



North Yorkshire County Council Act 1991

1991 CHAPTER xiv

An Act to make provision with respect to the opening for vessels of Cawood Bridge; to provide for the control of occasional sales and the regulation of dealers in second-hand goods; and for connected or other purposes. [25th July 1991]

WHEREAS—

- (1) The Cawood Bridge Act 1870 authorised the construction of a bridge over the River Ouse in the county of York to be called “Cawood Bridge”:
- (2) The bridge was duly constructed by the Cawood Bridge Company in accordance with that Act as a road swing bridge which is capable of opening to facilitate the passage of vessels:
- (3) In 1883 the bridge was purchased by the justices of the peace for the East and West Ridings of the county of York, whereupon, in accordance with section 22 of that Act, the bridge became a county bridge and is now vested in North Yorkshire County Council:
- (4) Section 40 of that Act provides that it shall be unlawful to keep the bridge closed, so as to detain any vessel, barge or boat navigating the river, but the leaf or leaves of the bridge shall at all times when required be opened, so that vessels may be as little interrupted as possible in passing the bridge:
- (5) The number of vessels requiring to pass the bridge is no longer such as to justify the cost of providing for the bridge to be capable of opening on demand at all times for such vessels:
- (6) The council has, accordingly, determined that the requirement for the bridge to be opened on demand should be restricted as provided in this Act and that the council should have a power to charge for opening the bridge in certain circumstances:
- (7) It is expedient to make provision for the control in the county of occasional sales and the regulation of dealers in second-hand goods:
- (8) It is expedient that the other provisions of this Act should be enacted:
- (9) The purposes of this Act cannot be effected without the authority of Parliament:
- (10) In relation to 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:—

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PART I

PRELIMINARY

1 Citation and commencement

This Act may be cited as the North Yorkshire County Council Act 1991 and shall come into operation at the end of the period of two months beginning with the date on which it is passed.

2 Interpretation

In this Act, except where the context otherwise requires—

“appointed day” has the meaning given by section 3 of this Act;

“the bridge” means Cawood Bridge;

“commercial vessel” means any vessel used for—

- (a) the carriage of goods; or
- (b) the carriage of passengers for reward;

“the council” means North Yorkshire County Council;

“the county” means the county of North Yorkshire;

“proper officer”, in relation to any purpose, means an officer appointed for the purpose by the council;

“vessel” means any ship, barge, boat or water craft of any description.

3 Appointed day

(1) In this Act “the appointed day”, in relation to any provision, means such day as may be fixed for the purposes of that provision by resolution of the council.

(2) The council shall publish in a newspaper circulating in the county a notice—

- (a) of the passing of any such resolution and of the day fixed thereby; and
- (b) of the general effect of the provision for the purposes of which the day has been fixed;

and the day so fixed shall not be earlier than the end of the period of 28 days beginning with the date of the publication of the notice.

4 Evidence of publication of notices

A photostatic or other reproduction certified by the proper officer to be a true reproduction of a page, or part of a page, of any newspaper being a page or part bearing the date of its publication and containing a notice mentioned in section 3 or 5 of this Act shall be evidence of the publication of the notice and of the date of publication.

