



Somerset County Council Act 1970

CHAPTER xxi

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short and collective titles.
2. Division of Act into Parts.
3. Interpretation.

PART II

FINANCE AND SUPERANNUATION

4. Power to raise money by bearer bonds.
5. Power to raise money abroad.
6. Saving for Exchange Control Act 1947.
7. Amendment of section 32 of Act of 1967.
8. Investment of superannuation fund in acquisition, etc., of land.
9. Investment in unit trusts, etc.
10. Modification of provisions as to division of superannuation fund.
11. Section 21 (3) of Act of 1937 not to limit foregoing powers.
12. Benefits in certain cases of premature retirement.
13. Repeal.

PART III**LANDS AND HIGHWAYS****Section**

14. Agreements with developers.
15. Recreational and other facilities for employees.
16. Amendment of section 9 of the Somerset County Council Act 1960.

PART IV**GENERAL**

17. Protection of members and officers of Council from personal liability.
18. Application of general provisions of Public Health Act 1936.
19. Costs of Act.

SCHEDULES:

Schedule 1—Section 9 of the Somerset County Council Act 1960 as amended in accordance with the provisions of section 14 of the Act of 1967 and of section 16 of this Act.

Schedule 2—Sections of Public Health Act 1936 applied.

ELIZABETH II



1970 CHAPTER xxi

An Act to confer further powers on the Somerset County Council in relation to finance and lands; and for other purposes. [29th May 1970]

WHEREAS—

(1) It is expedient that the powers of the county council of the administrative county of Somerset in relation to finance and lands should be enlarged and extended as by this Act provided:

(2) It is expedient that the other provisions in this Act should be enacted:

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

(4) In relation to the promotion of the Bill for this Act the requirements of Part XIII of the Local Government Act 1933 1933 c. 51. have been observed:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by

and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I
PRELIMINARY

Short and collective titles.

1.—(1) This Act may be cited as the Somerset County Council Act 1970.

(2) The Somerset County Council Acts 1960 and 1967 and this Act may be cited together as the Somerset County Council Acts 1960 to 1970.

Division of Act into Parts.

2. This Act is divided into Parts as follows:—

Part I.—Preliminary.

Part II.—Finance and superannuation.

Part III.—Lands and highways.

Part IV.—General.

Interpretation.

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

1937 c. 68.

“ the Act of 1937 ” means the Local Government Superannuation Act 1937;

1961 c. 62.

“ the Act of 1961 ” means the Trustee Investments Act 1961;

1967 c. xxxv.

“ the Act of 1967 ” means the Somerset County Council Act 1967;

“ the Council ” means the county council of the county;

“ the county ” means the administrative county of Somerset;

“ enactment ” means any enactment, whether public general or local, and includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

“ the fund ” means the superannuation fund maintained by the Council under Part I of the Act of 1937;

“ the narrower-range part ”, “ property ” and “ the wider-range part ” in relation to the fund have the same meanings as they have for the purposes of the Act of 1961.

(2) Any reference in this Act to an enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by, or by virtue of, any subsequent enactment including this Act.

PART II

FINANCE AND SUPERANNUATION

4. In addition to any other method by which the Council may raise any money which they are authorised to borrow, they may, with the consent of the Treasury and subject to such conditions as the Treasury may impose, raise the money by means of the issue of bearer bonds or other securities to bearer. Power to raise money by bearer bonds.

5.—(1) Any method by which the Council are empowered by any enactment to raise any money which they are authorised to borrow shall, notwithstanding anything in such enactment, be deemed to include the raising of money by that method outside the United Kingdom or in any foreign currency. Power to raise money abroad.

(2) The powers conferred by the foregoing subsection shall not be exercised except with the consent of the Treasury and subject to such conditions as the Treasury may impose.

(3) The enactments empowering the Council to raise money shall have effect in relation to a transaction authorised by this section for the raising of money in a foreign currency as if for any reference in those enactments to sterling there were substituted a reference to the foreign currency and for any reference therein to a sum expressed in terms of sterling there were substituted a reference to the sum expressed in terms of the foreign currency (adjusted, where necessary, to produce an amount which the Council consider appropriate having regard to all the circumstances of the transaction).

