twenty pounds) shall be defrayed by the Southwark Council, such sum to be apportioned, if necessary, equally according to the number of remains in the grave.

(6) If—

- (a) within the aforesaid period of three months no such notice as aforesaid shall have been given to the Southwark Council in respect of the remains in any grave; or
- (b) within two months after such notice has been given no application has been made under subsection (4) of this section and the person giving the notice fails to remove the remains; or
- (c) within two months after any order is made by the registrar under the said subsection, the person, not being the Southwark Council, specified in the order fails to remove the remains;

the Southwark Council may, without any faculty or licence for the purpose, cause the remains of the deceased person to be removed and reinterred in such burial ground or cemetery in which interments may legally take place as, subject to the consent of the bishop, the Southwark Council think suitable for the purpose, or cremated in such crematorium as the Southwark Council think suitable for the purpose, but in the case of reinterment in a churchyard only with the consent of the incumbent of the benefice concerned.

(7) Upon the reinterment or cremation of any remains under this section, a certificate of reinterment or cremation shall be sent to the Registrar General by the Southwark Council 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.

(8) (a) Subject to the provisions of this subsection, any tombstone relating to the remains of any deceased person removed and reinterred under this section shall at the expense of the Southwark Council be removed and re-erected at the place of reinterment of such remains or at such other place as the bishop may direct on the application either of such personal representative or relative as aforesaid or of the Southwark Council.

(b) Subject to the provisions of this subsection any tombstone relating to the remains of any deceased person removed and cremated under this section shall at the request of such personal representative or relative as aforesaid or, if no such request is made, may at the discretion, and in either case at the expense, of the Southwark Council be removed and re-erected at such place as the bishop may direct on the application either of such personal representative or relative or of the Southwark Council.

(c) At any time within the period of three months specified in subsection (3) of this section any such personal representative or relative as aforesaid may give notice in writing to the Southwark Council of his intention to undertake the removal of any tombstone relating to the remains of any deceased person removed and cremated under this section and, thereupon, he shall be at liberty to remove that tombstone from the open space lands and the reasonable expenses of such removal up to but not exceeding the sum of twenty pounds shall be paid by the Southwark Council.

(d) Where any tombstone relating to the remains of any deceased person removed and reinterred under this section has been removed and disposed of in accordance with the provisions of section 14 (Powers as to tombstones) of this Act, the Southwark Council shall, at the request of such personal representative or relative as aforesaid and at their own expense, erect or fix at the place of reinterment of those remains such tombstone or memorial tablet as they consider suitable.

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—cont.

(e) Any tombstone not re-erected in accordance with the provisions of paragraph (b) of this subsection or not removed under paragraph (c) of this subsection within two months after the service of the notice specified in that paragraph, shall be offered by the Southwark Council to the bishop for re-erection or disposal as he thinks fit, and—

- (i) if accepted by him shall be so re-erected or disposed of at the expense of the Southwark Council;
- (ii) if not accepted by him, shall be broken and defaced before being disposed of in such manner as the Southwark Council think fit.

(f) Where the Southwark Council consider that by reason of its ruinous condition any tombstone removed under this subsection is unsuitable for re-erection, it may be disposed of in such manner as the Southwark Council think fit:

Provided that, where a personal representative or relative has made an application or a request, as the case may be, as to the place of re-erection of a tombstone in accordance with paragraph (a) or (b) of this subsection, the Southwark Council shall not dispose of the tombstone in pursuance of the powers in this paragraph without first obtaining the consent in writing of that personal representative or relative.

(g) The amount required to be paid by the Southwark Council in respect of the cost of removal and re-erection or disposal of any tombstone under this subsection by or at the request of the said personal representative or relative or the bishop shall not exceed the sum of thirty pounds.

(h) The Southwark Council shall cause a record to be made of each tombstone removed under this subsection containing—

- (i) a copy of any legible inscription thereon; and
- (ii) a statement of the place, if any, where it has been re-erected;

and shall deposit a copy of the record with the Registrar General.

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

Right of
reinterment.

