

**ELIZABETH II**



**1985 CHAPTER xli**

An Act to authorise motor racing on certain streets in the city of Birmingham; to confer powers on the City of Birmingham District Council in relation thereto; and for other purposes. [30th October 1985]

**WHEREAS—**

(1) The city of Birmingham (hereinafter referred to as “the city”) is under the management and local government of the City of Birmingham District Council (hereinafter referred to as “the Council”):

(2) The city is a major commercial and industrial centre and with a view to promoting the city, encouraging tourism and attracting business it is expedient that the Council be authorised to provide or arrange for the provision of motor races on certain streets in the city:

(3) For the purposes of this Act it is expedient to empower the Council on certain days and at certain times to close to the public or to restrict access to the whole or parts of certain streets in the city described in Schedule 1 to this Act (hereinafter referred to as “the scheduled streets”):

(4) It is further expedient to empower the Council for the purposes of any of their functions under this Act or for the purpose of providing an alternative route when any of the scheduled streets are so closed or access thereto is so restricted to acquire easements or other rights or a right of temporary possession over certain lands and streets (hereinafter together referred to as "the said lands"):

(5) It is expedient that the other provisions contained in this Act be enacted:

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

(7) A plan showing the scheduled streets and the part of the scheduled streets which may be used for motor racing in the exercise of the powers of this Act and also showing the said lands and a book of reference containing the names of the owners and lessees, or reputed owners and lessees and of the occupiers of the said lands and describing the same were duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office, House of Commons and with the proper officer of the West Midlands County Council, which plan and book of reference are in this Act referred to respectively as the deposited plan and book of reference:

1972 c. 70. (8) In relation to the promotion of the Bill for this Act the requirements of section 239 of the Local Government Act 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:—

Short title. 1. This Act may be cited as the Birmingham City Council Act 1985.

Interpretation. 2.—(1) In this Act, unless otherwise expressly provided or the subject or context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:—

1965 c. 56. "the Act of 1965" means the Compulsory Purchase Act 1965;

"apparatus" means—

(a) in relation to the British Gas Corporation, mains, pipes and other apparatus belonging to or maintained by the British Gas Corporation;

(b) in relation to the Midlands Electricity Board, any electric line or works (as respectively defined in the Electric Lighting Act 1882) belonging to or maintained by the Midlands Electricity Board; 1882 c. 56.

(c) in relation to the Severn-Trent Water Authority, works, mains, pipes and other apparatus belonging to or maintained by the Severn-Trent Water Authority for the purposes of any of their functions;

(d) in relation to a telecommunications operator, telecommunication apparatus within the meaning given by paragraph 1 (1) of Schedule 2 to the Telecommunications Act 1984 including such apparatus belonging to or used by British Telecommunications plc; 1984 c. 12.

and includes any works constructed for the lodging therein of apparatus;

“the authorised day” has the meaning given by section 3 (Authorised day) of this Act;

“building” includes any structure or erection and any part of a building as defined;

“the circuit streets” means the streets or parts of streets in the city described in Part I of Schedule 1 to this Act and shown coloured pink on the deposited plan;

“the city” means the city of Birmingham;

“contravention” includes failure to comply;

“the Council” means the City of Birmingham District Council;

“the Executive” means the West Midlands Passenger Transport Executive;

“fire authority” means the authority discharging in the city the functions of fire authority under the Fire Services Act 1947; 1947 c. 41.

“motor races” includes a race or trial of speed between motor vehicles and practising for such races and “motor racing” shall be construed accordingly;

“motor vehicle” has the meaning assigned to it by section 190 of the Road Traffic Act 1972; 1972 c. 20.

“owner” has the meaning assigned to it by section 329 of the Highways Act 1980; 1980 c. 66.

“place of public religious worship” has the meaning assigned to it by section 203 of the Highways Act 1980;

“premises” includes messuages, buildings, lands, easements and hereditaments of any tenure;

“protected authority” means the Executive, the fire authority, the highway authority, the police authority and a statutory undertaker;

“relevant period” means the period commencing 10 days before and ending five days after the authorised day;

“the scheduled streets” means the streets or parts of streets in the city described in Schedule 1 to this Act and shown coloured pink or blue on the deposited plan;

1984 c. 12.

“statutory undertaker” means the British Gas Corporation, the Midlands Electricity Board and the Severn-Trent Water Authority, and any person to whom a licence has been granted under section 7 of the Telecommunications Act 1984 for the running of any telecommunication system, as defined in that Act, in the city and to whom the telecommunications code, as defined in that Act, is applied;

1980 c. 66.

“street” has the meaning assigned to it by section 329 of the Highways Act 1980;

1984 c. 27.

“traffic sign” has the meaning given by section 64 of the Road Traffic Regulation Act 1984.

(2) Any reference in this Act to a proper officer shall, in relation to any purpose and any local authority, be construed as a reference to an officer appointed for the purpose by that authority.

(3) In the case of difference between the description of any of the scheduled streets contained in Schedule 1 to this Act and that scheduled street as shown on the deposited plan, the latter shall prevail.

(4) Schedule 1 to this Act shall be read as if the words “or thereabouts” were inserted after each distance mentioned in that Schedule.

