

ELIZABETH II



1985 CHAPTER xxii

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 the Stray; and for other purposes. [16th July 1985]

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 1972 c. 70. referred to as “the Act of 1972”) the borough was constituted on 1st 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, Thomer, Thorp Arch, Walton, Wetherby and Wothersome) and Wharfedale (except the parishes of Arthington, Bramhope, Carlton and Pool) and in the former rural district of Thirsk, the parishes of Ellenthorpe, Humberton, Kirby Hill, Langthorpe, Milby, Norton-le-Clay and Thornton Bridge:

(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 S.I. 1983/619. (Local Statutory Provisions) Order 1983 has subsequently provided that such local statutory provisions shall cease to have effect at the end of 1986:

(5) The management of the Stray and Wells in the borough is by statute vested in the Council and it is expedient that it should remain so:

(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:

(10) The plan showing the land which may be used for the purposes of this Act and a book of reference thereto containing the names of the owners or reputed owners, lessees or reputed lessees and the occupiers of those lands and describing the same have been duly deposited in the office of the Clerk of the Parliaments, House of Lords and in the Private Bill Office, House of Commons and with the proper officer of the North Yorkshire County Council which plan is referred to in this Act as the deposited plan:

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

1. This Act may be cited as the Harrogate Stray Act 1985. Citation.

2. This Act shall come into operation on the expiry of a Commence-
period of three months beginning with the date on which it is ment.
passed.

3. In this Act unless the context otherwise requires— Interpretation.

“the borough” means the borough of Harrogate;

“contravention” includes a failure to comply and
“contravene” shall be construed accordingly;

“the Council” means the Council of the Borough of
Harrogate;

“pump rooms” means the pump rooms associated with
the Wells;

“Stray” means the area in Harrogate known as the Stray
and more particularly delineated and shown edged
green on the Stray Plan;

“Stray Plan” means the plan showing the land to which
this Act applies marked “Stray 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;

“Wells” means those wells and associated springs situate
on the Stray.

4.—(1) The management of the Stray and of the Wells shall Management
remain vested in the Council. of Stray.

(2) The Council shall maintain and preserve the aspect of the
Stray.

(3) The Council shall protect the trees, shrubs, plants, turf
and herbage growing on the Stray 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 and soil therefrom.

(4) The Council may improve the Stray or a part thereof so
far as may be necessary or desirable for the purposes of health,
recreation and enjoyment and may thereon—

(a) make and maintain roads and footpaths;

- (b) plant trees, shrubs and plants for the purposes of ornament and shelter;
- (c) let the pasturage of the Stray other than for feeding swine or geese;
- (d) provide pounds for impounding stray cattle:

Provided that the Council shall not exercise their powers under paragraph (a) above in such a way as to inclose any part of the Stray unless they have, in exchange for the land comprised in such inclosed part, dedicated as public open space other land within the borough not being—

- (i) less in area than the inclosed part and being equally advantageous to the inhabitants of the borough as public open space; and
- (ii) as measured from its nearest point to any part of the Stray more than 100 metres therefrom.

Access to
Stray.

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

Stray to be
free from
encroachments.

6.—(1) Subject to the provisions of this section the Council shall maintain the Stray free from all encroachments save for—

- (a) temporary encroachments for the preservation of trees and shrubs;
- (b) such lawful permanent inclosures as exist at the commencement of this Act;
- (c) such repairs, rebuilding or improvements as are necessary to maintain the public conveniences at Devonshire Place in working order; and
- (d) not more than 12 temporary encroachments in any year for the setting aside of part of the Stray for the landing and take-off of aircraft capable of descending or climbing vertically provided that such aircraft shall not be engaged in the public transport of passengers for hire or reward.

(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 the Stray or to put any tents, kiosks, fences, posts, rails or other matters or things thereon or to make any road or footpath.

(3) Without prejudice to the generality of subsection (2) above, the Council may grant a licence to any person, at such reasonable fee and subject to such conditions as they may determine, to inclose any part of the Stray for the purpose of holding—

- (a) circuses, pleasure fairs, shows or other public entertainments; or
- (b) displays; or
- (c) events for the raising of funds for charitable purposes.

(4) The Council shall not exercise their powers under subsection (3) above so as to permit—

- (a) more than 3.5 hectares of the Stray to be inclosed at any time; and
- (b) the Stray to be inclosed for more than five weeks in any year.

(5) It shall be lawful for any person inclosing part of the Stray in pursuance of a licence so to do granted to him under subsection (3) above to charge for admission to the inclosure.

(6) Nothing in this section shall affect the rights of the British Gas Corporation under paragraphs 1 and 2 of Schedule 4 to the Gas Act 1972.

1972 c. 60.

7.—(1) The Council may make byelaws in respect of the Stray for all or any of the following purposes:— Byelaws.

