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**Copy of sections 3-5 and 41-53 (inclusive) of the Kensington Improvement Act,
1851**

**Amended by the Greater London Council (General Powers) Act 1982 and
the Local Government Finance (Garden Squares)
(Consequential Amendments) Order 1990
and the Local Government Finance (Garden Squares)
(Consequential Amendments) Order 1992**

(Section 40 of the Act was repealed by the Local Government Finance (Garden
Squares)
(Consequential Amendments) Order 1990)

(The remaining Sections of the Act were repealed by the Borough of Kensington
Scheme, 1901 (see First Schedule), being No. 271 included in the Orders and
Schemes under the London Government Act, 1899).

Short Title

3. That in citing this Act in other Acts of Parliament, or in any Legal Instruments or Pleadings, it shall be sufficient to designate the same as “The Kensington Improvement Act, 1851”.

Limits of Act

4. That the Limits of this Act shall be held to comprise the whole of the Parish of St Mary Abbots Kensington.

Interpretation of Terms

5. That in this Act the following Words and Expressions shall have the Meanings hereby assigned to them unless there be something in the Subject or Context repugnant to such Construction:-

“Street” shall include Ways, Footpaths, Passages, Courts, Highways, Roads, Alleys, Thoroughfares, or Roads open to the Public within the Limits of this Act:

“Square” shall include Crescents, Circuses, Half Squares, Terraces and ornamental Enclosures within the Limits of this Act:

“Occupier” shall not include Lodger or a Party in the occupation as Tenant of a furnished House let for a less Period than One Year, but shall include the party by whom such furnished House is so let:

To “pave” shall include the making or forming of a hard Surface to a Roadway, or generally repairing the same by broken Stone or other Material, as well as pitching:

“Premises” shall include all Lands, Dwelling Houses, Shops, Counting-houses, Warehouses, Vaults, Cellars, Stables, Breweries, Manufactories, Mills and other Houses and Buildings, Yards and Places, and Hereditaments or any Tenure.

Provision for Management of Squares to be hereafter made

41. That with regard to the future Maintenance and Improvement of any Garden, Pleasure Ground, or Enclosure within or belonging to any Square now or at any Time hereafter to be formed or laid out within the Limits of this Act, (other than and besides the Gardens, Pleasure Grounds, or Enclosures the Maintenance and Improvement of which are hereby specifically provided for) the same, and the Fences thereof, shall, upon the Application in Writing of the Freeholder or Freeholders for the Time being, when more than One, of the Messuages constituting any such Square, or of the Freeholders, for the Time being of Two Thirds of such Messuages, when the same are vested in Three or more different Freeholders, and of Two Thirds at least of the Lessees under such Freeholder or Freeholders, and of the Owners of the Messuages constituting any such Square, (provided such Garden, Pleasure Ground or Enclosure shall be completed,) be taken under the Control and Management of the said Commissioners, and the said Commissioners shall thereupon, in manner hereinafter mentioned, take upon themselves the future Maintenance and Improvement of such Garden, Pleasure Ground, or Enclosure, and thence-forth keep the

same enclosed, laid out, fenced, planted, gravelled, maintained, repaired, and embellished.

What shall be deemed a House in a Square

42. That every house or Building the Front or Side of which shall face or form Part of the Line of any of the said Square shall for the Purposes of this Act be deemed to be wholly situated in the Square which it shall face or form Part of the Line of, though the other Part of such House or Building may front or face on any other Street.
43. That for maintaining and keeping in order and repair the said Squares above named, and the said Gardens and Shrubberies and ornamental Inclosures therein, now made and to be hereafter made and set out as aforesaid, the Owner for the Time being of the Piece or Plot of Ground wherein any such Garden, Shrubbery, and ornamental Enclosure is or shall be made and set out, and his Agent, together with persons who, in accordance with Part I of the Local Government Finance Act 1992, are liable to pay council tax in respect of any dwelling in the said square which is a chargeable dwelling for the purpose of that Part and who shall have been resident in the said Square for One Year at the least, shall be and hereby constituted and appointed a Committee for the Care and Management of such Garden, Shrubbery, and Ornamental Enclosures; and such Committee shall be called a Garden Committee, and they shall have Power to appoint a Sub-Committee, and such Garden Committee or their Sub-Committee shall exclusively have the Care, Management, and Regulation of such Garden, Shrubbery, or ornamental Inclosure, anything hereinbefore contained to the Contrary in anywise notwithstanding; Provided always, that such Sub-Committees shall have Power from Time to Time to hold Meetings and do all other Things that may be necessary for carrying into effect the Duties imposed upon them under the Provisions of this Act; and such Meetings shall be convened by a Notice in Writing, signed by the Secretary of the Garden Committee, and left at the Residence of each of the Members of such Sub-Committee Seven Days at the least before the Day appointed for holding such Meetings; and at such Meetings all Questions shall be determined by a Majority of the Votes of the Members then present, provided that the Number of Members present at any such Meeting shall not be less than Three.

