



Eton Rural District Council Act 1971

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ELIZABETH II



1971 CHAPTER liii

An Act to transfer to the Eton Rural District Council certain property and moneys of Memorial Gardens Limited, Stoke Poges Gardens Association Limited, Mobbs Memorial Trust Limited and Farnham Park Recreational Trust; to confer powers upon that council in relation to the Stoke Poges Gardens and other lands at Stoke Poges and at Farnham Royal; and for other purposes.

[27th July 1971]

WHEREAS—

(1) The rural district of Eton in the county of Buckingham is under the government of the Eton Rural District Council (in this Act referred to as “the Council”):

(2) Memorial Gardens Limited (in this Act referred to as "the Company") own and operate an undertaking comprising land at Stoke Poges in the district which is laid out and maintained as memorial gardens (in this Act referred to as "the Memorial Gardens"):

(3) Stoke Poges Gardens Association Limited (in this Act referred to as "the Gardens Association") possess funds which are held for the purposes of the Memorial Gardens:

(4) Mobbs Memorial Trust Limited (in this Act referred to as "the Trust Company") possess funds which are available for the purposes of this Act and are the beneficial owner of the undertaking of the Company:

(5) Farnham Park Recreational Trust (in this Act referred to as "the Trust") own certain lands at Stoke Poges and at Farnham Royal in the district which are laid out partly as playing fields and partly as a golf course (which is now disused) and part of which is held on agricultural tenancies and possess certain funds which are held in relation to those lands:

(6) The Company, the Trust Company and the Trust are desirous of disposing of the lands aforesaid and have approached the Council with a view to their taking over, maintaining, managing and improving those lands for the benefit of the inhabitants of the rural district of Eton and adjoining areas:

(7) The Council, the Company, the Gardens Association, the Trust Company and the Trust have agreed to invest the Council with the lands aforesaid and with the funds as in this Act provided in order that those lands may be held and managed for the public benefit:

(8) It is expedient in order to achieve the object aforesaid that as and in the manner by this Act provided there should be transferred to the Council certain property and assets of the Company, the Gardens Association, the Trust Company and the Trust:

(9) It is further expedient that there should be conferred upon the Council certain powers in relation to the Memorial Gardens and to other lands:

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

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

1933 c. 51. (12) In relation to the promotion of the Bill for this Act the requirements of Part XIII of the Local Government Act 1933 have been observed:

(13) Two maps marked respectively "Map of Memorial Gardens" and "Map of land of Farnham Park Recreational Trust" were in the month of November, 1970, deposited in the

office of the Clerk of the Parliaments, House of Lords, and in the Private Bill Office of the House of Commons and in the office of the clerk of the Council:

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:—

PART I

PRELIMINARY

1.—(1) This Act may be cited as the Eton Rural District Council Act 1971.

Short and
collective
titles.

(2) The Eton Rural District Council Act 1950 and this Act may be jointly cited as the Eton Rural District Council Acts 1950 and 1971.

1950 c. lxii.

2. This Act is divided into Parts as follows:—

Division of
Act into
Parts.

Part I.—Preliminary.

Part II.—Transfer of property, etc.

Part III.—Management and development of lands.

Part IV.—Finance.

Part V.—General.

3.—(1) In this Act, unless the subject or context otherwise requires—

“ the Company ” means Memorial Gardens Limited;

“ the Council ” means the Eton Rural District Council;

“ document ” has the same meaning as in section 10 of the Civil Evidence Act 1968;

1968 c. 64.

“ enactment ” includes an enactment in this Act or in any general or local Act and any order, byelaw, scheme or regulation for the time being in force within the rural district of Eton;

“ the Gardens Association ” means Stoke Poges Gardens Association Limited;

“ the Memorial Gardens ” means Stoke Poges Gardens;

“ statutory securities ” means any securities in which trustees are for the time being authorised by law to invest trust moneys;

“ the Trust ” means Farnham Park Recreational Trust being the trust constituted by a conveyance dated the 30th December, 1946, and made between United Commercial Association Limited of the one part and the trustees of the Trust of the other part and by divers subsequent dispositions upon the like trusts;

PART I
—cont.