Authorised  
day.

3.—(1) In this Act the expression “authorised day” means in any year—

(a) the last Monday in August; or

(b) any other day which the Council may by resolution determine to be the authorised day being—

1971 c. 80.

(i) a day specified in Schedule 1 to the Banking and Financial Dealings Act 1971 to be a bank holiday in England and Wales (other than Easter Monday, or 26th or 27th December) or;

(ii) a day appointed by proclamation under subsection (3) of section 1 of the said Act of 1971 to be a bank holiday either throughout the United Kingdom or in England and Wales (other than 1st or 2nd January).



(2) If in any year it is declared under subsection (2) of section 1 of the said Act of 1971 that the authorised day as defined in subsection (1) above shall not be a Bank Holiday the day substituted for that day by virtue of that subsection shall be substituted for it for the purposes of this section.

(3) The Council shall give not less than six months' notice of the day which they propose to determine to be the authorised day under subsection (1) (b) above to the statutory undertakers but the accidental omission to give such notice to any of the statutory undertakers or the non-receipt of such notice by any of the statutory undertakers shall not invalidate a resolution of the Council under the said subsection (1) (b).

4.—(1) Subject to the provisions of this Act, the Council may provide or arrange for the provision of motor races on the whole or any part of the circuit streets, and may provide or arrange for the provision of all such services and facilities and things (including prizes) and do all such other acts as they may think necessary or convenient for that purpose. Power to provide motor races.

(2) Without prejudice to the generality of subsection (1) above and to section 10 (Provision of stands and facilities for motor racing) of this Act the Council shall have power to carry out such works to the scheduled streets as they may think necessary or convenient for the purposes of, or in connection with operating the provisions of, this Act.

5.—(1) Subject to the provisions of subsections (2) and (3) below the Council may, for the purposes of this Act close to the public or restrict access to the whole or any part of the scheduled streets and may exclude therefrom all or any persons, vehicles, goods and things (including persons seeking to go to or from any premises abutting on any of the scheduled streets and whether or not in exercise or purported exercise of any public or private right of way over any part of the scheduled streets) except with the consent of the Council which the Council may give upon such reasonable conditions as they think fit. Closing of streets for motor races.

(2) The Council shall not under the powers of this section close any street to pedestrian or vehicular traffic except between 9 o'clock in the morning and 6 o'clock in the afternoon on the authorised day and the day immediately preceding that day.

(3) The Council shall ensure that—

- (a) the owner and occupier of premises; and
- (b) any person attending a place of public religious worship (even if for the purpose of education);

affected by the closure of, or the restriction of access to, any street or part of a street under the powers of this section shall

have free of charge reasonable access to and egress from the premises or place of public religious worship as the case may be during the period of closure or restriction.

1984 c. 27.

(4) Notice of the closing of streets under this section and of revised traffic arrangements and alternative routes shall be indicated by traffic signs and subsection (1) of section 65 of the Road Traffic Regulation Act 1984 shall have effect as respects the erection and display of the notice by the Council as if it were a notice by a highway authority.

(5) The Council shall—

- (a) not less than three months before closing a street or part of a street under this section cause to be published in a local newspaper circulating in the city notice thereof stating the street or part of a street to be closed and the periods during which such street shall be closed to vehicular and pedestrian traffic respectively;
- (b) not later than the date on which such notice is published under paragraph (a) above serve a copy thereof on the Executive, the highway authority, the statutory undertakers and on the chief officer of police;
- (c) display a copy of such notice in the street or part of a street to be closed in a place where it can conveniently be read by the public for a period of not less than 14 days immediately preceding the closing.

(6) Either—

- (a) a copy of any such newspaper containing any such notice; or
- (b) a photostatic or other reproduction certified by the proper officer of the Council to be a true reproduction of a page, or part of a page, of any such newspaper bearing the date of its publication and containing any such notice;

shall be evidence of the publication of the notice and of the date of the publication.

(7) If any person without the consent of the Council knowingly and without reasonable excuse enters or remains upon any street or part of a street which is closed to him or drives or causes or permits to be driven a vehicle upon any street or part of a street which is closed to that vehicle under the powers of this section, or fails to comply with any condition subject to which the Council have given their consent under this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(8) (a) Notwithstanding the closure of any street or part of a street by the Council under the powers of this section an

authority to whom this subsection applies may in a case of emergency and in accordance with a code of practice issued or revised under section 24 (Code of practice) of this Act enter upon such street or part of a street with any necessary vehicles, plant and equipment for the purpose of exercising any of their functions in relation to the emergency.

(b) The authorities to whom this subsection applies are the fire authority, the Health and Safety Executive, the highway authority, the police authority, the West Midlands Regional Health Authority and any statutory undertaker.

(9) In proceedings for an offence under subsection (7) above, 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 by 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 the 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 identifying or assisting in the identification of that person as was then in his possession.

(11) Nothing in this section shall prejudice or affect the operation of any of the relevant statutory provisions as defined in Part I of the Health and Safety at Work etc. Act 1974. 1974 c. 37.