Meetings of Garden Committees

44. That each of such Garden Committees shall from Time to Time, and as often as they shall think proper, meet at such Time and Place as shall be expressed in a Notice to that Effect, to be given in the first instance by any Five of the Inhabitants of the Square of which such Garden Committee shall have the Care and Management, and afterwards either

by any Five of the Members or by the Secretary of such Garden Committee, and to be affixed to all the Gates or at each Entrance of the Square of which such Garden Committee shall have the Care and Management, at least Seven days previous to the Meeting to be summoned by any such Notice; and at all such Meetings the Persons attending the same shall defray their own Expenses, except for the Use of the Room where such Meeting shall be held; and no Act except the calling of Meetings of any of the said Garden Committees, shall be valid, unless done at such Meeting to be held by virtue of this Act; and all the Powers and Authorities given by this Act to any such Garden Committee may from Time to Time be exercised by the major part of the Members thereof present at any such Meeting, the Number of Members thereof present at such Meeting not being less than Three; and at every such Meeting the First Business shall be the Election of a Chairman to preside thereat, which Chairman shall be entitled to a Casting Vote whenever the Votes, including his own, shall be equal and the Proceedings of each of the said Garden Committees at such Meetings shall be entered in a Book or Books, to be signed by the Chairman, and being so signed shall be deemed and taken to be Originals, and any such Book may be produced and read and taken as Evidence in all Courts whatsoever.

Garden Committees may make Byelaws

45. That each of such Garden Committees or Sub-Committees shall have Power make, Byelaws for the proper Management of the said Squares under their Care, and for the Preservation of the Trees, Shrubs, Plants, Rails, Gates, Seats, Summerhouses, and other Things therein, which Byelaws shall be entered in a Book to be kept for that purpose by the said Garden Committee or Sub-Committee, and such Book shall be signed by the Chairman of the Meeting of the Garden Committee or Sub-Committee at which such Byelaws shall be passed, and which Book, being so signed, shall and from Time to time to make, and after having made to alter or revoke and again to may be produced and read and taken as Evidence in all Courts whatsoever; and that any Person or persons offending against any of the said Byelaws shall, upon proof thereof before a Magistrate acting in the District in which such Square shall be situate, be liable for each Offence to a Penalty not exceeding Five Pounds; Provided always, that such Byelaws shall not come into operation until the same shall have been allowed by some Judge of One of the Superior Courts, or by the Justices in Quarter Sessions; and it shall be incumbent on such Judge or Justices, on the Request of such Garden Committee or Sub-Committee, to inquire into any byelaws tendered to them for that purpose, and to allow or disallow the same as they think meet.

Garden Committees to determine the Sum of Money to be expended

46. That the Garden Committee of every such Garden, Shrubbery, or ornamental Inclosure shall, at their First Meeting or at some Adjournment thereof, and which said First Meeting shall, in the Case of the Squares hereinbefore named, be held within One Calendar Month after the First day of October One thousand Eighty Hundred and Fifty-One, and in all other Cases within One Calendar Month after such Application in Writing as is hereinbefore authorised to be made to the Commissioners, and so on from Time to Time in every succeeding Year, at a Meeting to be called for that purpose in manner herein directed, fix and determine the total Amount of Money which such Garden Committee shall have Power to call for in any One Year, in order to maintain and keep in order such Garden, Shrubbery, or ornamental Inclosure, such Sum to be raised in the manner herein directed; and at such Meeting the Secretary to such Garden Committee shall produce a full and sufficient Statement in Writing, accompanied by all proper Vouchers, of all Sums of Money received and expended during the preceding Year on account of such Garden, Shrubbery, or ornamental Inclosure.

Garden Committee to issue an Order for Payment of the Amount to the Commissioners

47. That it shall be lawful for every such Garden Committee, or any three or more of them assembles at a Meeting to be convened in manner hereinbefore provided, from Time to Time, as soon as the said total Amount of Money shall be fixed and determined on as aforesaid to issue an Order under their Hands to the Commissioners under this Act, by which Order they shall require the said Commissioners to pay to the Account of such Garden Committee the Amount mentioned in the said Order, and not exceeding such amount as the Council of the Royal Borough of Kensington and Chelsea may determine; provided that such Order shall be given to or left with the said Commissioners on or before the Twentieth day of November in every year.

