



Local Government Act 1888

1888 CHAPTER 41

PART VI

TRANSITORY PROVISIONS.

First Election of County Councillors.

103 First election of county councillors.

- (1) The first election of county councillors under this Act shall be held in the month of January next after the passing of this Act on such day in each county not earlier than the fourteenth day of January as the returning officer for that county may fix, and the returning officer shall publish notice of such day in the preceding month of December, and the day so fixed shall be deemed for the purposes of the first election to be the ordinary day of election of county councillors.
- (2) The sheriff of each county shall be the returning officer for such first election, but if the sheriff desires to be a candidate at such election the county quarter sessions on his application may appoint another person to be the returning officer, and the person so appointed shall, for the purpose of such election, have the powers and duties of the sheriff.
- (3) At the first election, the returning officer may, if it appears to him necessary, divide an electoral division into polling districts, so however that every polling district shall be an area or a combination of areas for which separate parts of the register of electors are made out, and he shall settle and give proper notice of the places at which the poll for each electoral division, or district of a division, shall be taken.
- (4) The clerk of the peace who will by virtue of this Act become the clerk of the county council when elected, shall make up the county register and division registers of the county electors for the purposes of the first election, and shall deliver the same to the returning officer, and every clerk of the peace who has in his custody any revised lists of electors required for making up such registers, shall supply to the above-mentioned clerk of the peace such number of copies of those lists as he may require for the purpose of making up the said registers.

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- (5) The returning officer shall send to the clerk of the peace, who will by virtue of this Act become the clerk of the county council, the names of the persons elected, and shall send to each person elected a county councillor notice of his election, accompanied by a summons to attend the first meeting of the provisional council fixed by this Act at such time and place as the returning officer may fix.
- (6) The costs properly incurred by the returning officer in reference to the first election, and in reference to such first meeting of the provisional council, shall be defrayed as expenses of the county council, and may be taxed on an application made by or by direction of the provisional council.
- (7) In the administrative county of London, the returning officer for the first election shall be such fit person as the Local-Government Board may appoint, and such returning officer shall, for the purposes of such election, have the powers and duties of the sheriff, and any sheriff, under-sheriff, officer of the London School Board, or other public officer having authority in the Metropolis, and being in possession of any ballot boxes or other fittings or arrangements for an election shall permit such returning officer to use the same for the purposes of such first election.
- (8) Such returning officer shall make up the county register and division registers of the county electors for the purposes of the first elections, and shall make them up out of the lists of voters made out in the year one thousand eight hundred and eighty-eight for the City of London, and for such portions of the counties of Middlesex, Surrey, and Kent, as are comprised in the Metropolis, and shall make the necessary alteration in the forms of those lists, and the secondary of the City of London, and the town clerks within the meaning of the Registration Acts for the parliamentary boroughs in the administrative county of London, and the clerks of the peace of Middlesex, Surrey, and Kent, shall deliver to the said returning officer such number of copies of the revised lists of electors as he may require. The returning officer for the administrative county of London shall send the names of the persons elected to the clerk of the Metropolitan Board of Works.
- (9) The court of quarter sessions in any county, and the Metropolitan Board of Works in the Metropolis, shall advance to the returning officer such sum as is authorised by this Act to be advanced by county councils to returning officers for the purposes of an election.
- (10) The sheriff having authority in any administrative county, or the largest part thereof, shall for the purposes of this Act be deemed to be the sheriff of that county.

104 Retirement of first county councillors.

- (1) The county councillors of a county council elected at the first election shall retire from office on the ordinary day of election in the third year after the passing of this Act, and their places shall be filled by election.
- (2) Of the first county aldermen one half shall retire on the ordinary day of election of county aldermen in the third year next after the passing of this Act, and the one half who are so to retire shall be determined by ballot by the provisional councillors at the time of the election of the county aldermen: Provided that where the total number of aldermen is not divisible by two the larger half shall first retire.
- (3) The remaining half of the county aldermen shall retire on the ordinary day of election of county aldermen in the sixth year next after the passing of this Act.

- (4) In this section the word " year " shall be construed to mean calendar year.

105 Preliminary action of county councillors as provisional council.

- (1) The members of a county council first elected under this Act shall not enter on their ordinary duties or become the county council until the first day of April next after their election, or such other day as on the application of the provisional council the Local Government Board may appoint.
- (2) Such members shall, on the second Thursday next after the day fixed for the first election, and thenceforward from time to time until the day above mentioned in this section, meet and act as a provisional council for arranging to bring this Act into operation.
- (3) The provisional councillors shall at their first meeting elect one of their number to be chairman of that meeting and of the second meeting, and shall then at that meeting, or some adjournment thereof, proceed to elect the county aldermen in like manner as if they were a fully constituted county council, and such county aldermen shall be summoned to attend at the second meeting of the provisional council, and shall form part of the provisional council both for the election of chairman and all other purposes.
- (4) The provisional council shall, at their second meeting, or some adjournment thereof, proceed to elect as their chairman a person qualified to be chairman of the county council and may from time to time fill any vacancy in the office of such chairman, and the person elected chairman shall be chairman of the provisional council, and also on and after the appointed day of the county council, and the term of office of such chairman shall end on the next ordinary day of election of chairman.
- (5) This enactment shall extend to the vice-chairman and deputy chairman.