6.—(1) Where a vehicle is at rest without the consent of the Council or otherwise than in accordance with a code of practice issued or revised under section 24 (Code of practice) of this Act on any street which is closed under the powers of section 5 (Closing of streets for motor races) of this Act the Council may remove or arrange for the removal of the vehicle to a place which is not on any road. Removal of vehicles.

(2) Any person removing a vehicle under subsection (1) above may do so by towing or driving the vehicle or in such other manner as he may think necessary and may take such measures in relation to the vehicle as he may think necessary to enable him to remove it as aforesaid.

(3) While a vehicle is in the custody of the Council in pursuance of this section it shall be the duty of the Council to take such steps as are reasonably necessary for the safe custody of the vehicle and for complying with a request for its return made by or on behalf of its owner.

(4) In this section—

“road” means any highway and other road to which the public has access;

“vehicle” means any vehicle whether or not it is in a fit state for use on roads and includes any chassis or body with or without wheels, appearing to have formed part of such a vehicle, and any load carried by, and anything attached to, such a vehicle.

Road traffic enactments not to apply to closed roads.

7. Subject to the provisions of section 8 (Road traffic regulations) of this Act no enactment relating to road traffic whether passed before or after this Act unless there is contained express provisions to the contrary shall apply to any motor vehicle in any scheduled street with the consent of the Council or to any scheduled street or part of a scheduled street when closed to vehicular traffic under section 5 (Closing of streets for motor races) of this Act.

Road traffic regulations. 1984 c. 27.

8. In its application to the city, section 14 of the Road Traffic Regulation Act 1984 (which empowers a highway authority to make an order or give a notice temporarily prohibiting or restricting traffic on roads) shall have effect as if after the words “of serious damage to the highway” where those words occur in subsections (1) and (3) respectively there were added the words “or for facilitating the operation of the provisions of the Birmingham City Council Act 1985”:

Provided that no order made or notice given under the said section 14, as applied for the purposes of this Act, shall prevent any statutory undertaker obtaining access to any apparatus with any necessary vehicles, plant and machinery.

Erection of barriers and fences.

9.—(1) For the purpose of preventing danger, injury or damage to persons or property from motor racing or of controlling or regulating the movement of pedestrians or vehicles the Council may during the period commencing 10 days before and terminating at the end of the authorised day provide and erect barriers and fences—

- (a) on any of the scheduled streets;
- (b) on any land belonging to the Council;
- (c) (with the consent of the owner and occupier) on or against any premises abutting on any of the circuit streets or on any other land;

and shall remove the same by the end of the relevant period.

(2) For the purposes of subsection (1) above the Council may at any time in, on or under the surface of, any of the scheduled streets provide, maintain, repair, replace and remove sockets or slots or other devices for fixing barriers and fences.

Provision of stands and facilities for motor racing.

10.—(1) Subject to the provisions of section 11 (As to exercise of powers of last two foregoing sections) of this Act the Council may during the period commencing 10 days before and



terminating at the end of the authorised day provide and erect—

- (a) on any of the scheduled streets, seats, stands and structures to enable spectators to watch the motor races provided under this Act;
- (b) in, on, over or under any part of the scheduled streets such equipment, temporary buildings, footbridges, banners and facilities as they may think necessary or convenient for the purpose of motor races under this Act;

and shall remove the same by the end of the relevant period.

(2) The Council may at any time on land belonging to the Council or, with the consent of the owner and occupier, on any other land provide and erect seats, stands and structures to enable spectators to watch the motor races provided under this Act.

11. In exercising their functions under section 9 (Erection of barriers and fences) and section 10 (Provision of stands and facilities for motor racing) of this Act in respect of any of the scheduled streets the Council shall take steps to prevent so far as reasonably practicable interference with vehicular and pedestrian traffic using such scheduled streets during any such part of the relevant period as such scheduled streets are not closed under section 5 (Closing of streets for motor races) of this Act.

As to exercise of powers of last two foregoing sections.

12.—(1) Subject to the provisions of this section the Council may charge such sums as they think fit for—

Charges for admission.

- (a) the admission of any person to any of the scheduled streets; or
- (b) the use of any seats, stands or structures provided under section 10 (Provision of stands and facilities for motor racing) of this Act;

for the purpose of watching motor races provided under this Act.

(2) The Council may make arrangements for the granting of concessions being either a reduction of not less than 10 per cent. in respect of the payment of charges under subsection (1) above or a waiver of those charges and such concessions may be granted absolutely or subject to terms, limitations or conditions.

(3) The Council shall exercise their power under subsection (2) above in relation to qualified persons ordinarily resident in the city.

(4) In this section "qualified persons" means persons mentioned in any of the following paragraphs or any description of such persons, that is to say:—

- 1978 c. 40.
- (a) men over the age of 65 years and women over the age of 60 years;
  - (b) persons who are not over 16 years;
  - (c) disabled persons within the meaning of section 8 of the Rating (Disabled Persons) Act 1978;
  - (d) persons in receipt of unemployment benefit, supplementary benefit or family income supplement.

Restriction on capital expenditure.

13.—(1) The Council shall not make payments in respect of prescribed expenditure incurred in the exercise of the powers of this Act before the first authorised day in excess of £2,000,000.