Payment to be made within Three Months

48. That the Commissioners shall pay over the Amount mentioned in such Order to the Treasurer of the Garden Committee by which such Order shall be made (which Treasurer such Garden Committee are hereby authorised to appoint) within Three Calendar Months from the Delivery of such Order to the Commissioners; and the Receipt of the said Treasurer, specifying the Amount paid to him by the Commissioners, shall be a sufficient Discharge to the Commissioners, and shall be

allowed as such in passing their Accounts: Provided always, that it shall be lawful for the Commissioners to deduct from such Amount such Sum or Sums as shall be sufficient to defray all Charges and Expenses of every description which they may incur or be put to in collecting the same.

The Property in the Iron Rails, Gates, Fences, etc., of the Gardens, Shrubberies, etc., vested in the Garden Committee

49. That from and after the said Twenty-ninth Day of October One Thousand Eight Hundred and Fifty-One, in the case of the Square hereinbefore named, and in the Case of all other Gardens, Pleasure Grounds or Inclosures hereafter to be formed or laid out, from and after the Date of the Application to the Commissioners hereinbefore authorised to be made, the Property of and in all the Kerbs, Iron Rails, Enclosures, Gates, and Fences enclosing any Garden, Shrubbery, or Ornamental Grounds in respect of which a Garden Committee is hereby constituted or shall be constituted under the Powers of this Act together with all Plants, Shrubs, Trees, Summer-houses, and other Things therein, shall, notwithstanding anything hereinbefore contained, be and the same is hereby vested in the Garden Committee for the care and management of such Garden, Shrubbery, or ornamental Enclosure for the Time being.

Enclosing etc., the Centre of Squares, etc., to be under the Direction of the Proprietors

50. That the enclosing, forming, making, ornamenting, and embellishing the Centre or Area of every Square hereafter to be set out within the Limits of this Act shall be wholly under the Management and Direction of the Proprietor thereof, or his Surveyor or Agent for the time being, anything herein contained to the contrary notwithstanding; and
- Inheritance of Enclosure not to be Altered nothing herein contained shall alter or be construed to alter the Inheritance or Property of the Garden, Shrubbery, or ornamental Enclosure in the Centre or Area of any of the said Squares, but the Inheritance or Property thereof shall remain in the Owner thereof, his Heirs and Assigns, as if this Act had not been passed.

Inhabitants of Squares to have exclusive Use of the Gardens or Ornamental Enclosures

51. That the Owner for the Time being of the Garden, Shrubbery, or ornamental Enclosure in the Centre or Area of each of the said Squares, his Heirs and Assigns, and the Occupiers of the several Houses in and encompassing such square, and all Persons to whom such Owner shall have granted or may hereafter grant a Right of Access to the said Garden, Shrubbery, or ornamental Enclosure, shall be entitled to have the exclusive Use of such Garden, Shrubbery, or ornamental Inclosure, and no other person or persons whatsoever shall be entitled thereto: Provided always, that, with reference to any Square

managed under any of the said recited Acts hereby repealed, the persons entitled to have the exclusive Use of the said Squares shall be the persons resident in the said Square who, in accordance with Part I of the Local Government Finance Act 1992, are liable to pay Council Tax in respect of any dwelling in the said Square which is a chargeable dwelling for the purpose of that Part, or who would be so liable but for Section 6 (4), Section 8 (5), or Section 9 (2) of the Act.

How Garden Committees may sue and be sued

52. That each of the said Garden Committees may sue and be sued in the Name of their Treasurer or Secretary; and no Action or Suit to be brought by or against any of the said Garden Committees by virtue of this Act shall abate or be discontinued by the Death or Removal of any such Treasurer or Secretary, but the Treasurer or Secretary for the Time Being of such Garden Committee shall always be deemed the Plaintiff or Defendant in such Action or Suit, as the Case may be.

Commissioners not to interfere with Trees in certain Situations

53. Provided always, that the Commissioners, or any Officer or Surveyor appointed by them, shall not at any time have Power to fell, cut, take down or remove, or otherwise interfere with, any ornamental Tree or Shrub adjoining to or by the Side of any Carriage Road, Footpath, Plantation, or Garden, not to remove or alter any Gate or other Erection at the respective Entrances to such Plantation, Garden, or Square, not to fell, cut, take down, or remove any ornamental Tree or Shrub in or by the Side of any Street within the Parish, unless such Tree, Shrub, or Gate shall be an Obstruction to Passengers or Carriages passing along a Highway, or otherwise dangerous to such Highway, nor until the Owner thereof or his Agent have received Notice in Writing from the Commissioners to remove such Obstruction within a Time to be fixed, not less than Ten Days, and have made default in compliance with such Notice.

