

# WENTWORTH ESTATE ACT 1964

As amended by The Wentworth Estate Act 1964 (Road Rate) (Amendment) Regulations  
1990

## CHAPTER 1

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## 1964 CHAPTER 1

An Act to make provision for the maintenance of the private roads and footpaths on the estate known as the Wentworth Estate in the urban district of Egham and the rural district of Bagshot in the county of Surrey; and for other purposes. [31st July 1964]

WHEREAS pursuant to a lease and an option agreement each dated 9th March, 1923, and made between Ada Constance Beatrice Cabrera of the one part and W. G. Tarrant Limited, a private company registered under the Companies Act, 1908, of the other part, the greater portion of an estate known as Wentworth Estate situate partly in the urban district of Egham and partly in the rural district of Bagshot in the county of Surrey was acquired, as to part, by Walter George Tarrant and, as to the remainder of that portion, by the said company for development as a golf course and residential estate:

And whereas Wentworth Estates Limited (hereinafter in this Act referred to as “the Company”) are a private company registered, under the Companies Act, 1929, and were formed in the year 1931 for purposes which included the acquisition of the whole of the estate and to continue its development as aforesaid and the parts of the estate formerly owned by Walter George Tarrant and W. G. Tarrant Limited, as well as the remaining parts of the estate, were conveyed to the Company accordingly:

And whereas in the year 1943 the share capital of the Company was acquired by Sir Lindsay Parkinson and Co. Limited of which the Company then became and still are a wholly-owned subsidiary:

And whereas the greater part of the estate has been disposed of and the development of the estate is nearly completed:

And whereas by virtue of covenants entered into by the Company or their predecessors in title the Company are now as regards the owners of certain properties on the estate liable for the maintenance (including, in some cases, the lighting) of certain of the roads and for the maintenance of certain of the footpaths on the estate and by virtue of other covenants entered into by the purchasers of land on the estate provision was made in nearly every case for contributions by the purchasers to the cost of such maintenance; the terms of the covenants indicate that in most of the cases the contributions are to be assessed on the basis of an annual rate in the pound calculated by reference to the yearly value of the property (which was originally specified to be one shilling in the pound) and in the other cases that the contributions are to be calculated in one or other of the following ways:

- (1) the payment of a fixed annual sum;
- (2) the payment of a fixed annual sum until a house or other building has been erected on the land, and thereafter of contributions assessed on the basis of an annual rate in the pound on the same basis as in the majority of the cases;
- (3) the payment of the whole or part of the cost of maintaining some or all of the estate roads:

And whereas at a later date doubts arose as to the enforceability of some of the covenants against successors in title of the original purchasers and in some cases the contributions required by the covenants have not been paid:

And whereas in order to meet the increasing costs of maintenance provision has been made in the later conveyances for increasing the rate to two shillings in the pound:

And whereas the new valuation lists which came into force on 1st April, 1963, have made substantial increases in the assessments of properties on the estate and this has widened the disparity in the contributions made by the owners of such properties as between those paying the higher and those paying the lower rates:

And whereas to correct the resulting inequity it is expedient that for the obligations under the existing covenants to make contributions towards the costs so incurred in some cases on the basis of one and in other cases on the basis of two shillings in the pound of the yearly value of a property there should be substituted an obligation on all the owners of such properties to pay a uniform rate in the pound of such an amount as will be sufficient to ensure that the estate roads and footpaths are properly maintained and lighted:

And whereas it is expedient that the Company should be absolved from the responsibilities of maintaining the said roads and footpaths and that those responsibilities should be redefined, made of general application and transferred to a committee on which the residents on the estate would be represented:

And whereas it is expedient to constitute such a committee and to make such provision with respect to their powers and duties, including the duty of assessing and levying the rate hereinbefore referred to, as is in this Act provided:

And whereas it is also expedient to continue the liability of those owners of property on the estate who are under covenant to contribute towards the cost of maintaining the estate roads or any of them by making payments of fixed annual amounts or, if calculated on some other basis, on a basis which is not related to the yearly value of the property and to authorise the committee instead of the Company to enforce that liability:

And whereas it is expedient that the other provisions contained in this Act should be enacted:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

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:---

1. Short title.

This Act may be cited as the Wentworth Estate Act 1964.

2. Interpretation.

(1) In this Act unless the subject or context otherwise requires ---

" the appointed day " means 1st January, 1965;

" the association " means the Wentworth Residents' Association or if that association is dissolved or ceases effectively to represent the interests of the residents on the estate any other association which may be formed for identical or similar purposes;

" chargeable hereditament " has the meaning assigned to that expression by subsection (2) of section 6 (Power to levy road rate) of this Act;

" the Company " means Wentworth Estates Limited and includes their predecessors and successors in title the owners of the Wentworth Estate;

" the committee " means the committee established under section 3 (Establishment of Wentworth Estate Roads Committee) of this Act;

" the estate " means so much of the estate known as the Wentworth Estate as lies within the outer edge of the line coloured red on the plan, five copies of which have been signed by Sir Robert Grimston, Baronet, the chairman of the committee of the House of Commons, to whom the Bill for this Act was referred and deposited respectively at the office of the Clerk of the Parliaments, in the Private Bill Office of the House of

