



### CHAPTER lxi

**An Act to constitute a joint board comprising representatives of the mayor aldermen and burgesses of the Borough of Sutton and Cheam and the mayor aldermen and councillors of the metropolitan borough of Battersea and the urban district councils of Carshalton and Merton and Morden to authorise the Board to provide and maintain a crematorium and for other purposes.** [5th July 1956.]

**WHEREAS** it is expedient to constitute and incorporate a joint board comprising representatives of the mayor aldermen and burgesses of the borough of Sutton and Cheam and the mayor aldermen and councillors of the metropolitan borough of Battersea and the urban district councils of Carshalton and Merton and Morden and to empower the said board to provide and maintain a crematorium:

By an order dated the eighteenth day of June one thousand nine hundred and forty-three made by the Minister of Health under section 6 of the Public Health Act 1936 subsequently amended by a further order dated the thirteenth day of April one thousand nine hundred and forty-nine made by the said Minister of Health under subsection (2) of section 9 of the Public Health Act 1936 a joint cemetery board known as the Carshalton and Merton and Morden Joint Cemetery Board was constituted for the urban districts of Carshalton and Merton and Morden so that the urban district councils of Carshalton and Merton and Morden are no longer local authorities or councils maintaining or having power to provide a cemetery under the Public Health (Interments) Act 1879 and the said two councils have no power to provide and maintain a crematorium under the Cremation Acts 1902 and 1952:

And whereas the mayor aldermen and councillors of the metropolitan borough of Battersea and the other local authorities hereinbefore referred to have entered into an agreement for the transfer of certain land and rights and interests in land vested in the said mayor aldermen and councillors of the metropolitan borough of Battersea to the said board and it is expedient that the agreement be confirmed:

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

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

And whereas estimates have been prepared for the purposes hereinafter mentioned and such estimates are as follows:—

(a) For conversion of buildings into a crematorium	£23,000
(b) For site layout ... ..	£1,000
(c) For provision of gas and electricity services ...	£2,000
(d) For equipment and furnishing ... ..	£6,500

And whereas it is expedient that the cost of such purposes and works should be spread over terms of years:

And whereas 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 by the mayor aldermen and burgesses of the borough of Sutton and Cheam and the urban district councils of Carshalton and Merton and Morden and the requirements of Part IX of the London Government Act 1939 have been observed by the mayor aldermen and councillors of the metropolitan borough of Battersea:

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 North-East Surrey Crematorium Board Act 1956.
- Division of Act into Parts.** 2. This Act is divided into Parts as follows:—
- Part I.—Preliminary.
  - Part II.—Establishment constitution and proceedings of Board.
  - Part III.—Lands.
  - Part IV.—Powers and duties of Board.
  - Part V.—Finance.
  - Part VI.—Miscellaneous.

3.—(1) The following enactments (so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Act) are incorporated with this Act (namely):—

PART I  
—cont.

Incorporation  
of Acts.

(a) The Lands Clauses Acts except sections 127 to 132 of the Lands Clauses Consolidation Act 1845 and the provisions of that Act with respect to the purchase and taking of lands otherwise than by agreement ;

(b) The clauses of the Commissioners Clauses Act 1847 with respect to the following matters (namely):—

the contracts to be entered into and the deeds to be executed by the commissioners (except section 57) ;  
and

the liabilities of the commissioners and legal proceedings by or against the commissioners.

(2) In the construction of the provisions of the Lands Clauses Acts and the Commissioners Clauses Act 1847 incorporated with this Act the expressions “ the promoters of the undertaking ” and “ the commissioners ” mean the Board.

4.—(1) In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction.

Interpretation.

(2) In this Act unless the subject or context otherwise requires—

“ Act of 1933 ” means the Local Government Act 1933 ;

“ agreement ” means the agreement referred to in section 29 (Transfer of scheduled land and easements) of this Act of which a copy is set out in the First Schedule to this Act ;

“ appointed day ” means the first day of October one thousand nine hundred and fifty-six ;

“ authorised security ” means any mortgage stock bond or other security which the Board are for the time being authorised to grant create or issue or upon or by means of which the Board are for the time being authorised to raise money ;

“ Board ” means the North-East Surrey Crematorium Board ;

“ clerk ” means the clerk to the Board ;

“ constituent authority ” means a local authority for the time being authorised to appoint a member or members of the Board ;

“ constituent district ” means the borough or district of a constituent authority ;

PART I  
*cont.*

- “enactment” includes an enactment in this Act or in any general or local Act for the time being applying to the Board ;
- “financial year” means a period of twelve months beginning on the first day of April ;
- “Minister” means the Minister of Housing and Local Government ;
- “population” means the population ascertained by reference to the latest available information with respect to the number of the population whether derived from the census or from the annual return issued by the Registrar-General ;
- “revenues of the Board” includes the revenues of the Board from time to time arising from the undertaking or from any land investments or other property for the time being of the Board and the money receivable by them from the constituent authorities and all fees and money which they are authorised to take and collect under the powers of this Act ;
- “scheduled land” and “scheduled easements” mean respectively the piece of land described in Part I of the schedule to the agreement and the easements and rights described in Parts II III IV V and VI of that schedule ;
- “statutory borrowing power” includes a power of borrowing money conferred on the Board by or under any enactment ;
- “statutory security” means any security in which trustees are for the time being by or under any Act of Parliament passed or to be passed authorised to invest trust money and any mortgage bond debenture debenture stock stock or other security authorised by or under any Act of Parliament passed or to be passed of any county council or municipal corporation or other local authority as defined by section 34 of the Local Loans Act 1875 but does not include annuities rentcharges or securities transferable by delivery or any securities of the Board ;
- “treasurer” means the treasurer of the Board ;
- “undertaking” means the whole of the undertaking for the time being of the Board.

(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

ESTABLISHMENT CONSTITUTION AND PROCEEDINGS OF BOARD

5.—(1) For the purpose of carrying this Act into execution there shall be a Board constituted and appointed as by this Act provided. Incorporation  
of Board.

(2) The Board shall be a body corporate under the name and style of the “North-East Surrey Crematorium Board” with perpetual succession and a common seal and with power to acquire and hold lands (without any licence in mortmain) and with all other powers and privileges of a body corporate.

