



Harrogate Borough Council Act 1986

CHAPTER xii

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ELIZABETH II



1986 CHAPTER xii

An Act to re-enact with amendments certain local enactments in force within the borough of Harrogate; to confer further powers on the Council of the Borough of Harrogate with respect to the management of Bogs Field, local government and public order in the borough; and for other purposes.

[8th July 1986]

WHEREAS -

(1) The borough of Harrogate (hereinafter referred to as "the borough") is under the management and local government of the Council of the Borough of Harrogate (hereinafter referred to as "the Council");

(2) By virtue of the Local Government Act 1972 (hereinafter referred to as "the Act of 1972") the borough was constituted on 1 April 1974 and comprises the former boroughs of Harrogate and Ripon, the former urban district of Knaresborough, the former rural districts of Masham, Nidderdale, Ripon and Pateley Bridge, Wath, Wetherby (except the parishes of Bardsey cum Rigton, Boston Spa, Bramham cum Oglethorpe, Clifford, Collingham, East Keswick, Harewood, Scarcroft, Thorer, Thorp Arch, Walton, Wetherby and Wothersome) and Wharfedale (except the parishes of Arthington, Bramhope, Carlton and Pool) and in the former rural district to Thirsk, the parishes of Ellen Thorpe, Humberton, Kirby Hill, Langthorpe, Milby, Norton-le-Clay and Thornton Bridge:

1972 c.70.

(3) Certain local enactments were in force in the said former Borough of Harrogate and by section 262 of the Act of 1972 it was provided that, subject to certain modifications, certain local statutory provisions should continue to apply to the area, things or persons to which or to whom they applied before that date:

(4) It was further provided by the said section 262 that certain local statutory provisions should cease to have effect at the end of 1984; but the Non-metropolitan and Welsh Counties (Local Statutory Provisions) Order 1983 made pursuant to the Act of 1972 has subsequently provided that such local statutory provisions shall cease to have effect at the end of 1986:

S.I 1983/619

(5) Bogs Field was part of land forming the Forest of Knaresborough set aside and left open by statute in 1770, and the management thereof is by statute now vested in the Council and it is expedient that the use and management of Bogs Field continue to be subject to statutory controls:

(6) It is expedient that certain of the said local statutory provisions should be re-enacted with amendments:

(7) It is expedient to confer further powers on the Council and that the other provisions contained in this Act should be enacted:

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

(9) In relation to the promotion of the Bill for this Act the requirements of section 239 of the Act of 1972 have been observed:

May it therefore please Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same as follows:-

Part I Preliminary

1. This Act may be cited as the Harrogate Borough Council Act 1986. Citation
2. This Act shall come into operation on the expiry of a period of three months beginning with the date on which it is passed. Commence-
ment
3. – (1) In this Act unless the context otherwise requires - Interpretation
“the borough” means the borough of Harrogate
“the Council” means the Council of the Borough of Harrogate;
“pump rooms” means any building or structure associated with the Wells;
“Bogs Field” means the area in Harrogate known as Bogs Field and more particularly delineated and shown edged green on the Bogs Field Plan;
“Bogs Field Plan” means the plan showing the land to which this Act applies marked “Bogs Field Plan” and prepared in triplicate one copy of which has been deposited in the office of the Clerk of the Parliaments, House of Lords, one in the Private Bill Office, House of Commons and one in the office of the chief executive of the Council;
“Spa rooms” means pump rooms and similar structures in relation to mineral springs;
“Spa undertaking” means any undertaking established pursuant to section 14 (Spa undertaking) of this Act;
“Wells” means those wells and associated mineral springs situate on Bogs Field.
- (2) Any reference in this Act to a Part not otherwise identified is a reference to that Part of this Act.

Part II Regulation of Bogs Field

- 4-(1) For the avoidance of doubt it is hereby declared that the estate in fee simple in Bogs Field is vested in the Council. Management
of Bogs Field
- (2) Notwithstanding section 123 of the Local Government Act 1972 the Council shall not dispose of their interest in Bogs Field except as provided in this Act. 1972 c. 70
- (3) The management of Bogs Field and of the Wells shall remain vested in the Council.