106 First proceedings of provisional council.

- (1) The provisional council after disposing of the preliminary business shall proceed to provide for bringing the Various provisions of this Act into full operation on the appointed day or days, and to make the necessary arrangements with the quarter sessions, and with reference to the distribution of duties among the different officers, and to provide for all matters which appear necessary or proper for enabling the county council as constituted under this Act to execute their duties, and for giving full effect to this Act.
- (2) The provisions of this Act, and the enactments applied by this Act with respect to the proceedings of the county council, shall apply to the proceedings of the; provisional council, and any act of the provisional council may be signified under the hand of the chairman and any two members of the council present at the meeting, and countersigned by the officer acting: as their clerk.
- (3) The provisional council of a. county shall be entitled to use the buildings belonging to the quarter sessions of that county, so that they do not interfere with the holding of any court, and the clerk of the peace and his officers, and the officers of the quarter sessions shall, if required, act as the officers of such provisional council and further the provisional council may from time to time hire such buildings and appoint such interim officers as appear to them necessary for the performance of their duties, and the costs incurred in the hiring of such buildings and payment of such officers or otherwise

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in the performance of their duties shall be defrayed as Costs properly incurred by the county council.

- (4) There shall be paid out of the county rate to the clerk of the peace of the county, such reasonable remuneration as the court of quarter sessions may award for extra services rendered by him in bringing this Act into operation, and in acting as clerk of the county council, until his salary for acting as such clerk is fixed in manner provided by this Act.
- (5) In the metropolis the foregoing provisions with respect to the use of buildings and the action of officers shall apply as if the Metropolitan Board of Works were the quarter sessions of the county, and as if any quarter sessions for the counties of Middlesex, and Surrey were the quarter sessions of the county of London, but the provisional council for the administrative county of London shall make arrangements with the provisional councils of Middlesex and Surrey as respects the use of buildings and the employment of the clerk of the peace and his officers and the officers of the quarter sessions.
- (6) The provisional council shall have the same power of levying contributions for the purpose of their costs and for the future costs of the county council as they would have if they were constituted, a county council under this Act.
- (7) The quarter sessions of every county and liberty, and in the metropolis the Metropolitan Board of Works, shall, by the appointment of committees, or the holding of sessions and meetings, and otherwise, make such provisions as are necessary or proper for making arrangements with the provisional council for carrying this Act into effect; and the quarter sessions may, after the appointed day, meet in like manner as if this Act had not passed, for the purpose of receiving reports from the committees and county officers for the period subsequent to the last quarter sessions and prior to the appointed day, and for making the ordinary quarterly payments, the usual sessional orders, and otherwise concluding and winding up the business of the county.

General Provision as to First Elections.

107 Casual vacancies at first elections.

- (1) If at the first election a person is elected a county-councillor for more than one electoral division of a county his choice as to the division for which he will serve shall be made by writing addressed to the returning officer, and if not so made, the returning officer shall, on or before the day for the first meeting of the provisional council, determine the division for which such person shall sit.
- (2) Any casual vacancy arising at the first election from a person being elected for more than one electoral division or being elected a county alderman or from a failure of election or otherwise, may be filled in like manner as a casual vacancy in the county council may be filled, and the sheriff or other officer authorised to act as returning officer at the first election shall be the returning officer at any election held to fill a casual vacancy before the appointed day.
- (3) Such number of members as have been elected for a county council at the first election shall subject to any order of the Local Government Board to the contrary under this Act proceed to act as a provisional council under this Act, notwithstanding any vacancy or vacancies arising from failure of election or otherwise.
- (4) In case of equality of votes at the first or second meeting of a provisional county council, the chairman of the meeting shall have a second or casting vote, and where

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on the selection of the chairman of the meeting an equal number of votes is given to two or more persons, the meeting shall determine by lot which of those persons shall be the chairman.

- (5) The first meeting of the county council shall be held on the day appointed for the council coming into office, and shall be convened by the chairman of the provisional county council.
- (6) Such first meeting, and also the first meeting of the provisional county council, shall be convened in like manner as meetings of the county council are required by this Act, and the enactments applied by this Act, to be convened, and as if the person convening the same were the chairman.

108 Power of Local Government Board to remedy defects.

- (1) If from any cause there is no returning officer able to act in any county at the first election of a county council, or no register of electors properly made up, or no proper election takes place, or an election of an insufficient number of persons takes place, or any difficulty arises as respects the holding of the first election of county councillors, or as to the first meeting of a provisional council, the Local Government Board may by order appoint a returning officer or other officer, and do any matter or thing which appears to them necessary for the proper holding of the first election, and for the proper holding of the first meeting of the provisional council, and may, if it appears to them necessary, direct a new election to be held, and fix the dates requisite for such new election. Any such order may modify the provisions of this Act and the enactments applied by this Act so far as may appear to the Board necessary for the proper holding of the first election and first meeting of the provisional council.
- (2) The Local Government Board in the case of the first election may also authorise an electoral division to return two or more members, in any case where the difficulties arising out of the registers of voters and the population of any area appear to render it necessary, and may also authorise portions of two or more county districts, or wards for which a separate register can be made, to be united for the purpose of an electoral division.
- (3) The Local Government Board, on the application of a county council or provisional council, may within six months after the day fixed for the first election of the councillors of such council, from time to time, make such orders as appear to them necessary for bringing this Act into full operation as respects the council so applying, and such orders may modify any enactment in this or any other Act, whether general or local and personal, so far as may appear to the Board necessary for the said purpose.
- (4) The Local Government Board may also, if satisfied that an election cannot properly be held for any county council by reason of the electoral divisions not having been duly made, cause such steps to be taken as they consider necessary for constituting such electoral divisions and making up the registers of electors.