(2) For the purposes of this section—

"the first authorised day" means the authorised day during which the Council first exercise their powers under section 5 (Closing of streets for motor races) of this Act;

"prescribed expenditure" has the meaning assigned to it by section 71 of the Local Government Planning and Land Act 1980.

1980 c. 65.

Annual revenue account.

14.—(1) The Council shall in every financial year maintain a revenue account and not later than 30th September in each calendar year prepare a statement for the financial year ending in that calendar year.

(2) A statement prepared under subsection (1) above must show a true and fair view of the financial result of the Council having exercised the powers of this Act in the financial year to which it relates.

(3) If at the end of any financial year any revenue account is in deficit, the amount of the deficit shall be charged—

- (a) in the first instance to any reserve fund established by them; and
- (b) subject thereto to the general rate fund.

(4) In subsection (3) above, the reference in paragraph (a) to a reserve fund established by the Council is a reference to a fund the sole purpose of which is to meet any expenditure incurred by them in connection with the exercise of the powers of this Act.

(5) If the statements for the first five financial years in which the Council provide motor races show a cumulative deficit the power to provide motor races shall cease to be exercisable by the Council.

(6) In this section "financial year" means the 12 months ending with 31st March.

15.—(1) In this section—

"the specified land" means the land in the city adjacent to Bristol Street shown coloured green on the deposited plan and thereon numbered 1;

"the specified streets" means the private road in the city between Wrentham Street and Vere Street at the rear of the premises known as Monaco House and the subway connecting that road with Bristol Street shown coloured yellow on the deposited plan and thereon numbered 3 and 4 and beneath that part of the land shown coloured green on the deposited plan which is hatched black;

"temporary rights" in relation to the specified land and to the specified streets means temporary easements or other temporary rights over or a right to temporary possession of the specified land or the specified streets (as the case may be) which are not in existence at the passing of this Act.

(2) The Council may—

(a) for the purpose of any of their functions under this Act other than section 10 (Provision of stands and facilities for motor racing) of this Act purchase by agreement or compulsorily such temporary rights as they may require in relation to the specified land during the authorised day and the day immediately preceding that day;

(b) for the purpose of providing an alternative route at any time when any of the scheduled streets are closed in the exercise of the powers of this Act purchase by agreement or compulsorily such temporary rights as they may require in relation to the specified streets.

(3) Part I of the the Act of 1965 (except sections 4, 21 and 27 thereof and sub-paragraph (3) of paragraph 3 of Schedule 3 thereto), in so far as it is applicable for the purposes of this section and is not inconsistent with the provisions thereof, shall apply to the compulsory acquisition of temporary rights under this section as it applies to a compulsory purchase to which the Acquisition of Land Act 1981 applies and as if this section were a compulsory purchase order under the said Act of 1981. 1981 c. 67.

(4) The Act of 1965 as applied by this Act shall have effect with the modifications necessary to make it apply to the compulsory purchase of rights under subsection (2) above as it applies to the compulsory purchase of land so that in appropriate contexts, references in the Act of 1965 to land are read as

Compulsory acquisition of rights in respect of specified land and streets.

referring, or as including references, to the temporary rights or to the specified land or to the specified streets and in relation to which the temporary rights are or are to be exercisable according to the requirements of the particular context.

(5) Without prejudice to the generality of subsection (4) above in relation to the purchase of temporary rights in pursuance of subsection (2) above—

(a) Part I of the Act of 1965 shall have effect with the modifications specified in Schedule 2 to this Act;

(b) the enactments relating to compensation for the compulsory purchase of land shall apply with the necessary modifications as they apply to such compensation.

1845 c. 18.

(6) The Lands Clauses Consolidation Act 1845 shall not apply to the acquisition of rights under this section.

Byelaws.

16.—(1) The Council may make byelaws for regulating motor races provided under this Act and for regulating vehicular and pedestrian traffic in any street closed under section 5 (Closing of streets for motor races) of this Act and for regulating during the relevant period the conduct of persons resorting to or using any of the scheduled streets or any seats, stands or structures provided under section 10 (Provision of stands and facilities for motor racing) of this Act.

(2) Before making any byelaws under this section the Council shall consult the chief officer of police, the Executive, the highway authority and the statutory undertakers.

1972 c. 70.

(3) (a) All byelaws made under this section shall be made according to the provisions of section 236 of the Local Government Act 1972, and the provisions of section 238 of the said Act shall apply to such byelaws.

(b) The byelaws which may be made by the Council under this section may provide for the imposition of a fine not exceeding level 3 on the standard scale for the contravention of any of the byelaws.

(c) The said section 236, in its application to byelaws made under this section, shall have effect as if in subsection (7) of that section, after the word “confirm”, where it firstly occurs in that subsection, the words “with or without modification” were inserted.

Film and  
broad-  
casting  
rights.

17.—(1) The Council may upon such terms as to payment or otherwise and conditions as they think fit grant to any person the right to make or exploit by way of trade or business a photograph, cinematograph film, video recording, record, television broadcast, television cable transmission or sound



' broadcast of the whole or any part of motor races provided under this Act or of any incident or event connected therewith.

(2) (a) In this section—

“the Act of 1956” means the Copyright Act 1956; 1956 c. 74.