(4) The Council shall maintain and preserve Bogs Field.

Part II cont-
1972 c.70

(5) The Council shall protect the trees, shrubs, plants, turf and herbage growing on Bogs Field and shall prevent all persons, other than the Council in the course of management from felling, cutting, lopping or removing such vegetation and from digging clay, loam or soil thereon.

(6) The Council may on Bogs Field or a part thereof -

- (a) carry out improvements thereto so far as may be necessary or desirable for the purposes of health, recreation and enjoyment; and
- (b) plant trees, shrubs and plants for the purposes of ornament and shelter.

5. The inhabitants of the borough shall have free access to and a privilege at all times of enjoying recreation upon Bogs Field without payment but subject to the provisions of this Act.

Access to
Bogs Field

6. – (1) Subject to the provisions of section 7 (Authorised temporary inclosures), section 8 (Letting etc for inclosure), section 12 (Magnesia Well Café) and section 16 (Development of undertaking) of this Act the Council shall maintain Bogs Field free from all encroachments save for -

Bogs Field to
be free from
encroachments

- (a) such lawful permanent inclosures as exist at the commencement of this Act; and
- (b) temporary encroachments for the preservation of trees and shrubs and regeneration of the vegetation.

(2) It shall not be lawful for any persons other than the Council without the consent of the Council in writing to make any temporary or other inclosure of any part of Bogs Field or to put any tents, kiosks, fences, posts, rails or other matters or things thereon or to make any road or footpath thereon.

7. – (1) The Council may inclose any part of Bogs Field for the purpose of holding thereon -

Authorised
temporary
inclosures

- (a) concerts or similar public entertainment; or
- (b) displays; or
- (c) events for raising of funds for charitable purposes; or
- (d) flower shows other than the Harrogate Spring Flower Show

(2) The Council shall not exercise their powers under subsection (1) above so as to permit -

Part II cont-

- (a) more than 1.5 hectares of Bogs Field to be inclosed at any time for the purposes specified in paragraphs (a) to (c) of that subsection; or
- (b) Bogs Field to be inclosed in whole or in part for more than 5 weeks in any year.

(3) The Council may in connection with the Harrogate Spring Flower Show -

- (a) inclose any part of Bogs Field or restrict public access to any part of it, for not more than 30 consecutive days, immediately before, during and after the Flower Show; and
- (b) during such period authorise any person to use Bogs Field for the provision of the Flower Show to erect marquees and mobile units and to station thereon any other thing (including equipment and displays) for use in the Flower Show.

8. The Council may grant a licence to any person, at such reasonable fee and subject to such conditions as they determine, to inclose any part of Bogs Field for the purposes of holding any event for which the Council may inclose Bogs Field under section 7 (Authorised temporary inclosures) of this Act subject to the restrictions in subsections (2) and (3) of that section:

Letting etc for inclosure

Provided that inclosures under this section shall not when aggregated with those under the said section 7 exceed the totals specified in that section.

9. – (1) The Council may demand and recover such charges for admission to any inclosure authorised under section 7 (authorised temporary inclosures) of this Act as they determine.

Charges

(2) It shall be lawful for any person inclosing part of Bogs Field in pursuance of a licence so to do granted to him under section 8 (Letting, etc for inclosure) of this Act to demand and recover charges for admission to the inclosure.

10. The Council may make byelaws in respect of Bogs Field for all or any of the following purposes:-

- (a) for the improvement and management of Bogs Field and the preservation of good order and conduct among persons frequenting it;
- (b) for the prevention of nuisances and annoyances;
- (c) for the prevention of the taking, cutting or digging, firing, or otherwise removing, displacing or recovering turf, sods, gravel, clay, sand, gorse, heather, ferns, bracken, bushes, trees and the like;
- (d) for the regulation of sports and games;
- (e) for the prevention of regulation of vehicles being parked or driven on any part of Bogs Field;
- (f) for the prevention of the posting of bills or placards on any wall, railing, fence, tree, lamp-post, walk, path or seat or elsewhere and the prevention of any other injury to or the removal of any such wall, railing, fence, tree, lamp-post, walk, path or seat;
- (g) for the prevention of all acts and things tending to the injury or disfigurement of Bogs Field or the interference with the use thereof by the public for the purposes of exercise and recreation;
- (h) for regulating or prohibiting the hiring or riding of horses and other animals; and
- (i) for preventing horse racing or the racing of other animals.