(4) Nothing in this section shall be taken as exempting the Council from the provisions of any order under section 1 of the Borrowing (Control and Guarantees) Act 1946. 1946 c. 58.

6. Nothing in the last two foregoing sections shall be taken as exempting the Council from the provisions of the Exchange Control Act 1947. Saving for Exchange Control Act 1947.
1947 c. 14.

7. Subsection (1) of section 32 (Extension of power to invest superannuation fund moneys) of the Act of 1967 shall have effect as if after the word "America" there were inserted the words "or in Japan". Amendment of section 32 of Act of 1967.

8.—(1) Subject to the provisions of this section, the powers exercisable by the Council under the Act of 1961 to invest any property belonging to the wider-range part of the fund shall include power to invest such property in such manner as they think fit (and whether alone or in association with any other person) in the acquisition, development or management of land situated in the United Kingdom or in any of the Channel Islands or in the Isle of Man and used or to be used for residential, Investment of superannuation fund in acquisition, etc., of land.

PART II
—cont.

commercial or industrial purposes, but Part IV of Schedule 1 to the Act of 1961 shall not apply to any investment made under this subsection.

(2) So long as the value of the investments of property for the time being made under the powers conferred by the foregoing subsection is equal to or greater than one-quarter of the total value of the wider-range part of the fund, no further investment may be made thereunder.

(3) For the purposes of the last foregoing subsection, the value of any investment of property belonging to the wider-range part of the fund shall be deemed to be the value of the investment at the time at which it was made.

(4) Subsections (2) to (7) of section 6 of the Act of 1961 shall apply in relation to the exercise of the powers of investment conferred by subsection (1) of this section as they apply in relation to the exercise by the Council of the powers conferred by section 1 of that Act to invest any property belonging to the wider-range part of the fund in a manner specified in Part III of Schedule 1 to that Act.

Investment in
unit trusts,
etc.

9.—(1) For the purposes of the provisions of section 32 (Extension of power to invest superannuation fund moneys) of the Act of 1967 and section 8 (Investment of superannuation fund in acquisition, etc., of land) of this Act and notwithstanding anything in paragraph 3 of Part III of Schedule 1 to the Act of 1961 an investment in the units of a unit trust scheme or in participation certificates or in any form of participation under any trust or scheme established in the United Kingdom or in any of the Channel Islands or in the Isle of Man, having the effect of enabling persons to participate in the profits and income arising from the acquisition, holding, management or disposal of such securities or of such land as are specified in those provisions, shall be regarded as an investment in the securities in question or in such land.

(2) In this section—

“ participation certificate ” has the meaning assigned thereto by section 2 of the Local Authorities’ Mutual Investment Trust Act 1968;

“ unit trust scheme ” has the meaning assigned thereto by subsection (1) of section 26 of the Prevention of Fraud (Investments) Act 1958.

1968 c. 25.

1958 c. 45.

Modification
of provisions
as to division
of super-
annuation
fund.

10.—(1) Whether or not any division of the fund has been made before the commencement of this Act in pursuance of subsection (1) of section 2 of the Act of 1961, on such day as may be appointed for that purpose by resolution of the Council the fund may be divided or again divided (as the case may be) so that on such day the value of the wider-range part bears to the then value of the

narrower-range part the proportion of three to one; and such proportion is in the Act of 1961, as modified in its application to the fund by subsection (2) of this section, referred to as "the prescribed proportion".

PART II
—cont.

(2) As from the day appointed in pursuance of the provisions of the foregoing subsection, the Act of 1961 shall have effect in relation to the fund subject to the following modifications:—

- (a) subsection (1) of section 2 of that Act shall have effect with the substitution for the words "equal in value" of the words "in the prescribed proportion";
- (b) paragraph (b) of subsection (3) of the said section 2 and sub-paragraph (b) of paragraph 3 of Schedule 2 to that Act shall have effect with the substitution, for the words from "each" to the end, of the words "the wider-range part of the fund is increased by an amount which bears the prescribed proportion to the amount by which the value of the narrower-range part of the fund is increased";
- (c) subsection (3) of section 4 of that Act shall have effect as if for the words "so as either to be equal, or to bear to each other" there were substituted the words "so as to bear to each other either the prescribed proportion or"; and
- (d) section 13 of that Act shall not apply in relation to the fund.

