



Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967

CHAPTER xxix

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ELIZABETH II



1967 CHAPTER xxix

An Act to confirm a Provisional Order of the Minister of Housing and Local Government relating to Greater London parks and open spaces. [27th July 1967]

WHEREAS under the provisions of section 87(3) of the London Government Act 1963 the Minister of Housing and Local Government as the appropriate Minister for the purposes of the said section with respect to the matters to which the order relates has made a Provisional Order which needs confirmation by Parliament:

Be it therefore 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. The order of the Minister of Housing and Local Government Confirmation of order in which, as amended is set out in the schedule to this Act is hereby confirmed and shall have full validity and force. schedule.

2. This Act may be cited as the Ministry of Housing and Local Short title. Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967.

SCHEDULE

GREATER LONDON

PROVISIONAL ORDER FOR SECURING UNIFORMITY IN THE LAW APPLICABLE WITH RESPECT TO PARKS AND OPEN SPACES

1963 c. 33.

The Minister of Housing and Local Government, as the appropriate Minister for the purposes of section 87(3) of the London Government Act 1963 with respect to the matters to which this order relates and after consultation with the Greater London Council and the councils of the London boroughs, in exercise of his powers under the said section 87(3) and of all other powers enabling him in that behalf, hereby makes the following order:—

PART I. INTRODUCTORY

1. This order may be cited as the Greater London Parks and Open Spaces Order 1967, and shall come into operation on the date of the Act of Parliament confirming it.

2. Part II of this order shall apply to the Greater London Council and the London borough councils.

3. The enactments specified in Schedule 1 to this order (being enactments reproduced with amendments in the said Part II) are hereby repealed so far as they relate to the Greater London Council and the London borough councils.

4. The enactments specified in Schedule 2 to this order (being enactments replaced by the said Part II) are hereby repealed so far as they relate to the Greater London Council and the London borough councils.

5.—(1) In this order, unless the context otherwise requires, references to any enactment shall be construed as references to that enactment as amended, extended or applied by or under any other enactment, and in this paragraph "enactment" includes any instrument (including this order) made under any Act.

(2) Any reference in any enactment to an enactment specified in Schedule 1 or 2 to this order shall, unless the contrary intention appears, be construed in the application of the first-mentioned enactment to the Greater London Council or a London borough council as a reference to the corresponding provision in Part II of this order.

(3) Any reference in this order to a numbered article shall, unless the reference is to an article of a specified order, be construed as a reference to the article bearing that number in this order.

(4) Any reference in any article of this order to a numbered paragraph shall, unless the reference is to a paragraph of a specified article, be construed as a reference to the paragraph bearing that number in the first-mentioned article.

(5) References in any order made under section 84, as extended by section 87(2), of the London Government Act 1963 to an enactment specified in Schedule 1 or 2 to this order shall cease to have effect.

PART II. PARKS AND OPEN SPACES

6. In this Part of this order—

Interpretation

“burial ground” and “disused burial ground” have the same meanings as in the Open Spaces Act 1906;

1906 c. 25.

“local authority” means the Greater London Council or a London borough council;

“the Minister” means the Minister of Housing and Local Government; and

“open space” includes any public park, heath, common, recreation ground, pleasure ground, garden, walk, ornamental enclosure or disused burial ground under the control and management of a local authority.

7.—(1) A local authority may in any open space—

Facilities
for public
recreation.

(a) provide and maintain—

(i) swimming baths and bathing places whether open air or indoor;

(ii) golf courses and grounds, tracks, lawns, courts, greens and such other open air facilities as the local authority think fit for any form of recreation whatsoever (being facilities which the local authority are not otherwise specifically authorised to provide under this or any other enactment);

(iii) gymnasia;

(iv) rifle ranges;

(v) indoor facilities for any form of recreation whatsoever;

(vi) centres and other facilities (whether indoor or open air) for the use of clubs, societies or organisations whose objects or activities are wholly or mainly of a recreational, social or educational character;

(b) provide amusement fairs and entertainments including bands of music, concerts, dramatic performances, cinematograph exhibitions and pageants;

(c) provide and maintain in time of frost facilities for skating and flood any part of the open space in order to provide ice for skating;