“the Trust Company” means Mobbs Memorial Trust Limited;

“the trust deed” means the trust deed made on 4th July, 1949 between the Company and the Gardens Association.

1936 c. 49.

(2) The provisions of section 271 of the Public Health Act 1936 shall apply for the purposes of this Act as if reference therein to that Act included a reference to this Act.

(3) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by or by virtue of any subsequent enactment including this Act.

PART II

TRANSFER OF PROPERTY, ETC.

Transfer of
property and
moneys.

4.—(1) On the passing of this Act there shall by virtue of this Act and without any conveyance, transfer or other instrument, be transferred to and vested in the Council—

- (a) the property mentioned in Schedule 1 to this Act; and
- (b) the property mentioned in Schedule 2 to this Act.

(2) Immediately after the passing of this Act—

- (a) the Gardens Association shall transfer to the Council the realised capital and accrued interest held under the trust deed; and
- (b) the Trust Company notwithstanding the provisions of any trust shall pay to the Council such sum as, together with the capital and accrued interest transferred under paragraph (a) of this subsection, makes one hundred and fifteen thousand pounds and the Council shall receive that sum free of all incumbrances.

(3) After the passing of this Act the trustees of the Trust notwithstanding the provisions of any trust shall—

- (a) immediately pay to the Council the sum of fifteen thousand pounds;
- (b) be at liberty to pay to the Council from time to time out of any moneys for the time being subject to the Trust such further sum or sums as the said trustees may think fit:

Provided that the Council shall apply moneys paid under this subsection only for the purposes mentioned in section 12 (The Trust lands) of this Act:

Provided also that any moneys which are for the time being not required for those purposes shall be invested in statutory securities.

(4) The transfer of an interest in land under and by virtue of subsection (1) of this section shall not constitute an assignment, transfer, devolution, parting with possession or other disposition of that interest for the purposes of any provision subject to which that interest is held and relating to assignment, transfer, devolution, parting with possession or other disposition.

5.—(1) The production of a Queen's Printer's copy of this Act shall be conclusive evidence in all courts and proceedings of the transfer and vesting in accordance with this Act of any property which is transferred to and vested in the Council by virtue of this Act. Evidence of transfer and receipt.

(2) The receipt in writing of the treasurer of the Council for the amounts payable to the Council under subsections (2) and (3) of section 4 (Transfer of property and moneys) of this Act shall effectually discharge the Trust Company, the trustees of the Trust and the Gardens Association from their respective obligations under those subsections.

6.—(1) Subject to the provisions of this section and of section 11 (The Memorial Gardens) of this Act all contracts, agreements, conveyances, deeds, leases, licences and other instruments affecting the Company, the Trust or the trustees of the Trust, so far as they relate to any of the property mentioned in Schedule 1 or Schedule 2 to this Act, whether alone or with any other person, and in force on the date of the passing of this Act shall on and from that day be binding and of full force and effect in every respect against or in favour of the Council as fully and effectually as if instead of the Company, the Trust or the trustees of the Trust, the Council had been a party thereto or bound thereby or entitled to the benefit thereof. Saving of contracts, etc.

(2) The trust deed shall cease to have effect on the passing of this Act.

(3) On the transfer of property and moneys pursuant to section 4 (Transfer of property and moneys) of this Act the Company, the Trust Company, the trustees of the Trust and the Gardens Association shall to the extent of such property and moneys be discharged from all trusts affecting the same.

7. Where any document whensoever made or executed contains any reference express or implied to the Company, the Trust or the trustees of the Trust, in relation to any of the property mentioned in Schedule 1 or Schedule 2 to this Act, such reference shall on and from the passing of this Act, except where the context otherwise requires, be read, construed and have effect as a reference to the Council. Application of documents

PART II
—cont.

Actions, etc.,
not to abate.

8.—(1) Any action, application, arbitration or proceeding and any cause of action, application, arbitration or proceeding which shall on the passing of this Act be pending or existing by, against or in favour of the Company, the Trust, the trustees of the Trust or the Gardens Association in relation to any of the property mentioned in Schedule 1 or Schedule 2 to this Act shall not abate or be discontinued or be in any way prejudicially affected by reason of the provisions of this Act, but on and from the passing of this Act any of the same may only be prosecuted, continued and enforced by, against or in favour of the Council as and when it might have been prosecuted, continued and enforced by, against or in favour of the Company, the trustees of the Trust or the Gardens Association.