11. The provisions of the last three foregoing sections shall have effect notwithstanding anything in subsection (3) of section 21 of the Act of 1937.

Section 21 (3)
of Act of 1937
not to limit
foregoing
powers.

12.—(1) Where, after the commencement of this Act, the employment of a contributor who has attained the age of fifty-five years and completed ten years' service is terminated by the Council in the interests of efficiency before he has attained the age of sixty-five years, the contributor shall be entitled to superannuation benefits calculated by reference to the service which he was entitled to reckon at the date when he ceased to hold his employment:

Benefits in
certain cases
of premature
retirement.

Provided that this subsection shall not apply to a contributor if, not later than one month after ceasing to hold his employment, he gives notice to the Council that he does not wish this subsection to apply to him.

(2) Where, after the commencement of this Act, a contributor who has attained the age of fifty-five years and completed

PART II
—cont.

twenty-five years' service but has not attained pensionable age terminates his employment at his own request, then superannuation benefits calculated by reference to the service which he was entitled to reckon at the date when he ceased to hold his employment shall be payable in lieu of any entitlement to a return of contributions under section 10 of the Act of 1937:

Provided that—

- (a) where a person has become entitled to superannuation benefits by virtue of this subsection, he may, by notice given to the Council at any time before any payment on account of such benefits has been made to him, elect that this subsection, and any rights to which he is entitled thereunder, shall cease to apply in relation to him as from the date on which such notice is given;
- (b) unless the Council otherwise determine on compassionate grounds, no benefits shall be paid to a person by virtue of this subsection before the date on which he attains pensionable age.

(3) Where a person who has become entitled to superannuation benefits by virtue of subsection (2) of this section dies before any payment on account of such benefits has been made to him, the like benefits shall, as from the date of his death, be payable in respect of him as would have been paid if he had died on the last day of his employment as a contributor.

(4) For the avoidance of doubt it is hereby declared that, where a person is for the time being entitled to benefits by virtue of subsection (2) of this section, those benefits shall be deemed to be superannuation benefits for the purpose of the definition of "service" in subsection (1) of section 40 of the Act of 1937, whether or not any payment has been made to him on account thereof.

1953 c. 25. (5) For the purposes of section 16 of the Local Government Superannuation Act 1953, and of any rules made thereunder, a person entitled to superannuation benefits by virtue of subsection (2) of this section shall be deemed to cease to hold his employment on the day immediately preceding the day on which those benefits first become payable to him, and superannuation benefits as aforesaid shall be deemed to be such a superannuation allowance or benefit as is referred to in subsection (1) of the said section 16.

(6) In this section words and expressions to which meanings are assigned by the Act of 1937 have the same respective meanings and—

"contributor" means a contributor to the fund as respects whom the Council are the employing authority;

“pensionable age” in relation to any person means the earliest age at which, if he were to remain a contributor without a break of service, he would, on ceasing to hold his employment become entitled to superannuation benefits by reason of having otherwise than under this section attained such age and completed such period of service as is prescribed in the Local Government Superannuation Acts 1937 to 1953 or the Local Government Superannuation (Benefits) Regulations 1954 as the case may be;

PART II
—cont.

“superannuation benefits” includes any benefits which are or may be granted in pursuance of the Local Government Superannuation Acts 1937 to 1953 or the regulations made thereunder.

13. The following enactments are hereby repealed:—

Repeal.

Paragraph (f) of subsection (1) of section 17 (Investment of superannuation fund) of the Somerset County Council Act 1960.

1960 c. xxvii.

Subsection (2) of section 32 (Extension of power to invest superannuation fund moneys) of the Act of 1967.

PART III

LANDS AND HIGHWAYS

14.—(1) The Council and any person having an estate or interest in any land within the county may enter into an agreement which may provide for all or any of the following:—

Agreements
with
developers.