11. – (1) If any vehicle is left without authority on Bogs Field the Council may remove the vehicle for safe custody, and may recover from the person responsible the expenses reasonably incurred in such removal and safe custody.

Removal of
unlawfully
parked vehicles

(2) In this section “person responsible” has the same meanings as in section 102 (8) of the Road Traffic Regulation Act 1984.

1984 c.27

12. The Council may let upon such terms and conditions as they determine the former pump room known as the Magnesia Well Café for the purposes of an eating house.

Magnesia Well
Café

13. – (1) The Council shall maintain and protect -

Pump rooms
Wells

- (a) the Wells; and
- (b) the pump rooms.

(2) The Council may make byelaws for the regulation and use of the Wells and pump rooms.

Part III Spa Undertaking

14. – (1) The Council may establish and maintain a spa undertaking.

Spa
undertaking

(2) Before establishing any such undertaking the Council shall have regard to -

- (a) the cost of executing works for the restoration of the Wells;
- (b) the cost of developing other mineral springs;
- (c) the likely income from the sale of water for human consumption;
- (d) the benefit to the borough generally from the attraction of operational mineral springs; and
- (e) the need to ensure that the water supply is fit for human consumption.

15. – (1) In connection with any spa undertaking the Council may do any of the things authorised by this Part.

Powers of
undertaking

(2) Without prejudice to their duty under section 13 (Pump rooms and Wells) of this Act the Council may make use of the Wells and pump rooms for the purposes of any spa undertaking.

(3) The Council shall not make use of the Wells and pump rooms on Harrogate Stray (as defined in the Harrogate Stray Act 1985) for the purposes of any spa undertaking.

1985 c. xxii

16. – (1) The Council may, in the borough, on land in their ownership, or on other land with the consent of the owner and occupier -

Development of
undertaking

- (a) prospect for mineral springs;
- (b) open new mineral springs;
- (c) restore disused mineral springs;
- (d) construct and maintain spa rooms;
- (e) provide, lay down and maintain pipes or aqueducts for the extraction or supply of mineral water;
- (f) provide (and if appropriate lay down) and maintain any equipment necessary for the exercise of the powers of this section; and
- (g) construct, repair and maintain new or existing wellheads.

(2) The Council may for the purposes of this section inclose such part of Bogs Field as is necessary.

- 17.** The Council may -
- (a) bottle water from any mineral springs;
 - (b) sell, either direct from the mineral springs or in bottled form, waters from the mineral springs; and
 - (c) provide such facilities including refreshments for the benefit of persons using the spa rooms as the Council may determine.

18. The Council may subject to their obligations under this Act, demand and recover such charges as they determine -

Charges

- (a) for admission to any spa rooms; and
- (b) for any services or facilities provided at any spa undertaking.

19. – (1) The Council may restore the supply of water from the Wells.

Restoration of
supply from
Wells

(2) If the supply of water from the Wells is restored the Council shall provide two sources from which the supply shall be dispensed without charge to persons on request, such sources being at any one time respectively a source containing a substantial sulphur content and a source which either contains a substantial magnesia content or which is strongly chalybeate:

Provided that -

- (a) such sources may be shut off and locked between the hours of 4.00pm and 9.00am from 1 October to 31 March in each year and between the hours of 8.00pm and 7.00am from 1 April to 30 September in each year; and
- (b) no person shall remove on any one day more than 1.54 litres of water except with the prior consent of the Council.