Commons, at the office of the Company, with the association and with the clerk of the county council of the county of Surrey;

" estate road " means a road or footpath on the estate (whether constructed before or after the passing of this Act) which is for the time being a private street within the meaning of the Highways Act, 1959, and " the estate roads " means all such roads or footpaths;

" maintain " in relation to the estate roads includes ---

- (a) maintaining verges, bridges and road signs;
- (b) lighting (where and to the extent reasonably necessary) the roads including the verges and open spaces, but not the footpaths;
- (c) removing and replanting (in either case where necessary) the trees on the verges; and

(d) such other works as are reasonably necessary for the proper enjoyment of the estate roads;

and " maintenance " shall be construed accordingly;

" the maximum rate " means the maximum amount in the pound which the committee is for the time being authorised to levy by way of a road rate;

" owner " in relation to any premises, means a person, other than a mortgagee not in possession, who, whether in his own right or as trustee or agent for any other person, is entitled to receive the rack-rent of the premises or, where the premises are not let at a rack-rent, would be so entitled if the premises were so let;

" original conveyance " means in relation to a hereditament forming part of the estate (other than an estate road) the assurance by which that hereditament was conveyed by the Company (including any instrument entered into on a subsequent date (whether before or after the passing of this Act)) which -  
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- (a) in the case of a chargeable hereditament purports to fulfil (either of itself or in conjunction with the provisions of such an instrument) the condition specified in paragraph (a) of subsection (2) of section 6 (Power to levy road rate) of this Act and such of the conditions specified in paragraphs (b) and (c) of that subsection as are relevant; and
- (b) in the case of a special payment hereditament purports to require (either of itself or in conjunction with the provisions of such an instrument) the making of a special payment;

" special payment " means a payment under a covenant in an original conveyance (howsoever that covenant was worded and whether or not enforceable by the Company against subsequent purchasers) to contribute towards the whole or any part of the cost of maintaining the estate roads or any of those roads if under the terms of the covenant the payment is either a fixed annual amount or, if it is not a fixed annual amount, it is calculated on a basis which is not related to the yearly value for the time being of the hereditament conveyed;

" special payment hereditament " means a hereditament in respect of which a special payment falls to be made and in any case in which under the terms of the original conveyance of the hereditament provision is made for the making of a special payment for an initial period and thereafter for a payment calculated by reference to the yearly value of the hereditament the hereditament shall be treated for the purposes of this Act as a special payment hereditament during such initial period and thereafter as a chargeable hereditament.

(2) Any reference in this Act to a covenant in an original conveyance to contribute towards the cost of maintaining the whole or any part of the estate roads shall be construed as including a reference to any provision in the conveyance (howsoever expressed) imposing an obligation to make such a contribution.

(3) Unless the subject or context otherwise requires references in this Act to any enactment shall be construed as references to that enactment as applied, extended, amended or varied by or by virtue of any subsequent enactment including this Act.

### 3. Establishment of Wentworth Estate Roads Committee.

(1) On 1st September, 1964, there shall be constituted a committee for the purpose of assessing and collecting the road rate of applying the same in the maintenance of the estate roads in accordance with the following provisions of this Act and of carrying out the other purposes of this Act.

(2)

(a) The committee shall be a body corporate under the name and style of the Wentworth Estate Roads Committee with perpetual succession and a common seal and by that name may sue and be sued.

(b) Schedule I to this Act shall have effect with respect to the committee.

(3) No act or thing done by any member of the committee or by any officer of the committee or other person acting under the direction of the committee shall if the act or thing was done bona fide for the purpose of carrying a provision of this Act into effect subject him personally to any liability, claim or demand whatsoever nor shall any such member be subject to any personal liability for the fulfilment or non-fulfilment of any duty or liability of the committee whether arising under this Act or otherwise.

(4) The committee shall have power for or in connection with the discharge of their functions

(a) to acquire or receive by purchase, gift or in any other manner any real or personal property and any rights or interests therein;

(b) to sell, lease, surrender, exchange, dispose of or otherwise deal in any manner with all or any of their property or assets;

(c) to borrow or raise or secure the payment of money in such manner as the committee may think fit and in particular by mortgage of or charge upon all or any of the committee's assets or receipts (both present and future) or by entry into any other obligations for those purposes;

(d) to enter into and carry into effect agreements with any insurance company or other association or company for insuring against any claim or demand which may be made against the committee with respect to the performance of their duties under section 4 (Maintenance of estate roads) of this Act;

(e) to promote or oppose Bills in Parliament;

(f) to do all such other things as are incidental or conducive to the discharge of their functions.

(5) It shall not be lawful to exercise the powers of borrowing conferred by this section otherwise than in accordance with the provisions of any order in force under section I of the Borrowing (Control and Guarantees) Act, 1946.