“cinematograph film” has the meaning assigned to it by section 13 of the Act of 1956;

“photograph” has the meaning assigned to it by section 48 of the Act of 1956;

“record” has the meaning assigned to it by section 48 of the Act of 1956;

“television broadcast” and “sound broadcast” have the meanings assigned to them respectively by section 14 of the Act of 1956;

“video recording” has the meaning assigned to it by section 1 of the Video Recordings Act 1984. 1984 c. 39.

(b) For the avoidance of doubt subsection (10) of section 13 of the Act of 1956 shall for the purposes of this section have effect as if in the definition of “cinematograph film” after the words “any sequence of visual images recorded” there were added the words “(whether in a visual or other manner)”.

**18.—**(1) The Council, subject to the Town and Country Advertising Planning (Control of Advertisements) Regulations 1984 may rights. upon such terms as to payment or otherwise and conditions as S.I. 1984/421. they think fit grant to any person the right—

(a) to display advertisements in or on any barriers, fences, seats, stands, structures, equipment, temporary buildings and facilities provided or erected under section 9 (Erection of barriers and fences) and section 10 (Provision of stands and facilities for motor racing) of this Act during the relevant period; or

(b) to display advertisements—

(i) in, on or over any of the scheduled streets;

(ii) with the consent of the owner and occupier in, on or above any premises abutting on any of those streets; or

(iii) on any vehicle when in any of those streets; whilst such street is closed for the purposes of this Act.

(2) In this section “advertisement” includes any structure or apparatus erected or intended only for the display of an advertisement.

(3) This section shall not apply to the display of an advertisement on any vehicle belonging to or used by any statutory undertaker which is in any of the scheduled streets for

the purpose of carrying out the statutory functions of that statutory undertaker.

Compensation. **19.**—(1) If any person entitled to an interest in premises suffers damage to or in respect of land or other loss in consequence of the restriction of access to those premises under section 5 (Closing of streets for motor races) of this Act the Council shall, subject to the provisions of this section, pay to such person compensation in respect of that damage or other loss.

1961 c. 33. (2) So far as compensation to which this section applies is properly to be calculated by reference to the depreciation of the value of an interest in land, rules 2 and 4 of the rules set out in section 5 of the Land Compensation Act 1961 shall apply.

(3) Where an interest in land is subject to a mortgage—

(a) any compensation to which this section applies, which is payable in respect of depreciation of the value of that interest, shall be assessed as if the interest were not subject to the mortgage;

(b) a claim for any such compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;

(c) no compensation to which this section applies shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and

(d) any compensation to which this section applies which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee or, if there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were the proceeds of sale.

(4) In assessing compensation payable to a person under this section regard shall be had to the extent to which that person has been or may be benefited by the holding or the prospect of holding motor races in accordance with the provisions of this Act and without prejudice to the generality of the foregoing provisions there shall be set off against any damage or other loss suffered by that person in consequence of the restriction of access to the premises specified in subsection (1) above any increase in the value of an interest in any other premises belonging to the same person which has accrued or will accrue by reason of the holding or the prospect of holding motor races in accordance with the provisions of this Act.

(5) Compensation under this section shall not be payable except upon a claim made in writing to the Council within

12 months of the last day when access to the premises is restricted in consequence whereof damage or other loss is claimed to have been suffered.

(6) Any question of disputed compensation under this section shall be referred to and determined by the Lands Tribunal.

(7) Compensation under this section shall carry interest, at the rate for the time being prescribed under section 32 of the Land Compensation Act 1961, from the date of the restriction of access until payment. 1961 c. 33.

(8) In relation to the determination of any such question the provisions of sections 2 and 4 of the Land Compensation Act 1961 and the provisions of any regulations made under that Act shall apply subject to any necessary modifications.

20.—(1) The Council shall be liable in damages, without proof of negligence, if personal injury or damage to a building or goods is caused by the exercise of the powers of this Act. Liability for injury or damage.

(2) For the purposes of the Law Reform (Contributory Negligence) Act 1945, the Fatal Accidents Act 1976 and the Limitation Act 1980 any injury or damage for which the Council are liable under this section shall be treated as due to the fault of the Council. 1945 c. 28.  
1976 c. 30.  
1980 c. 58.

(3) For the purposes of this section—

“building” includes any structure or erection, and the curtilage of a building, and any part of a building, as so defined;

“goods” includes all chattels personal other than things in action and money.

21.—(1) If 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 land the Council after giving not less than 10 days' notice to the owner, lessee and occupier of the land in question may apply to two justices having jurisdiction in the city for the correction thereof. Correction of errors in deposited plan and book of reference.

(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 and a copy thereof in the Private Bill Office, House of Commons, and with the proper officer of the West



Midlands 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 a certificate is deposited under this section shall keep it with the other documents to which it relates.

Saving for certain statutory bodies.

22.—(1) The provisions of this Act mentioned in subsection (2) below shall only be exercised in relation to a highway in accordance with such reasonable conditions (other than a monetary payment) as the highway authority may require.

(2) The provisions of this Act hereinbefore referred to are as follows:—

Section 4 (Power to provide motor races);

Subsection (1) of section 5 (Closing of streets for motor races);

Paragraph (a) of subsection (1) of section 9 (Erection of barriers and fences);

Subsection (1) of section 10 (Provision of stands and facilities for motor racing).