20. The Council shall regularly monitor the supply of water from any mineral springs to ensure that it is fit for human consumption and if it is found that the supply is not so fit, shall suspend or cause to be suspended the supply of water therefrom until they are satisfied that the water has been made fit for human consumption.

Monitoring

21. – (1) The Council may enter into an agreement with any person for the right to manage any spa undertaking or part thereof for a term not exceeding 21 years.

Management
agreements for
undertaking

(2) Without prejudice to subsection (1) above during the term of the agreement persons with whom the agreement is made, to the extent and upon the terms specified in the agreement -

- (a) shall have and may exercise in relation to the undertaking all or any of the powers conferred upon the Council by sections 15 to 19 of this Act; and
- (b) shall be subject to all the restrictions, liabilities and obligations in respect thereof to which the Council are subject including, without prejudice to the generality of the foregoing, the restrictions and obligations imposed by sections 15 (3), 19 (2) and 20 of this Act.

22. Without prejudice to their duties under section 13 (Pump rooms and Wells) of this Act the Council may, on such terms and for such payment to them as they determine, on the application of any person, grant to that person a licence authorising him to abstract water from any mineral springs.

Mineral water
abstraction.

23. Any person who without the authority of the Council or without reasonable excuse -

Protection of
Wells' mineral
waters

- (a) pollutes or contaminates the waters of the Wells; or
- (b) diverts the supply of water to the Wells; or
- (c) carries out works which interfere with, or which cause interference with, the supply of water to the Wells.

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

24. – (1) Nothing in section 6 (Bogs Field to be free from encroachments) or section 7 (Authorised temporary inclosures) of this Act shall affect any work or apparatus or the exercise of the statutory powers and functions of the British Gas Corporation.

Saving for
certain public
utilities

(2) Nothing in this Part shall affect any work or apparatus or the exercise of the statutory powers and functions respectively of the Yorkshire Water Authority or the North Eastern Electricity Board.

PART IV MISCELLANEOUS POWERS

25. – (1) The Council may designate, in accordance with Subsection (6) below, any of the following places, or any part of such places, in the borough as places to which this section applies for any of purposes of subsection (2) below:-

Touting,
photographing,
etc

- (a) A public off-street car park, recreation ground, garden or other park, pleasure ground or open space under the management and control of a local authority;
- (b) A street, precinct or esplanade, parade, promenade, or way to which the public commonly have access, whether or not as of right:

Provided that the Council shall not designate for the purpose of subsection (2)(b)(ii) below any street.

(2) Any person who, in a place designated under this section -

- (a) Importunes any person by touting for an hotel, lodging house, restaurant or other place of refreshment, for a shop, for a theatre or other place of amusement or recreation, for a hackney carriage or other conveyance, not being a public service vehicle, or for a ship or boat; or
- (b) Without the consent of the Council or in breach of any condition subject to which the Council's consent is given -
 - (i) photographs any person by way of trade or business; or
 - (ii) offers or exposes for hire any vehicle, chair or seat or any animal to ride;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) The conditions of consent referred to in subsection (2)(b) above include conditions as to the times or period for which the consent is valid, the display of a certificate of the consent and the payment for the consent of such reasonable fee to cover the expense of the Council in dealing with applications for such consents as the Council may by resolution prescribe; and, subject to any condition as to the period for which the consent is valid, any such consent may be revoked by notice to the person to whom the consent was given.

(4) A person aggrieved by -

Part IV cont-

- (a) the withholding by the Council of consent referred to in subsection (2)(b) above; or
- (b) the conditions subject to which the Council give such consent; or
- (c) the revocation of such consent under subsection (3) above;

may appeal to a magistrates' court which may dismiss or allow the appeal or may vary any conditions imposed by the Council.

(5) Sections 300 to 302 of the Public Health Act 1936 shall apply in respect of appeals to a magistrates' court.

1936 c. 49.