#### 4. Maintenance of estate roads.

(1) As from the appointed day ---

(a) the committee shall to the exclusion of the Company be under a duty to maintain the estate roads but the committee shall not be required in any year to incur any expense in paying the cost of maintaining the estate roads in excess of the amount which can reasonably be applied by the committee pursuant to section 11 (Application of moneys) of this Act out of the road rate levied in that year and out of the amount of the special payments which are due in respect of that year;

(b) any liability with respect to injury or damage to persons or property which may arise after that day from any failure to maintain the estate roads shall be enforceable against the committee and not against the Company;

(c) any covenant in a conveyance of any hereditament whether forming part of the estate or not entered into before the appointed day (howsoever expressed and whether express or implied) ---

(i) by the Company to maintain the estate roads or any of them or to perform any other duty in connection therewith;

(ii) by the owner of a chargeable or other hereditament to contribute towards the cost of maintaining the estate roads or any of them by the payment of a rate assessed on the yearly value of the hereditament;

(iii) by the owner of a special payment hereditament to contribute towards the cost of maintaining the estate roads or any of them by making a special payment;

(iv) by the owner of a hereditament forming part of the estate which under the provisions of this Act falls to be treated as a special payment hereditament for an initial period and thereafter as a chargeable hereditament to contribute towards the cost of maintaining the estate roads or any of them by making a special payment during such initial period and thereafter by the payment of a rate assessed on the yearly value of the hereditament;

shall be void and of no effect but without prejudice to any right or liability under any such covenant being a right or liability which subsists immediately before the appointed day.

(2) Proceedings shall not be instituted against the committee to enforce the duty to maintain the estate roads imposed by paragraph (a) of the foregoing subsection except by the owner of a chargeable or special payment hereditament or by any other person being a person to whom the Company would have owed such a duty if this Act had not been passed.

(3) In an action against the committee in respect of damage resulting from their failure to maintain an estate road, it shall be a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the committee had taken such care as in all the circumstances was reasonably required to secure that the part of the estate road to which the action relates was not dangerous for traffic.

(4) For the purposes of a defence under the last foregoing subsection, the court shall in particular have regard to the following matters, that is to say: ---

(a) the character of the estate road, and the traffic which was reasonably to be expected to use it;

(b) the standard of maintenance appropriate for a road of that character and used by such traffic;

- (c) the state of repair in which a reasonable person would have expected to find the estate road;
- (d) whether the committee knew, or could reasonably have been expected to know, that the condition of the part of the estate road to which the action relates was likely to cause danger to users of the estate road;
- (e) where the committee could not reasonably have been expected to repair that part of the estate road before the cause of action arose, what warning notices of its condition had been displayed;

but for the purposes of such a defence it shall not be relevant to prove that the committee had arranged for a competent person to carry out or supervise the maintenance of the part of the estate road to which the action relates unless it is also proved that the committee had given him proper instructions with regard to the maintenance of the estate road and that he had carried out the instructions.

(5) If any question arises between the committee and the owner of a chargeable hereditament or of a special payment hereditament as to whether the committee have failed to apply the whole or such part of the amount comprising the road rate levied in any year and the special payments due in respect of that year as is reasonably necessary to carry out such works as are required to comply with their obligations under the foregoing provisions of this section it shall be referred to arbitration.

#### 5. Transfer of assets to committee.

(1) As from the appointed day there shall be transferred by the Company to the committee without payment ---

(a) any estate road, road verge, bridge or open space on the estate in respect of which on the appointed day the following conditions are fulfilled: ---

(i) it is vested in the Company;

(ii) rights of way over it have been granted to owners of properties on the estate; and

(iii) in the case of an open space it has been set aside for the general use and enjoyment of such owners and members of their households and is not required by the Company for development; and

(b) any plant, machinery, vehicle or article belonging to the Company and used by them exclusively for the maintenance of the estate roads.

(2)

(a) The lands referred to in paragraph (a) of the foregoing subsection shall by virtue of this Act and without any further or other assurance vest in the committee in fee simple subject to all easements, rights, privileges, covenants and stipulations affecting the said lands so far as on the appointed day the same subsist or are capable of being enforced and except and reserving to the Company the easements, rights and privileges set forth in Part I of Schedule 2 to this Act.

(b) Notwithstanding the transfer of such lands to the committee under the foregoing subsection, it shall be lawful for the club on not more than fourteen days in any calendar year by the erection of barriers or by other means to close all or any of the estate roads or such part or parts thereof as they think fit for the purpose of excluding from the golf courses on the estate and its immediate environs persons other than those whose admission is permitted by the club and the club may demand and collect money from any person so permitted as a consideration for such admission;

Provided that the powers of this subsection shall not extend so as to enable the club to exclude from any part of the estate or to demand money from the occupier of a property thereon, a member of his household or a person bona fide resorting thereto.

(c) In this subsection, the expression " the club " means Wentworth Club Limited or other the owners for the time being of the golf courses on the estate.

(3) The provisions of Part II of Schedule 2 to this Act shall have effect with respect to the transfer to the committee of the liability to maintain the estate roads.

(4) Any question which may arise under this section between the Company and the committee shall be determined by arbitration.