(3) (a) If at any time in consequence of the exercise of the powers of this Act any damage or injury shall be caused to any highway or to any apparatus belonging to or maintained by any statutory undertaker or to any property of, or provided on behalf of, the Executive all such damage or injury shall be made good by the Executive, the highway authority or the statutory undertaker, as the case may be, at the expense of the Council.

(b) In this subsection "highway" includes traffic signs, pillars, rails, fences and other things placed on, over or along the highway for the purpose of assisting, warning or directing traffic or safeguarding persons using or crossing the highway.

(4) The Council shall effectively indemnify a protected authority against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the protected authority by reason of the exercise of the powers of this Act:

Provided that—

(a) nothing in this subsection shall impose any liability on the Council with respect to any costs, charges, damages and expenses which may be attributable to the act, neglect or default of the protected authority or their contractors or workmen;



(b) the protected authority shall give to the Council reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Council.

(5) Any dispute or difference which may arise between the Council and a protected authority under this section (other than a difference as to the meaning or construction thereof) shall be referred to and settled by arbitration.

23.—(1) The provisions contained in Part II of, and Schedule 4 to, the Public Utilities Street Works Act 1950 (which regulate the relations between an authority executing a road alteration and undertakers within the meaning of the said Act of 1950 whose apparatus is affected thereby), shall apply in relation to any works executed under the powers contained in the provisions of this Act mentioned in subsection (2) below as if—

Application  
of Public  
Utilities  
Street Works  
Act 1950.  
1950 c. 39.

(a) the said works were executed for road purposes and were mentioned in section 21 (1) (a) of the said Act of 1950;

(b) the Council were the highway authority; and

(c) the said works were executed in a street.

(2) The provisions of this Act hereinbefore referred to are as follows:—

Section 4 (Power to provide motor races);

Section 9 (Erection of barriers and fences);

Section 10 (Provision of stands and facilities for motor racing).

24.—(1) The Council shall issue and may from time to time revise a code of practice containing provisions relating to the discharge of, and consultation in connection with the discharge of, such of their functions under this Act as the Council consider appropriate, and the exercise of the power of entering conferred by subsection (8) of section 5 (Closing of streets for motor races) of this Act on the authorities to whom that subsection applies.

Code of  
practice.

(2) The code shall not be issued without the approval of each of the protected authorities and before seeking that approval the Council shall submit a draft of the proposed code to each of them.

(3) Where any of the protected authorities is unwilling to give approval to the draft submitted under subsection (2) above, that authority shall, as soon as practicable, give its reasons therefor to the Council.

(4) If the Council and the protected authorities (or any of them) are unable to agree as to the provisions which should, or as the case may be, should not, be contained in the code, or as to the form which any provisions should take, the question shall be referred to arbitration.

(5) In an arbitration under subsection (4) above it shall be the function of the arbitrator to decide whether the provisions in question should or, as the case may be, should not, be contained in the code and (if the matter is in dispute) the form which the provisions in question should take; and the Council shall not issue the code otherwise than in accordance with the arbitrator's decision.

(6) A failure on the part of the Council or any other authority or person to whom the code applies to observe any provision of the code shall not of itself render the party concerned liable to any legal proceedings but any such failure may in any such proceedings be relied on by any party to the proceedings as tending to establish or to negative any liability which is in question in those proceedings.

(7) In subsections (2), (4), (5) and (6) above the references to the code include a reference to any revision of it.

Arbitration.

25. Where under this Act any question or dispute is to be referred to or determined by arbitration the reference shall be to a single arbitrator to be agreed upon between the parties or, failing agreement, appointed on the application of either party to the dispute after notice in writing to the other by the President of the Institution of Civil Engineers.

Restriction on right to prosecute.

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

Liability of directors, etc.

27.—(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.

(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.

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

28. The sections of the Public Health Act 1936 mentioned in Schedule 3 to this Act shall have effect as if references therein to that Act included references to this Act.

## SCHEDULES

### SCHEDULE 1

Section 2.

#### THE SCHEDULED STREETS

##### PART I

STREETS OR PARTS OF STREETS IN THE CITY WHICH MAY BE USED FOR MOTOR RACING IN ACCORDANCE WITH THE PROVISIONS OF THIS ACT

- |                    |  |
|--------------------|--|
| Belgrave Middleway | On its westbound carriageway from its junction with Bristol Street to a point (measured from the line of the eastern kerb line of Bristol Street) 184 metres in an easterly direction to its junction on its southern side with Pershore Road. |
| Belgrave Middleway | From its junction with Pershore Road to and including the gyratory island at the junction of Belgrave Middleway, Haden Way, Belgrave Road and Highgate Middleway.  |
| Pershore Road      | From its junction with the northern side of Belgrave Middleway to its junction with Sherlock Street at the southern kerb line of St. Luke's Road.  |
| Sherlock Street    | From its junction with Pershore Road at the southern kerb line of St. Luke's Road to its junction with Pershore Street at a point 193 metres in a north-easterly direction from the line of the kerb on the north side of Lower Essex Street.  |
| Pershore Street    | From its junction with Sherlock Street to its junction with Bromsgrove Street at a point 105 metres in a north-westerly direction from the western kerb line of Skinner Lane.  |
| Bromsgrove Street  | From its junction with Pershore Street to its junction with Bristol Street at a point 110 metres in a south-westerly direction from the south-western kerb of Gooch Street North.  |
| Bristol Street     | On its southbound carriageway from its junction with Bromsgrove Street to its junction with Belgrave Middleway at a point 430 metres in a southerly direction from the southern kerb of Wrentham Street.                                       |

SCH. 1  
—cont.