Appointed Day.

109 Appointed day.

- (1) Subject as in this Act mentioned, the appointed day for the purposes of this Act shall in each county be the first day of April next after the passing thereof, or such other day, earlier or later, as the Local Government Board (but after the election of county

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councillors for such county on the application of the' provisional council or- county council) may appoint, either generally or with reference to any particular provision of this Act, and different days may be appointed for different purposes and different provisions of this Act, whether contained in the same section or in different sections or for different counties.

- (2) Any enactment of this Act authorising anything to be done by the Commissioners of Inland Revenue or the Local Government Board, or relating to the registration of electors, or to the elections, or to any matter required to be done for the purpose of bringing this Act into operation on the appointed day, shall come into effect on the passing of this Act; but, save as aforesaid, and save so far as there may be any thing in the context inconsistent therewith, any enactment of this Act shall come into operation on the appointed day.

Transitional Proceedings.

110 Current rates, jury lists, &c.

- (1) Every rate and precept for contributions made before the appointed day may be levied and collected, and proceedings for the enforcement thereof taken in like manner as nearly as may be as if this Act had not passed.
- (2) The accounts of all receipts and expenditure before the appointed day shall be audited, and disallowances, surcharges, and penalties recovered and enforced, and other consequential proceedings had in like manner as nearly as may be as if this Act had not passed, and every officer whose duty it is to make up any accounts, or to account for any portion of the receipts or expenditure in any account, shall, until the audit is completed, be deemed for the purpose of such audit to continue in office and be bound to perform the same duties and render the same accounts, and be subject to the same liabilities as before the appointed day.
- (3) In the counties of Middlesex, Kent, and Surrey, the lists of jurors in force on the appointed day shall continue in force until the lists which are next made come into force, and all jurors summoned before the appointed day shall attend after that day as if summoned in accordance with this Act.
- (4) All proceedings, legal and other, commenced before the appointed day, may be carried on in like manner, as nearly as may be, as if this Act had not passed, and may be so carried on by the county council in substitution for the authorities by whom such, proceedings were commenced. Every legal proceeding commenced before the appointed day may be amended in such manner as may appear necessary of proper in order to bring the same into conformity with the provisions of this Act.
- (5) Every militiaman enlisted before the appointed day shall continue liable to serve in the same corps as if this Act had not passed.

111 Transitory provisions as to lunatic asylums.

- (1) Any committee for providing an asylum for pauper lunatics, or any committee Of visitors of an asylum for pauper lunatics holding office on the day fixed for the first election of county councillors under this Act, shall continue to hold office until the expiration of one week after the county council have elected a committee for the like purposes and no longer.

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- (2) Any committee elected by the county council shall come into Office at the expiration of the said week, and shall be deemed to be a continuance of the old committee of visitors elected by the quarter sessions.
- (3) All visitors of an asylum appointed on behalf of a borough or subscribers who are visitors at the date of the first election of the county council under this Act shall continue to be such visitors until the annual election of visitors which happens next after such election.
- (4) Anything done in pursuance of the enactments relating to pauper lunatics by the quarter sessions or any committee thereof before the appointment of any committee by the county council shall have effect as if it had been done by the county council or by a committee elected by the county council.
- (5) Where there is a joint committee of visitors for two or more counties or boroughs, this section shall apply to each portion of the committee appointed by the justices of any such county, or by the justices or council of any such borough, in like manner as if it were a separate committee.

112 Transitory provisions as to Contagious Diseases (Animals) Acts.

- (1) Every executive committee appointed by the quarter sessions under the Contagious Diseases (Animals) Acts, and holding office on the appointed day, shall continue to hold office until the expiration of one week after the county council shall have appointed a committee for the like purpose, and no longer.
- (2) An executive committee appointed by the county council shall come into office at the expiration of the said week, and shall be deemed to be a continuance of the outgoing executive committee.
- (3) Every sub-committee of an executive committee under the said Acts holding office on the appointed day shall continue in office until a sub-committee for the like purposes shall be appointed by the county council, or by the executive committee appointed by the county council.
- (4) Every committee and sub-committee continued in office by virtue of this section shall, during such continuance, have all such powers as it would have had if this Act had not been passed.

Transitory Provisions as to Metropolis.

