



Local Government Act 1888

1888 CHAPTER 41

PART V

SUPPLEMENTAL.

Application of Acts.

75 Application of 45 & 46 Vict. c.50 to county councils and this Act.

For the purpose of the provisions of this Act with respect to county councils, and to the chairmen, members, committees, and officers of such councils, and otherwise for the purpose of carrying this Act into effect, the following portions of the Municipal Corporations Act, 1882, namely, Part Two, Part Three, Part Four (as amended by the Municipal Elections (Corrupt Practices) Act, 1884), section one hundred and twenty-four in Part Five, Part Twelve, Part Thirteen, the Second Schedule, Part Two and Part Three of the Third Schedule, and Part One of the Eighth Schedule shall, so far as the same are unrepealed and are consistent with the provisions of this Act, apply as if they were herein re-enacted with the enactments amending the same in such terms and with such modifications as are necessary to make them applicable to the said councils and their chairmen, members, committees, and officers, and to the other provisions of this Act.

Provided as follows:—

- (1) In a year in which county councillors are elected, the elections of those councillors, and of councillors of a borough, shall be conducted together.
- (2) Such person as the county council may appoint shall be the returning officer for the election of county councillors of the county council, in substitution for the mayor, and for the aldermen assigned for that purpose by the council.
- (3) The returning officer, without prejudice to any other power, may by writing under his hand appoint a fit person to be his deputy for all or any of the purposes relating to the election of any such councillor, and may by himself or such deputy exercise any powers and do any things which a returning officer is authorised or required to

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exercise or do in relation to such election, and shall for the purposes of the election have all the powers of the sheriff.

- (4) A reference in this Act, or in the enactments applied by this Act, to the returning officer or to the mayor or to the alderman shall, so far as relates to the election of any such councillor, be construed to refer to the returning officer, and any such deputy as above mentioned.
- (5) A reference in the said enactments to the town clerk so far as respects the election of any such councillor shall be construed to refer to the returning officer or his deputy, and as respects matters subsequent to the election, shall be construed to refer to the clerk of the county council.
- (6) In a borough the returning officer for the purpose of the election of councillors of the borough shall continue to be the same as heretofore, and where an electoral division of the county is co-extensive with or wholly comprised in such borough, shall at the election in such division of a councillor of the county council act as the returning officer in pursuance of a writ directed to him from the county returning officer, and so far as respects that election shall follow the instructions of, and return the names of the persons elected to the county returning officer in like manner as if he were a deputy returning officer, and any decision of an objection shall be subject to revision by the county returning officer accordingly, and a reference in the said enactments to the town clerk shall, as respects the borough, be construed to refer to the town clerk.
- (7) Some place fixed by the returning officer shall, except where the election is in a borough, be substituted for the town clerk's office, and, as respects the hearing of objections to nomination papers, for the town hall, but such place shall, if the electoral division is the whole or part of an urban district, be in that district, and in any other case shall be in the electoral division or in an adjoining electoral division.
- (8) The returning officer shall forthwith after the election of county councillors for the county return the names of the persons elected to the clerk of the county council.
- (9) The period between the nomination and election may be such period, not exceeding six days, as the returning officer may fix.
- (10) An outgoing alderman shall not as alderman vote in the election of a chairman.
- (11) The hours of the poll shall be those fixed by the Elections (Hours of Poll) Act, 1885.
- (12) Section eleven of the Municipal Corporations Act, 1882, with respect to the qualification of a county councillor by reason of his being entered in the separate non-resident list, shall include, for the purposes of this Act, all persons entered in such separate list in any municipal borough by reason of occupation of property in the borough, and all persons entered in such separate list for any part of a county not in a municipal borough by reason of the occupation of property in that part.
- (13) The seventh of November shall be substituted for the ninth of November as the ordinary day of election of the chairman and of county aldermen, and as the day for holding a quarterly meeting of the county council.
- (14) Ten days shall be substituted for five days in section thirty-four of the Municipal Corporations Act, 1882, as the time within which a person elected to a corporate office is to accept that office, and twelve months shall be substituted for six months in section thirty-nine of the said Act, as the period of absence which disqualifies an alderman or councillor.