## PART II

## STREETS OR PARTS OF STREETS IN THE CITY ADJOINING THE STREETS OR PARTS OF STREETS DESCRIBED IN PART I OF THIS SCHEDULE

Lee Bank Middleway	At its junction with Bristol Street and Bristol Road and Belgrave Middleway at ground level westwards to a point 100 metres measured in an easterly direction from the eastern kerb of Spring Street. The carriageways leading to and from the underpass of the said junction.
Bristol Road	At its junction with Lee Bank Middleway, Bristol Street and Belgrave Middleway southwards to a point 180 metres in a southerly direction measured from the southern kerb line of Rickman Drive.
Belgrave Middleway Underpass	Both carriageways over their whole length.
Belgrave Middleway	Measured on its eastbound carriageway from its junction with Bristol Street to a point 225 metres measured in an easterly direction from the eastern kerb line of Bristol Street to its junction with Pershore Road on its northern side.
Pershore Road	At its junction with Belgrave Middleway for a distance southwards of 45 metres measured from the southernmost point of the inner circumference of the central island kerb.
Longmore Street	At its junction with Belgrave Middleway for a distance southwards of 30 metres measured from the southern kerb line of Belgrave Middleway.
Haden Way	At its junction with Belgrave Middleway at the gyratory island for a distance southwards of 45 metres measured from the southernmost point of the inner circumference of the central island kerb.
Belgrave Road	At its junction with Haden Way and Belgrave Middleway at the gyratory island for a distance eastwards of 50 metres measured from the easternmost point of the inner circumference of the central island kerb.



Highgate Middleway	At its junction with Belgrave Middleway and Belgrave Road at the gyratory island for a distance northwards of 45 metres measured from the northernmost point of the inner circumference of the central island kerb.	SCH. 1 —cont.
Frank Street	At its junction with Belgrave Middleway for a distance northwards of 30 metres from the northern kerb line of Belgrave Middleway.	
Horton Square	At its junction with Belgrave Middleway for a distance northwards of 30 metres from the northern kerb line of Belgrave Middleway.	
St. Luke's Road	At its junction with Belgrave Middleway for a distance northwards of 30 metres from the northern kerb line of Belgrave Middleway.	
Pershore Road	From its junction with Belgrave Middleway to its junction with Sherlock Street at a point contiguous with the southern kerb of St. Luke's Road.	
St. Luke's Road	At its junction with Sherlock Street and Pershore Road for a distance eastwards of 30 metres from the eastern kerb line of Sherlock Street and Pershore Road.	
Hope Street	At its junction with Sherlock Street for a distance westwards of 30 metres from the western kerb line of Sherlock Street.	
Mowbray Street	At its junction with Sherlock Street for a distance westwards of 30 metres from the western kerb line of Sherlock Street.	
Gooch Street	At its junction with Sherlock Street for a distance eastwards of 30 metres from the eastern kerb line of Sherlock Street.	
Macdonald Street	At its junction with Sherlock Street for a distance eastwards of 30 metres from the eastern kerb line of Sherlock Street.	
Wrentham Street	At its junction with Sherlock Street for a distance westwards of 30 metres from the western kerb line of Sherlock Street.	
Lower Essex Street	At its junction with Sherlock Street for a distance westwards of 30 metres from the western kerb line of Sherlock Street.	
Hurst Street	At its junction with Sherlock Street for a distance south-eastwards of 30 metres from the eastern kerb line of Sherlock Street.	

SCH. 1  
—cont.

Hurst Street	At its junction with Sherlock Street for a distance north-westwards of 30 metres from the western kerb line of Sherlock Street.
Sherlock Street	At its junction with Pershore Street eastwards to a point 47 metres west of the western kerb line of Bishop Street.
Pershore Street	Opposite Skinner Lane being a section of private highway forming the "Markets Entrance" and abutting the adopted highway known as Pershore Street from a point commencing in line with the northern kerb line of Bromsgrove Street for a distance of 155 metres in a south-easterly direction.
Skinner Lane	At its junction with Pershore Street for a distance southwards of 30 metres from the southern kerb line of Pershore Street.
Claybrook Street	At its junction with Pershore Street for a distance southwards of 30 metres from the southern kerb line of Pershore Street.
Pershore Street	At its junction with Bromsgrove Street for a distance of 30 metres north-westwards from the northern kerb line of Bromsgrove Street.
Hurst Street	At its junction with Bromsgrove Street for a distance eastwards of 30 metres from the eastern kerb line of Bromsgrove Street.
Hurst Street	At its junction with Bromsgrove Street for a distance westwards of 30 metres from the western kerb line of Bromsgrove Street.
Essex Street	At its junction with Bromsgrove Street for a distance westwards of 30 metres from the western kerb line of Bromsgrove Street.
Lower Essex Street	At its junction with Bromsgrove Street for a distance south-eastwards of 30 metres from the eastern kerb line of Bromsgrove Street.
Gooch Street North	At its junction with Bromsgrove Street for a distance south-eastwards of 30 metres from the eastern kerb line of Bromsgrove Street.
Henstead Street	At its junction with Bromsgrove Street for a distance south-eastwards of 30 metres from the eastern kerb line of Bromsgrove Street.