(2) Any judgment or award obtained by, against or in favour of the Company, the Trust, the trustees of the Trust or the Gardens Association in relation to any of the property mentioned in Schedule 1 or Schedule 2 to this Act and not fully satisfied before the passing of this Act shall only be enforceable by or against the Council.

Evidence,
books and
documents.

9. On and from the passing of this Act all books and other documents which would before that day have been evidence in respect of any matter for or against the Company, the Trust, the trustees of the Trust or the Gardens Association, in relation to any of the property mentioned in Schedule 1 or Schedule 2 to this Act, shall be admitted in evidence in respect of the same matter for or against the Council.

Employees
of the
Company
and of the
Trust.

10.—(1) The persons mentioned in Schedule 3 to this Act, being persons who are immediately before the passing of this Act in the employment of the Company or the trustees of the Trust, shall on the passing of this Act and if willing to enter the service of the Council be taken by the Council into their service at rates of salary or wages and emoluments and on terms (including service occupancies) not less favourable than those which immediately before the passing of this Act governed their employment by the Company or by the trustees of the Trust.

(2) Superannuation and life assurance rights and benefits not less favourable than those enjoyed immediately before the passing of this Act by such of the transferred persons as are mentioned in Part I and Part II of Schedule 3 shall be conferred on them by the Council and accordingly if in respect of his employment by the Council any such person is not entitled to participate in the benefits of the appropriate superannuation fund or the benefits to which he is entitled under the Superannuation Acts are less

favourable than those enjoyed by him immediately before the passing of this Act, the Council shall take such action for the purposes of satisfying the obligation imposed upon them by the preceding provisions of this subsection as may be requisite to provide superannuation benefits additional to those payable under the Superannuation Acts and may continue to pay contributions under the assurance policy effected by the Company in connection with their life assurance scheme.

PART II
—cont.

(3) For the purpose of satisfying the obligations imposed on the Council by this section, the Council shall pay to each of such of the transferred persons as are mentioned in column 1 of Part II of Schedule 3 to this Act, from the date of his retirement from the service of the Council an annuity of the sum mentioned opposite his name in the second column of the said Part II:

Provided that the obligation to pay the annuity shall not arise in respect of any such person earlier than the date mentioned opposite his name in the third column of the said Part II, nor if he vacates the service of the Council before such date.

(4) The Council shall as respects such of the transferred persons as are mentioned in Part I and Part III of Schedule 3 to this Act who immediately before the passing of this Act had any superannuation rights otherwise than under the Superannuation Acts make a scheme to be approved by the Secretary of State to provide the extent to which previous employment with the Company or the Trustees of the Trust from which such person had been transferred shall be reckonable for the purpose of entitlement to or calculating the amount of any superannuation benefit (including a return of contributions) under the Superannuation Acts.

(5) For the purposes of subsection (4) of this section any fund maintained or moneys held for the purposes of satisfying any superannuation rights otherwise than under the Superannuation Acts in respect of such of the transferred persons as are mentioned in Part I or Part III of Schedule 3 to this Act shall be applied towards securing rights in respect of the reckoning of the previous employment aforesaid of such persons.

(6) In this section—

“ the Superannuation Acts ” means the Local Government Superannuation Acts 1937 to 1953; and

“ transferred person ” means a person mentioned in Schedule 3 to this Act who pursuant to subsection (1) of this section is taken into the service of the Council.

PART III

MANAGEMENT AND DEVELOPMENT OF LANDS

The
Memorial
Gardens.

11.—(1) The Council shall maintain and manage so much of the Memorial Gardens as is from time to time laid out as a garden, and in the discharge of this duty the Council shall have regard to the manner in which the Memorial Gardens have been maintained and managed since the year 1934.