6. Subject to alteration by the Minister as hereinafter provided the Board shall consist of members appointed by the council of the borough of Sutton and Cheam the mayor aldermen and councillors of the metropolitan borough of Battersea and the urban district councils of Carshalton and Merton and Morden as follows:— Constitution  
of Board.

(1) In the first instance the number of members appointed by each constituent authority shall be on the basis of one member for every thirty thousand inhabitants of the constituent district or part of thirty thousand inhabitants above thirty thousand or above a multiple of thirty thousand inhabitants according to the population of that constituent district at the passing of this Act:

(2) As from the first day of June in the year one thousand nine hundred and sixty-one and in every subsequent fifth year the constitution of the Board shall be revised so that the number of members to be appointed by each of the constituent authorities to hold office during the next following period of five years shall be on the basis of one member for every thirty thousand inhabitants of the constituent district or part of thirty thousand inhabitants above thirty thousand or above a multiple of thirty thousand inhabitants according to the population of that constituent district at that time:

Provided that a constituent authority whose constituent district has less than thirty thousand inhabitants shall be entitled to appoint one member.

7.—(1) The first appointment of members of the Board by each constituent authority shall take place at a meeting of the constituent authority to be held before the appointed day or such later date as the Minister shall allow on the application of a majority of the constituent authorities and the members so appointed shall subject to the provisions of this Act continue in office for such period as the constituent authority by whom they are appointed shall determine but not beyond the thirty-first day of May in the year one thousand nine hundred and sixty-one. Appointment  
of members  
of Board.



Act 1948 shall apply as if the Board were a local authority within the meaning of the Act of 1933 other than the council of a rural parish.

**PART II**  
—cont.

**12.** Whenever an appointment of a member of the Board has been made the town clerk or clerk of the constituent authority by whom the appointment was made shall by writing under his hand certify the appointment to the Board and shall forthwith on the first appointment transmit the certificate to the respective town clerks or clerks of the other constituent authorities and on every subsequent appointment to the clerk and every such certificate shall be conclusive evidence of such appointment. Certificate of appointment of members.

**13.** Any member of the Board may at any time resign his office as such member by notice in writing addressed to the clerk. Resignation of members.

**14.** Any member of the Board may be removed at any time by resolution of the constituent authority by whom he was appointed. Removal of members.

**15.—(1)** At their first meeting and subsequently at their annual meeting in each succeeding year the Board shall appoint one of their members as chairman and another as vice-chairman for the ensuing year. Chairman and vice-chairman of Board.

(2) A chairman or vice-chairman may if otherwise qualified be reappointed and shall continue in office until his successor is appointed unless he dies or resigns or becomes disqualified or ceases to be a member of the Board before the appointment of his successor.

(3) On a casual vacancy occurring in the office of chairman or vice-chairman by reason of death resignation disqualification or any other cause another member shall be appointed in his place to hold office until the time when the person in whose place he is appointed would have gone out of office in the ordinary course.

(4) If there be an equality of votes as to the appointment of chairman or vice-chairman it shall be decided by lot which of the members having an equal number of votes shall be appointed as chairman or vice-chairman (as the case may be).

**16.—(1)** The Board shall hold their first meeting at the Municipal Offices High Street Sutton or at such other place on such day and at such time as may be agreed between the constituent authorities or as failing such agreement shall be appointed for the purpose by the Minister. First and subsequent meetings of Board.

(2) The Board shall hold an annual meeting in the month of June in every year after the year one thousand nine hundred and fifty-six.



**21.**—(1) Minutes of the proceedings of every meeting of the Board or a committee of the Board shall be drawn up and fairly entered in a book kept for that purpose or printed and kept in the form of a book and the minutes shall be approved and approved signed by the chairman or other member presiding at the next ensuing ordinary meeting.

PART II  
—cont.

Minutes of  
meetings.

(2) A minute of the proceedings of the Board or of a committee of the Board certified by the clerk shall be received in evidence without further proof.

(3) Until the contrary is proved every meeting whereof a minute has been so made shall be deemed to have been duly convened and held and all the members at the meeting shall be deemed to have been duly qualified and where the proceedings are proceedings of a committee of the Board the committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minutes.

(4) Copies of the minutes of the proceedings of every meeting of the Board shall after each meeting be sent by the clerk to the town clerk or clerk of each constituent authority for the information of that authority.

**22.** Subject to the provisions of this Act the Board may make standing orders for the regulation of their proceedings and business and of the proceedings and business of committees of the Board and may vary or revoke the same.

Standing  
orders of  
Board.

**23.**—(1) The Board may appoint out of their own body such and so many committees either of a general or special nature consisting of such number of persons as they think fit for any purposes which in the opinion of the Board would be better regulated and managed by means of committees and may delegate with or without any restrictions or conditions as they may think fit any of their powers or duties (except the power of issuing a precept for a rate or of borrowing money) to any committee of the Board so appointed and may dissolve any such committee so appointed.

Committees  
of Board.

(2) The provisions of section 96 of the Act of 1933 with respect to proceedings of committees of a local authority within the meaning of that Act shall apply to committees of the Board as if they were committees of a local authority.

**24.** A constituent authority may nominate in writing under the hand of their town clerk or clerk a deputy for any member appointed by them to attend any meeting of the Board or of any committee thereof in place of the member so appointed who for any reason is unable to attend that meeting and to vote thereat.

PART II  
—cont.  
Appointment  
of officers.

**25.**—(1) The Board may from time to time appoint and remunerate a clerk and a treasurer who shall not be the same person a superintendent and such other officers and servants as they from time to time think requisite and all officers and servants so appointed shall subject to the terms of any agreement that may be made between the Board and any officer or servant be removable by the Board at their pleasure.

(2) No member of the Board or of any of the constituent authorities shall be an officer or servant of the Board but the same person may be and continue an officer or servant of the Board and of a constituent authority.

Acts not  
invalidated.

**26.** No act or proceeding of the Board shall be questioned on account of any vacancy in their body or on account of any defect in the appointment of any member of the Board.

Power to alter  
number of  
members.