- (a) determining the order in which development of that land shall be carried out as between the different parts of that land and as between the different parts of the development of any part of that land;
- (b) determining the time by which development of that land shall be completed or the times by which the parts of that development shall be completed;
- (c) ensuring that the estate or interest of that person in that land shall not be conveyed, leased or assigned except by way of mortgage or legal charge to any person unless the Council shall have first satisfied themselves that that person has or can command sufficient financial resources to carry out development of that land and to implement all the provisions of the agreement;
- (d) the dedication to the public of rights of way over that land or over a part or parts of any building or structure which is comprised in the development and the maintenance and cleansing of the public rights of way so dedicated including the maintenance and cleansing of

PART III
—cont.

the surface and the lighting of the building or structure over or above the public rights of way so dedicated and the maintenance of any support of the public rights of way so dedicated;

- (e) arrangements relating to the provision, maintenance or use of facilities for the parking of vehicles for or in connection with development of that land;
- (f) arrangements for the maintenance of open spaces provided in connection with development of that land;
- (g) any other related or consequential matters.

(2) (a) An agreement entered into under the preceding subsection may contain positive and negative covenants and whether they be positive or negative and notwithstanding that they may not enure, and may not be expressed to enure, for the benefit of any other land of the covenantee they shall, if registered in the local land charges register, be enforceable by the Council against the covenantor and all persons deriving title by, through or under the covenantor.

(b) In the event of the person who has entered into an agreement under the preceding subsection or any person deriving title by, through or under him failing to perform any of the positive covenants contained in the agreement, the Council may after giving not less than twenty-one days' notice of their intention so to do enter on the land and do the work in default and the expenses incurred by the Council in so doing shall be recoverable by them from the person in default.

(c) Except as may be expressly provided in the agreement an agreement entered into under the preceding subsection shall be enforceable and be deemed to be intended to be enforceable in perpetuity or for the duration of the estate or interest which the person entering into the agreement has in the land at the time when the agreement is entered into.

(3) The Council may take or acquire shares or other securities in any company incorporated in the United Kingdom with which an agreement is entered into under this section.

(4) In this section—

“development” has the same meaning as in section 12 of the Town and Country Planning Act 1962;

“land” includes land covered by water and any interest in land or any easement or right in, to or over land.

1962 c. 38.

Recreational
and other
facilities for
employees.

15.—(1) The Council may provide and maintain or contribute to the cost of providing and maintaining recreational, social and welfare facilities for their employees.

(2) For the purposes aforesaid, the Council may—

- (a) erect or maintain buildings;
- (b) make such charges as they think fit for the use of facilities provided under this section;
- (c) make regulations for the management of such buildings and facilities.

PART III
—cont.

16.—(1) Section 9 (Sale of articles on verges, etc.) of the Somerset County Council Act 1960 as amended by section 14 (Amendment of section 9 of Somerset County Council Act 1960) of the Act of 1967 and set out in Schedule 1 to the Act of 1967 shall have effect as if—

Amendment
of section 9
of the
Somerset
County
Council Act
1960.

1960 c. xxvii.

(a) in subsection (1)—

(i) the words “ provide, erect or place and ” were omitted;

(ii) for the words “ part of a field adjacent thereto within 15 yards thereof or on any common land unenclosed moorland or other unenclosed land of whatsoever description adjacent to and within 15 yards of a road to which this section applies ” there were substituted the words “ land adjacent to and within fifteen yards of such verge or road ”;

(b) in subsection (2) for the words “ forty shillings and to a daily fine not exceeding forty shillings ” there were substituted the words “ twenty pounds ”;

(c) in subsection (3)—

(i) sub-paragraph (ii) of paragraph (a) were deleted and the following inserted:—

“ (ii) any other county road or part of a county road, to which the highway authority may by order apply this section.

(aa) An order under this subsection shall not be made except with the consent of the Minister:

Provided that if no objections are duly made in accordance with the provisions of this subsection or if any so made are withdrawn the consent of the Minister shall not be required and the order shall have effect without modification.”