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PART II

CAWOOD BRIDGE

5 Opening of Cawood Bridge for vessels

- (1) Notwithstanding anything in the Cawood Bridge Act 1870 or any other enactment or rule of law the council shall be under no duty to provide for the opening of the bridge for the passage of vessels except—
 - (a) where no order under this section is in force, during so much of any relevant period as is between—
 - (i) the hours of 6.30 a.m. and 10.30 p.m., from 1st April to 31st October; and
 - (ii) sunrise and sunset, from 1st November to 31st March; or
 - (b) where such an order is in force, during the period specified in that order; or
 - (c) if the bridge is required to be opened on an occasion when there is no obligation to do so under paragraph (a) or (b) above, where at least 24 hours' notice has been given to the prescribed officer of the council of that occasion and upon payment of such fee as may be payable under subsection (2) below.
- (2) Subject to subsection (3) below, the council may make a direction that, in the case of subsection (1)(c) above, a fee shall be payable in respect of any vessel other than a commercial vessel.
- (3) A direction under subsection (2) above shall not be made without the consent of the British Waterways Board, such consent not to be unreasonably withheld.
- (4) The fee payable under subsection (2) above shall be such sum not exceeding £10 as may be specified in the direction made under that subsection, or such sum exceeding £10 as may be specified in an order in force under this section.
- (5) The council shall prescribe the officer to whom notice under subsection (1) (c) above is to be given and may prescribe the manner of payment of any fee payable under subsection (2) above.
- (6) As soon as practicable after prescribing the officer to whom notice under subsection (1) (c) above is to be given the council shall publish in a newspaper circulating in the county a notice identifying that officer and stating the place at which such notice may be given to him.
- (7) As soon as practicable after a direction under subsection (2) above has been made, the council shall publish in a newspaper circulating in the county a notice—
 - (a) setting out the effect of the direction; and
 - (b) explaining the manner in which the fee payable under subsection (2) above is to be made.
- (8) The council may apply to the Secretary of State for an order specifying the period during which the council is to provide for the opening of the bridge under subsection (1) (b) above for the passage of vessels or the amount of the fee which is payable under subsection (2) above.
- (9) Before making an application under subsection (8) above the council shall—
 - (a) consult with such persons as appear to it to be likely to be affected by the order (or bodies representative of such persons); and

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- (b) not less than 28 days before making such an application, publish in a newspaper circulating in the county a notice setting out the effect of the proposed order and stating that any person who wishes to make representation to the Secretary of State concerning it should do so in writing not later than the end of the period of 28 days beginning with the date on which the notice is published.
- (10) After considering any representations which have been duly made, the Secretary of State may—
- (a) make the order, specifying the period or fee applied for;
 - (b) refuse to make the order; or
 - (c) if he considers that a different period or fee should be specified, make the order specifying that period or fee, after consulting the council and such other persons as appear to him to be affected (or bodies representative of such persons).
- (11) As soon as practicable after the order has been made the council shall publish in a newspaper circulating in the county a notice setting out the effect of the order and stating the date on which it came or, as the case may be, will come into operation.
- (12) An order under this section shall be made by statutory instrument.
- (13) In this section “relevant period” means the period of four hours commencing 75 minutes after high water at Immingham.

PART III

OCCASIONAL SALES AND DEALERS IN SECOND-HAND GOODS

6 Control of occasional sales

- (1) In this section “occasional sale” means an event at which goods or services are exposed for supply or offered to the public by one or more sellers or suppliers in the course of a trade or business, but does not include—
- (a) a market held by virtue of a grant from the Crown or of prescription or under statutory authority;
 - (b) an event held wholly or mainly for the sale by auction of farm livestock or deadstock or the contents of a building; or
 - (c) an event promoted or conducted by a body registered as a charity under section 4 of the Charities Act 1960 or excepted from registration by virtue of subsection (4) of that section.
- (2) For the purposes of this section a person who holds an occasional sale includes any person who—
- (a) charges admission to the premises used for the sale; or
 - (b) is entitled, as a person promoting the sale or as the agent, licensee or assignee of such a person, to payment in respect of goods sold or services rendered to persons attending the sale or for the granting of rights to other persons to sell goods or services to persons attending the sale.
- (3) As from the appointed day any person who intends—
- (a) to hold an occasional sale in the county; or

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- (b) to permit an occasional sale to be held on premises in the county of which he is the occupier; or
- (c) being the occupier of premises in the county adjacent to the proposed site of an occasional sale, to permit those premises to be used for the purposes of that sale;

shall give to the council not less than 21 days before the holding of the intended sale notice of his intention to hold it or, as the case may be, to permit those premises to be so used.