#### 6. Power to levy road rate.

(1) For the purpose of raising moneys to meet the expenses for which the committee are liable by virtue of section 4 (Maintenance of estate roads) of this Act and to make reasonable provision both for administrative expenses and for contingencies the committee may levy on the owners of the chargeable hereditaments a rate to be known as " the road rate ":

Provided that in any case in which provision is made in the original conveyance for no contribution to be made towards the expense of maintaining in the estate roads until a house or other building has been erected on the hereditament and the hereditament has then been separately assessed for rating purposes, no road rate shall be payable in respect of the hereditament in respect of any year in which that provision has effect.

(2) For the purposes of this Act a chargeable hereditament shall be any hereditament forming part of the estate (other than an estate road) in respect of which the following conditions are fulfilled: ---

(a) the original conveyance purports to grant to the purchaser of the hereditament and his successors in title a right of passage over the estate roads or any of them;

(b) either

(i) the original conveyance was entered into before the passing of this Act and the person who purchased the hereditament from the Company entered into a covenant in the original conveyance (howsoever that covenant was worded and whether or not enforceable by the Company against subsequent purchasers) to contribute towards the whole or any part of the cost incurred in maintaining the estate roads or any of those roads; or

(ii) the original conveyance was entered into after the passing of this Act and no provision was made therein for relieving the owner of the liability to pay the road rate; and

(c) the obligation imposed by such a covenant as is referred to in sub-paragraph (i) of the last foregoing paragraph is expressed as a liability to pay a rate assessed on the yearly value (howsoever expressed) of the hereditament conveyed.

(3) In any case where after the passing of this Act land forming part of the estate is sold by the Company no provision shall be made in the original conveyance of that land which would have the effect of relieving the owner of a hereditament which apart from that provision would be a chargeable hereditament of the liability to pay the road rate payable under this Act unless the provision has been approved by the committee but the approval of the committee to such a provision shall not be unreasonably withheld and any question

as to whether or not the approval has been unreasonably withheld shall be determined by arbitration.

#### 7. Maximum rate.

(1) Subject to the provisions of this section the road rate levied in any year shall not exceed a rate of one shilling and sixpence in the pound.

(2) If in the relevant year ---

(a) new local non-domestic rating lists have not come into force for both of the rating areas in which the estate is situate; and

(b) the revenue which can be obtained from levying the road rate at the maximum rate after taking into account the amount which it is reasonable to suppose will be received by way of special payments is insufficient to enable the committee to meet the expenses which they are in pursuance of this Act required or empowered to meet and to make reasonable provision for reserves;

the committee may during the period beginning with the year next following the relevant year and ending with the year in which the new local non-domestic rating lists are brought into force increase the maximum rate by such percentage as the committee may think fit not exceeding the average of the amounts per cent (if any) by which the costs of construction materials and of wages in the building trade (as shown by the indices published by the Board of Trade or by any indices which may be substituted therefore) have increased during the previous five years.

(3) In this section the expression " the relevant year " means the year 1995 or any fifth subsequent year.

#### 8. Assessment of road rate.

(1) Every road rate shall be levied in respect of a year commencing on 1st January and shall be levied at a uniform rate in the pound calculated on the net annual value. The appropriate value of each chargeable hereditament for that year, calculated in accordance with the Wentworth Estate Act 1964 (Road Rate) (Amendment) Regulations 1990

(2) Subject to the provisions of this section no road rate shall be levied in any year unless the following provisions of this section have been complied with.

(3) Before fixing the rate poundage at which the road rate is to be levied in any year the committee shall prepare an estimate of the expense of the works on the estate roads which it is proposed to carry out in that year and of the amount (if any) which it is proposed to carry to the reserve fund.

(4) In the year preceding that for which it is proposed to levy a road rate the committee shall in the case of the year 1964 not later than 1st December and in the case of any subsequent year not later than 1st October publish in a local newspaper circulating in the locality of the estate a notice: ---

(a) specifying the works proposed to be carried out, the estimated expense of those works and any amount which it is proposed to carry to the reserve fund;

(b) specifying the rate poundage at which it is proposed to levy the road rate in the following year; and

(c) stating that, within a period of six weeks from the date of the publication of the notice any owner of a chargeable hereditament or a special payment hereditament

may by notice to the committee object to the said proposals on any of the following grounds: -

- (i) that the works proposed in the estimate (or any of them) are either insufficient or more than sufficient;
- (ii) that the estimate for the works is excessive; or
- (iii) that the provision made for reserve is either insufficient or excessive.

(5) If before the expiration of the six weeks referred to in the foregoing subsection twenty. or more owners of chargeable hereditaments or special payment hereditaments give notice to the committee of their objection in accordance with the said subsection and such objections are not subsequently withdrawn the determination of the rate poundage shall be referred to arbitration.

(6) If by reason of an objection being made under the last foregoing subsection the rate poundage to be levied for any year has not been fixed in the case of the year 1965 by 28th February, 1965, and in the case of any subsequent year by 31st December in the preceding year the committee may levy an interim rate at a rate poundage not exceeding the proposed rate poundage of which notice has been given or the rate poundage which was last levied (whichever is the less).

