

ELIZABETH II



1970 CHAPTER xxxvi

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Midlothian County Council. [23rd July 1970]

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 Midlothian County Council Short title.
Order Confirmation Act 1970.

SCHEDULE

MIDLOTHIAN COUNTY COUNCIL

Provisional Order to confer further powers on the county council of the county of Midlothian in relation to the finances of the said county; to make further provision for the investment of moneys forming part of the superannuation fund maintained by the said county council; and for other purposes.

1947 c. 43. Whereas the county council of the county of Midlothian (hereinafter referred to as "the Council") are a local authority within the meaning of the Local Government (Scotland) Act 1947 and as such entrusted with the management of the administrative and financial business of the county of Midlothian (hereinafter referred to as "the county"):

1937 c. 69. And whereas the Council as a local authority and an administering authority within the meaning of the Local Government Superannuation (Scotland) Act 1937 maintain a superannuation fund:

And whereas the Council are desirous of obtaining additional powers with regard to the said finances of the county and for the investment of moneys forming part of the said superannuation fund as by this Order provided:

And whereas it is expedient that the further provisions contained in this Order should be enacted:

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

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

Short title. 1. This Order may be cited as the Midlothian County Council Order 1970.

Interpretation. 2.—(1) Terms, words and expressions to which meanings are assigned by any public Act applicable to the Council shall, subject to the provisions of this Order, and unless there is something in the subject or context inconsistent with or repugnant to such construction, have the same respective meanings in the provisions of this Order in which such terms, words and expressions are used.

(2) In this Order unless there is something in the subject or context repugnant to such construction, the following words and expressions have the meanings hereby respectively assigned to them, that is to say:—

"acquisition" in relation to land includes acquisition by way of purchase, feu, lease or excambion;

- “ Act of 1947 ” means the Local Government (Scotland) Act 1947; 1947 c. 43.
- “ Act of 1937 ” means the Local Government Superannuation 1937 c. 69.
(Scotland) Act 1937;
- “ Act of 1961 ” means the Trustee Investments Act 1961; 1961 c. 62.
- “ Council ” means the county council of the county of Midlothian;
- “ county ” means the administrative county of Midlothian;
- “ county fund ” means the county fund of the Council;
- “ 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 Act of Parliament;
- “ financial year ” means the financial year of the Council;
- “ fund ” means the superannuation fund maintained by the Council under the Act of 1937;
- “ land ” includes water and also includes buildings and other erections on the land, and also includes any right or servitude in, to, or over land.

(3) Any reference in this Order to any other enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment including this Order.

3. In addition to the modes of borrowing authorised by the Act of 1947, the Council may raise money— Power to raise money by bills.

- (1) for any purpose for which the Council are authorised to borrow;
- (2) 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 “ Midlothian County Council Bills ”, and 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 two 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 preceding 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.

Power to raise money by bearer bonds.

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 abroad.

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.

(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 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).

6.—(1) The Council may lend to any local authority and a local authority may borrow from the Council upon such terms and conditions as may be agreed, such money as the Council think fit to lend and the local authority are authorised to borrow for the purpose for which such money is proposed to be borrowed, and any money so lent shall be repaid to the Council by the local authority within the period prescribed by the sanctioning authority or otherwise for the repayment by the local authority of the money they are authorised to borrow:

Power to Council to lend money to local authorities, etc.

Provided that the powers of this subsection shall not be exercised unless—

- (a) the local authority borrowing from the Council is either—
- (i) an authority of which the Council is a constituent member; or
 - (ii) an authority to which the Council appoint representatives; or
 - (iii) a member authority of a consortium of which the Council is also a member; or

(b) the sum lent by the Council is part of a larger sum borrowed by the Council by way of a stock issue, bond issue, or issue of bills or in a foreign currency for their own needs and for the needs of another local authority seeking to raise money by the same means or in a foreign currency.

(2) Any agreement under this section may be made by resolutions passed respectively by the Council and by the local authority.

(3) Any sum borrowed by the Council for the purpose of this section shall be repaid within a period to expire not more than one year after that for which the same was lent by them to the local authority.

(4) Where any sum is borrowed by the Council for the purpose of this section it shall be lawful for the Council for such periods as they may think fit to suspend any annual provision required to be made by virtue of any enactment for the time being in force for the repayment of the sum borrowed.

(5) The Council shall be entitled to charge such rate of interest in respect of any particular loan under this section as may be agreed between the Council and the borrower:

Provided that the Council shall ensure so far as it is reasonably practicable to do so that having regard to all the circumstances existing at the time the loan is made the rate of interest agreed is such that no loss is incurred by the Council in respect of the loan.

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

(7) In this section the expression "local authority" as regards Scotland means the council of a county or of a combined county, town or district council, and includes any joint board as defined by section 379 (1) of the Act of 1947, and as regards England and Wales means the council of a county, a county borough or county district and any other authority being a local authority as defined by section 34 of the Local Loans Act 1875 and includes any joint board if all the constituent authorities are such local authorities as aforesaid.

1875 c. 83.

Extension of
power to
invest super-
annuation fund
moneys.

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

(a) the following paragraph were included in Part III (Wider-Range Investments) of Schedule 1 to that Act:—

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

(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 the Act of 1961, as amended by 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 fund.

Investment of
superannuation
fund moneys in
acquisition,
etc., of land.

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 and used or to be used for residential, 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-sixth 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.

(5) In this section "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.

9. The provisions of the last two foregoing sections shall have effect notwithstanding anything in section 17 (3) of the Act of 1937.

Section 17 (3)
of Act of 1937
not to limit
foregoing
powers.

10.—(1) The Council may borrow without the consent of any sanctioning authority—

(a) such sums as may be necessary for the payment of the costs, charges and expenses of this Order;

Power to
borrow.

(b) such sums as may be requisite for the purpose of lending to a local authority under section 6 (Power to Council to lend money to local authorities, etc.) of this Order.

(2) The Council shall pay off all moneys borrowed under paragraph (a) of the foregoing subsection within such period as the Council may determine not exceeding five years from the passing of this Order.

(3) The provisions of Part XII of the Act of 1947 so far as they are not inconsistent with this Order shall extend and apply to money borrowed under this section as if it were borrowed under the said Part XII and the period fixed under this section or under subsection (3) of the said section 6 for the repayment of any money borrowed under subsection (1) of this section shall as respects that money be the fixed period for the purpose of the said Part XII.

11.—(1) It shall not be lawful to exercise the powers of borrowing conferred by this Order other than the power of borrowing to pay the costs, charges and expenses of this order, except in compliance with any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act 1946.

Saving for
powers of
Treasury.

1946 c. 58.

(2) Nothing in this Order shall be taken as exempting the Council from the provisions of the Exchange Control Act 1947.

1947 c. 14.

12. 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.

Costs of Order.

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Midlothian County Council Order Confirmation Act 1970

CHAPTER xxxvi

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SCHEDULE

MIDLOTHIAN COUNTY COUNCIL

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