**27.** On the application of any of the constituent authorities the Minister may at any time after giving notice of the application to the other constituent authorities and considering any objections or representations made by them by order alter the number and proportion of members to be appointed by the constituent authorities and may by such order alter the total number of members of the Board and may make any provisions incidental to or consequential on such alteration.

As to  
additional  
constituent  
authorities.

**28.**—(1) Any local authority desiring to become a constituent authority of the Board and to appoint representatives thereon may give notice thereof to the Board and the Board after receipt of such notice may if they think fit apply to the Minister for an order constituting such local authority a constituent authority upon such terms and conditions as may be agreed between the Board and such local authority and the Minister may make any such order accordingly and may thereby make all such amendments of this Act and of any Act or order relating to the local authority who have given the notice as may be necessary or expedient in consequence of such local authority being constituted a constituent authority of the Board.

(2) Section 285 of the Act of 1933 as amended by the Statutory Orders (Special Procedure) (Substitution) Order 1949 shall apply to the making of an order under this section as if the provisions of that section were re-enacted in this section and in terms made applicable thereto.

(3) For the purposes of this section the expression “local authority” includes the council of any borough (including a metropolitan borough) or urban or rural district.

### PART III

#### LANDS

**29.** The Agreement made the fifth day of October one thousand nine hundred and fifty-five between the mayor aldermen and councillors of the metropolitan borough of Battersea of the one part and the mayor aldermen and burgesses of the borough of Sutton and Cheam the said mayor aldermen and councillors of the metropolitan borough of Battersea and the urban district councils of Carshalton and Merton and Morden of the other part of which a copy is set out in the First Schedule to this Act is hereby confirmed and the scheduled land and the scheduled easements shall on the appointed day by virtue of this Act be transferred to and vest in the Board free from all mortgages and liabilities and shall be held used exercised and enjoyed by the Board for the purposes of and according to the provisions of this Act. Transfer of scheduled land and easements.

**30.—(1)** The Board by means of an order made by them and submitted to the Minister and confirmed by him may be authorised to purchase compulsorily land within the urban district of Merton and Morden for the purposes of the undertaking. Purchase of land.

(2) The Acquisition of Land (Authorisation Procedure) Act 1946 shall apply as if this section were an enactment contained in a public general Act and in force immediately before the commencement of that Act.

### PART IV

#### POWERS AND DUTIES OF BOARD

**31.** On and after the appointed day the Board may build provide fit up equip maintain and manage a crematorium proper and sufficient for the cremation of human remains on the lands described in the Second Schedule to this Act and for that purpose may alter and adapt any building existing on those lands on the appointed day. Power to establish crematorium.

**32.** On and after the appointed day the Board shall have and may exercise and perform and shall be subject to all the powers duties and liabilities of a burial authority under the Cremation Acts 1902 and 1952 for the metropolitan borough of Battersea the borough of Sutton and Cheam and the urban districts of Carshalton and Merton and Morden to the exclusion of any other burial authority and the provisions of those Acts shall extend to the Board as if they were herein re-enacted and in terms made applicable to this Act and to the Board: Application of Cremation Acts 1902 and 1952.

Provided that section 5 of the Cremation Act 1902 shall not apply in respect of any crematorium to be constructed upon the lands described in the Second Schedule to this Act.

PART IV  
—cont.  
Application of  
enactments.

**33.** For the purpose of the provision maintenance and management of a crematorium the Board shall on and after the appointed day exercise and perform and be subject to all the powers duties and liabilities of a local authority under the enactments mentioned in Part I of the Third Schedule to this Act and those enactments shall with the necessary modifications extend to the Board as if they were re-enacted herein and in terms made applicable to this Act and to the Board.

Power to make  
byelaws.

**34.**—(1) The Board may make byelaws with respect to the management and regulation of their crematoria and the lands and buildings used in connection therewith.

(2) As respects any byelaws made under this section the confirming authority for the purposes of section 250 of the Act of 1933 shall be the Minister.

Agreements to  
maintain  
memorials etc.

**35.** The Board may agree with any person in consideration of the payment of a capital sum by him to maintain for a period fixed by the agreement an urn memorial or part of a columbarium in a crematorium or on any land provided by the Board and the following provisions shall apply in relation to any such agreement:—

- (a) The said sum shall subject to the next following paragraph and any other enactment authorising its application in some other manner be invested in statutory securities;
- (b) If and in so far as the cost of maintaining the urn memorial or part of a columbarium in accordance with the agreement exceeds in any year the interest received on the said sum the cost shall be defrayed out of the capital of the said sum;
- (c) At the expiration of the period fixed by the agreement for the maintenance of the urn memorial or part of a columbarium the Board may apply the capital of the said sum or so much thereof as has not been expended under the last foregoing paragraph in any manner in which capital money may properly be applied by them under any enactment;
- (d) The amount of the capital of the said sum and the interest thereon shall be shown separately in the accounts of the Board.

**PART V**

**FINANCE**

36. The Board may from time to time independently of any other borrowing power borrow at interest for and in connection with the purposes mentioned in the first column of the following table the respective sums mentioned in the second column of the said table and they shall pay off all moneys so borrowed within the respective periods mentioned in the third column of the said table (namely):—

1	2	3
Purpose	Amount	Period for repayment calculated from the date or dates of borrowing
(a) Conversion of buildings into a crematorium.	£23,000	Fifty years
(b) Site layout ... ..	£1,000	Twenty years
(c) Provision of gas water and electricity services.	£2,000	Twelve years
(d) Equipment and furnishing ...	£6,500	Fifteen years
(e) The payment of the costs charges and expenses of this Act as hereinafter defined.	The sum requisite	Five years

37. It shall not be lawful to exercise the powers of borrowing conferred by this Act (other than the power of borrowing to pay the costs charges and expenses of this Act as hereinafter defined) otherwise than in accordance with the provisions of any order for the time being in force made under section 1 of the Borrowing (Control and Guarantees) Act 1946.

38.—(1) The provisions of Part IX of the Act of 1933 and of the regulations made thereunder so far as they are not inconsistent with the provisions of this Act shall extend and apply to the Board and to money borrowed by the Board as if—

- (a) the Board were a local authority within the meaning of the Act of 1933 ;
- (b) the money so borrowed were borrowed under the said Part IX ; and
- (c) the revenues of the Board were the general rate fund or the revenues of the local authority ;

and subject to any other modifications which may be necessary to adapt the said Part IX and regulations for the purpose of this section.