(7) If the rate poundage as subsequently approved or determined by arbitration is ---

- (a) more than the interim rate poundage levied by the committee under the last foregoing subsection the committee may levy a further rate in the same year at a rate poundage not exceeding the difference between the interim rate poundage and the rate poundage so approved or determined; or
- (b) less than the interim rate poundage so levied, then the amount of the excess revenue so obtained by the committee shall be taken into account when fixing the rate poundage for the following year.

#### 9. Recovery of road rate.

(1) The amount of the road rate payable in respect of any year shall be payable without any deduction whatsoever and be due on the date on which the demand therefore is served on the owner of the chargeable hereditament to which it relates.

(2) Arrears of any amount due in respect of the road rate may be recovered by the committee in any court of competent jurisdiction.

(3) In proceedings for the recovery of arrears of road rate the defendant shall not be entitled to raise by way of defence any matter which might have been raised under section 8 (Assessment of road rate) of this Act.

(4) If and in so far as any defence to proceedings for the recovery of arrears of road rate is based on the ground of some informality, defect or error in or in connection with the demand for the sum due, the court shall disregard it, if it is satisfied that the informality, defect or error was not a material one.

(5) As from the date of any demand for a road rate the rate shall, until recovered, be a charge on the hereditament and on all estates and interests therein.

#### 10. Special payments.

(1) The owner of a special payment hereditament shall pay to the committee in respect of the year 1965 and in respect of every subsequent year the amount of the special payment which under the terms of the original conveyance would have been due to the Company in respect of that year and for the purposes of this section a covenant in an

original conveyance to contribute towards the cost of maintaining the estate roads or any of them shall be deemed to be enforceable against the owner of a special payment hereditament whether or not apart from this section it would have been so enforceable.

(2) If under the terms of the original conveyance the amount of the special payment is not a fixed annual amount the amount which under the provisions of this section is to be payable in respect of any year shall be such amount as in default of agreement between the committee and the owner of the special payment hereditament in respect of which the payment is due may be determined by arbitration;

Provided that if the owner of the special payment hereditament does not within twenty eight days after receiving notification from the committee of the amount which in their opinion is due by way of the special payment serve a counter-notice on the committee disputing liability for that amount it shall be deemed to have been agreed.

(3) The amount payable in respect of any year by way of a special payment shall in a case falling within the last foregoing subsection be due at the expiration of one month after the date when it has been agreed, deemed to have been agreed or determined by arbitration (as the case may be) and in any other case shall be due on 1st January.

(4) Subsections (2), (4) and (5) of section 9 (Recovery of road rate) of this Act shall with any necessary modifications apply to the recovery of amounts due by way of special payments as they apply to the recovery of amounts of the road rate and subsection (3) of that section shall also so apply subject to the further modification that for the reference to a matter which might have been raised under section 8 (Assessment of road rate) of this Act there shall be substituted a reference to a matter which might have been raised in any proceedings under subsection (2) of this section.

(5) In fixing the rate poundage at which the road rate is to be levied in any year the committee shall take into account the amount which it is reasonable to suppose will be received by way of special payments.

#### 11. Application of moneys.

(1) All moneys received by the committee (other than capital or borrowed money) shall be applied ---

first in payment of the cost of administering the road fund including any costs incurred under section 8 (Assessment of road rate) section 9 (Recovery of road rate) or subsection (2) of section 10 (Special payments) of this Act;

secondly in payment of interest on moneys borrowed by the committee;

thirdly in paying the cost of maintaining the estate roads and in making provision for defraying the cost of ---

(a) replacing or repairing any plant, machinery, vehicle or article belonging to the committee or any part of any such plant, machinery, vehicle or article;

(b) acquiring additional plant, machinery, vehicles or articles;

fourthly in meeting any expenses incurred by the committee in the exercise of any other powers under this Act; and

fifthly (subject to any limitations imposed by the next following section of this Act) in setting apart money for a reserve fund formed under that section.

(2) Any credit or debit balance remaining over in any year shall be carried forward to the following year.

#### 12. Reserve fund.

(1) The committee may, subject to the provisions of this section, by setting apart in any year out of the revenue derived from the road rate and the special payments such sum as they think fit, form and maintain a reserve fund, for the purpose of meeting any extraordinary claim or demand which may at any time be made upon the committee.

(2) Any sums so set apart for the formation or maintenance of a reserve fund may from time to time be invested and, subject to the provisions of the next succeeding subsection, the dividends and interest arising from such securities may also be invested so as to accumulate at compound interest for the credit of the fund.

(3) Whenever, and so long as, the amount standing to the credit of the reserve fund amounts to a sum equal to the product of a road rate of one shilling and sixpence in the pound, no contribution shall be made to the fund, and the interest and dividends on the fund shall not be invested but shall be treated as income.

#### 13. Powers of investment.

(1) Any moneys for the time being in the hands of the committee, which are not for the time being required for expenditure for purposes to which such moneys are applicable under this Act, or are otherwise available for investment, may be invested in the purchase of any investments or property of any description, either real or personal, and wheresoever situate, and whether or not being investments or property otherwise authorised by law for the investment of trust funds or upon loan upon the security of any property of any description or without security.