- (4) A notice given under subsection (3) above shall be in writing and shall specify—
 - (a) the proposed date and time of commencement, expected duration and location of the intended sale;
 - (b) whether the sale is to be held on other days and, if so, what days, and the time of commencement and expected duration on those days;
 - (c) the extent of the premises to be occupied or used for the purposes of the sale;
 - (d) the nature of the goods or services to be provided at the sale;
 - (e) the name and business address (other than an address temporarily occupied for the purposes of the sale) of every person who it is proposed will promote the sale, and the name and address of a person appointed to receive and answer complaints about the sale; and
 - (f) an estimate of the number of persons expected to attend the sale.
- (5) If the council has reason to believe that an occasional sale is to be held in the county but that no notice thereof has been given under subsection (3) above by the person intending to hold the sale or by the occupier, as the case may be, it may as soon as reasonably practicable after the apparent intention to hold the sale has come to its knowledge serve on the person apparently intending to hold it and on the occupier of any premises on or in which it appears that the sale is to be held a notice requiring that person to give to the council the information required by subsection (4) above, which information shall be supplied by the person on whom the notice is served within seven days after the service of the notice.
- (6) Any person who promotes, conducts or assists in the conduct of an occasional sale shall display his full name and business address and the full name and business address of any other person concerned in the promotion of the sale in a prominent position on a part of the land open to the public or in a part of the premises so open.
- (7) Any person who promotes an occasional sale shall display on all notices, leaflets and posters given, distributed or exhibited by him or on his behalf in connection with the sale, the full name and business address of—
 - (a) himself; and
 - (b) every other person concerned in the promotion of the sale.
- (8) Any person who contravenes any provision of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

7 Dealers in second-hand goods

- (1) Subject to subsections (12) and (13) below, as from the appointed day, a person shall not in the county carry on the business of a dealer in second-hand goods when he is not registered by the council under this section or exempted from registration by

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- subsection (11) below and, when he is not so exempted, he shall not carry on such a business in premises occupied by him when the premises are not so registered.
- (2) On application for registration under this section the council shall register the applicant and, if the application specifies premises, those premises and issue to the applicant a certificate of registration.
 - (3) Every person registered under this section shall, as respects every transaction under which he acquires an interest in, or takes charge of, any second-hand articles in the course of his business, enter, in a book kept by him for the purpose of this section—
 - (a) the date of the transaction;
 - (b) a description of the articles; and
 - (c) the name and address of the person from whom the articles were acquired.
 - (4) Where a person registered under this section sells in the course of his business any second-hand article (or set of such articles) for a price exceeding £100, he shall enter in the book referred to in subsection (3) above the name and address of the person to whom the article (or set) was sold.
 - (5) Any book kept by a person in pursuance of this section shall be retained by him until the end of the period of two years beginning with the day on which the last entry was made in the book.
 - (6) Registration under this section shall remain in force for three years from the date thereof.
 - (7) If any person contravenes subsection (1), (3), (4) or (5) above, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
 - (8) The occupier of any premises used by a person registered under this section for the purposes of the business in respect of which he is so registered shall keep a copy of the certificate of registration displayed in a part of the premises open to the public, and, if without reasonable excuse he fails to do so, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
 - (9) If a person registered under this section acquires any second-hand goods from a person under the age of 16, and the price paid for those goods, or their value, exceeds £10, then whether those goods are offered by that person on his own behalf or on behalf of another person, the person so registered shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
 - (10) Any person who, on selling second-hand goods to, or acquiring second-hand goods from, a person registered under this section, intentionally gives that person a false name or false address shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
 - (11) This section shall not apply to—
 - (a) any person engaged in a business carried on by a group, organisation or body registered as a charity under section 4 of the Charities Act 1960 or excepted from registration by virtue of subsection (4) of that section; or
 - (b) a person in respect of whom particulars are registered under the Scrap Metal Dealers Act 1964, in respect of his business as a scrap metal dealer; or
 - (c) a person engaged in the business either of financing the acquisition of goods by means of hire-purchase agreements, conditional sale agreements or credit-

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sale agreements (as defined in section 189 (1) of the Consumer Credit Act 1974) or of financing the use of goods by means of bailment agreements, in respect of any such business or any transaction incidental thereto; or

- (d) a person engaged in a business of which the primary purpose is the supply of new unused goods and to which the supply of second-hand or used goods is merely incidental; or
- (e) a person engaged in business as a dealer in waste paper, cardboard, textiles, plastics in bulk or second-hand clothes, in respect of his business as such; or
- (f) a pawnbroker, in respect of his business as such;

and for the purposes of this section a person is not to be treated as carrying on the business of a dealer in second-hand goods merely because occasionally he enters into transactions appropriate to a business of that sort.