(2) The periods mentioned in the third column of the table contained in section 36 (Power to borrow) of this Act shall as respects any money borrowed under that section be the fixed period for the purposes of the said Part IX.

PART V  
—cont.  
As to securities of Board.

**39.** For the purposes of the definition of “statutory securities” in section 218 of the Act of 1933 any securities created by the Board shall be deemed to be securities created by a local authority.

Power for constituent authorities to lend money to Board.

**40.—(1)** Without prejudice to the operation of the last foregoing section of this Act any constituent authority may with the consent of the Minister lend to the Board any sum or sums which the Board are empowered to borrow on such terms and conditions and in such form as may be agreed between the Board and the constituent authority.

(2) Any constituent authority may from time to time independently of any other borrowing power borrow at interest such sums as may be requisite for the purpose of providing any sum or sums which such constituent authority may with the consent of the Minister lend to the Board under the provisions of subsection (1) of this section.

(3) The provisions of Part IX of the Act of 1933 so far as they are not inconsistent with this Part of this Act shall extend and apply to money borrowed under this section as if it were borrowed under Part IX of that Act.

Common fund of Board.

**41.** Except as otherwise expressly provided by this Act all the receipts of the Board shall be carried to a common fund and the expenses incurred by the Board shall be defrayed out of that fund.

Payments by Board.

**42.—(1)** All payments to and out of the common fund shall be made to and by the treasurer.

(2) All payments out of the common fund of the Board shall be made in pursuance of an order of the Board signed by at least two members of the Board and shall be countersigned by the clerk or in his absence or inability by such other officer as the Board may authorise for that purpose:

Provided that the following payments may be made out of the common fund without an order of the Board that is to say payments made—

- (a) in pursuance of the specific requirement of any enactment;
- (b) in pursuance of an order of a competent court;
- (c) in respect of any remuneration of any officer or servant of the Board.

Apportionment of expenditure between constituent authorities.

**43.—(1)** In this section the expression “net expenditure” means the amount of money required by the Board in any financial year for all expenditure (other than expenditure defrayed out of loans) after allowing for all income received by the Board otherwise than from loans and precepts.

(2) Not later than the thirtieth day of November in every year each constituent authority shall submit to the Board a statement showing the rateable value of their constituent district as at the previous thirtieth day of September and such other information as the Board may from time to time reasonably require for the purpose of preparing the estimate required under this section.

(3) Not later than the twenty-first day of January in every year the Board shall estimate the net expenditure which will be incurred during the next financial year and shall apportion the same between the constituent authorities in the following manner (that is to say):—

- (a) One-half of the estimated net expenditure shall be borne by the constituent authorities in the proportion which the population of the constituent district of that authority at the time of the apportionment bears to the aggregate population of the constituent districts of all the constituent authorities at that time; and
- (b) The other half of the estimated net expenditure shall be borne by the constituent authorities in the proportion which the rateable value of each constituent district on the thirtieth day of September next prior to the commencement of the financial year in question bears to the aggregate estimated rateable values of the constituent districts on that date.

(4) Not later than the first day of February in every year the Board shall forward to each constituent authority a copy of their estimate of expenditure and revenue for the next financial year and also a copy of the apportionment of the estimated net expenditure as required by subsection (3) of this section.

(5) The Board shall issue precepts to the constituent authorities for the amounts apportioned in pursuance of subsections (3) and (4) of this section and the constituent authorities respectively shall within three months from the receipt of such precepts pay to the Board the amount so apportioned to them respectively:

Provided that if the amount of any precept is payable by half-yearly instalments the payments shall be made within three months and nine months respectively from the receipt of the precept.

(6) The amounts required under subsection (5) of this section shall be raised and paid by the constituent authorities out of the general rate funds of their respective constituent districts and the constituent authorities respectively are hereby authorised and required to make and levy any rate that may be necessary for providing the amounts payable as aforesaid.

PART V  
—cont.

(7) If any constituent authority fails to pay any amount so apportioned or payable within the time in which the same was payable the same shall be a debt due to the Board from such constituent authority and shall bear interest until payment at the rate of five per centum per annum and the Board may in addition to all other remedies proceed for recovery thereof in either of the modes following (that is to say):—

- (a) The Board may sue the defaulting constituent authority for the amount unpaid in any court of competent jurisdiction;
- (b) The Board may by precept empower some officer of the Board to raise by means of a rate to be assessed upon the like property and to be made levied and collected in like manner and with the like powers and authorities as the rate out of which the amount in arrear ought to have been paid by the defaulting constituent authority such sum (the amount to be specified in the precept) as in the opinion of the Board will be sufficient to pay the amount so in arrear and interest and all expenses incurred in consequence of the non-payment thereof and the expenses of levying and collecting such rate and any officer of the Board so empowered shall have the like powers of assessing making levying and collecting rates and of issuing precepts and of requiring officers of the defaulting constituent authority to account as the defaulting constituent authority would have under any Act or otherwise and the officer of the Board so empowered after paying all money payable under the precept shall pay any residue of the money received by him (the amount to be ascertained by the Board) to the defaulting constituent authority.

(8) Any receiver appointed under Part IX of the Act of 1933 upon the application of the mortgagees of the Board shall be entitled so long as his appointment remains to receive the amounts so apportioned by the Board between the constituent authorities and in case the Board at any time neglect or refuse to make such apportionment or to recover the same or any part thereof the receiver shall in every such case be entitled to make such apportionment and to exercise all or any of the powers by this section conferred on the Board for recovering the amounts so apportioned.

Application  
of revenue.