(2) Moneys, which the committee do not think fit immediately to invest may be deposited at any bank.

(3) The committee may from time to time at their discretion transpose or vary their investments for or into any others authorised by this section.

(4) In relation to land, whether freehold or leasehold, acquired as an investment, the committee may exercise all the powers of management, improvement or development which could be exercised by an absolute owner holding the land beneficially.

(5) Nothing in this section shall authorise the making of any investment in contravention of the provisions of the Exchange Control Act, 1947.

#### 14. Enforcement by committee of estate covenants.

The committee shall have power to enforce any covenant by the purchaser in an original conveyance or in a conveyance by the Company of a hereditament which although forming part of the estate is not a chargeable hereditament or a special payment hereditament against the person entering into it and the persons deriving title under him in the like manner and to the like extent (if any) in and to which the Company had immediately before the appointed day power to enforce such covenant notwithstanding that no part of the land which immediately before the appointed day was capable of benefiting from such covenant shall be vested in the committee at the time of the enforcement of such covenants.

15. Disposal of assets.

(1) In the event of all the estate roads ceasing to be private streets by reason of the fact that they are maintainable at the public expense, then as from 31st December in the year in which the last of the roads so ceases the following provisions shall apply: ---

(a) The committee shall subsist only for the purpose of receiving and recovering any moneys to which they are entitled or which are owing to them and for the purpose of exercising the powers of section 14 (Enforcement by committee of estate covenants) of this Act;

(b) Any moneys and any other assets held by the committee shall, as soon as is reasonably practicable and after discharging any outstanding debts and expenses of the committee, be transferred to the association:

(2) At any time after the said 31st December the committee may resolve to be wound up and dissolved and upon the winding up and dissolution of the committee as aforesaid this Act shall cease to have effect.

16. Registration of Act in register of local land charges.

(1) Not later than one month after the passing of this Act it shall be the duty of the Company to give notice of the passing of the Act to the appropriate officers of the councils of the urban district of Egham and of the rural district of Bagshot and thereupon each such officer shall register in the prescribed manner in the register of local land charges a notice drawing attention to the general effect of the Act.

(2) The power conferred by subsection (6) of section 15 of the Land Charges Act, 1925, to make rules for giving effect to the provisions of that section shall be exercisable for giving effect to the provisions of this section and in this section the expression

" prescribed " means prescribed by rules made in the exercise of that power.

17. Service of notices, etc.

(1) Any notice, consent, approval, demand or other document required or authorised by or under this Act to be given to or served on a person being a corporation, shall be duly given or served if it is given to or served on the secretary or clerk of the corporation.

(2) Subject to the provisions of this section, any notice, consent, approval, demand or other document required or authorised by or under this Act to be given to or served on any person may be given or served either ---

- (a) by delivering it to that person; or
- (b) by leaving it at his proper address; or
- (c) by post;

so however that, whether such a document as aforesaid is sent by post otherwise than in a letter sent by the recorded delivery service, it shall be deemed not to have been given or served if it is proved that it was not received by the person to whom it was addressed.

(3) For the purposes of this section, and of section 26 of the Interpretation Act, 1889, in its application to this section, the proper address of any person to or on whom such a document as aforesaid is to be given or served shall, in the case of the secretary or clerk of a corporation, be that of the registered or principal office of the corporation, and, in any other case, be the usual or last known place of abode of the person to whom the notice is given:

Provided that, where the person to or on whom such a document as aforesaid is to be given or served has furnished an address for service in accordance with arrangements agreed to in that behalf, his proper address for the purpose aforesaid shall be the address so furnished.

(4) If the name or address of any owner of any hereditament to or on whom any such document as aforesaid is to be given or served cannot after reasonable inquiry be ascertained by the person seeking to give or serve the document, the document may be given or served by addressing it to the person to whom it is to be given or on whom it is to be served by the description of "owner" of the hereditament (describing it) to which the document relates, and by delivering it to some responsible person resident or appearing to be resident on the hereditament, or, if there is no such person to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the hereditament.

(5) The foregoing provisions of this section shall not apply to the service of a summons.

18. Notices, etc. to be in writing.

All notices, approvals, demands and other documents authorised or required by or under this Act to be given, made or issued by the committee and all notices, consents and approvals authorised or required by or under this Act to be given or made to the committee shall be in writing.

19. Authentication of documents.

(1) Any notice, approval, demand or other document which is authorised or required by or under this Act to be given, made or issued may be signed ---

(a) on behalf of the committee, by any officer of the committee authorised by them in writing to sign documents of the particular kind or, as the case may be, the particular document;

(b) on behalf of the association, by the chairman or the secretary of the association.

(2) Any document purporting to bear the signature of any person expressed to hold an office by virtue of which he is under this section empowered to sign such a document, or expressed to be duly authorised by the committee to sign such a document or the particular document, shall for the purposes of this Act be deemed, until the contrary is proved, to be duly given, made or issued by authority of the body concerned.

