



Lanarkshire County Council Order Confirmation Act 1971

CHAPTER xxxviii

ARRANGEMENT OF SECTIONS

Section

1. Confirmation of Order in schedule.
2. Short title.

SCHEDULE

LANARKSHIRE COUNTY COUNCIL

1. Short and collective titles.
2. Interpretation.
3. Power to raise money by bills.
4. Power to raise money by bearer bonds.
5. Power to raise money outwith United Kingdom.
6. Extension of power to invest superannuation fund.
7. Investment of superannuation fund in unit trusts and land.
8. Transfer of certain sums from superannuation fund.
9. Saving for powers of Treasury.
10. Repeal.
11. Costs of Order.

ELIZABETH II



1971 CHAPTER xxxviii

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Lanarkshire County Council.

[27th July 1971]

WHEREAS the Provisional Order set forth in the schedule hereunto annexed has been made by the Secretary of State under the provisions of the Private Legislation Procedure (Scotland) Act 1936, and it is requisite that the said 1936 c. 52. Order should be confirmed by Parliament:

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

1. The Provisional Order contained in the schedule hereunto annexed is hereby confirmed. Confirmation
of Order in
schedule.

2. This Act may be cited as the Lanarkshire County Council Short title. Order Confirmation Act 1971.

SCHEDULE.

LANARKSHIRE COUNTY COUNCIL

Provisional Order to confer on the Lanarkshire County Council further powers with respect to the local government and finances of the county; to make further provision for the investment of the superannuation fund maintained by the County Council; and for other purposes.

Whereas it is expedient that further and better provision should be made with respect to the local government and finances of the county of Lanark and that the powers of the County Council of the said county in relation thereto and in relation to the investment of the superannuation fund maintained by the County Council should be enlarged and extended as by this Order provided:

1936 c. 52. And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936:

Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary of State hereby orders as follows:—

Short and collective titles.
1939 c. xcii. 1.—(1) This Order may be cited as the Lanarkshire County Council Order 1971.

(2) The Lanarkshire County Council Order 1939 and this Order may be cited together as the Lanarkshire County Council Orders 1939 and 1971.

Interpretation. 2.—(1) In this Order—

1947 c. 43. “ Act of 1947 ” means the Local Government (Scotland) Act 1947;

1961 c. 62. “ Act of 1961 ” means the Trustee Investments Act 1961;

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

“ the county ” means the county of Lanark as administered by the Council;

“ the county fund ” means the county fund of the Council referred to in section 176 of the Act of 1947;

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

“ rates ” includes sums requisitioned under Part XI of the Act of 1947;

“ signature ” includes a facsimile of a signature by whatever process reproduced;

“ superannuation fund ” means the superannuation fund maintained by the Council under Part I of the Local Government Superannuation (Scotland) Act 1937.

1937 c. 69.

(2) Any reference in this Order 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 Order.

3.—(1) In addition to the modes of borrowing prescribed by the Act of 1947, the Council may raise money—

Power to raise money by bills.

(i) for any purpose for which the Council are authorised to borrow;

(ii) in anticipation of the receipt of revenues, for any purpose for which the revenues of the Council may properly be applied;

by means of bills (to be called “ Lanarkshire County Council Bills ”, in this section referred to collectively as “ bills ” and separately as “ a bill ”) subject to, and in accordance with, the following provisions:—

(a) A bill shall be in the form prescribed by regulations made under this section and shall be for the payment of the sum named therein in the manner and at the date therein mentioned, being a date not more than twelve months from the date of the bill:

(b) A bill shall entitle the holder thereof to payment at maturity of the sum expressed in the bill to be payable:

(c) Bills may be offered for purchase (whether by tender or otherwise) in such manner and on such conditions as the Council may determine:

(d) Bills shall be issued under the authority of a resolution passed by the Council, and shall bear the signature of the treasurer to the Council or of some other person authorised by the Council:

(e) The Council may make regulations providing for—

(i) the preparation, form, mode of issue, payment and cancellation of bills;

(ii) the issue of new bills in lieu of bills defaced, lost or destroyed;

(iii) the prevention, by the use of counterfoils, or of a special description of paper or otherwise, of fraud in relation to bills; and