19.—(1) (a) Any person who—

- (i) possesses a right of interment in a grave in the open space lands which contains sufficient space for not less than one further interment; and
- (ii) is a relative of a deceased person whose remains were interred in that grave on a date not earlier than 1st January, 1965;

shall, from the date of possession and subject to the following provisions of this section, be entitled to undertake the removal of the remains in the grave and of any tombstone relating thereto, and to cause such remains to be reinterred elsewhere or to be cremated in any crematorium.

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—cont.

(b) The Southwark Council may, if they think fit, by notice in writing grant to any person who possesses such a right as is referred to in sub-paragraph (i) of the foregoing paragraph, but who does not satisfy the conditions prescribed by sub-paragraph (ii) thereof, the same rights as are conferred by that paragraph.

(2) (a) As soon as reasonably practicable after the date of possession the Southwark Council shall give notice of the provisions of the foregoing subsection by publishing a notice once in each of two successive weeks in a newspaper circulating in Greater London with an interval between the dates of publication of not less than six days shall display a like notice in a conspicuous place on the open space lands and shall send a copy of such notice to each owner of a right of interment in the graves referred to in sub-paragraph (a) (i) of subsection (1) of this section in which human remains were interred on or after 1st January, 1965, so far as the names and addresses of such owners are ascertainable on reasonable enquiry.

(b) Each of the notices referred to in the last foregoing paragraph shall—

- (i) contain brief particulars of the provisions of the said subsection and specify an address at which full particulars can be obtained; and
- (ii) specify a date being that before which all applications, accompanied by such particulars as may be specified in the notice, must be made to the Southwark Council of intention to exercise the rights conferred by paragraph (a) of the foregoing subsection or, if the applicant does not fulfil the conditions prescribed by sub-paragraph (ii) of that paragraph, of his wish for his case to be considered under paragraph (b) of that subsection, which shall be a date not less than three months after the date of the earlier of the two publications or after the date on which the notice on the open space lands is first displayed; and
- (iii) state the effect of the next following subsection and of subsections (7) and (8) of this section.

(3) (a) At any time before the date specified in the notice under the last foregoing subsection any person who is entitled to exercise the rights conferred by paragraph (a) of subsection (1) of this section or, if he is not so entitled, wishes to have his case considered under paragraph (b) of that subsection, may give notice in writing to the Southwark Council of his intention or

PART IV
—cont.

wish to undertake the removal of the remains interred in the grave in respect of which the application is made and thereupon, subject to the provisions of paragraphs (b) and (c) of this subsection, and, in a case falling within paragraph (b) of subsection (1) of this section, to the rights having been granted by the Southwark Council, he shall be at liberty without any faculty or licence for the purpose, but subject as hereinafter mentioned and to any regulations made by the bishop, to cause—

- (i) such remains to be removed to and reinterred in any burial ground or cemetery in which interments may legally take place, but in the case of reinterment in a churchyard only with the consent of the incumbent of the benefice concerned, or to be removed to and cremated in any crematorium; and
- (ii) any tombstone relating thereto to be removed and re-erected at the place of reinterment or to be otherwise disposed of.

(b) If any person giving such notice as aforesaid shall fail to satisfy the Southwark Council that he fulfils the conditions prescribed by paragraph (a) of subsection (1) of this section the question shall be determined on the application of either party by the registrar who shall have power to make any necessary order including provision as to the payment of the costs of the application.

(c) If such person shall not have removed the remains from the open space lands within three months after the service by him of a notice under paragraph (a) of this subsection, or, in a case falling within paragraph (b) of subsection (1) of this section, within three months of the date of the notice by which the rights to remove the remains are granted to him by the Southwark Council, or if application shall have been made to the registrar under paragraph (b) of this subsection, within three months after the making of an order under that paragraph, the rights conferred on or granted to him under subsection (1) of this section (as the case may be) shall cease to be exercisable.