(2) Subject to the provisions of section 6 (Saving of contracts, etc.) of this Act and to any rights exercisable by persons other than the Council by virtue of subsection (3) of this section, the Council may admit the public to some or all of those parts of the Memorial Gardens which are from time to time vested in the Council and may make such reasonable charge for admission as they think fit.

(3) The Council may, for such consideration and on such terms and conditions as they think fit, sell, lease or license the use of plots in the Memorial Gardens for the purpose of providing memorials or for receiving the ashes of cremated human remains and permit other seemly use of the Memorial Gardens for providing memorials or for receiving the ashes of cremated human remains.

(4) Subject to the next following subsection, the Council shall not develop any of the land mentioned in Schedule 1 to this Act except so far as is necessary to use that land for the purposes for which it is being used at the passing of this Act, or as public open space or for the purposes of maintaining and managing the Memorial Gardens:

Provided that this subsection shall not operate to restrict the use of the Manor House.

(5) The Council may lay out, improve or otherwise develop any of the land shown coloured green on the map signed in triplicate by Miss Bettie Harvie Anderson, the Chairman of the Committee of the House of Commons to which the Bill for this Act was referred, one copy of which map has been deposited in the office of the Clerk of the Parliaments, one in the Private Bill Office of the House of Commons and one in the office of the clerk of the Council.

The Trust
lands.

12. The Council shall maintain and manage the property mentioned in Schedule 2 to this Act in accordance with Schedule 4 to this Act and the Council shall not develop any of the land mentioned in the said Schedule 2 except in accordance with the said Schedule 4.

13.—(1) The Council may make byelaws to regulate the use of the lands mentioned in Schedule 1 to this Act and such byelaws may provide for the removal from those lands of any person infringing any such byelaws by any duly authorised officer of the Council or constable.

PART III
—cont.

Byelaws.

(2) As respects byelaws made under this section the confirming authority for the purpose of section 250 of the Local Government Act 1933 shall be the Secretary of State.

1933 c. 51.

14. No power conferred upon the Council by any of the foregoing sections of this Part of this Act shall be exercised in such a manner—

Saving for trusts, etc.

- (a) as to be at variance with an express trust subject to which land or a building is held, managed or controlled by the Council without an order of the High Court, or of the Charity Commissioners, or of the Secretary of State, or, where the trust instrument reserves to the donor, or any other person, the power to vary the trust, without the consent of the donor or that other person; or
- (b) as to contravene a covenant or condition subject to which a gift or lease of land or a building has been accepted by or granted to the Company, the Trust Company, the Trust, the trustees of the Trust or the Council without the consent of the donor, grantor, lessor or other person entitled in law to the benefit of the covenant or condition.

PART IV

FINANCE

15.—(1) The Council may borrow—

Power to borrow.

- (a) such sums as may be necessary for any of the purposes of this Act;
- (b) without the consent of any sanctioning authority, such sums as may be necessary for paying the costs, charges and expenses of this Act;

and, subject to the provisions of this section, Part IX of the Local Government Act 1933 shall have effect as if money borrowed under this section were borrowed under that Part.

(2) The Council shall repay sums borrowed under paragraph (b) of the foregoing subsection within five years from the date of borrowing.

PART IV
—cont.

1946 c. 58.

(3) It shall not be lawful to exercise the powers of borrowing conferred by paragraph (a) of subsection (1) of this section except in compliance with any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act 1946.

Memorial
Gardens
Maintenance
Fund.

16.—(1) The Council shall on the passing of this Act establish and shall thereafter maintain a fund to be known as the Memorial Gardens Maintenance Fund (hereinafter referred to as “the fund”).

(2) There shall be paid into or credited to the fund—

(a) the amount payable to the Council under subsection (2) of section 4 (Transfer of property and moneys) of this Act; and

(b) any amounts received by the Council as consideration for the future maintenance of plots or memorials in the Memorial Gardens.

(3) The moneys in the fund and any moneys arising from the realisation of any investments or securities held for the fund shall be invested in statutory securities.

(4) The income arising from the fund shall (together with any receipts from admissions to the gardens) be applied solely for the purpose of defraying expenditure incurred by the Council in relation to the Memorial Gardens and any income or receipts not required for that purpose shall be paid into the fund.

1967 c. 9.