- (a) for the improvement and management of the Stray 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 cutting or digging, firing, or otherwise removing or displacing turf, sods, gravels, clays, sand, gorse, heather, ferns, brackens, bushes, trees and the like;
- (d) for the regulation of sports and games;
- (e) for the prevention of vehicles being parked or driven, or horses being exercised, on any part of the Stray not set apart by the Council for the purpose;
- (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 the Stray or the interference with the use thereof by the public for purposes of exercise and recreation;
- (h) for regulating the hiring or riding of horses and other animals;
- (i) for preventing horse-racing or the racing of other animals.

(2) Byelaws made under this section may provide that persons contravening the byelaws shall be liable on summary conviction to a maximum fine of an amount not exceeding level 2 on the standard scale.

Removal of unlawfully parked vehicles.

8.—(1) If any vehicle is left without authority on the Stray 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.

1984 c. 27.

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

Use of parts of Stray for certain purposes.

9.—(1) Notwithstanding anything contained in section 6 (Stray to be free from encroachments) of this Act or any other enactment the Council may use—

(a) the part of the Stray delineated on the deposited plan and thereon numbered 1 for the construction of a public convenience; and

(b) the part of the Stray delineated on the deposited plan and thereon numbered 2 for the construction of changing-rooms.

(2) The Council shall not exercise the powers contained in subsection (1) above except with the agreement of the Chancellor of the Duchy of Lancaster as freeholder of the Stray.

S.I. 1977/289.

(3) In their application to development authorised by this Act, Article 3 of, and Class XII in Schedule 1 to, the Town and Country Planning General Development Order 1977 (which permit development authorised by private Act designating specifically both the nature of the development thereby authorised and the land on which it may be carried out) shall have effect as if the authority to develop given by this Act were limited to development begun within 10 years after the passing of this Act.

Council may charge for changing-rooms.

10. The Council may charge for admission to and use of the changing-rooms on the Stray.

Pump rooms and Wells.

11.—(1) The Council shall maintain and protect—

(a) the Wells;

(b) the pump rooms; and

(c) the supply of water without charge from the public drinking fountain situate outside the Royal Pump Room.

(2) The Council may—

(a) improve the pump rooms; and

- (b) make byelaws for the regulation and use of the pump rooms; and
- (c) demand charges for admission to the pump rooms; and
- (d) subject to paragraph (c) of subsection (1) above, levy charges for the supply of water for consumption from the Wells.

(3) Byelaws made under this section may provide that persons contravening the byelaws shall be liable on summary conviction to a maximum fine of an amount not exceeding level 2 on the standard scale.

12. 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 shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

13. 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.

14.—(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.

(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.

15. 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.

16.—(1) If either the deposited plan or the deposited book of reference is inaccurate in its description of any land, or in its statement or description of the ownership or occupation of any

Correction of errors in deposited plan and book of reference.

land, the Council after giving 10 days' notice to the owner, lessee and occupier of the land in question may apply to two justices having jurisdiction in the borough for the correction thereof.

(2) If on any such application it appears to the justices that the misstatement or wrong description arose from mistake, the justices shall certify the fact accordingly and shall in their certificate state in what respect any matter is misstated or wrongly described.

(3) The certificate shall be deposited in the office of the Clerk of the Parliaments, House of Lords and a copy thereof in the Private Bill Office, House of Commons and with the proper officer of the North Yorkshire County Council, and thereupon the deposited plan and the deposited book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the Council to exercise the powers of this Act in accordance with the certificate.

(4) A person with whom a copy of the certificate is deposited under this section shall keep it with the other documents to which it relates.

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

17. 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.

Saving for
Duchy of
Lancaster.

18. Nothing in this Act except as expressly provided therein shall—

(1) extend or operate to authorise the Council to take, use, enter upon or in any manner interfere with the lands and premises comprising of the Stray or any manorial rights or other rights of whatsoever description of Her Majesty in Right of Her Duchy of Lancaster without the consent in writing of the Chancellor for the time being of the Duchy of Lancaster (which consent may be given either unconditionally or subject to such conditions and upon such terms as the Chancellor shall deem necessary or appropriate);

(2) take away, prejudice or diminish any estate, right, privilege, power or authority vested in or exercisable by Her Majesty, Her Heirs, successors in the right of her said Duchy.

Repeals.

19. The enactments specified in column (2) of the Schedule to this Act are repealed to the extent specified in column (3) of that Schedule.

20.—(1) (a) 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.

(b) 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.

(2) Nothing in this section shall affect the operation of the Interpretation Act 1978 or of section 254 of the Local Government Act 1972. 1978 c. 30.
1972 c. 70.

Section 19.