(ii) in paragraph (b) for the words “ an order ” there were substituted the words “ a consent ”;

(iii) in paragraph (c) for the word “ making ” there were substituted the words “ consenting to ”;

PART III
—cont.

(iv) the following paragraph was added:—

“(d) The Minister may, in consenting to any order submitted to him for his consent under this subsection consent to it in the form in which it was submitted to him or with such modifications as he thinks fit, which may include exceptions or other modifications of any description but not additions.”

(d) in subsection (4)—

(i) in paragraph (a) the words “ provided, erected or ” were omitted;

(ii) in paragraph (c) for the words “ common land, moorland or other land to which this section applies ” there were substituted the words “ land referred to in subsection (1) of this section ”;

1962 c. 38.

(iii) in paragraph (d) for the words “ Town and Country Planning Act 1962 ” there were substituted the words “ Town and Country Planning Acts 1962 to 1968 ” and for the words “ section 45 of the said Act of 1962 by virtue of subsection (2) ” there were substituted the words “ section 15 of the Town and Country Planning Act 1968 by virtue of subsection (3) ”;

1968 c. 72.

(e) in paragraph (b) of subsection (5) the words “ provision erection or ” were omitted.

1960 c. xxvii.

(2) In accordance with the foregoing provisions of this section and of the provisions of section 14 of the Act of 1967, section 9 of the Somerset County Council Act 1960 shall have effect as set out in Schedule 1 to this Act.

PART IV

GENERAL

Protection of members and officers of Council from personal liability.
1875 c. 55.

17. Section 265 of the Public Health Act 1875 shall apply to the Council as if any reference in that section to the said Act of 1875 included a reference to this Act and as if any reference in that section to a member of a local authority included a reference to a member of a committee or a sub-committee of a local authority.

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

18. The sections of the Public Health Act 1936 mentioned in Schedule 2 to this Act shall have effect as if references therein to that Act included references to this Act.

19.—(1) The costs, charges and expenses preliminary to, and of and incidental to, the preparing, applying for, obtaining and passing of this Act or otherwise in relation thereto, shall be paid by the Council out of the county fund of the Council or out of moneys to be borrowed under this Act.

PART IV
—cont.

Costs of Act.

(2) The Council may borrow, without the consent of any sanctioning authority, such sums as may be necessary for paying the costs, charges and expenses of this Act and, subject to the provisions of this section, Part IX of the Local Government Act 1933 shall have effect as if money borrowed under this section were borrowed under that Part.

1933 c. 51.

(3) The Council shall repay the sums borrowed under the last foregoing subsection within five years from the date of borrowing.

SCHEDULES

Section 16.

SCHEDULE 1

1960 c. xxvii.

SECTION 9 OF THE SOMERSET COUNTY COUNCIL ACT 1960 AS AMENDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 14 OF THE ACT OF 1967 AND OF SECTION 16 OF THIS ACT

Sale of food and articles on verges, etc.

9.—(1) No person (other than a person selling, offering or exposing for sale or depositing for sale any food, goods, provisions, articles or things at any market or fair for which a toll, stallage or rent is payable) shall use any shed, hut, shelter, booth, shop, stall or other erection whether on wheels or not or any vehicle or any container used with or without a stall on the verge of any road to which this section applies or on any land adjacent to and within 15 yards of such verge or road for the purpose of selling, offering, depositing or exposing for sale any food, goods, provisions, articles or things whatsoever other than newspapers.

(2) If any person contravenes the provisions of this section he shall be liable to a fine not exceeding twenty pounds.

(3) (a) This section applies to roads in the county of any of the following descriptions:—

1966 c. 42.

(i) all trunk roads and roads which are classified as principal roads by the Minister under the Local Government Act 1966;

(ii) any other county road, or part of a county road, to which the highway authority may by order apply this section.

(aa) An order under this subsection shall not be made except with the consent of the Minister:

Provided that if no objections are duly made in accordance with the provisions of this subsection or if any so made are withdrawn the consent of the Minister shall not be required and the order shall have effect without modification.