(d) provide meals and refreshments of all kinds to sell to the public;

(e) provide and maintain swings, platforms, screens, chairs, seats, lockers, towels, costumes and any apparatus, appliances, equipment or conveniences necessary or desirable for persons resorting to the open space;

- (f) erect and maintain for or in connection with any purpose relating to the open space such buildings or structures as they consider necessary or desirable including (without prejudice to the generality of this paragraph) buildings for the accommodation of keepers and other persons employed in connection with the open space; and
- (g) set apart or enclose in connection with any of the matters referred to in this article any part of the open space and preclude any person from entering that part so set apart or enclosed other than a person to whom access is permitted by the local authority or (where the right of so setting apart or enclosing is granted to any person by the local authority under the powers of this Part of this order) by such person:

Provided that—

- (i) where any part of an open space is set apart or enclosed under the foregoing provisions of this article for the playing of games and that part is not specially laid out and maintained for that purpose, the power under this article to preclude any person from entering that part shall not apply while the part is not in actual use for games;
- (ii) the part of any open space set apart or enclosed for the use of persons listening to or viewing an entertainment (including a band concert, dramatic performance, cinematograph exhibition or pageant) shall not exceed in any open space one acre or one-tenth of the open space, whichever is the greater;
- (iii) where any entertainment is provided in an open space the local authority shall not in any building—
 - (a) exhibit any cinematograph film except for or in connection with the advancement of art, education, drama, science, music or literature; or
 - (b) exhibit within a period of twelve months after it is first generally released in Great Britain any cinematograph film which commonly forms the main item of a cinematograph entertainment; or
 - (c) charge for admission to any exhibition of a cinematograph film which commonly forms the main item of a cinematograph entertainment a price less than the lowest price then current for admission to cinematograph theatres in the borough or county district in which such building is situate for ordinary showings;
- (iv) where any entertainment is provided in an open space the local authority shall not grant or let the use of any building or any part thereof for the purpose of a cinematograph entertainment except on the best terms that can be obtained except when such premises are let to any person or organisation for a charitable, educational, cultural, social or public purpose;
- (v) the local authority shall not provide a cinematograph exhibition on Sundays in an open space outside Greater

London in any case where the open space is situated in a county district in which for the time being places are not allowed to be opened and used on Sundays for the purpose of cinematograph entertainment; and

- (vi) in exercising their powers under heads (v) and (vi) of sub-paragraph (a) of this paragraph a local authority shall satisfy themselves that they have not unfairly restricted the space available to the public for recreation in the open air in any open space.

(2) A local authority may employ such persons (including instructors or organisers in connection with the use or enjoyment of any of the facilities in an open space provided and maintained by the local authority under sub-paragraph (a) of paragraph (1) or under any other enactment), do such acts and make and enforce such restrictions or conditions as they consider necessary or desirable in connection with the exercise of their powers with reference to any of the matters referred to in this article.

8.—(1) A local authority may, subject to such terms and conditions as to payment or otherwise as they may consider desirable, grant to any person the right of exercising any of the powers conferred upon the local authority by article 7 and let to any person, for any of the purposes mentioned in that article, any building or structure erected or maintained, and any part of an open space set apart or enclosed, pursuant thereto.

Licences to provide facilities and letting of land and buildings for public recreation.

(2) The terms and conditions subject to which a right may be granted or letting effected under this article may include a term that the local authority shall contribute either directly or pursuant to a guarantee given by them towards the expenses to be incurred by any person in the provision of any entertainment or otherwise in pursuance of such grant or letting.

9. A local authority may enclose during such periods and subject to such conditions as they may deem necessary or expedient any part of any open space—

Restriction of public rights.

- (a) for the purpose of or in connection with the cultivation or preservation of vegetation in the interests of public amenity; or

- (b) in the interests of the safety of the public;

and may preclude any person from entering any part so enclosed.

10. A local authority may—

- (a) make such reasonable charges as they think fit for—

(i) the use or enjoyment of anything provided by them under sub-paragraphs (a) to (e) of paragraph (1) of article 7; or

(ii) the use of any building or structure erected or maintained by them under sub-paragraph (f) of the said paragraph (1); or

Charges in respect of user of open spaces.