SCHEDULE

ENACTMENTS REPEALED

PART I

LOCAL ACTS

Session and chapter (1)	Title or short title (2)	Extent of repeal (3)
10 Geo. 3. c. 94. (1770)	The Act for dividing and enclosing such of the Open Parts of the District called the Forest of Knaresborough, in the County of York, as lie within the Eleven Constaberies thereof; and for other Purpose therein mentioned.	The whole Act.
4 Geo. 4 c. xxxv. (1823)	An Act for paving, lighting, watching, cleansing, and improving the Town of Knaresborough in the West Riding of the County of York, and that Part of the Township of Scriven-with-Tentergate which adjoins the said Town, and is called Tentergate.	The whole Act except sections XVIII to XXVIII.
4 & 5 Vict. c. xvi.	Harrogate Improvement Act 1841.	The whole Act.
9 & 10 Vict. c. cxiii.	Harrowgate Waterworks Act 1846.	The whole Act.
32 & 33 Vict. c. xvii.	Harrogate Waterworks Act 1869.	The whole Act.
49 & 50 Vict. c. lxxvii.	Ripon Corporation Act 1886.	The whole Act except sections 6, 7, 10, 11, 21 to 23, 25 and 40 to 42.
56 & 57 Vict. c. ccix.	Harrogate Corporation Act 1893.	The whole Act except section 23 and the remainder of Part II so far as it relates to the area shown on the deposited plan thereto as Bogs Field.
60 & 61 Vict. c. ccxxxii.	Harrogate Waterworks Act 1897.	The whole Act except sections 4, 9, 10 and 11.

SCH.
cont.

Session and chapter (1)	Title or short title (2)	Extent of repeal (3)
60 & 61 Vict. c. ccxxxvii.	Harrogate Corporation (Waterworks Transfer) Act 1897.	The whole Act.
1 Edw. 7 c. ccxvi.	Ripon Corporation Act 1901.	The whole Act.
1 Edw. 7 c. ccxv.	Harrogate Water Act 1901.	The whole Act except sections 4, 8, 14, 32 and 35.
1 Edw. 7. c. cclxviii.	Harrogate Corporation Act 1901.	The whole Act.
2 Edw. 7. c. cxxii.	Knaresborough Improvement Act 1902.	The whole Act except Parts II and IV.
3 Edw. 7. c. xxxvii.	Harrogate Water Act 1903.	The whole Act.
1 & 2 Geo. 5 c. lii.	Harrogate Corporation Water Act 1911.	The whole Act.
14 & 15 Geo. 5 c. xxxiii.	Harrogate Corporation Act 1924.	The whole Act.

PART II
CONFIRMATION ACTS

Session and chapter (1)	Short title (2)	Extent of repeal (3)
29 & 30 Vict. c. 106.	Local Government Supple- mental Act 1866 (No. 3).	The Order relating to Harrogate dated 6th June 1866.
30 & 31 Vict. c. 67.	Local Government Supple- mental Act 1867 (No. 4).	The Order relating to Harrogate dated 3rd June 1867.
31 & 32 Vict. c. cliii.	Local Government Act 1868 (No. 6).	The Order relating to Harrogate dated 9th June 1868.
32 & 33 Vict. c. cxxiv.	Local Government Supple- mental Act 1869.	The Order relating to Harrogate dated 23rd January 1869.
34 & 35 Vict. c. i.	Local Government Supple- mental Act 1871.	The two Orders relating to Harrogate dated 6th June 1870 and 9th July 1870.
34 & 35 Vict. c. clxxxvii.	Local Government Supple- mental Act 1871 (No. 4).	The two Orders relating to Harrogate dated 31st May 1871.

SCH.
cont.

Session and chapter (1)	Short title (2)	Extent of repeal (3)
40 & 41 Vict. c. ccxlii.	Local Government Board's Provisional Orders Confirmation (Atherton, &c.) Act 1877.	The Order relating to Harrogate dated 30th May 1877.
49 & 50 Vict. c. xviii.	Local Government Board's Provisional Orders Confirmation (No. 2) Act 1886.	The Order relating to Harrogate dated 5th April 1886.
54 & 55 Vict. c. lxvii.	Local Government Board's Provisional Orders Confirmation (No. 4) Act 1891.	The Order relating to Knaresborough and Tentergate.
57 & 58 Vict. c. xx.	Local Government Board's Provisional Orders Confirmation (No. 2) Act 1894.	The references to Knaresborough in Schedule C.
57 & 58 Vict. c. xlvi.	Local Government Board's Provisional Orders Confirmation (No. 5) Act 1894.	The Wharfedale Union Order 1894.
60 & 61 Vict. c. cxxxvii.	Local Government Board's Provisional Orders Confirmation (No. 3) Act 1897.	The Harrogate Order 1897.
60 & 61 Vict. c. cxli.	Local Government Board's Provisional Orders Confirmation (No. 14) Act 1897.	The Harrogate Order (No. 2) 1897.
61 & 62 Vict. c. xxxv.	Local Government Board's Provisional Orders Confirmation (No. 3) Act 1898.	The Wetherby Rural Order 1898.
63 & 64 Vict. c. clxxix.	Local Government Board's Provisional Orders Confirmation (No. 10) Act 1900.	The Harrogate (Extension) Order 1900.

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Harrogate Stray Act 1985

CHAPTER xxii

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