(5) In addition to any sum paid into the fund under the preceding provisions of this section, the Council may pay into the fund in any year ending 31st March a sum which (except with the consent of the Secretary of State) shall not exceed the equivalent of one-quarter of the product of a new penny rate as estimated for the purpose of Part II of the General Rate Act 1967.

(6) In this section “expenditure” includes interest charges and the repayment of borrowed moneys.

PART V

GENERAL

Saving for
Town and
Country
Planning
Acts.

1962 c. 38.

17. Section 220 of the Town and Country Planning Act 1962 (which for the avoidance of doubt declares that the provisions of

that Act and any restrictions or powers thereby imposed or conferred in relation to land apply to land notwithstanding that provision is made by any local Act passed before or during the session 10 & 11 Geo. 6 for authorisation or regulation of development of the land) shall apply to this Act as if it had been passed during that session; and accordingly the Town and Country Planning Acts 1962 to 1968 and Orders, Regulations, Rules, Schemes and directions made or given thereunder shall apply to development authorised by this Act.

PART V
—*cont.*

18. The costs, charges and expenses preliminary to and of and incidental to the preparing, applying for, obtaining and passing of this Act incurred by the Council shall be paid by the Council. Costs of Act.

SCHEDULES

Sections 4, 6,
7, 8, 9, 11, 13.

SCHEDULE 1

PROPERTY TRANSFERRED RELATING TO THE MEMORIAL GARDENS

The land shown coloured pink on the map marked "Map of Memorial Gardens" except those plots of land within the Memorial Gardens the freehold of which has been transferred to other persons by the Company.

All buildings and premises on the said land except as aforesaid.

All machinery, apparatus, furniture, fittings and chattels of the Company and used in connection with the Memorial Gardens.

All books of account, papers, plans, records and other documents relating to the Memorial Gardens.

Sections 4, 6,
7, 8, 9, 12.

SCHEDULE 2

PROPERTY OF THE TRUST TRANSFERRED

The land shown coloured pink on the map marked "Map of land of Farnham Park Recreational Trust".

All buildings and premises on the said land which are the property of the trustees of the Trust.

All machinery, apparatus, furniture, fittings and chattels which are the property of the trustees of the Trust and are used in connection with the said land.

Section 10.

SCHEDULE 3

EMPLOYEES

PART I

EMPLOYEES OF THE COMPANY

Mrs. Joan Caroline Hodsoll.

Edward Blakey.

Leslie John Dearlove.

Albert Charles Gough.

Richard Hawkins.

Richard Frederick Hearne.

Jeffrey Peter Holland.

John Macmanamon.

John W. Morrison.

Barry George Stevens.

Raymond Thomas Thrower.

Joseph W. Took.

Ronald George Wilkins.

PART II

SCH. 3
—cont.

EMPLOYEES OF THE COMPANY

1	2	3
Miss Phyllis Louise Hartley	£300	One day later than the passing of this Act.
Arthur George Davis	£281	10.7.75.
James Urquhart Gray	£126	One day later than the passing of this Act.
George Summers	£413	25.2.76.

PART III

EMPLOYEES OF THE TRUST

John A. Behan.
Brian A. Ive.
Colin M. Munro.

SCHEDULE 4

Section 12.

PROVISIONS IN ACCORDANCE WITH WHICH THE COUNCIL MAY MAINTAIN
AND MANAGE THE TRUST LANDS

1. The Council may appropriate and use the hereditaments transferred to the Council from the Trust under and by virtue of this Act for the maintenance and improvement of the physical well-being of persons resident in the rural district of Eton and adjoining areas by the provision of facilities for physical training and recreation and for promoting and encouraging all forms of recreational activities calculated to contribute to the health and physical well-being of such persons.

2. The Council may cause the said hereditaments or any part thereof to be laid out as grounds for physical training and recreation and for the playing by such persons as aforesaid of all kinds of outdoor games and sports whatsoever including in particular football, cricket, tennis, hockey, bowls, lacrosse, netball, golf and swimming.

3. The Council may erect, carry out and maintain such buildings and other works whatsoever as they consider appropriate for the purposes aforesaid.

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