In this subsection the expression "signature" includes a facsimile of a signature by whatever process reproduced.

20. Reckoning of periods

(1) For the purposes of this Act, in reckoning any period which is therein expressed to be a period from or before a given date, that date shall be excluded.

(2) Where the day or the last day on which anything is required or permitted by or in pursuance of this Act to be done is a Sunday, Christmas Day, Good Friday, bank holiday or a day appointed for public thanksgiving or mourning, the requirement or permission shall be deemed to relate to the first day thereafter which is not one of the days before mentioned.

21. Proof of resolutions, etc.

(1) In any proceedings under this Act a document purporting to be certified on behalf of the committee or the association as a copy of a resolution passed or made by the committee or the association on a specified date, or of the appointment of, or of any authority given to, an officer of the committee or the association on a specified date, shall be evidence that that resolution, appointment or authority was duly passed, made or given by the committee or the association on the said date.

22. As to Portnall House.

For the avoidance of doubt it is hereby declared that the property on the estate formerly known as Portnall House and comprised in a conveyance dated the 8th July, 1935, and made between the Company of the one part and Wentworth Club Limited of the other part is a special payment hereditament and not a chargeable hereditament.

23. Saving for Part IX of Highways Act, 1959.

Nothing in this Act shall prejudice or affect the powers of a street works authority under Part IX of the Highways Act, 1959, in relation to any of the estate roads.

24. Arbitration.

(1) In arbitrations under a provision of this Act mentioned in the first column of the following table the reference shall be to a single arbitrator to be appointed by agreement between the parties or in default of agreement by the person mentioned in the second column of that table on the application of any party after giving notice in writing to the other party or parties: ---

<b>Provision of Act</b>	<b>Person appointing arbitrator</b>
Subsection (5) of section 4	The President of the Institution of Civil Engineers
Subsection (4) of section 5	The President of the Institute of Chartered Accountants in England and Wales
Subsection (3) of section 6	The President of the Law Society
Subsection (5) of section 8	The President of the Institution of Civil Engineers
Subsection (2) of section 10	The President of the Institution of Civil Engineers

(2) An arbitrator agreed upon or appointed for the purposes of this Act may (if he thinks fit) be assisted by a financial assessor.

25. Costs of Act.

All costs, charges and expenses of and incidental to the preparing for, obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company and may in whole or in part be defrayed out of revenue.

## **SCHEDULES**

### **SCHEDULE 1**

#### **APPOINTMENT, CONSTITUTION AND ADMINISTRATION OF THE COMMITTEE**

1. The committee shall consist of six members appointed by the association from amongst those of their members who are owners of chargeable hereditaments or special payment hereditaments.

2.

(1) The chairman of the committee shall be appointed from among the members of the committee.

(2) The first chairman of the committee shall assume office at the first meeting of the committee and shall hold office until the first meeting of the committee in the year 1965; thereafter the chairman shall hold office from the first meeting of the committee in any year until his successor is appointed.

(3) A casual vacancy in the chairmanship of the committee shall be filled by the committee and the person so appointed shall hold office until the date when his predecessor was due to retire.

(4) A person holding office as chairman of the committee shall on retirement be eligible for reappointment.

3. The first members of the committee shall be appointed not later than 1st September, 1964.

4. The term of office of members of the committee shall be such period (not exceeding five years) as may be determined by the association in each particular case, but a member so appointed who ceases to be a member by reason of the expiration of his term of office shall be eligible for reappointment.

5.

(1) A member of the committee shall vacate his office: ---

(a) on tendering his resignation as a member of the committee;

(b) on ceasing to be a member of the association; or

(c) on ceasing to be the owner of a chargeable hereditament or special payment hereditament.

(2) A casual vacancy in the membership of the committee may be filled by the committee, and the person appointed to fill the vacancy shall hold office until the date (if any) on which his predecessor was due to retire.

6.

(1) The committee may appoint such sub-committees composed of members of the committee for any such general or special purpose as in the opinion of the committee would be better regulated and managed by means of a sub-committee and may delegate to any such sub-committee so appointed, with or without restrictions as they think fit, any functions of the committee except that of fixing the rate poundage at which the road rate is to be levied in any year.

(2) A sub-committee of the committee may be authorised to co-opt, including authority to co-opt persons who are not members of the association or owners of chargeable hereditaments or special payment hereditaments.

7. The powers of the committee and of any sub-committee of the committee may be exercised notwithstanding any vacancy and no proceedings of the committee or of any sub-committee of the committee shall be invalidated by any defect in the appointment of a member of the committee or of any such sub-committee.

8. The chairman when present shall preside at meetings of the committee; in his absence the members present shall appoint one of their number to be chairman of the meeting.

9. Questions arising at a meeting of the committee shall be decided by a majority of votes. In case of equality the chairman of the meeting shall have a second or casting vote.