44.—(1) The Board shall apply the revenues of the Board except borrowed money and money arising from the disposal of lands acquired for the purposes of this Act in manner following (that is to say):—

- First In payment of the working and establishment expenses and cost of maintenance of the undertaking ;

- Secondly In payment of the interest on moneys borrowed by the Board under any statutory borrowing power ;
- Thirdly In providing the requisite appropriations instalments or sinking fund payments in respect of moneys borrowed by the Board under any statutory borrowing power ;
- Fourthly In payment of all other expenses of executing this Act not being expenses properly chargeable to capital ;
- Fifthly In extending improving and constructing (if the Board think fit) any works for the purpose of the undertaking ;
- Sixthly In providing working capital (if the Board think fit) ;
- Seventhly In providing a reserve fund (if the board think fit) in accordance with the next succeeding section of this Act.

(2) The balance remaining over in any financial year after the Board have retained or set aside such a sum as may in their opinion be required for carrying on the undertaking and paying the current expenses connected therewith shall be credited to the constituent authorities in the following manner that is to say one half of the said balance shall be apportioned among the constituent authorities in accordance with paragraph (a) of subsection (3) of section 43 (Apportionment of expenditure between constituent authorities) of this Act for that year and the other half of the said balance shall be apportioned among the constituent authorities in accordance with paragraph (b) of the said subsection for that year and the sums so credited to the constituent authorities shall be deducted from the amounts which the constituent authorities are required to pay to the Board in the next succeeding financial year in pursuance of the said section 43 or (if the Board shall issue no precepts in that year) shall be paid by the Board to the constituent authorities and shall be credited by them to their general rate funds.

**45.—**(1) The Board may (if they think fit) provide a reserve fund by setting aside such money as they think reasonable and investing in statutory securities the sums so set aside and the sums which pursuant to subsection (2) of this section are to form part of that fund until the fund so formed amounts to a sum (in this Act referred to as “the prescribed maximum”) equal to one-tenth of the aggregate capital expended for the time being by the Board upon the undertaking or such greater sum as may be authorised by the Minister which funds shall be applicable to answer any deficiency at any time happening in the income of the Board from the undertaking or to meet any extraordinary claim or demand at any time arising against the Board in respect

**Reserve fund.**

PART V  
—cont.

of the undertaking or for the payment of the cost of renewing improving or extending any part of the works forming part thereof and so that if the fund be at any time reduced it may thereafter be again restored to the prescribed maximum and so from time to time as often as such reduction happens :

Provided that resort may be had to the reserve fund under the foregoing provisions although such fund may not at the time have reached or may have been reduced below the prescribed maximum.

(2) Where sums are appropriated to the reserve fund the interest received in any year from the investment of the sums so appropriated shall form part of the revenue out of which the sums were appropriated :

Provided that a sum equivalent to the amount so carried to the revenue as aforesaid shall be added to such reserve fund unless and until the reserve fund has reached the prescribed maximum.

## Closing of registers.

**46.**—(1) The Board may close any transfer books or the registers of transfers of any authorised securities (other than stock) of the Board for a period not exceeding fourteen days next before any date on which any interest or dividend on the class of securities to which such register relates is payable.

(2) The persons who on the date on which the transfer book or register is closed are entered therein as holders of any security of the class to which such transfer book or register relates shall be entitled to the interest next payable thereon.

## Receipt in case of persons not sui juris.

**47.** If any money is payable to a holder of any authorised security being a minor the receipt of his guardian shall be a sufficient discharge to the Board.

## Interest orders and dividend warrants by post.

**48.**—(1) The Board may give notice to any person being registered as a holder of any authorised security other than stock that they intend to send interest or dividends to him by post if he does not object and if such person does not within fourteen days from the receipt of such notice give notice to the Board of such objection the Board may from time to time send by post orders for the payment of interest or dividend warrants to the address of such person appearing in the register :

Provided that if such person give notice to the Board that he desires such orders or warrants to be sent to another person at a given address the Board may from time to time send by post the same to such other person at such address.

(2) Where more persons than one are registered as joint holders of any authorised security any one of them may for the purpose of this section be regarded as the holder of the security unless notice in writing to the contrary has been given to the Board by any other of them.

(3) The posting by the Board of a letter containing an order for the payment of interest or a dividend warrant in pursuance of this section shall as respects the liability of the Board be equivalent to the delivery of the order or warrant to the registered holder of the security of the Board.

(4) Every order or warrant so sent by post shall be deemed to be a cheque and the Board shall in relation thereto be deemed a banker within the Bills of Exchange Act 1882.

49.—(1) The accounts of the Board shall at all reasonable times be open to inspection and transcription without payment by any member of a constituent authority or by any officer of any constituent authority authorised by that constituent authority for that purpose. Accounts and audit.

(2) (a) The accounts of the Board shall be audited annually.

(b) The Board shall by a resolution (in this section referred to as “the initial resolution”) adopt either the system of district audit or the system of professional audit. The initial resolution must be passed not later than two months after the appointed day at a meeting of the Board specially convened for the purpose with notice of the object of the meeting of which not less than one month’s previous notice must be given to every member of the Board.

(c) The provisions of Part X of the Act of 1933 (other than those of sections 237 and 238) shall *mutatis mutandis* and with all necessary modifications extend and apply to the Board as if the Board were the council of a borough:

Provided that—

(i) The following paragraph shall be substituted for paragraph (b) of subsection (3) of section 239 of the Act of 1933:—

(b) No person shall be qualified to be so appointed unless he is a member of one or more of the following bodies:—

the Institute of Chartered Accountants in England and Wales;

the Society of Incorporated Accountants;

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; and

PART V  
—cont.

(ii) Subsection (4) of the said section 239 shall not apply to the initial resolution.

(3) It shall be lawful for the Board subject to the consent of the Minister at any time after the expiration of a period of five years from the date of the initial resolution and thereafter from time to time by means of a subsequent resolution passed and confirmed in accordance with subsection (4) of the said section 239 to adopt the other of the two systems which are referred to in the said section 239.

(4) As soon as practicable after the completion of the audit in every financial year the clerk shall forward to the town clerk or clerk of each constituent authority a copy of the abstract of the accounts of the Board for that year and of any report to the Board made by an auditor.

## PART VI

## MISCELLANEOUS

Power for Board to apply for further powers etc.

**50.**—(1) The Board shall have power to promote or oppose any Bill in Parliament or any Provisional Order or special or other statutory order.