Bristol Street	On its northbound carriageway from a point measured southwards from the line of the southern kerb line of Irving Street to its junction with Belgrave Middleway and Lee Bank Middleway at a point 140 metres in a southerly direction measured from the southern kerb line of Rickman Drive including the central reservation.
Bristol Street	On its southbound carriageway southwards from a point at a distance of 125 metres from the southern kerb line of the western end of Essex Street to its junction with the south-western end of Bromsgrove Street.
Great Colmore Street	At its junction with Bristol Street for a distance westwards of 30 metres from the line of the western kerb of Bristol Street.
Rickman Drive	At its junction with Bristol Street for a distance westwards of 30 metres from the line of the western kerb of Bristol Street.

SCH. 1  
—cont.

SCHEDULE 2

Section 15.

ADAPTATION OF PART I OF ACT OF 1965

1. In the Act of 1965 for section 7 (which relates to compensation) there shall be substituted the following:—

“7.—(1) In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent, if any, to which the value of the land over which the right is purchased is depreciated by the purchase but also to the damage, if any, to be sustained by the owner of the land by reason of injurious affection of other land of the owner by the exercise of the right.

(2) The modifications subject to which subsection (1) of section 44 of the Land Compensation Act 1973 is to have effect, as applied by subsection (2) of that section to compensation for injurious affection under this section, are that for the words ‘land is acquired or taken’ there shall be substituted the words ‘a right over land is purchased’ and for the words ‘acquired or taken from him’ there shall be substituted the words ‘over which the right is exercisable’.”

1973 c. 26.

2. For section 8 of the Act of 1965 (which relates to cases in which a vendor cannot be required to sell part only of a building or garden) there shall be substituted the following:—

“8.—(1) Where in consequence of the service on a person in pursuance of section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or



SCH. 2  
—cont.

manufactory or of a park or garden belonging to a house (hereafter in this subsection referred to as 'the relevant land')—

(a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Lands Tribunal (hereafter in this section referred to as 'the Tribunal'); and

(b) before the Tribunal has determined that question the person satisfies the Tribunal that he has an interest which he is able and willing to sell in the whole of the relevant land and—

(i) where that land consists of a house, building or manufactory, that the right cannot be purchased without material detriment to that land; or

(ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs;

the Birmingham City Council Act 1985 shall, in relation to that person, cease to authorise the purchase of the right and be deemed to authorise the purchase of that person's interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the Tribunal directs.

(2) Any question as to the extent of the land in which the Birmingham City Council Act 1985 is deemed to authorise the purchase of an interest by virtue of the preceding subsection shall be determined by the Tribunal.

(3) Where, in consequence of a determination of the Tribunal that it is satisfied as mentioned in subsection (1) of this section, the Birmingham City Council Act 1985 is deemed by virtue of that subsection to authorise the purchase of an interest in land, the Council may, at any time within the period of six weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the acquiring authority to withdraw the notice.

(4) The modifications subject to which subsection (1) of section 58 of the Land Compensation Act 1973 is to have effect, as applied by subsection (2) of that section to the duty of the Tribunal in determining whether it is satisfied as mentioned in subsection (1) of this section, are that at the beginning of paragraphs (a) and (b) there shall be inserted the words 'a right over', for the word 'severance' there shall be substituted the words 'right over the whole of the house, building or manufactory or of the house and the park or



garden' and for the words 'part proposed' and 'part is' there shall be substituted respectively the words 'rights proposed' and 'right is'."

SCH. 2  
—cont.

3. The following provisions of the Act of 1965 (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), namely:—

- section 9(4) (failure of owners to convey);
- paragraph 10(3) of Schedule 1 (owners under incapacity); and
- paragraph 2(3) of Schedule 2 (absent and untraced owners);

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be purchased compulsorily is vested absolutely in the acquiring authority.

4. Section 11 of the Act of 1965 (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on sheriff's warrant in the event of obstruction) of the Act of 1965 shall be modified correspondingly.

5. Section 20 of the Act of 1965 (compensation for short term tenants) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of the interests but taking into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right in question.

6. Section 22 of the Act of 1965 (protection of acquiring authority's possession of land where by inadvertence an interest in the land has not been purchased) shall be so modified as to enable the acquiring authority in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right in question, subject to compliance with that section as respects compensation.

SCHEDULE 3

Section 28.

SECTIONS OF PUBLIC HEALTH ACT 1936 APPLIED

1936 c. 49.

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# Birmingham City Council Act 1985

## CHAPTER xli

### ARRANGEMENT OF SECTIONS

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