(iv) the giving of a proper discharge on the payment of a bill:

(f) The amount of money received in respect of a bill shall be deemed to be principal money raised by means of the bill and the difference between the amount payable in respect of a bill and the amount received in respect thereof shall be deemed to be interest on the principal money so raised:

(g) The aggregate amount payable on bills current at any one time shall not (except by the amount payable on bills issued shortly before any other bills fall due in order to pay off the last-mentioned bills) exceed—

(i) the sum of four million pounds; or

(ii) one-fifth of the amount estimated to be produced by the levying of rates in the county during the then current financial year to meet liabilities falling to be discharged by the Council;

whichever is the greater:

(h) Subject to the provisions of the last foregoing paragraph, the Council may renew a bill at maturity:

(i) The Council may borrow for the purpose of repaying the principal money raised by bills but except as aforesaid any power of the Council to borrow shall be suspended to the extent of the amount which has been raised by the issue of bills.

(2) (a) At the request of a local authority to which this subsection applies who desire to borrow money—

(i) for any purpose for which the local authority are authorised to borrow; or

(ii) in anticipation of the receipt of revenues for any purpose for which the revenues of the local authority may properly be applied;

the Council or a committee of the Council may raise money by means of Lanarkshire County Council bills and shall lend such money to the local authority:

Provided that the aggregate amount payable on bills issued under this subsection for the purpose of lending to any local authority current at any one time shall not (except by the amount payable on bills issued shortly before any other such bills fall due in order to pay off the last-mentioned bills) exceed one-fifth of the amount estimated to be produced by levying of rates in the burgh of that local authority for the then current financial year.

(b) The aggregate amount payable on bills issued under this subsection current at any one time shall not be taken into account in calculating the aggregate amount referred to in paragraph (g) of subsection (1) of this section.

(c) Any money lent to a local authority by the Council under this subsection shall, if so required by the Council, be repaid to the Council by the local authority on or before the respective dates on which the bills by which the money was raised fall due for repayment.

(d) All costs, charges and expenses incurred by the Council in respect of any particular loan under this subsection shall be met by the borrower.

(e) This subsection applies to any local authority, being the town council of a large burgh in the county, whose rates in the financial year current at the date of any proposed exercise of the powers of this subsection are estimated to produce not less than three million pounds.

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 outwith the United Kingdom or in any foreign currency.

Power to raise money outwith United Kingdom.

(2) The powers conferred by the foregoing subsection shall be exercised only 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—

- (a) for any reference in those enactments to sterling, there were substituted a reference to the foreign currency; and
- (b) 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).

6.—(1) In its application to the investment by the Council under section 17 (3) of the Local Government Superannuation (Scotland) Act 1937 of any moneys forming part of, but which are not for the time being required to meet payments out of, the superannuation fund, the Act of 1961 shall have effect as if—

Extension of power to invest superannuation fund.
1937 c. 69.

- (a) at the end of Part III (Wider-Range Investments) of Schedule 1 to that Act there were inserted the following paragraph:—

“4. In any securities issued in any of the scheduled territories within the meaning of section 1 of the Exchange Control Act 1947, or in Canada or in the United States of America, or in any of the following countries, namely, Austria, Belgium, Denmark, France, Holland, Italy, Japan, Luxembourg, Norway, Portugal, Spain, Sweden, Switzerland and Western Germany.”;

1947 c. 14.

(b) in Part IV (Supplemental) of the said Schedule—

(i) in paragraph 1, after the word "Schedule", there were inserted the words "other than those mentioned in paragraph 4 of the said Part III"; and

(ii) after paragraph 2 there were inserted the following paragraph:—

"2A. The securities mentioned in paragraph 4 of Part III of this Schedule do not include shares or debenture stock not fully paid up (except shares or debenture stock which, by the terms of issue, are required to be fully paid up within nine months of the date of issue)."