(b) Before making application for a consent under this subsection, the highway authority shall publish once at least in each of two successive weeks in a local newspaper circulating in the locality in which the road is situated a notice stating the general effect of the intended order, and stating that within a period specified in the notice (not being less than twenty-eight days from the first publication of the notice) any person may object to the application by sending notice of his objection and of the grounds thereof to the Minister and by sending a copy thereof to the highway authority.

(c) If, before the expiration of the period specified in the notice, any objection to the application is received by the Minister from any person appearing to him to be affected, the Minister shall, before consenting to the order, cause a local inquiry to be held and consider the report of the person who held the inquiry.

(d) The Minister may, in consenting to any order submitted to him for his consent under this subsection, consent to it in the form in which it was submitted to him or with such modifications as he thinks fit, which may include exceptions or other modifications of any description but not additions.

(4) Nothing in this section shall apply to—

SCH. 1
—cont.

- (a) any shed, hut, shelter, booth, shop, stall or other erection or any vehicle placed on private property by or with the consent of the owner of such property and with the permission of the highway authority;
- (b) any building erected or work constructed with the consent of the Minister of Housing and Local Government in pursuance of section 194 of the Law of Property Act 1925 or of any other statutory provision or any scheme made pursuant to a statute; 1925 c. 20.
- (c) the sale of food, goods, provisions, articles or things from a vehicle when in use solely for the purpose of itinerant trading with the occupants of premises adjoining any verge or land referred to in subsection (1) of this section;
- (d) the sale of food, goods, provisions, articles or things from any premises used as a shop pursuant to a permission granted or deemed to have been granted under the provisions of the Town and Country Planning Acts 1962 to 1968, or any order or regulation made thereunder or in respect of which an enforcement notice cannot be served under section 15 of the Town and Country Planning Act 1968 by virtue of subsection (3) of that section; or 1968 c. 72.
- (e) the sale by the occupier of land used for agriculture or horticulture, and from such land, of the produce thereof, unless in relation to any particular location on such land a magistrates' court on the complaint of the highway authority under section 43 of the Magistrates' Courts Act 1952 determines because the use thereof for the purpose of such sale would adversely affect the safety of persons using the adjoining road that the exemption conferred by this paragraph shall not apply to that location or that the said exemption shall not apply until any condition imposed by the court in relation to access to or facilities for the parking of the vehicles of persons likely to frequent the said location in connection with such sale has been complied with. 1952 c. 55.

(5) (a) Where an application is made to a highway authority for a permission under paragraph (a) of subsection (4) of this section then unless within twenty-eight days from the date of the receipt of the application the highway authority give notice to the applicant of their decision on the application the provisions of paragraph (b) of this subsection shall apply in relation to the application as if the highway authority had refused to grant the permission applied for.

(b) Any person aggrieved by the refusal of the highway authority to grant permission under paragraph (a) of subsection (4) of this section may appeal to a magistrates' court and on any such appeal, the court may, if it appears to them that adequate facilities exist or will be provided for the parking of the vehicles of persons likely to frequent the shed, hut, shelter, booth, shop, stall or other erection, or the vehicle in question and that the placing of such erection or vehicle

SCH. 1
—cont.

will not otherwise adversely affect the safety of persons using the adjoining road, by order direct the highway authority to withdraw such refusal and to issue the permission for which application was made.

(6) In this section—

- (a) the expression “ container ” includes any basket, pail, tray, package or receptacle of any kind whether open or closed;
- (b) the expression “ private property ” does not include common land or unenclosed moorland;
- (c) the expression “ vehicle ” means a vehicle of any description drawn or propelled along roads whether by animal or mechanical power.

Section 18.

1936 c. 49.

SCHEDULE 2

SECTIONS OF PUBLIC HEALTH ACT 1936 APPLIED

Section	Marginal note
271	Interpretation of “ provide ”.
283	Notices to be in writing; forms of notices, &c.
288	Penalty for obstructing execution of Act.
291	Certain expenses recoverable from owners to be a charge on the premises: Power to order payment by instalments.
328	Powers of Act to be cumulative.

PRINTED IN ENGLAND BY THE OYEZ PRESS

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