(iii) admission to, or the use of, any part of any open space set apart or enclosed by them under sub-paragraph (g) of that paragraph; and

- b) authorise any person to whom any right is granted or any building or structure is let under article 8 to make reasonable charges in respect of the purposes for which the local authority themselves may make charges under sub-paragraph (a) of this article:

Provided that no charge for admission to any reading room provided under this Part of this order shall be made on more than twelve days in any one year or on more than four consecutive days.

Exercise of
powers under
articles 7 to 10.

11.—(1) Subject to the provisions of this article and of article 12, the powers conferred on the local authority by articles 7 to 10 may be exercised notwithstanding the provisions of any enactment or any scheme made under, or confirmed by, any enactment but shall not be exercised in such a manner as to—

- (a) contravene any right which any person may have otherwise than as a member of the public; or
(b) prejudice or affect any provision contained in any enactment or scheme for the protection of any specified person;

1893 c. lxvii.

without the consent of that person which consent he is hereby empowered to give notwithstanding any disability which may otherwise exist. Nor shall the said powers be exercised in such a manner as to prejudice or affect the operation of the proviso to section 10 of the Paddington Recreation Ground Act 1893 or to prevent the free use and enjoyment by the public of the portion of the recreation ground reserved pursuant to the said proviso.

(2) Subject to the provisions of so much of article 9 as relates to the enclosure of any part of an open space in the interests of public safety, the powers of articles 7, 8 and 10 shall not be exercised in respect of any open space in such a manner that members of the public are by reason only of the exercise of such powers unable to obtain access without charge to some part of such open space.

1906 c. 25.

(3) No power conferred upon a local authority under articles 7 to 10 shall be exercised with respect to any open space in such manner as to be at variance with any trust for the time being affecting such open space (not being a trust existing by virtue of section 10 of the Open Spaces Act 1906) without an order of the High Court of Justice or of the Charity Commissioners or (where the trust instrument reserves to the donor or any other person the power to vary the trust) without the consent of such donor or other person.

(4) Nothing in articles 7 to 10 shall prejudice or affect the operation of, or derogate from, any of the provisions of—

1963 c. 33.

- (a) the relevant provisions of the London Building Acts within the meaning of section 43(5) of the London Government Act 1963 or any byelaw or regulation for the time being in force thereunder; or

(b) any enactment relating to building control and to buildings and structures which is applied to Greater London by section 40 of the said Act of 1963 or any instrument for the time being in force under any such enactment; or

(c) the Town and Country Planning Act 1962 or any agreement, 1962 c. 38. scheme or order for the time being in force under, or by virtue of, that Act.

(5) Nothing in articles 7 to 10 shall exempt any building or structure erected under the said articles in an open space outside Greater London from any relevant enactment or byelaw relating to the erection, construction, alteration or elevation of buildings or restricting the provision of means of access to any street or road for the time being in force in the district in which the open space is situate.

12.—(1) In the exercise of powers conferred by articles 7 and 8 the local authority shall not, without the consent of the Minister (which consent the Minister may give in such cases as he thinks fit), erect, or permit to be erected any building or other structure on, or enclose permanently, or permit to be enclosed permanently, any part of a common. Restriction on exercise of powers under articles 7 and 8 in relation to commons.

(2) Nothing in this article shall be deemed to require the consent of the Minister to—

(a) the maintaining or re-erecting by, or with the permission of, a local authority of any building or other structure erected on a common before the date of operation of this order; or

(b) the continuing by, or with the permission of, a local authority of any permanent enclosure of part of a common made before that date;

and any such building or structure, or permanent enclosure, shall be deemed to have been lawfully erected or made (as the case may be).

(3) The Minister may cause such local inquiries to be held as he may consider necessary for the purpose of his functions under this article, and subsections (2) to (5) of section 290 of the Local Government Act 1933 shall apply in relation to any such inquiry. 1933 c. 51.

13.—(1) In this article—

“recreation” means any activity for which a local authority have power to provide facilities in an open space; and

“competition” means any competition, tournament or contest held in connection with any recreation and includes any display or exhibition given in connection with a competition.

Competitions and prizes.

(2) Subject to the provisions of this article, a local authority may, either alone or in co-operation with any association or body dealing with the promotion or control of any recreation, organise or conduct any competition.