113 Transitory provision as to sheriffs of London and Middlesex.

- (1) The first sheriffs appointed by Her Majesty for the county of Middlesex and for the county of London may be nominated and appointed at the same time as the sheriff of any other county in England, and each of such sheriffs when appointed may make the declaration, and shall enter upon office, in like manner and at the like time as any other sheriff.
- (2) Upon the first sheriff of Middlesex so entering into office, the sheriffs of London shall cease to have jurisdiction in the county of Middlesex.
- (3) Upon the first sheriff of the county of London so entering into office, the area which will become that county shall, for the purpose of the sheriff, be considered to be the

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county of London, and the sheriffs of the City of London shall cease to have any jurisdiction in the said area, and the sheriffs of Surrey and Kent shall cease to have any jurisdiction within the said area.

- (4) Provided that for the purpose of any sessions of the peace held by the justices of the counties of Middlesex, Surrey, and Kent, after the sheriff has so entered into office but prior to the date at which the justices of the county of London will come into office, the sheriffs of Middlesex, Surrey, and Kent shall continue to act and have jurisdiction as such sheriffs throughout those portions of the Metropolis which originally formed part of those counties.
- (5) Lists of prisoners, writs, process, and particulars, and all records, jury lists, books, and matters appertaining to the county of Middlesex, and to such parts of the counties of Surrey and Kent as are included in the Metropolis, shall be delivered, turned over, transferred, and signed in like manner in all respects, so nearly as circumstances admit, as is required to be done upon a new sheriff coming into office, in like manner as if the sheriff of Middlesex appointed by Her Majesty were as respects such part of the county as will after the appointed day be the county of Middlesex, the new sheriff in succession to the sheriffs Of London, and as if the sheriff of the county of London appointed by Her Majesty were, a9 respects the area of the Metropolis exclusive of the City, the successor to the sheriffs of London, Surrey, and Kent
- (6) If any question arises as to the delivery, turning over transfer, or signature under this section, or any other matter relating to the change in the office of sheriff in the Metropolis, such question shall be referred to the Lord High Chancellor, whose decision shall be final.

114 As to existing coroners for Middlesex, Surrey, and Kent.

- (1) The persons who at the passing of this Act are coroners for any districts which become wholly or partly by virtue of this Act part of the county of London, shall continue to act for such districts until otherwise directed as herein-after mentioned, and while so continuing to act shall, as respects such pare of their districts as is within the county of London, be deemed to be coroners for the county of London, and the amount payable in respect of the salaries, fees, and expenses of any such coroner, where the district is partly within and partly without the county of London, shall be apportioned between the counties in which such district is situate.
- (2) In the case of any coroner's district being situate partly within and partly without the county of London, the county councils of the counties in which such district is situate shall arrange for the alteration in manner provided by law of the district, so that on the next avoidance of the office of coroner, or any earlier date fixed when the alteration is made, the coroners districts shall not be situate in more than one county.
- (3) For the purposes of this Act respecting compensation, the coroners shall be deemed to be officers of the quarter sessions of the county for which they are coroners.

115 As to commission of the peace for London.

- (1) A commission of the peace for the county of London may be issued at any time after the passing of this Act, which shall be provisional until the appointed day, and the justices acting under such commission shall until the .appointed day act provisionally for the purpose of bringing this Act into operation, and may from time to time be convened, and meet and conduct their proceedings in like manner in all respects as if

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they were the justices of a county, and they shall proceed to make such arrangements as appear necessary or proper for bringing, this Act into operation, and may for that purpose appoint any committee or committees, either alone or jointly with any quarter sessions or provisional council.

- (2) Nothing in this section shall confer on such justices any power to act as justices or as quarter sessions, nor any judicial jurisdiction, nor constitute any part of the Metropolis a county for the purposes of justices and quarter sessions until the appointed day.
- (3) Any sessions of the peace held after the appointed day may be convened by the said justices acting provisionally before the said day, and the first sessions of the peace held after the appointed day shall be deemed to be legally held, although no justice there present has taken the oaths required by law to be taken by justices of the peace, and any justice may nevertheless take the oaths at such sessions.
- (4) The clerk of the peace for Middlesex holding office at the passing of this Act shall act as the clerk to the said justices for the county of London when acting provisionally in pursuance of this Act.
- (5) The fees payable to the clerk of the peace and clerks of the justices, and other officers and authorities in Middlesex, at the passing of this Act, shall be the first fees which may be taken in the county of London by the clerk of the peace, the clerks to the justices, and other officers and authorities in the county of London, and may continue to be taken until they are abolished or altered in manner provided by law with respect to the abolition and alteration of such fees.

116 As to places for holding quarter sessions.

Until a scheme respecting the holding of courts of quarter sessions in the county of London comes into force, the following regulations shall be observed:—

- (a) Courts of quarter sessions for the trial of persons charged with offences shall be held at Clerkenwell and Newington, and courts of quarter sessions for appeals and other business shall be held at the places in London at which sessions are usually held at present, or at such of the said places as the county council may from time to time appoint; and courts of quarter sessions for the said purposes shall be respectively held at the same times, as nearly as may be, at each such place as heretofore;
- (b) Oases triable at quarter sessions for the county of London shall (save as otherwise directed by the court of quarter sessions) be heard and determined, if they arose on the north side of the River Thames, at Clerkenwell, and if they arose on the south side of the River Thames, at Newington; and persons shall be committed for trial, and bail and recognizances shall be taken, and depositions, recognizances, documents, and things transmitted in such manner as appears necessary for carrying into effect this section, but a committal for trial or recognizance shall not be invalidated, nor shall the powers of the quarter sessions be affected by any disregard of this enactment, and every court of quarter sessions held in and for the county of London at whatever place such court is held shall have complete power to hear and determine any case arising in the county of London, notwithstanding an objection that the case ought to be heard and determined at the sessions held at another place in the county of London;
- (c) Every sessions shall, as the circumstances require, be deemed to be quarter or general sessions, and if held at different places to be original sessions or