(2) The Board may pay the costs and expenses of and incidental to the promotion of or opposition to any such Bill in Parliament or the promotion of or opposition to any such Provisional Order or special or other statutory order as taxed by the taxing officer of the House of Lords or of the House of Commons out of their revenues as part of their working expenses or out of moneys to be borrowed by the Board for the purpose:

Provided that—

- (a) No expenses in relation to the promotion of any such Bill shall be paid as aforesaid unless incurred in pursuance of a resolution passed at a meeting of the Board by a majority of the whole number of the Board after ten clear days' notice by public advertisement of such meeting and of the purpose thereof in one or more newspapers circulating in the constituent districts such notice to be in addition to the ordinary notice required for summoning such meeting ;
- (b) No further expenses shall be incurred or paid as aforesaid after the deposit of the Bill unless the propriety of the promotion of the Bill shall be confirmed by a resolution passed at a further meeting of the Board by such an absolute majority held in pursuance of a similar notice not less than fourteen days after the deposit of the Bill in Parliament and unless that resolution shall have received the approval of the Minister.

(3) Section 303 of the Public Health Act 1875 as amended by the Statutory Orders (Special Procedure) (Substitution) Order 1949 shall extend to the Board as if the provisions of that section were re-enacted in this section and in terms made applicable thereto.

PART VI  
—cont.

**51.** The Board on the one hand and the constituent authorities or any of them on the other hand may enter into and carry into effect agreements for or with respect to any of the purposes or provisions of this Act.

Agreements.

**52.** Subject to the provisions of this Act any difference which arises between the constituent authorities or any of them under the provisions of this Act shall be referred to and determined by arbitration.

Settlement of differences.

**53.** When the day on which anything is required by this Act to be done is a Sunday Good Friday Christmas Day or a bank holiday that thing shall be done on the next following day not being one of the days before mentioned.

Provision for Sundays and public holidays.

**54.** Where in any legal proceedings taken by or on behalf of or against the Board or any officer servant solicitor or agent of the Board or any committee of the Board under any enactment from time to time relating to the Board it becomes necessary to prove the appointment or authority of any officer servant solicitor or agent of the Board or of any committee of the Board or to prove any resolution or order of the Board or any resolution order or report of any committee of the Board a certificate of such appointment authority resolution order or report purporting to be authenticated by the signature of the chairman of the Board or of the clerk shall be prima facie evidence of such appointment authority resolution order or report without further proof of the holding of any meeting or the production of any minute book or other record or document.

Evidence of appointments authority etc.

**55.—(1)** Where any notice or demand under any enactment byelaw or regulation for the time being in force or any other document requires authentication by the Board the signature of the clerk or other duly authorised officer of the Board shall be a sufficient authentication.

Authentication and service of notices etc.

(2) Notices demands orders and other documents required or authorised to be served under any enactment may be served in the same manner as notices under the Public Health Act 1936 are by section 285 of that Act authorised to be served.

**56.** The Minister may hold such inquiries as he may consider necessary in regard to the exercise of any powers conferred upon him or required to be exercised by him or by the giving of consents under this Act and subsections (2) (3) (4) and (5) of section 290 of the Act of 1933 shall apply to any such inquiry.

Inquiries by Minister.

**PART VI**  
—*cont.*  
**Judges not disqualified.**  
**Application of provisions of Local Government Act 1933 and Public Health Act 1936.**

**57.** A judge of a court or a justice shall not be disqualified from acting in the execution of this Act by reason of his being liable to any rate.

**Saving for town and country planning.**

**58.** The sections of the Act of 1933 and of the Public Health Act 1936 mentioned in Part II of the Third Schedule to this Act shall have effect as if they were re-enacted in this Act and in terms made applicable thereto.

**59.** This Act shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning Act 1947 for the purposes of subsection (4) of section 13 and subsection (1) of section 118 of that Act.

**Costs of Act.**

**60.** All the costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act or otherwise in relation thereto (including the preparation and completion of the agreement) as taxed by the taxing officer of the House of Lords or of the House of Commons shall (subject as provided in the agreement) in the first instance be paid by the mayor aldermen and burgesses of the borough of Sutton and Cheam but shall be repaid to them by the Board out of money to be borrowed by them under the powers of this Act for that purpose or in whole or in part out of the revenues of the Board.

## SCHEDULES

### FIRST SCHEDULE

THIS AGREEMENT is made the Fifth day of October One thousand nine hundred and fifty-five Between THE MAYOR ALDERMEN AND COUNCILLORS OF THE METROPOLITAN BOROUGH OF BATTERSEA (hereinafter referred to as "the Battersea Council") of the one part and the BATTERSEA COUNCIL THE MAYOR ALDERMEN AND BURGESSES OF THE BOROUGH OF SUTTON AND CHEAM and the URBAN DISTRICT COUNCILS OF CARSHALTON AND MERTON AND MORDEN (hereinafter together referred to as "the Constituent Authorities" and separately referred to as "any constituent authority") of the other part.

WHEREAS:—

(1) The Constituent Authorities have determined to promote jointly in Parliament a Bill to constitute a joint crematorium board for the metropolitan borough of Battersea the borough of Sutton and Cheam and the urban districts of Carshalton and Merton and Morden

(2) The Battersea Council are seised in fee simple in possession free from incumbrances of a cemetery situate at Morden in the urban district of Merton and Morden

(3) The Battersea Council have agreed to sell to the Board to be constituted by the said Bill (hereinafter referred to as "the Board") two pieces of land forming part of the said cemetery at Morden and certain easements and rights in and over other lands also forming parts of the said cemetery in consideration of the sum of Thirty thousand pounds to be paid as hereinafter mentioned

(4) The Constituent Authorities accept subject as hereinafter mentioned the title of the Battersea Council to the said lands including those in or over which the said easements and rights are to be conveyed

Now in consideration of the expenses intended to be incurred by the Constituent Authorities and the benefits to be derived by the parties hereto THIS AGREEMENT WITNESSETH and it is hereby agreed and declared as follows:—

1. In this Agreement (unless the subject and context otherwise requires)—

"the appointed day" means the first day of October or the first day of April next following the coming into force of the Act the Bill for which is referred to in clauses 6 and 7 hereof;

"the plan" means the plan signed in duplicate by the town clerk of Battersea on behalf of the Battersea Council and by the town clerk of Sutton and Cheam on behalf of the Constituent Authorities and referred to in the Schedule hereto;

"the scheduled land" means the two pieces of land described in Part I of the said Schedule hereto;

1ST SCH.  
—cont.