(3) A competition may be organised or conducted either wholly or partly as a local authority may think fit in connection with facilities provided by that authority in exercise of their power under any enactment.

(4) Without prejudice to the generality of the foregoing provisions of this article, a local authority may, for the use of spectators at a competition, enclose or set apart any part of an open space not exceeding one acre or one-tenth of the open space, whichever is the greater.

(5) The local authority may provide trophies and prizes to be awarded to participants in any competition.

(6) The local authority may charge such entrance fees as they think fit to entrants for any competition.

(7) The local authority may make rules relating to any matters in connection with such competitions as are referred to in this article.

Transfer of
open spaces
between local
authorities.

14.—(1) Where it appears to two local authorities that the functions of one of such authorities with respect to the maintenance and management of any open space or part thereof (in this article referred to as the "open space") could more conveniently be exercised by the other they may enter into and carry into effect an agreement for the transfer of the said functions with respect to that open space to the other such authority.

(2) Any such agreement may be made upon such terms and conditions as may be agreed between the local authorities concerned and may provide for the transfer to that one of them to whom functions are transferred of any estate or interest of the other of them in the open space:

Provided that nothing in this section shall relieve the local authority by whom an estate or interest less than a freehold estate in any open space is transferred in pursuance of this article of any obligation under an instrument creating that estate or interest to obtain the licence or consent of any person to such transfer.

(3) Subject to the proviso to the last foregoing paragraph, the powers conferred by this article may be exercised in respect of an open space notwithstanding anything in any other enactment, byelaws or scheme or in any instrument relating to the open space having the effect of prohibiting or restricting the alienation of the open space or of any estate or interest therein or of specifying the body or person by whom the open space shall be maintained or managed but (save as aforesaid) an agreement under this article shall not—

(a) operate to vary any trust affecting the open space to which the agreement relates;

(b) prejudice or affect the operation of any covenant or restriction relating to the use, management or maintenance of such open space; or

(c) prejudice or affect any right which any person may have in, or in relation to, such open space otherwise than as a member of the public.

(4) Where functions with respect to an open space are transferred under this article, until byelaws applying to the open space made by the local authority to whom the functions are transferred come into effect, any byelaws made by the local authority by whom the functions are transferred which applied to the open space immediately before the transfer shall continue in force as if made by the first-mentioned local authority.

(5) Nothing in this article or done thereunder shall—

(a) derogate from any of the powers of a local authority under section 16 of the Open Spaces Act 1906; or

1906 c. 25.

(b) affect the operation of the London Squares Preservation Act 1931 in relation to any land to which the provisions of that Act apply.

1931 c. xciii.

15.—(1) For the purpose of enlarging or improving any open space a local authority may enter into an agreement with the owner of adjacent land for exchanging such land for open space land and the local authority may pay or receive any moneys for equality of exchange: Powers to exchange parts of open space for land adjoining.

Provided that—

(a) all such moneys received by a local authority shall be applied in expenditure on capital account in respect of the acquisition or improvement of lands used, or to be used as, or to be added to, an open space and not otherwise; and

(b) no land acquired by a local authority from the Crown Estate Commissioners shall be so exchanged except with consent of such Commissioners.

(2) On an exchange of lands under this article—

(a) the open space land shall cease for all purposes to form part of the open space and all rights of common, public rights of way and other public rights in, over or affecting the same shall be extinguished; and

(b) the adjacent land shall, as from the date on which the local authority receive vacant possession thereof, form part of the open space and shall be subject to the like rights, trusts and incidents as attached to the open space land and all private rights of way and other private rights affecting the adjacent land shall be extinguished:

Provided that the local authority shall make full compensation to all parties interested in respect of any private rights extinguished under or by virtue of this article and such compensation shall be settled in the manner provided by the Land Compensation Act 1961. 1961 c. 33.

(3) In this article—

“adjacent land” means land adjacent to the open space; and

“open space land” means land being part of the open space.