(d) If, at the time when notice is given to the Southwark Council in accordance with paragraph (a) of this subsection, any tombstone referred to in sub-paragraph (ii) of the said paragraph has been removed and disposed of in accordance with the provisions of section 14 (Powers as to tombstones) of this Act, the Southwark Council shall, at the request of the person giving such notice, at their own expense erect or fix at the place of reinterment of the remains such tombstone or memorial tablet as they consider suitable.

(4) Upon the reinterment or cremation of any remains under this section, a certificate of reinterment or cremation shall be sent to the Registrar General by the Southwark Council 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.

PART IV
—cont.

(5) (a) Any tombstone relating to the remains of any deceased person removed under this section being a tombstone which is not removed in accordance with the provisions of subparagraph (ii) of paragraph (a) of subsection (3) of this section shall be offered by the Southwark Council to the bishop for re-erection or disposal as he thinks fit, and—

- (i) if accepted by him shall be so re-erected or disposed of at the expense of the Southwark Council;
- (ii) if not accepted by him, shall be broken and defaced before being disposed of in such manner as the Southwark Council think fit.

(b) Where the Southwark Council consider that by reason of its ruinous condition any tombstone to which this subsection applies is unsuitable for re-erection, it may be disposed of in such manner as they think fit.

(6) The Southwark Council shall cause a record to be made of each tombstone removed under this section containing—

- (i) a copy of any legible inscription thereon; and
- (ii) a statement of the place, if any, where it has been re-erected;

and shall deposit a copy of the record with the Registrar General.

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

(8) The reasonable expenses incurred by any person on whom rights are conferred or to whom rights are granted in pursuance of subsection (1) of this section in removing and reintering the remains in a grave, or in cremating those remains, and in removing and re-erecting at the place of reinterment (or otherwise disposing of) any tombstone relating thereto shall be paid by the Southwark Council but the amount for which they shall be liable under this subsection in respect of each grave shall not exceed one hundred and fifty pounds and they shall be entitled to set off the amount so paid against the amount of any compensation to which such person is entitled under subsection (2) of section 16 (Discontinuance of interments, etc.) of this Act.

20. As from the date of possession any exclusive right of interment in the burial lands and any other right and privilege therein sold and disposed of by the company or its predecessors in title under the powers of section X (Company may sell exclusive Right of Burial in Vaults in Perpetuity or for a limited Period) Exclusive rights of interment.

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—cont.

of the Act of 1836 and in force immediately before the date of possession shall continue in force and be deemed to have been sold and disposed of by the Southwark Council.

Power to
extinguish
rights of
interment in
burial lands.

21.—(1) Where in respect of any grave in the burial lands which contains sufficient space for not less than one further interment a right of interment has not been exercised for seventy-five years or more from the date of the latest interment in the grave or, if there has been no interment in the grave, from the date of the grant of the right of interment in the grave, the Southwark Council may at any time after the date of possession and in accordance with the provisions of this section, extinguish the right of interment in that grave and use the grave for other interments:

Provided that the Southwark Council shall not extinguish under this section any right of interment which has been granted after the passing of this Act for any period longer than seventy-five years.

(2) The power of the Southwark Council under subsection (1) of this section to extinguish a right of interment in any grave in which there has been an interment shall include power to remove any tombstone in or on the grave.

(3) Before extinguishing a right of interment or removing any tombstone under the powers of this section, the Southwark Council shall—

- (a) publish a notice of their intention to do so once in each of two successive weeks in a newspaper circulating in Greater London with an interval between the dates of publication of not less than six clear days;
- (b) display a like notice in a conspicuous position at each of the principal entrances to the cemetery; and
- (c) serve a notice thereof upon the registered owner of the right of interment and on the registered owner of any tombstone affected at their registered addresses.

(4) Each of the notices referred to in the last foregoing subsection shall—

- (a) contain full particulars of the Southwark Council's proposals including a specification of the registered number or other description of all graves in respect of which it is proposed that rights of interment should be extinguished and stating whether it is proposed that any tombstones should be removed;
- (b) specify the date on which it is intended that the rights should be extinguished and any tombstones removed, which date shall not be earlier than six months after

the date of the later of the two publications, or the date on which notice is first displayed, or the date on which notice is served whichever is the later; and

(c) state the effect of subsections (5), (6) and (7) of this section.