- (6) Before designating any place for any of the purposes
- (a) of subsection (2) above, the Council shall give notice of their proposal by advertisement in a newspaper circulating in the borough, and by posting a copy of the notice in the places to which it relates, stating that objections to the proposal may be made to the proper officer of the Council within a time, not less than 28 days after the giving of the notice, specified in the notice.
 - (b) After taking into consideration any objections made in accordance with paragraph (a) above, the Council may by resolution designate, as places to which this section applies for any of the purposes of subsection (2) above, all or any, or any part, of the places specified in the notice given under that paragraph.

(7) A resolution under subsection (6)(b) above shall come into force on such day as shall be specified by a notice given in the same manner as a notice given under subsection (6)(a) above, being a day not less than 28 days after the day on which notice is given under this subsection.

(8) This section shall not prohibit -

- (a) the doing of anything on land by the owner or occupier of the land, or by any person with the consent of the owner or occupier; or
- (b) the doing of anything on land forming part of the highway by the owner or occupier of land fronting that part;

- (c) the use of the forecourt of premises for any of the purposes mentioned in subsection (2) above by the owner or occupier of the premises or by a person being a relative or bona fide employee of the said owner or occupier;
- (d) the taking of a photograph for the purpose of making it available for publication in a newspaper or periodical if the photographer is employed as such by or on behalf of the owner or publisher of a newspaper or periodical or carries on a business which consists in, or includes, selling or supplying photographs for such publication.
- Part IV cont-

(9) In proceedings for an offence under this section it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(10) If in any case the defence provided under subsection (9) above involves the allegation that the commission of the offence was due to the act or default of another person the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending 7 clear days before the hearing, he has served on the prosecutor a notice in writing giving such information as was then in his possession, identifying, or assisting in the identification of, that other person.

(11) Notwithstanding anything in section 127 (1) of the Magistrates' Courts Act 1980, in any case where a court accepts a defence put forward under this section which involves an allegation that the commission of the offence was due to the act or default of another person, a magistrates' court may try any information which is laid against that person for an offence under this section arising from the same set of circumstances if the information was laid at any time within 6 months of the final determination of the case of the first defendant.

1980 c. 43

(12) Where any information against any person is tried in accordance with subsection (11) above the information shall not be tried by any of the same justices as tried the earlier information arising from the commission of the same offence.

(13) In this section "proper officer" means an officer appointed by the Council for the purposes of this section.

26. – (1) The Council on any day appointed by the Council for the holding in the borough of ceremonies, public processions, festivities, fairs, exhibitions, concerts, carnivals, races, sporting activities, illuminations, firework displays or similar activities may by notice restrict or prohibit the use of roads in the borough or any part thereof by vehicles or by vehicles of any class to such extent and subject to such conditions or exceptions as they may consider necessary:

Provided that this section shall not prevent pedestrians bona fide going to or from any land, house or building abutting on the closed road passing along and using the same or restrict vehicular access to such land, house or building except so far as may be necessary in the interests of safety.

(2) The Council may hold or authorise the holding of open air concerts upon any road prohibited to vehicles under subsection (1) above.

(3) When issuing a notice under this section the Council shall have regard to the existence of alternative routes suitable for traffic which will be affected by the notice.

(4) Before issuing a notice under this section, the Council shall consult the highway authority and the chief officer of police in writing in respect of their intention to issue such a notice.

(5) Notice of any intended closure of a road under this section shall be published in one or more newspapers circulating within the borough and shall be placed on boards to be fixed at either end of the part of any road intended to be so closed.

(6) A notice issued under this section shall not continue in force for a longer period than 48 hours from the commencement thereof.

(7) A road shall not be closed under this section for a total period exceeding 20 days in any 12 month period.

(8) So long as any notice issued under subsection (1) above is in force, a notice stating the effect of the notice, and describing the alternative route or routes available for traffic, shall be kept posted in a conspicuous manner at each end of the part of a road to which the notice relates, and at the points at which it will be necessary for vehicles to diverge from the road.

Part IV cont-

(9) A notice posted under subsection (8) above shall be a notice authorised by the Secretary of State as a traffic sign under section 64 of the Road Traffic Regulation Act 1984 and the placing of it shall be subject to such directions (if any) as may be given by the Secretary of State.

1984 c. 27.