16.—(1) It shall be lawful for the owner of land (not being the council of any county or county borough or London borough or county district or the Greater London Council or a joint committee of two or more such councils) to enter into an agreement with a local authority that, in the event of such owner or any of his successors in title desiring to sell his estate or interest in any such land or any part thereof, he or his successor in title (as the case may be) shall first offer such estate or interest to the said local authority for the purpose of providing an open space or for the purposes of the Physical Training and Recreation Act 1937, at a price to be determined by, or in manner provided by, the agreement.

1937 c. 46.

Any agreement entered into under the powers of this article shall be binding upon every owner of the estate or interest affected thereby, any rule of law to the contrary notwithstanding.

(2) Where an owner of land is as regards that land—

1925 c. 18.

(a) a tenant for life within the meaning of the Settled Land Act 1925; or

1925 c. 20.

(b) a trustee for sale within the meaning of the Law of Property Act 1925;

the powers conferred by this article shall be in addition to and not in substitution for or in derogation of any other powers possessed by him but (in the case of a tenant for life) shall not be exercised without an order of the High Court of Justice or the consent of the persons who are the trustees of the settlement for the purposes of the Settled Land Act 1925 or (in the case of a trustee for sale) the consent of all the beneficiaries under the trust who are of full age and are not under disability.

(3) All moneys (not being rent) received on the exercise of any power conferred by this article by such an owner as is mentioned in paragraph (2) shall be treated as if they were the proceeds of a sale of the land.

(4) The powers of this article shall not be exercised in respect of any land outside Greater London except with the consent of the council of the county in which the land is situate but this paragraph shall not apply to any piece of land in one ownership which is partly within and partly without Greater London and at least one half of which is within Greater London.

Use of
portions of
open spaces
for street
improvement.

17.—(1) Notwithstanding anything contained in any enactment, a local authority, upon such terms and conditions as they think fit (whether as to payment or otherwise) for the purpose of the construction, widening or alteration of any street (whether carried out by a local authority or by any other person), may—

(a) utilise, alienate or exchange for other land any part of any open space; and

(b) in a case where land is utilised under this article, debit the account relating to the construction, widening or alteration of the street with an amount representing the whole or a portion of the value of the land so utilised.

(2) No land shall be utilised, alienated or exchanged under this article except with the consent of the Minister and the Minister, before giving any such consent, shall have regard to any representations made to him in the manner specified in paragraph (3).

(3) As soon as practicable after making an application for the consent of the Minister under paragraph (2), the local authority shall fix on, or in the vicinity of, the open space a placard in a conspicuous position—

- (a) giving notice of the making of such application;
- (b) specifying the powers proposed to be exercised;
- (c) stating at which office of the local authority a plan relating to the proposal may be inspected; and
- (d) stating that representations as to the proposal may be made within twenty-eight days from the date of such notice to the Minister;

and the placard shall be retained until the last date for making representations has expired.

(4) Where under paragraph (1) a local authority utilise, alienate or exchange for other land any part of any open space they shall expend on capital account for or in respect of the acquisition of lands to be used as, or to be added to, an open space (including payment of any compensation payable by them under this article or under article 15(2)) sums not less than any moneys which—

- (a) in the case of such utilisation, they may have debited to the account relating to the construction, widening or alteration of the street under paragraph (1); or
- (b) in the case of such alienation, they may receive as consideration for the land alienated by them; or
- (c) in the case of such exchange, they may receive for equality of exchange.

(5) Where a part of an open space is utilised, alienated or exchanged for other land that part shall cease for all purposes to form part of such open space and all rights of common, public rights of way and other public rights in, over or affecting the same shall be extinguished.

(6) Any land acquired under this article by a local authority in exchange for, or for the purpose of the provision of, an open space shall, as from the date on which the local authority receive vacant possession thereof, (if adjacent to an open space and acquired for addition thereto) be subject to the like rights, trusts and incidents as attached to, and to the provisions of any enactment, byelaws or scheme specially relating to, the said open space.

(7) Any land acquired under this article by a local authority in exchange for an open space otherwise than for addition to an existing open space shall be deemed to have been acquired under the Open Spaces Act 1906.