- (15) The quorum of the council shall be one-fourth of the whole number of the council, and one-fourth shall, for the purposes of this section, be substituted for one-third in paragraph ten of the second schedule to the Municipal Corporations Act, 1882.
- (16) Nothing in the Municipal Corporations Act, 1882, as applied by this section—
- (a) shall alter the application of any fine, penalty, or forfeiture recoverable in a summary manner; or,
 - (b) shall apply any of the provisions of the Municipal Corporations Act, 1882, with reference to boundaries or the alteration of wards or borough auditors, nor any of the following provisions, namely, sub-section five of section fifteen, section sixteen, section two hundred and fifty-one, or section two hundred and fifty-seven ; or
 - (c) shall render any person elected to a corporate office without his consent to his nomination being previously obtained liable to pay a fine on non-acceptance of office, or roster a chairman or deputy chairman disqualified as such by reason of absence; or
 - (d) shall authorise or require a returning officer to hold an election of a councillor to fill a casual vacancy in the representation of an electoral division where the vacancy occurs within six months before the time fixed by this Act for a new election of a councillor to represent such electoral division; or
 - (e) shall apply to a county council section seventeen of the said Act with respect to the town clerk, nor, unless the county council so resolve, section eighteen respecting the treasurer, but, if the county council so resolve, section eighteen shall supersede the existing enactments with respect to the county treasurer; or,
 - (f) shall require the acts and proceedings of the standing . joint committee of the county council and quarter sessions to be submitted to the county council for their approval; or
 - (g) shall prevent the use of schools and public rooms for the purpose of taking the poll at elections under this Act, but section six of the Ballot Act, 1872, shall apply in the case of elections under this Act, and the returning officer may, in addition to using such rooms free of charge for taking the poll, use the same free of charge for hearing objections to nomination papers and for counting votes.
- (17) All costs properly incurred in relation to the holding of elections of councillors of county councils, so far as not otherwise provided for by law, shall be paid out of the county fund as general expenses.
- (18) The said costs shall not exceed those allowed by Part I. of the First Schedule to the Parliamentary Elections (Returning Officers) Act, 1875, as amended by the Parliamentary Elections (Returning Officers) Act, 1885, or by such scale as the county council may from time to time frame.
- (19) Sections four, five, six, and seven of the Parliamentary Elections (Returning Officers) Act, 1875. as amended by the Parliamentary Elections (Returning Officers) Act (1875) Amendment Act, 1886, shall apply as if they were herein re-enacted with the necessary modifications, and in particular with the substitution of the county council for the person from whom payment is claimed, and of one month for the period of fourteen days within which application may be made for taxation.

- (20) A county council shall, on the request of the returning officer, prior to a poll being taken at any election of a councillor- of such council, advance to him such sum not exceeding ten pounds for every thousand electors at the election as he may require.
- (21) The meeting of a county council, or of any committee thereof, may be held at such place either within or without their county, as the council from time to time direct.