10. The quorum at meetings of the committee shall be three, or such other number as the committee may determine.

11. The committee shall (subject to the provisions of this Act) have full power to regulate the proceedings of the committee and any sub-committee thereof and the conduct of the business thereof, respectively, in such manner as they think proper, and may from time to time make, alter and revoke byelaws in this behalf.

12.

(1) The committee shall have power to appoint a secretary and such other staff as they may determine.

(2) The committee shall have power ---

(a) to pay to the members of the committee and of any sub-committee thereof such travelling and subsistence allowances while attending meetings of the committee or any sub-committee of the committee or while on any other business of the committee as the committee may determine;

(b) to pay to members of their staff such remuneration as the committee may determine;

(c) as regards any members of their staff in whose case they may determine to do so ---

(i) to pay to, or in respect of, them such pensions and gratuities as the committee may determine; and

(ii) to provide and maintain for them such superannuation schemes (whether contributory or not) as the committee may determine; or

(iii) to enter into and carry into effect agreements with any insurance company or other association or company for securing to any such member of their staff or his widow, family or dependant such gratuities or pensions as are by this paragraph authorised to be paid.

13. The committee shall provide for the safe custody of their common seal and the seal shall only be used by the authority of the committee or of a sub-committee of the committee authorised by the committee in that behalf, and every instrument to which the seal shall be affixed shall be signed by a member of the committee and shall be countersigned by at second member of the committee or by some other person appointed by the committee for the purpose.

14.

(1) The committee shall keep proper accounts of all sums received or paid by them and proper records in relation to those accounts and the accounts for each financial year (which shall, unless otherwise determined by the committee, end on the 31st December) shall be audited by an auditor or auditors appointed by the committee.

No person shall be qualified to be appointed auditor under this paragraph unless he is a member or in the case of a firm all the partners wherein are members of one or more of the following bodies: ---

The Institute of Chartered Accountants in England and Wales;

The Institute of Chartered Accountants of Scotland;

The Association of Certified and Corporate Accountants;

The Institute of Chartered Accountants in Ireland;

Any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of paragraph (a) of subsection (1) of section 161 of the Companies Act, 1948, by the Board of Trade.

(2)

(a) The committee shall cause to be made out annually a balance sheet and a statement of income and expenditure made up to the end of the financial year of the fund.

(b) The audited accounts of the road fund shall at all reasonable times be open to inspection and transcription without payment by any interested person.

## **SCHEDULE 2**

### **PROVISIONS WITH RESPECT TO TRANSFER TO THE COMMITTEE OF LANDS AND OF LIABILITY FOR MAINTENANCE OF ESTATE ROADS**

#### **PART I**

##### **EXCEPTIONS AND RESERVATIONS TO THE COMPANY IN RELATION TO TRANSFER OF LANDS**

1. A right of way at all times and for all purposes with or without vehicles or horses in common with all others having the like right over the estate roads and the verges and roadside wastes adjacent thereto.

2. A right to the use in common as aforesaid of all rides, footpaths and open spaces set aside for the general use and enjoyment of the occupiers of properties on the estate and members of their households.

3. A right ---

(a) to lay and from time to time to inspect, repair, alter, renew or remove pipes, sewers, drains, wires or cables in, on or over the lands of the Company vested in the committee by this Act and to connect the same to any pipes, sewers, drains, wires or cables now or hereafter laid therein;

(b) for the purpose of the foregoing sub-paragraph to break open such lands (including any estate road, any bridge carrying the same and any sewer, drain or tunnel in or under any such estate road) and to remove and use the soil or other materials in or under the same;

subject nevertheless to the Company making good all damage thereby occasioned.

## PART II

### PROVISIONS WITH RESPECT TO TRANSFER TO THE COMMITTEE OF LIABILITY FOR MAINTENANCE OF ESTATE. ROADS

1. The Company shall be entitled to and may recover all moneys in respect of road rate and all charges and other sums and debts at the appointed day due and payable or accruing due and payable to the Company and shall discharge and pay all debts and liabilities incurred in maintaining the estate roads before the appointed day and the committee shall be entitled to and may recover all moneys in respect of road rate and other revenues and shall discharge and pay all debts and liabilities incurred in maintaining the estate roads which may accrue due or become payable on or after that day.

2. All books and documents which, if this Act had not been passed, would have been evidence in respect of any matter for or against the Company shall, in so far as they relate to the discharge of the existing obligations of the Company to maintain the estate roads, be admitted on or after the appointed day in evidence in respect of the same or the like matter for or against the committee or the Company as the case may be.

Table of Statutes referred to in this Act

Short title	Session and chapter
Interpretation Act, 1889	52 & 53 Vict. c. 63.
Companies Act, 1908	8 Edw. 7 c. 12..
Land Charges Act, 1925	15 & 16 Geo. 5 c. 22.
Companies Act, 1929	19 & 20 Geo. 5 c. 23.
Borrowing (Control and Guarantees) Act, 1946	9 & 10 Geo. 6 c. 58.
Exchange Control Act, 1947	10 & 11 Geo. 6 c. 14.
Companies Act, 1948	11 & 12 Geo. 6 c. 38
Highways Act, 1959	7 & 8 Eliz. 2 c. 25.