(10) The Council shall not exercise the powers of this section with respect to any road unless they have given not less than 7 days' previous notice in writing of their intention so to do to -

- (a) the traffic commissioner in whose area the road is situate; and
- (b) the operator over that road of a local service as defined in the Transport Act 1985.

1985 c. 67.

(11) In this section "road" excludes any highway for which the Secretary of State is the highway authority.

PART V GENERAL

27.- The written consent of the Director of Public Prosecutions is needed for the laying of an information of an offence created by or under this Act by any person other than a party aggrieved, the Council or a constable.

Restriction on right to prosecute

28. - (1) Where an offence under this Act, or against any byelaw made under this Act, committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence.

Liability of directors etc

Part V cont-

(2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

29. Any person who intentionally obstructs any officer of the Council acting in execution of this Act or of any byelaws made under this Act, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Penalty for obstruction

30. Section 304 (Judges and justices not to be disqualified by liability to rates) and section 328 (Powers of Act to be cumulative) of the Public Health Act 1936 shall have effect as if references therein to that Act included references to this Act.

Application of general provisions of Public Health Act 1936 1936 c.49

31. Nothing in this Act except as expressly provided therein shall -

Saving for Duchy

(a) extend or operate to authorise the Council to take, use or in any manner interfere with any manorial rights or other rights whatsoever of Her Majesty in Right of Her Duchy of Lancaster in Bogs Field;

(b) take away, prejudice or diminish any estate, right, privilege, power or authority vested in or exercisable by Her Majesty, Her heirs or successors in Right of Her said Duchy.

32. The enactments specified in column (2) of Part I of the Schedule to this Act being enactments which are spent or obsolete or no longer of practical utility and the enactments specified in column (2) of Part II of the Schedule being enactments consequentially repealed, are repealed to the extent specified in column (3) of that Schedule.

Repeals

33. – (1) Anything begun under an enactment repealed by this Act may be continued under any enactment in this Act relating to the same matter as if begun under that last mentioned provision.

Transitional provisions

(2) Where any period of time specified in, or having effect in relation to, an enactment repealed by this Act is current at the date of the coming into operation under this act of any provision thereof relating to the same matter, that provision of this Act shall have effect as if it were in force when that period began to run.

(3) Nothing in this section shall affect the operation of the Interpretation Act 1978 or of section 254 of the Local Government Act 1972.

Part V cont-
1978 c. 30
1972 c. 70

(4) Where any Act is repealed by this Act subject to exceptions and a provision included in the repeal is material for the interpretation of a provision excepted from repeal, the repeal shall not affect the interpretation of the excepted provision.

SCHEDULE

ENACTMENTS REPEALED

PART I

OBSOLETE OR SPENT ENACTMENTS

Chapter (1)	Title or short title (2)	Extent of repeal (3)
29 Geo. 3. c. 76 (1789)	An Act for reviving certain Powers granted by an Act made in the Tenth Year of the Reign of His present Majesty (intituled, An Act for dividing and inclosing such of the open Parts of the District called The Forest of Knaresborough, in the County of York, as lie within the Eleven Constableries thereof; and for other Purposes therein mentioned); and by an Act of the Fourteenth Year of His Majesty's Reign, for amending the said former Act; and for making the said Two Acts more effectual.	The whole Act.
25&26 Geo.5 c. cvii.	Harrogate Corporation Act 1935.	The whole Act except Part II, sections 94, 95 and 120 and the proviso to section 151.

SCHEDULE

PART II

CONSEQUENTIAL REPEALS

Chapter (1)	Title or short title (2)	Extent of repeal (3)
56&57 Vict. c. ccix	Harrogate Corporation Act 1893.	The whole Act except section 23.
25&26 Geo.5 c. cvii	Harrogate Corporation Act 1935	Sections 94, 95 and 120.
1985 c. xxii.	Harrogate Stray Act 1985	In the Schedule in connection with the Harrogate Corporation Act 1893 the words "and the remainder of Part II so far as it relates to the area shown on the deposited plan thereto as Bogs Field".