(5) (a) If notice of objection to the extinction of a right of interment in any grave is given to the Southwark Council before the date specified under paragraph (b) of subsection (4) of this section by the registered owner of the right of interment or by any person who is able to satisfy the Southwark Council that he is the owner of such right, and that objection is not withdrawn the right of interment to which the objection relates shall not be extinguished under this section, and if notice of any other objection to the extinction of any rights of interment or to the removal of any tombstone, and of the ground of any such objection, is given to the Southwark Council before the date so specified and is not withdrawn, any rights or tombstone to which such last-mentioned objection relates shall not be extinguished or removed without the consent of the Secretary of State for the Environment:

Provided that, if there has been no interment in the grave, a notice under this subsection may be given only by the registered owner of a right of interment in that grave or by any person who is able to satisfy the Southwark Council that he is the owner of such right.

(b) If any person giving notice under paragraph (a) of this subsection as the owner of a right of interment fails to satisfy the Southwark Council that he is such owner as he claims to be, the question shall be determined on the application of either party in a summary manner by the registrar who shall have power to make an order confirming whether or not the person who has given the notice is the owner of such a right and as to the payment of the costs of the application.

(6) Any tombstone removed by the Southwark Council under this section shall remain the property of the registered owner thereof but, if such owner does not claim it within a period of three months after the date specified under paragraph (b) of subsection (4) of this section, the Southwark Council may put the tombstone to such use as they deem appropriate or they may destroy it.

(7) As compensation for any right of interment extinguished under this section the Southwark Council shall, on a claim being made within six months from the extinguishment of that right pay to the registered owner of the right of interment or any other person who has satisfied the Southwark Council that he is the owner of such right, or who has been determined by the registrar to be such owner, such sum representing the value of

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—cont.

that right as may be agreed between the Southwark Council and the registered owner or such other person or, in default of agreement, determined in accordance with the provisions of the Act of 1961.

(8) Where a tombstone is removed by the Southwark Council under this section, they shall at their own expense erect or fix in an appropriate position on the grave in substitution therefor a memorial stone or tablet.

(9) The Southwark Council shall cause a record to be made of each tombstone removed under this section containing—

(a) a copy of any legible inscription on it; and

(b) if it is intended to preserve the tombstone, a statement showing where it has been taken to;

and shall deposit a copy of the record with the Registrar General.

Preservation
of records.

22.—(1) Not later than three months from the date of possession the company or any other person having possession of the registers of graves and of interments within the cemetery or of any other records, plans, books and documents relating to the cemetery shall transfer them to the Southwark Council who shall carefully preserve the same and shall from time to time on payment of their reasonable charges give such extracts therefrom as may be required, and the certificate of any officer of the Southwark Council designated by the Southwark Council for the purposes of this section that such extracts are correct shall have the same validity as the certificate of the registrar of births, deaths and marriages.

(2) If the company or any other person fails without reasonable excuse to comply with the provisions of the foregoing subsection in any respect they shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds and to a fine not exceeding ten pounds for each day on which the offence is continued after conviction therefor.

For protection
of Common-
wealth War
Graves
Commission.

23.—(1) In this section—

“ the Deeds of Grant ” means the deed dated 3rd June, 1919, issued by the London Cemetery Company, the deed dated 5th July, 1920, issued by the London Cemetery Company Limited and the two deeds both dated 15th March, 1923 and issued by the London Cemetery Company Limited, whereby the Commission or its predecessors in title were granted certain exclusive rights as therein set forth and the letter from the London Cemetery Company Limited to the Commission dated 13th April, 1953, whereby that company recognised the permanent interest of the Commission in the preservation of the memorial shown on the drawing annexed to the said letter;

“ the war memorials ” means the memorials erected by the Commission (or its predecessors in title) in the cemetery for the permanent commemoration of certain Commonwealth war burials together with the lands referred to in the Deeds of Grant and forming the sites of the war memorials.