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adjourned sessions, and if held simultaneously at two or more places to be divided courts of the same sessions ;

- (d) Every matter, civil or criminal, arising before the appointed day which would have been heard, tried, determined, or otherwise dealt with by any court of quarter sessions or assessment sessions, or any justices or otherwise, may be heard, tried, determined, and dealt with in like manner as if this Act had come into operation before the said matter arose, and recognizances existing at the appointed day shall have effect and be enforced in like manner, so nearly as circumstances admit, as they would have been if this Act had not passed; and where any trial, motion, or other matter has been adjourned from any previous court of quarter sessions, assessment sessions, special sessions, or petty sessions, and would if this Act had previously come into operation have been heard, determined, or otherwise dealt with at sessions held under this Act, the same shall be heard and determined and otherwise dealt with at the sessions held under this Act in like manner as if the same were held by the same justices by whom the same would have been held if this Act had not passed.

117 As to existing justices in Metropolis.

- (1) Nothing in this Act shall prevent a person who is an existing justice of the peace for any of the counties of Middlesex, Surrey, or Kent, from continuing to be a justice of the peace for that county, and every such person and also every person who at the appointed day is a justice of the peace for the liberty and city of Westminster, the liberty of the Tower of London, or any liberty which by virtue of this Act becomes part of the county of London, shall, if and so long as he is resident or occupies property in the county of London, be a justice of the peace for that county in like manner as if he were assigned by a commission of the peace, but a person shall not after the passing of this Act be named in any commission as a justice of the peace for any liberty which by virtue of this Act becomes part of the county of London.
- (2) Provided always, that the provisions of this section shall not apply to any justice of the peace of the counties of Surrey, Kent, or Middlesex, or either of them, so long as he shall hold any office connected with any court of quarter sessions of the county of London.
- (3) The persons who at the passing of this Act are members of a visiting committee of any prison situate in the county of London shall continue to form such visiting committee until a new visiting committee has been appointed in accordance with a rule of the Secretary of State.
- (4) Where a person is a justice of the peace in and for the county of London by reason of his being personally declared by this Act to be a justice of the peace in and for the county of London, the Lord High Chancellor shall have the same power of removing such person from being a justice of the peace as if he were named in a commission of the peace.
- (5) The existing assistant judge of the court of the sessions of the peace for the county of Middlesex shall cease to be chairman of that court, and shall be the first chairman of the court of quarter sessions of the county of London, and while he holds his office he shall receive such salary, not less than what he has hitherto received, as Her Majesty, on the petition of the county council, may assign, and the enactments respecting the appointment and payment of a deputy assistant judge or of a person to preside at a

second court at any sessions in the county of Middlesex shall apply to the county of London, and upon the said assistant judge ceasing to hold office shall be repealed.

- (6) Nothing in this Act shall affect existing deputy lieutenants appointed by the Constable of the Tower of London as Lord Lieutenant of the Tower Hamlets.

Existing Officers.

118 Existing clerks of the peace and other officers.

- (1) A person holding office at the appointed day as clerk, of the peace of a county, besides continuing to be such clerk of the peace shall, subject to the provisions respecting certain counties in this Act mentioned, become the clerk of the county council, and if appointed before the passing of this Act shall, notwithstanding anything in this Act, hold his offices by the same tenure and have the same power of appointing and acting by a deputy as heretofore in his capacity of clerk of the peace.
- (2) A person holding office at the passing of this Act as clerk of the peace, clerk of the general assessment sessions, or salaried clerk of a petty sessional division, shall be deemed to be an existing officer within the meaning of the provisions of this Act relating to compensation to existing officers who suffer pecuniary loss.
- (3) The person who at the appointed day is clerk of the peace for Sussex, if he held office at the passing of this Act, shall be clerk of the peace for East Sussex and clerk of the peace for West Sussex, and clerk of the peace for the justices of Sussex in general sessions assembled.
- (4) Such person shall also be clerk of the county council for East Sussex, and clerk of the county council for West Sussex, and shall, notwithstanding anything in this Act, hold his offices by the same tenure and have the same power of appointing and acting by a deputy as heretofore in his capacity of clerk of the peace.
- (5) The person who at the appointed day is clerk of the peace for Suffolk, if he held office at the passing of this Act, shall be clerk of the peace for East Suffolk and clerk of the peace for West Suffolk, and clerk of the peace for the justices of Suffolk in general sessions assembled.
- (6) Such person shall also be clerk of the county council for East Suffolk and clerk of the county council for West Suffolk; and shall, notwithstanding anything in this Act, hold his offices by the same tenure and have the same power of appointing and acting by a deputy as heretofore.
- (7) This section shall apply to the persons holding office at the appointed day as clerk of the peace and deputy clerks of the peace for the county of Lancaster, in like manner as it applies to clerks of the peace of other counties.
- (8) The person who, at the appointed day, is clerk of the peace for Middlesex, if he held office at the passing of this Act, shall continue to be that clerk, and, subject to the provisions of this Act, shall also be the first clerk of the peace for the county of London, and shall, notwithstanding anything in this Act, hold the office of clerk of the peace for each of the said counties by the same tenure and have the same power of appointing and acting by a deputy as heretofore.
- (9) The person who, at the appointed day, is the clerk of the gaol sessions in Yorkshire or Lincolnshire shall, if he holds office at the passing of this Act, continue to be that