(12) Where a person—

- (a) is carrying on the business of a dealer in second-hand goods immediately before the date on which this section comes into force; and
- (b) has before that date applied for the registration of himself or, where he is carrying on that business in premises occupied by him, for the registration both of himself and of those premises;

it shall be lawful for him to carry on that business, and, where he is carrying on that business in premises specified in his application, to carry it on in those premises, pending the issue of his certificate of registration.

(13) It shall be lawful for a person who—

- (a) has obtained or renewed such registrations as are required under this section; and
- (b) during the currency thereof has applied for the renewal thereof;

to continue to carry on the business of a dealer in second-hand goods and to continue to use for that purpose any premises specified in his last certificate of registration, until he is issued with a new certificate.

PART IV

MISCELLANEOUS AND GENERAL

8 Powers of entry, inspection and examination

(1) A proper officer of the council, on producing if so required a duly authenticated document showing his authority, or any constable may—

- (a) subject to subsection (2) below, enter and inspect any premises if he has reasonable cause to believe that they are being, have been or are intended to be, used for or in connection with an occasional sale, within the meaning of section 6 of this Act, for the purpose of ascertaining whether there is or has been, in, or in connection with, the premises a contravention of that section;
- (b) at all reasonable times enter any premises for the purpose of serving a notice under subsection (5) of the said section 6;
- (c) at all reasonable times enter and inspect any premises registered under section 7 of this Act and inspect any book kept in pursuance of that section and may do all such things as are reasonably necessary for the purpose of

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ascertaining whether there is, or has been, in, or in connection with, the premises, a contravention of that section; or

- (d) subject to subsection (2) below, enter and inspect any premises not registered under the said section 7, if he has reasonable cause to believe they are being used for, or in connection with, the business of a dealer in second-hand goods, for the purposes of ascertaining whether in connection with such premises there is a contravention of that section.

- (2) The powers of subsection (1) (a) or (d) above may be exercised in respect of premises only on the grant of a warrant by a justice of the peace.
- (3) A justice may grant a warrant under subsection (2) above only if he is satisfied either—
 - (a) that notice of intention to apply for a warrant has been given to the occupier of the premises; or
 - (b) that the case is one of urgency, or the occupier is temporarily absent, or that the giving of notice of intention to apply for a warrant would defeat the object of entry.
- (4) A warrant under this section shall authorise entry, if need be, by force but shall cease to have effect at the end of a period of seven days beginning with the day on which it is granted.

9 Obstruction of authorised officer

- (1) Any person who—
 - (a) intentionally obstructs any authorised officer; or
 - (b) without reasonable cause fails to give any authorised officer any assistance or information which the officer may reasonably require of him for the purposes of the exercise of the officer’s functions under any provision of this Part of this Act;
 shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) Subsection (1) (b) above applies in relation to a constable as it applies in relation to an authorised officer.
- (3) A person shall be guilty of an offence if, in giving any information which is required of him by virtue of subsection (1) (b) above—
 - (a) he makes any statement which he knows is false in a material particular; or
 - (b) he recklessly makes a statement which is false in a material particular.
- (4) A person guilty of an offence under subsection (3) above shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (5) In this section “authorised officer” means any officer of the council who is acting in pursuance of any provision of this Part of this Act.

10 Defence of due diligence

- (1) In proceedings for an offence under section 6 or 7 (1), (3), (4) or (5) of this Act 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.

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- (2) In proceedings for an offence under section 7 (9) of this Act it shall be a defence for the person charged to prove—
- (a) that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence; or
 - (b) that he had no reason to suspect that the person from whom he acquired the second-hand goods was under the age of 16.
- (3) If in any case the defence provided under subsection (1) or (2) 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 seven 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 Restriction on right to prosecute

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

12 Liability of directors, etc

- (1) Where an offence 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 the 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.