(8) All private rights in, over or affecting land acquired by a local authority under paragraph (6) or (7) shall be extinguished unless and except so far as the local authority otherwise determine and, in any case in which they so determine, they shall give notice in writing of their determination to the persons entitled to the private rights to which the determination relates:

Provided that in the event of such extinction—

- (i) where the lands are acquired by way of exchange under paragraph (1), the authority or other person constructing, widening or altering the street; or
- (ii) where the lands are acquired by expenditure of money under paragraph (4), the local authority;

1961 c. 33. shall make full compensation to all parties interested in respect of any private rights extinguished by virtue of this paragraph and the compensation shall be settled in the manner provided by the Land Compensation Act 1961.

1931 c. xciii. (9) Except with the consent in writing of the owner of any protected square within the meaning of the London Squares Preservation Act 1931 (not being a protected square vested in a local authority) nothing in this article shall confer upon a local authority any greater or other powers of dealing with such protected square than they would have possessed otherwise than by virtue of this article.

General. 18. A local authority may procure officers appointed by them for securing the observance of the provisions of all enactments relating to open spaces under their control or management and of the byelaws and regulations made thereunder to be sworn in as constables for that purpose but any such officer shall not act as a constable unless in uniform or provided with a warrant:

1921 c. 31. Provided that nothing in this article shall be deemed to render applicable to any such officer the provisions of the Police Pensions Act 1921 or any other enactments relating to pensions, gratuities and allowances in respect of police services.

19. Any constable or any officer of a local authority authorised in writing to enforce byelaws having effect in relation to an open space and any person called to the assistance of such constable or officer may, without other warrant than this order, seize and detain any person committing or having committed any offence against such byelaws whose name or residence is unknown to and cannot be ascertained by such officer or constable and take him to a police station or before a justice to be dealt with according to law:

Provided that any officer or constable acting under this article and not being a constable in uniform shall have with him a written authority from the local authority to act and shall produce the same if required.

20. The powers conferred upon a local authority by or in pursuance of this Part of this order shall be in addition to and not in derogation of any other powers possessed by any such authority independently of this order.

SCHEDULES

SCHEDULE 1

ENACTMENTS REPRODUCED WITH AMENDMENTS IN PART II OF THIS ORDER

Article 3

Chapter	Short Title	Enactment
53 & 54 Vict. c. ccxliii.	The London Council (General Powers) Act 1890.	Section 18.
5 Edw. 7. c. ccvi.	The London County Council (General Powers) Act 1905.	Sections 30 to 32.
23 & 24 Geo. 5. c. xxviii.	The London County Council (General Powers) Act 1933.	Sections 22 and 23.
25 & 26 Geo. 5. c. xxxiii.	The London County Council (General Powers) Act 1935.	Part V.
1 & 2 Geo. 6. c. xxxviii.	The London County Council (General Powers) Act 1938.	Section 9.
3 & 4 Geo. 6. c. xv.	The London County Council (General Powers) Act 1940.	The whole Act.
7 & 8 Geo. 6. c. xxi.	The Middlesex County Council Act 1944.	Section 214. Section 283.
10 & 11 Geo. 6. c. xlvi.	The London County Council (General Powers) Act 1947.	Sections 7 and 8.
2 & 3 Eliz. 2. c. xxiv.	The London County Council (General Powers) Act 1954.	Section 19.
1963 c. xvii.	The London County Council (General Powers) Act 1963.	Section 16.
1966 c. xxviii.	The Greater London Council (General Powers) Act 1966.	Section 17.
1967 c. xx.	The Greater London Council (General Powers) Act 1967.	Section 12.

SCHEDULE 2

ENACTMENTS REPLACED BY PART II OF THIS ORDER

Article 4

Chapter	Short Title	Enactment
25 & 26 Geo. 5. c. xcvi.	The Beckenham Urban District Council Act 1935.	Sections 81 and 82.
26 Geo. 5 & 1 Edw. 8. c. lxxiii.	The Brentford and Chiswick Corporation Act 1936.	Section 82.
26 Geo. 5 & 1 Edw. 8. c. cxv.	The Merton and Morden Urban District Council Act 1936.	Section 120. Sections 122 and 123.
1 Edw. 8 & 1 Geo. 6. c. lxxxi.	The Ilford Corporation Act 1937.	Section 97.
1 Edw. 8 & 1 Geo. 6. c. xcvi.	The Coulsdon and Purley Urban District Council Act 1937.	Section 94.