(2) In the event of the acquisition by the Southwark Council of the cemetery pursuant to the provisions of section 12 (Acquisition of cemetery) of this Act the Southwark Council shall, subject to the provisions of paragraph (a) of subsection (3) of this section, observe and be bound by the provisions of the Deeds of Grant as if the Southwark Council had been named therein as the grantor thereof and the Commission shall at all times, until the Commission shall in writing otherwise agree, be entitled to the benefit of and title to the exclusive rights granted to the Commission in respect of the war memorials as set forth under or by virtue of the provisions of the Deeds of Grant.

(3) In the event of the acquisition by the Southwark Council of the cemetery pursuant to the provisions of section 12 (Acquisition of cemetery) of this Act—

(a) if the Commission so desires it shall be entitled at its own expense to alter or, with the agreement of the Southwark Council, to extend the war memorials or re-site the same within the burial lands at any time in accordance with plans submitted to and approved by the Southwark Council (such agreement or approval not to be unreasonably withheld), and the provisions of this subsection and of the Deeds of Grant (unless otherwise agreed between the Commission and the Southwark Council) shall apply to the war memorials as so altered, extended or re-sited;

(b) the Southwark Council shall ensure—

(i) that lands adjacent to the war memorials (so long as the same are retained) with any extension or alteration as aforesaid are suitably maintained in consultation with the Commission;

(ii) that notwithstanding the provisions of paragraph (a) of subsection (1) of section 15 (As to closing, etc., of open space lands) of this Act, suitable means of access to any grave containing a Commonwealth war burial are provided and maintained to the reasonable satisfaction of the Commission;

(c) (i) without prejudice to any of the other provisions of this section the Southwark Council shall not exercise the powers referred to in subsection (1) of section 14 (Powers as to tombstones) of this Act in relation to a grave containing a Commonwealth war burial or to a tombstone

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—cont.

- provided or maintained by the Commission except after consultation with the Commission and in accordance with such arrangements as shall be agreed between the Southwark Council and the Commission;
- (ii) the provisions of subsection (3) of the said section 14 shall not in any event apply in relation to a tombstone provided or maintained by the Commission;
- (d) notwithstanding any of the provisions of sections 9 to 25 of this Act the Southwark Council shall when so requested by the Commission and in accordance with such arrangements and in such manner (including the disposal of the tombstone) as shall be agreed in writing by the Commission remove any tombstone placed or erected by the Commission in the cemetery over any grave in which there is a Commonwealth war burial;
- (e) upon the removal in pursuance of any of the powers of sections 9 to 25 of this Act of any tombstone in the cemetery from any grave in which there is a Commonwealth war burial no other tombstone shall be placed or erected over such grave;
- (f) any Commonwealth war burial in any grave in the cemetery shall at all times be protected from interference or disturbance except—
- (i) in the circumstances referred to in, and in accordance with the provisions of, subsection (4) of this section or the provisions of section 19 (Right of reinterment) of this Act; or
- (ii) where authorised by a licence granted by the Secretary of State after prior notification to the Commission of the application for the licence;
- and no structure or erection shall at any time be placed or erected over any Commonwealth war burial in the cemetery unless the Commission shall otherwise consent in the case of any structure or erection the placing or erection of which shall not interfere with or disturb any Commonwealth war burial and such consent may be given subject to such conditions as the Commission may think necessary:

Provided that—

- (i) the remains of a Commonwealth war burial shall not be removed and reinterred under paragraph (a) of subsection (3) of the said section 19 except after prior written notification to the Commission giving such details including information as to the place of reinterment as the Commission may reasonably require and the Southwark Council shall not permit the exhumation of a Commonwealth war burial under the said subsection

unless they shall first have been satisfied that the proposal to exhume has been duly notified to the Commission; and

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—cont.

- (ii) paragraph (a) of the said subsection (3) shall not apply to any tombstone placed or erected over a grave by the Commission.