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clerk, and shall also be the first clerk of the joint committee for the county councils of the three ridings or divisions of those counties, and shall hold that office by the same tenure and have the same power (if any) of acting by a deputy as heretofore.

- (10) If the person who at the appointed day is clerk of the peace for Surrey held office at the passing of this Act, then so long as he holds that office,—
- (a) He shall, besides continuing to be that clerk, continue to be clerk of the peace at any quarter sessions held for the county of London at Newington, and be, for the purpose of all business transacted at those quarter sessions, deemed to be the clerk of the peace for the county of London, and as such shall have the same power of appointing and acting by a deputy as heretofore in his capacity of clerk of the peace for Surrey; and
 - (b) Such of the records of the county of Surrey as at the passing of this Act are in his custody at Newington, and, if this Act had not passed, would have remained in that custody, shall, subject to any order of the court of quarter sessions, continue to be kept in his custody at Newington.
- (11) The persons who at the appointed day are salaried clerks, for the petty sessional divisions, wholly or in part in the county of London shall, if appointed before the passing of this Act, be as to so much of such divisions as are in the county of London, the first salaried clerks of the petty sessional divisions of the county of London, and as to so much of such divisions as are not in the county of London, such persons shall also be the first salaried clerks of the petty sessional divisions of the counties in which such parts are situate.
- (12) In the case of any of the following persons who, by virtue of this Act, become clerk of the peace for the county of London or salaried clerks of petty sessional divisions for the county of London, or who, for the purpose of all business transacted at the quarter sessions, held for the county of London at Newington, is to be deemed to be the clerk of the peace for the county of London, or who become clerk of the peace for East Sussex and clerk of the peace for West Sussex, or clerk of the peace for East Suffolk, and clerk of the peace for West Suffolk, their services as such clerks after the appointed day in the county of London, or in the administrative counties of East Sussex and West Sussex, or East Suffolk and West Suffolk, respectively, shall be deemed to be a continuous service with their service as clerks of the peace and clerks of petty sessional divisions in the counties of Middlesex, Surrey, and Kent respectively, and clerk of the peace for Sussex and Suffolk respectively.
- (13) All persons who at the appointed day hold office as county treasurer, county auditor, county solicitor, or county surveyor, or are officers (whether inspectors of weights and measures, public analysts, inspectors of petroleum or explosives, or other) of the quarter sessions or justices of the county, or of the assessment sessions in the metropolis, or any committee of such justices or any committee of visitors for lunatic asylums, or are servants under such sessions or justices and perform any duties in respect of the business transferred by or in pursuance of this Act to the county council, shall become the officers and servants of the county council.
- (14) All persons who at the appointed day are officers and servants of the Metropolitan Board of Works shall become the officers and servants of the London county council.
- (15) Every person who, on the appointed day, is the chief or other constable of the police force of any county, or is an officer or servant employed in connexion with that force, shall, after the said day, be chief or other constable of the police force of the same county under the standing joint committee appointed in pursuance of this Act, or be

an officer or servant of a county council appointing a portion of such joint committee, as the case may be.

- (16) Where any constable at the appointed day belongs to the police force of any borough the council of which will by virtue of this Act cease to maintain a separate police force, such constable shall, after the said day, become a constable of the county police force, and the provisions of this Act with respect to officers of any authority who become officers of the county council shall apply to such constable, with the substitution of the standing joint committee for the county council.

119 As to officers transferred to county councils.

- (1) The officers and servants of the quarter sessions or general assessment sessions, or justices, or any committee of such sessions or justices, or of any committee of visitors for lunatic asylums, or of the Metropolitan Board of Works, or other authority, who held office at the passing of this Act, and who by virtue of this Act become officers and servants of a county council (in this Act referred to as existing officers), shall hold their offices by the same tenure and upon the same terms and conditions as if this Act had not passed, and while performing the same duties, shall receive not less salaries or remuneration, and be entitled to not less pensions (if any), than they would have if this Act had not passed, and where any such officer can only be removed with the consent of a Secretary of State or the Local Government Board, such consent shall be part of the tenure of his office.
- (2) The county council may distribute the business to be performed by existing officers in such manner as the council may think just, and every existing officer shall perform such duties in relation to that business as may be directed by the council.
- (3) The county council may abolish the office of any existing officer whose office they may deem unnecessary, but such officer shall be entitled to compensation under this Act.
- (4) The provisions of this section shall apply to the chief and other constables of any police force, and to any officers employed in connexion with such force, in like manner as if they were herein re-enacted with the substitution of the standing joint committee under this Act for the county council