76 Amendment of 51 & 52 Vict. c.10.

- (1) The provisions of section four of the County Electors Act, 1888, with respect to the framing of the lists and register of voters in parts shall extend to parishes situate within a parliamentary borough.
- (2) In the provisions of section four of the said Act with respect to making out the lists of voters according to the order in which the qualifying premises appear in the rate book, the county authority shall mean the county council.
- (3) The names of the parliamentary electors and county electors in the lists in each polling district may be numbered consecutively, and such portion of those lists as consists of the names of parliamentary electors may be taken to form the register for the purpose of parliamentary elections, and such portion of those lists as contains the names of county electors may be taken to form the register of county electors.
- (4) For the purpose of the provisions of the Acts relating to the appointment of revising barristers, and of section nine of the County Electors Act, 1888, the county of Surrey and such portion of the county of London as is situate south of the Thames shall be deemed to be separate counties forming part of the south-eastern circuit; and such portion of the administrative county of London as is situate north of the Thames shall be deemed to form part of the county of Middlesex; and the county of Middlesex, inclusive of that portion, shall be deemed to be a separate county on a circuit; but any sum payable by the London county council in respect of either .of the said portions of the county, shall be paid as for a general county purpose.
- (5) The provisions of section eleven of the County Electors Act, 1888, with respect to the payment of the sums therein mentioned shall apply to the payment of the said sums in the year one thousand eight hundred and eighty-eight in like manner as if a county authority had not been established under this Act.
- (6) It is hereby declared that nothing in section twelve of the County Electors Act, 1888, applies to any person occupying property within a borough.
- (7) It shall be lawful for Her Majesty the Queen, by Order in Council, from time to time to alter the instructions, precepts, notices, and forms under the Registration of Electors Acts, in such manner as appears to Her Majesty necessary for carrying into effect this Act and the County Electors Act, 1888, and any other Act for the time being in force amending or affecting the Acts mentioned In this sub-section, and the instructions, precepts, notices, and forms specified in any such Order in Council shall be observed and be valid in law, and clerks of the peace, and town clerks, and other officers shall act accordingly.
- (8) The provisions of section six of the said County Electors Act, 1888, requiring the statement of the barrister for the purpose of an appeal to be made not less than four days before the first day of the Michaelmas sittings shall not apply in the year one thousand eight hundred and eighty-eight.

77 Residential qualification of county electors in administrative county of London.

A person who is entitled to be registered as a county elector in respect of any qualification in the administrative county of London, in all respects except that of residence, and is resident beyond seven miles but within fifteen miles of the county, shall be entitled to be registered as a county elector.

78 Construction of Acts referring to business transferred.

- (1) All enactments in any Act, whether general or local and personal, relating to any business, powers, duties or liabilities transferred by or in pursuance of this Act from any authority to a county council, either alone or jointly with the quarter sessions, or to any joint committee, shall, subject to the provisions of this Act, and so far as circumstances admit, be construed as if—
 - (a) any reference therein to the said authority or to any committee or member thereof or to any meeting thereof (so far as it relates to the business, powers, duties, or liabilities transferred) referred to the county council or to a committee or member thereof or to a meeting thereof, as the case requires, and as if—
 - (b) a reference to any clerk or officer of such authority referred to the clerk or officer of a county council or committee thereof, as the case requires,and all the said enactments shall be construed with such modifications as may be necessary for carrying this Act into effect.
- (2) Provided that the transfer of powers and duties enacted by this Act shall not authorise any county council or any committee or member thereof—
 - (a) to exercise any of the powers of a court of record ; or
 - (b) to administer an oath ; or
 - (c) to exercise any jurisdiction under the Summary Jurisdiction Acts, or perform any judicial business, or otherwise act as justices or a justice of the peacebut this enactment shall be without prejudice to the position of the chairman of the county council as justice of the peace during his term of office.
- (3) Where under any such enactment as in this section mentioned, any powers, duties, or liabilities are to be exercised or discharged after any presentment or in any particular manner, or at any particular meeting, or subject to any other conditions, the county council may, by the standing orders for the regulation of their proceedings, provide for the exercise and discharge of those powers, duties, and liabilities without any such prior presentment or in a different manner, or at any meeting of the council fixed by the standing orders, or without such other conditions ; and until such standing orders take effect shall exercise and discharge them in the like manner, and at the like time, and subject to the like conditions, so nearly as circumstances admit; and a presentment by a grand jury in relation to any such powers, duties, or liabilities, shall cease to be made otherwise than by way of indictment.
- (4) For the purposes of this section the expression "authority" means a Secretary of State, the Board of Trade, the Local Government Board, and any Government Department, also any commissioners, conservators, or public body, corporate or unincorporate, specified in a Provisional Order transferring any powers, duties, or liabilities to the county council, also any quarter sessions and any justices, also the Metropolitan Board of Works, or other local authority mentioned in this Act; and the expression "member of an authority" includes, where the authority are quarter sessions or justices, any justice, and the expression "meeting of an authority" includes a court of quarter

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sessions and the assembly of justices in special or petty sessions; and the expression " clerk of an authority " includes in relation to any quarter sessions or justices, the clerk of the peace or the clerk to a justice as the case requires.

This section shall apply as if a joint committee were a committee of the county council.