(4) In the event of the exercise by the Southwark Council of the powers of section 18 (Removal of human remains) of this Act then—

(a) the Southwark Council shall not later than the date upon which any such notice as is referred to in paragraph (a) of subsection (2) of the said section 18 is first published in a newspaper circulating in Greater London serve a copy of such notice upon the Commission; and

(b) if it is agreed between the Southwark Council and the Commission that, in relation to any work proposed to be carried out by the Southwark Council on any part of the cemetery there is no practicable alternative other than for a Commonwealth war burial to be removed, then subject to the Southwark Council complying with the provisions of the said section 18 the removal of the remains shall be carried out in accordance with such arrangements and to such place of reinterment as shall be agreed between the Commission and the Southwark Council and any personal representative or relative who has given a notice to the Southwark Council in accordance with the provisions of subsection (3) of that section:

Provided that in default of agreement between the parties for any of the purposes of this paragraph any difference shall be referred to the Secretary of State for determination and effect shall be given thereto accordingly.

(5) The power conferred by section 21 (Power to extinguish rights of interment in burial lands) of this Act shall not, except with the agreement of the Commission, be exercised by the Southwark Council in respect of any grave space in the burial lands in which there is a Commonwealth war burial.

24.—(1) In this section “the sewer” means so much of the sewer of the Thames Water Authority known as “the High Level Sewer No. 2” as crosses the cemetery.

For
protection
of Thames
Water
Authority.

(2) Notwithstanding anything in this Part of this Act or shown on the deposited plan, the Southwark Council shall not acquire the sewer under the powers of this Part of this Act.

(3) Nothing in this Part of this Act shall extend to prejudice, diminish, alter or take away any of the rights, powers or

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—cont.

authorities vested or to be vested in the Thames Water Authority in relation to the sewer but all such rights, powers and authorities shall be as valid and effectual as if this Part of this Act had not been passed.

Act of 1836
to cease to
have effect
at cemetery.

25. As from the date of possession the Act of 1836 shall cease to have effect so far as it relates to the cemetery.

Power to
extinguish
rights of
interment in
Camberwell
cemetery
lands.

26.—(1) The provisions of section 21 (Power to extinguish rights of interment in burial lands) of this Act shall apply in respect of a right of interment in any grave in the Camberwell cemetery lands as they apply in respect of a right of interment in any grave in the burial lands:

Provided that the provisions of the said section 21, as applied by this section, shall have effect as from the date of the passing of this Act.

(2) The provisions of the said section 21, as applied by this section, shall not, except with the agreement of the Commission, be exercised by the Southwark Council in respect of any grave in the Camberwell cemetery lands in which there is a Commonwealth war burial or of any part of the said lands lying within the areas of land shown edged red on the plans annexed to two Deeds of Grant, one dated 28th July, 1954, and entered into by the Mayor, Aldermen and Councillors of the Metropolitan Borough of Camberwell in favour of the Commission and the other dated 9th December, 1974, and entered into by the Mayor, Aldermen and Burgesses of the London Borough of Southwark in favour of the Commission.

PART V

SUPPLEMENTAL

Liability of
directors, etc.

27.—(1) Where an offence under section 3 (Protection for fire brigade in respect of certain substances) or 22 (Preservation of records) of this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence, and be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, the foregoing subsection shall apply to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

28. Section 289 of the Act of 1971 shall apply to this Act as if it had been passed during the Session of the 10 & 11 Geo. 6; and accordingly the Act of 1971 and orders, regulations, rules, schemes and directions made or given thereunder shall apply to development authorised by this Act.

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—cont.

29.—(1) Subject to the provisions of any enactment requiring or enabling expenses in connection with any function of the Council to be chargeable otherwise than as general expenses chargeable on the whole of Greater London, all expenses of the Council in the execution of this Act shall be defrayed, as the Council may decide as—

Costs of Act.

- (a) general expenses chargeable on the whole of Greater London; or
- (b) special expenses chargeable only on such part of Greater London as the Council may determine.

(2) So much of the costs, charges and expenses preliminary to and of and incidental to the preparing, applying for and obtaining of this Act as may be incurred in respect of or in connection with the provisions contained in Part IV (Provisions relating to Southwark Council) of this Act shall be paid by the council of the borough of Southwark.

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