120 Compensation to existing officers.

- (1) Every existing officer declared by this Act to be entitled to compensation, and every other existing officer, whether before mentioned in this Act or not, who by virtue of this Act, or anything done in pursuance of or in consequence of this Act, suffers any direct pecuniary loss by abolition of office or by diminution or loss of fees or salary, shall be entitled to have compensation paid to him for such pecuniary loss by the county council, to whom the powers of the authority, whose officer he was, are transferred under this Act, regard being had to the conditions on which his appointment was made, to the nature of his office or employment, to the duration of his service, to any additional emoluments which he acquires by virtue of this Act or of anything done in pursuance of or in consequence of this Act, and to the emoluments which he might have acquired if he, had not refused to accept any office offered by any council or other body acting under this Act, and to all the other circumstances of the case, and the compensation shall not exceed the amount which, under the Acts and rules relating to Her Majesty's Civil Service, is paid to a person on abolition of office.

Status: This is the original version (as it was originally enacted).

- (2) Every person who is entitled to compensation, as above mentioned, shall deliver to the county council a claim under his hand setting forth the whole amount received and expended by him or his predecessors in office, in every year during the period of five years next before the passing of this Act, on account of the emoluments for which he claims compensation, distinguishing the offices in respect of which the same have been received, and accompanied by a statutory declaration under the Statutory Declaration Act, 1835, that the same is a true statement according to the best of his knowledge, information, and belief.
- (3) Such statement shall be submitted to the county council, who shall forthwith take the same into consideration, and assess the just amount of compensation (if any), and shall forthwith inform the claimant of their decision.
- (4) If a claimant is aggrieved by the refusal or the county council to grant any compensation, or by the amount of compensation assessed, or if not less than one third of the members of such council subscribe a protest against the amount of the compensation as being excessive, the claimant or any subscriber to such protest (as the case may be) may, within three months after the decision of the council, appeal to the Treasury, who shall consider the case and determine whether any compensation, and if so, what amount ought to be granted to the claimant, and such determination shall be final.
- (5) Any claimant under this section, if so required by any member of the county council, shall attend at a meeting of the council and answer upon oath, which any justice present may administer, all questions asked by any member of the council touching the matters set forth in his claim, and shall further produce all books, papers, and documents in his possession or under his control relating to such claim.
- (6) The sum payable as compensation to any person in pursuance of this section shall commence to be payable at the date fixed by the council on granting the compensation, or, in case of appeal, by the Treasury, and shall be a specialty debt due to him from the county council, and may be enforced accordingly in like manner as if the council had entered into a bond to pay the same.
- (7) If a person receiving compensation in pursuance of this section is appointed to any office under the same or any other county council, or by virtue of this Act, or anything done in pursuance of or in consequence of this Act, receives any increase of emoluments of the office held by him, he shall not, while receiving the emoluments of that office, receive any greater amount of his compensation, if any, than, with the emoluments of the said office, is equal to the emoluments for which compensation was granted to him, and if the emoluments of the office he holds are equal to or greater than the emoluments for which compensation was granted, his compensation shall be suspended while he holds such office.
- (8) All expenses incurred by a county council in pursuance of this section shall be paid out of the county fund, as a payment for general county purposes.

Status: This is the original version (as it was originally enacted).

Temporary Provision as to Grant from Exchequer.

121 Grant and application of part of probate duty and of horse and wheel tax during the year ending 31st March 1889.

- (1) In the financial year ending the thirty-first day of March one thousand eight hundred and eighty-nine the Commissioners of Inland Revenue shall from time to time, in such manner and under such regulations as the Treasury from time to time make, pay into the Bank of England to the Local Taxation Account—
 - (a) such sum as may be ascertained in manner provided by the said regulations to be four fifth parts of one third of the proceeds of the sums collected by them in the said year in respect of the probate duties, and for the purpose of this section, the expression " probate duties" means the stamp duties charged on the affidavit required from persons applying for probate or letters of administration in England, Wales, or Ireland, and on the inventory exhibited and recorded in Scotland, and the stamp duties charged on such accounts of personal and movable property as are specified in section thirty-eight of the Customs and Inland Revenue Act, 1881, and includes the proceeds of all penalties and forfeitures recovered in relation to such stamp duties; and
 - (b) such sum as may be ascertained in manner provided by the regulations to be the proceeds of the sums collected by them in the said year in respect of the duties on licences for trade carts, locomotives, horses, mules, and horse dealers under any Act of the present session.
- (2) The sums so paid shall be distributed by the Local Government Board as follows, that is to say,
 - (i) in paying to every county, highway, and other local authority who have heretofore received out of moneys provided by Parliament a contribution to the cost of roads, or to the successors of such authority, sums calculated in like manner and according to the like scale and regulations as in the financial year ending on the thirty-first day of March one thousand eight hundred and eighty-eight;
 - (ii) if the amount received by the local taxation account from the duties on licences for trade carts, locomotives, horses, mules and horse dealers under any Act of the present Session, exceeds the sum so payable to county and highway or other local authorities, the excess shall be divided between the metropolis and quarter sessions boroughs, in proportion to their rateable value, as ascertained by the valuation lists, or where there is no valuation list by the last poor rate;
 - (iii) the share of the excess distributed to the metropolis shall be divided between the Commissioners of Sewers in the city of London and the vestries and district boards in the parishes in Schedule A and the districts in Schedule B to the Metropolis Management Act, 1855, as amended by subsequent Acts, according to rateable value as ascertained by the last valuation lists, and the share distributed to quarter sessions boroughs shall be paid to the councils of such boroughs;
 - (iv) if any payment is made under the foregoing provisions of this section respecting roads to the council of any quarter sessions borough, or to any authority for a highway area wholly or partly situate in such borough, or to the highway authority of any parish or district in the metropolis, the share of such quarter sessions borough, parish, or district in the distribution of the balance shall be reduced by the amount of the said payment, and, if less than