(2) Notwithstanding anything in the Act of 1961, the Council may invest any moneys referred to in subsection (1) of this section in any manner specified in Part III of Schedule 1 to that Act, as having effect in accordance with this section, and may also from time to time vary any such investments:

Provided that no such moneys as aforesaid shall be so invested at any time when the value of all the investments made in the manner so specified equals or exceeds three-quarters of the total value of the superannuation fund, and for the purposes of this provision the value of any investment shall be deemed to be the value of the investment at the time at which it was made.

Investment of
superannuation
fund in unit
trusts and
land.

7.—(1) Subject to the provisions of this section, the powers exercisable by the Council under the Act of 1961, as having effect in accordance with the last foregoing section, to invest any property belonging to the wider-range part of the superannuation 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—

(a) units or other shares of investment of any unit trust scheme; and

(b) the acquisition, development or management of land situated in the United Kingdom (elsewhere than in the landward area of the county and in the small burghs of the county) and used or to be used for residential, commercial or industrial purposes;

but Part IV of Schedule 1 to that Act shall not apply to any investment made under this subsection.

(2) For the purposes of the foregoing provisions of this section an investment in the units of a unit trust scheme or in any form of participation under any trust or scheme established in the United Kingdom or elsewhere 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 any land or interest in land shall be regarded as an investment in the securities in question or in such land or interest in land.

(3) So long as the value of the investments of property for the time being made under the powers conferred by subsection (1) of this section equals or exceeds one-sixth of the total value of the wider-range part of the superannuation fund no further investment may

be made thereunder, and for the purposes of this subsection the value of any investment of property belonging to the wider-range part of the superannuation 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.

(5) In this section reference to investment in the units of a unit trust scheme shall include reference to investment in participation certificates, and—

“ participation certificates ” means any document conferring upon the holder the right to participate in (or constituting evidence of the right of the holder to participate in) the profits or income arising from the acquisition, holding, management or disposal of a particular investment specified or described in the document; and

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

1958 c. 45.

8.—(1) If a contributory employee of the Council is dismissed or resigns or otherwise ceases to hold employment in consequence of an offence of a fraudulent character or grave misconduct, the Council may transfer from the superannuation fund to the county fund an amount not exceeding the whole of any contributions not returned to him or paid to his wife or family under section 10 (4) of the Local Government Superannuation (Scotland) Act 1937, or the amount of loss suffered by the Council in consequence of the employee's offence, misconduct, dismissal or resignation, whichever is the less.

Transfer of certain sums from superannuation fund.

1937 c. 69.

(2) If a contributory employee of an employing authority whose employees participate in the benefits of the superannuation fund is dismissed, resigns or otherwise ceases to hold employment in consequence of an offence of a fraudulent character or grave misconduct by reason of which the employing authority have suffered direct financial loss, the Council shall, on demand from the employing authority, pay to them out of the superannuation fund an amount equal to so much of the employee's contributions to the superannuation fund as the employing authority have not directed to be returned to the employee or paid to his wife or family, or the amount of such loss suffered by the employing authority in consequence of his offence, misconduct, dismissal or resignation, whichever is the less:

Provided that where a payment in lieu of contributions falls to be made in respect of the employee under the National Insurance Act 1965 the Council shall not under this subsection be required to pay to the employing authority so much of the employee's contributions as amounts to one-half of such payment in lieu of contributions.

1965 c. 51.

1937 c. 69.

(3) In this section "contributory employee" and "employing authority" shall have the meanings assigned to them respectively by section 3 (1) and section 1 (6) (c) of the Local Government Superannuation (Scotland) Act 1937.

Saving for
powers of
Treasury.
1947 c. 14.
1946 c. 58.

9. It shall not be lawful to exercise the powers of borrowing conferred by the provisions of this Order, except in compliance with the Exchange Control Act 1947 and any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act 1946.

Repeal.
1939 c. xcii.

10. Section 290 (Power to borrow on promissory notes) of the Lanarkshire County Council Order 1939 is hereby repealed.

Costs of
Order.

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

(2) The Council may borrow such sums as may be necessary for paying the costs, charges and expenses of this Order in the same manner as if the said purpose were included among the purposes mentioned in section 258 (1) of the Act of 1947.

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

PRINTED IN ENGLAND BY THE OYEZ PRESS LTD.

FOR C. H. BAYLIS, C.B.

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

10p net