“the scheduled easements” means the easements and rights described in Parts II III IV V VI and VII of the said Schedule hereto.

2. This Agreement except clause 8 hereof is subject to and conditional upon the coming into force of the Act the Bill for which is referred to in clauses 6 and 7 hereof.

3.—(1) The Battersea Council shall sell and the Board shall purchase the scheduled land and the scheduled easements free and discharged from all mortgages charges incumbrances debts and other liabilities for Thirty thousand pounds to be paid by thirty annual payments of One thousand pounds each.

(2) The scheduled land and the scheduled easements shall be vested in the Board on the appointed day by the said Act the Bill for which is referred to in clauses 6 and 7 hereof.

(3) The Battersea Council shall prior to the appointed day deliver to the town clerk of Sutton and Cheam as representing the Constituent Authorities a sufficient abstract of their title to the scheduled land and to the lands over which the scheduled easements are to be conveyed to enable the scheduled land and the scheduled easements to be registered with an absolute title under the Land Registration Acts 1925 and 1936 and the Battersea Council shall assist the Board in every way to effect such registration.

(4) The first instalment of One thousand pounds referred to in sub-clause (1) of this clause shall be paid to the Battersea Council within one month of the appointed day.

4. The Battersea Council shall be entitled to any money due on revenue account and shall discharge and pay all outgoing and liabilities in respect of the scheduled land which shall have accrued prior to the appointed day and the Board shall be entitled to any sum of money and shall discharge and pay all outgoing and liabilities in respect of the scheduled land which shall accrue on or after the appointed day and where necessary all such receipts and outgoing shall be apportioned between the Battersea Council and the Board.

5. After the date hereof the Battersea Council shall not charge or dispose of the scheduled land or any of the lands in or over which the scheduled easements are to be conveyed or make or incur any expenditure or liability other than in the ordinary course of business in respect of any such lands.

6. The Constituent Authorities shall promote in Parliament a Bill for the purpose of constituting a joint crematorium board for the metropolitan borough of Battersea the borough of Sutton and Cheam and the urban districts of Carshalton and Merton and Morden and of carrying this Agreement into effect.

7. This Agreement shall be scheduled to and confirmed by the Bill referred to in the last preceding clause and such Bill shall provide for the vesting in the Board as from the appointed day of the scheduled land and the scheduled easements free and discharged from all mortgages charges incumbrances debts and other liabilities of the Battersea Council.

8. From and after the date of this Agreement any officer duly authorised by the town clerk of Sutton and Cheam and his assistants shall have access to the scheduled land and the lands in or over which the scheduled easements are to be conveyed during ordinary working hours and may inspect the papers records plans and documents relating to such lands and any buildings thereon and the Battersea Council and their officers shall give to such officer and his assistants such assistance and information relating to the matters aforesaid as they may reasonably require.

9. The costs and expenses of preparing and completing this Agreement preparing any plans and particulars of the crematorium or any plans of the layout of any of the lands and of promoting the said Bill (other than expenditure required under section 254 of the Local Government Act 1933 and section 151 of the London Government Act 1939 which shall be paid by each of the Constituent Authorities incurring the same) shall in the first instance be paid by the Battersea Council and the Mayor Aldermen and Burgesses of the borough of Sutton and Cheam as may be agreed between those two authorities and shall ultimately be paid by the Board.

10.—(1) If the condition referred to in clause 2 hereof is not fulfilled within eighteen months from the date hereof this Agreement shall be void and of no effect and no constituent authority shall have any claim against any other constituent authority in respect of costs fees and expenses or otherwise.

(2) (a) This Agreement is subject to such alterations as Parliament may think fit to make therein but if any material alteration is made in this Agreement during the passage of the said Bill through Parliament any constituent authority may withdraw from this Agreement.

(b) Unless the constituent authority withdrawing is the Battersea Council or unless three or more of the constituent authorities withdraw therefrom this Agreement shall continue and be binding on the other parties thereto as if the constituent authority or authorities withdrawing had never been a party or parties thereto and no constituent authority shall have any claim against the withdrawing constituent authority or authorities in respect of costs fees expenses or otherwise.

(c) In the event of the Battersea Council being the withdrawing constituent authority or in the event of three or more constituent authorities withdrawing then this Agreement shall become void and of no effect and no constituent authority shall have any claim against any other constituent authority in respect of costs fees expenses or otherwise.

(3) In the event of the provisions of section 254 of the Local Government Act 1933 not being complied with in relation to the promotion of the Bill referred to in clause 6 hereof by any one constituent authority or by any two constituent authorities (other than the Battersea Council) or in the event of the promotion of the said Bill not being approved by the local government electors of the borough or district of any one constituent authority or of any two constituent authorities (other than as aforesaid) this Agreement

**1st SCH.**  
—*cont.*

shall be binding on all the other constituent authorities as if the constituent authority or authorities which has or have not complied with the said section or the local government electors of whose borough or district or districts has or have failed to approve the promotion of the said Bill had never been a party to this Agreement and no constituent authority shall have any claim in respect of costs fees expenses or otherwise against the constituent authority or authorities which has or have not complied with the provisions of the said section 254 or whose local government electors have not approved the promotion of the said Bill.

11. If any difference shall arise between the Battersea Council and the Constituent Authorities or among the Constituent Authorities under this Agreement the same shall be referred to a single arbitrator to be agreed upon by the parties hereto or failing agreement to be appointed at the request of the Battersea Council or the Constituent Authorities after notice in writing to the other by the President of The Law Society and save as aforesaid the provisions of the Arbitration Act 1950 shall apply to such reference and determination.

In witness whereof the respective Common Seals of the Battersea Council and the Constituent Authorities have been hereunto affixed the day and year first above written.

## THE SCHEDULE

### PART I

All those two pieces of land situate at Morden in the urban district of Merton and Morden forming part of the cemetery of the Battersea Council shown and coloured pink on the plan Together with the chapel and other buildings erected on one piece thereof and hatched black on the plan.

### PART II

All that the easement and right in perpetuity at any time or times of using and taking a supply of water from the existing water pipe shown by the purple line on the plan and of laying and thereafter maintaining inspecting repairing relaying renewing enlarging removing and using a line of water pipes alongside the said existing water pipe Together with a right of access thereto for such purposes as aforesaid over the adjoining lands of the Battersea Council And together with the right of temporarily depositing surplus material and spoil on the said lands of the Battersea Council.

### PART III

All that the easement and right in perpetuity at any time or times of laying and thereafter maintaining inspecting repairing relaying renewing enlarging removing and using a line of gas pipes in the position shown by the red line on the plan Together with a right of access thereto for such purposes as aforesaid over the adjoining lands of the Battersea Council And together with the right of temporarily depositing surplus material and spoil on the said lands of the Battersea Council.

**PART IV**

Full right and liberty at all times to pass and repass (in common with the Battersea Council) with or without vehicles over and along the carriageway shown coloured grey on the plan for the purpose of obtaining access to and from the scheduled land from and to the public road known as Lower Morden Lane.

**PART V**

All that the easement and right in perpetuity at any time or times of laying and thereafter maintaining inspecting repairing relaying renewing enlarging removing and using an electricity main or cable in the position shown by the green line on the plan Together with a right of access thereto for such purposes as aforesaid over the adjoining lands of the Battersea Council And together with the right of temporarily depositing surplus material and spoil on the said lands of the Battersea Council.

**PART VI**

Full right and liberty at all times hereafter to use in common with the Battersea Council the surface water and soil sewers constructed by the Battersea Council under the said cemetery And for such purpose to make and for ever thereafter repair and maintain all such connections with the said sewers as may be reasonable and proper in that behalf And for the purpose of making repairing and maintaining such connections as aforesaid to enter upon the said adjoining lands of the Battersea Council But subject to the prior approval of the Battersea Council to the making of any such connections as aforesaid which approval shall not be unreasonably withheld.

**PART VII**

The Battersea Council and the Board so far as concerns the land described in Part I hereof and the adjoining lands of the Battersea Council shall respectively have the benefit of such rights and be subject to such obligations as are specified in Part VI of the London Building Acts (Amendment) Act 1939 in relation to any wall being a party wall within the meaning of section 44 of the said Act and the provisions of Part VI of the said Act shall apply thereto.

THE COMMON SEAL of the Mayor Aldermen and Councillors of the Metropolitan Borough of Battersea was hereunto affixed in the presence of

**R. G. BERRY**  
*Town Clerk*

THE COMMON SEAL of the Mayor Aldermen and Burgesses of the Borough of Sutton and Cheam was hereunto affixed in the presence of

**D. SPARKS**  
*Mayor*

**A. PRIESTLEY**  
*Town Clerk*



THIRD SCHEDULE

ENACTMENTS APPLIED TO THE BOARD

PART I

The Public Health Act 1875—

Section 265 (Protection of local authority and their officers from personal liability).

The Act of 1933—

Section 119 (Security to be given by officers).

Section 120 (Accountability of officers).

Section 121 (Notice of termination of and retirement from appointments held during pleasure).

Section 122 (Members of local authorities not to be appointed as officers).

Section 123 (Disclosure by officers of interest in contracts).

Section 125 (Provision of officers &c. by local authorities other than parish councils).

Section 157 (Power of local authorities to acquire land by agreement).

Section 158 (Acquisition of land in advance of requirements).

Section 164 (Power to let land).

Section 165 (Power to sell or exchange land).

Section 166 (Application of capital money).

Section 176 (Application of Lands Clauses Acts to purchases by agreement).

Section 250 (Procedure &c. for making byelaws).

Section 266 (Contracts of local authorities).

Section 276 (Power of local authorities to prosecute or defend legal proceedings).

Section 277 (Appearance of local authorities in legal proceedings).

Section 289 (Penalty for destroying notices &c.).

PART II

The Act of 1933—

Section 251 (Fines for offences against byelaws).

Section 252 (Evidence of byelaws).

Section 278 (Name of local authority need not be proved).

Section 289 (Penalty for destroying notices &c.).

The Public Health Act 1936—

Section 288 (Penalty for obstructing execution of Act).

Section 293 (Recovery of expenses &c.).

Section 296 (Summary proceedings for expenses).

Section 298 (Restriction on right to prosecute).



Table of Statutes referred to in this Act

Short title	Session and chapter
Lands Clauses Consolidation Act 1845 ...	8 & 9 Vict. c. 18.
Commissioners Clauses Act 1847 ...	10 & 11 Vict. c. 16.
Local Loans Act 1875 ...	38 & 39 Vict. c. 83.
Public Health Act 1875 ...	38 & 39 Vict. c. 55.
Public Health (Interments) Act 1879 ...	42 & 43 Vict. c. 31.
Bills of Exchange Act 1882 ...	45 & 46 Vict. c. 61.
Cremation Act 1902 ...	2 Edw. 7 c. 8.
Land Registration Act 1925 ...	15 Geo. 5 c. 21.
Local Government Act 1933 ...	23 & 24 Geo. 5 c. 51.
Land Registration Act 1936 ...	26 Geo. 5 & 1 Edw. 8 c. 26.
Public Health Act 1936 ...	26 Geo. 5 & 1 Edw. 8 c. 49.
London Government Act 1939 ...	2 & 3 Geo. 6 c. 40.
London Building Acts (Amendment) Act 1939	2 & 3 Geo. 6 c. xcvi.
Acquisition of Land (Authorisation Procedure) Act 1946.	9 & 10 Geo. 6 c. 49.
Borrowing (Control and Guarantees) Act 1946	9 & 10 Geo. 6 c. 58.
Town and Country Planning Act 1947 ...	10 & 11 Geo. 6 c. 51.
Companies Act 1948 ...	11 & 12 Geo. 6 c. 38.
Local Government Act 1948 ...	11 & 12 Geo. 6 c. 26.
Arbitration Act 1950 ...	14 Geo. 6 c. 27.
Cremation Act 1952 ...	15 & 16 Geo. 6 & 1 Eliz. 2 c. 31.

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