Status: This is the original version (as it was originally enacted).

- that amount, shall not be paid, and any sum arising from such reduction or non-payment shall be added to the balance and distributed accordingly;
- (v) any sum payable in pursuance of this section to a county authority or the council of any borough, not being a highway authority, shall be paid to the county or borough fund as the case may be, but any other sum payable under the provisions of this section respecting roads, or respecting the division of the excess to any highway authority, commissioners of sewers, vestry, or district board, shall be applied in aid of the costs of the roads maintained by such authority, commissioners, vestry, or board;
 - (vi) any balance remaining after the above payments shall be divided among the counties in England and Wales, in accordance with the provisions of this Act with respect to the division of the probate duty grant, and for the purpose of such division the metropolis shall be deemed to be a county, and the share assigned to each county on such division shall be applied towards paying to the guardians of each poor law union wholly or partly situate in the county such sum as is directed by this Act to be annually paid by the county council of such county to such guardians;
 - (vii) any balance remaining after the payment to the guardians of such union shall be paid to the county council of the county upon its coming into office, and, if there is any county borough in the county, the sum so paid shall be included in the adjustment under this Act between the councils of the county and borough.
- (3) Every local authority shall produce to the Local Government Board such evidence and comply with such rules as the Board may require or make for the purpose of effecting the distribution under this section.
 - (4) A certificate of the Local Government Board of the sum due to any authority under this section may be varied by that Board, but unless so varied shall be final.
 - (5) The Treasury may, from time to time during the financial year ending on the thirty-first day of March next after the passing of this Act, issue out of the Consolidated Fund or the growing produce thereof and pay to the Local Taxation Account such sums as appear to them to be required for the purpose of paying the highway authorities and county authorities such sums in respect of main roads as have been paid to them in previous years out of moneys provided by Parliament; and the sums so issued shall be treated as an advance, and , shall be repaid to the Consolidated Fund out of the Local Taxation Account before any balance is distributed in manner provided by this section.

Savings.

122 Saving for existing securities and discharge of debts.

- (1) Nothing in this Act shall prejudicially affect any securities granted before the passing of this Act on the credit of any rate or of any property by this Act transferred to a county council; and all such securities, as well as all unsecured debts, liabilities, and obligations incurred by any authority in the exercise of any powers or in relation to any property transferred from them to the county council under this Act shall be discharged, paid, and satisfied by such council.
- (2) Where for the purpose of satisfying any such security or any debt or liability, it is necessary to continue the levy of any rate or the exercise of any power which would have existed but for the provisions of this Act, such rate may continue to be levied

and power to be exercised either by the authority who otherwise would have levied or exercised the same or by the county council as the case may require.

- (3) It shall be the duty of every authority whose powers, duties, and liabilities are transferred to any council by this Act to liquidate so far as practicable before the appointed day all current debts and liabilities incurred by such authority.

123 Saving for existing byelaws.

All such byelaws, orders, and regulations of the Privy Council, Secretary of State, Board of Trade, Local Government Board, or Government department, or of any quarter sessions, council of a borough, the Metropolitan Board of Works, or other authority, whose powers and duties are transferred by or in pursuance of this Act to any county council, as are in force at the time of the transfer, shall, so far as they relate to or are in pursuance of the powers and duties transferred, continue in force as if they had been made by such council, subject, nevertheless, to revocation or alteration by such council in the manner in which byelaws can be made by such council, and also to any exceptions or modifications which may be made at the time of the transfer.

124 Saving for pending actions, contracts, &c.

- (1) If at the date of the transfer in this section mentioned any action or proceeding, or any cause of action or proceeding, is pending or existing by or against any authority in relation to any powers, duties, liabilities, or property by this Act transferred to the county council, the same shall not be in anywise prejudicially affected by reason of the passing of this Act, but may be continued, prosecuted, and enforced by or against such council as successors of the said authority in like manner as if this Act had not been passed.
- (2) All contracts, deeds, bonds, agreements, and other instruments entered into or made and subsisting at the time of the transfer in this section mentioned, and affecting any such powers, duties, liabilities, or property of any authority as are by this Act transferred to a county council, shall be of as full force and effect against or in favour of the council, and may be enforced as fully and effectually, as if, instead of the authority, the said council had been a party thereto.
- (3) All contracts or agreements which prior to the appointed day have been made by the clerk of the peace or any justice or justices or otherwise on behalf of a county, or any division or part of a county, shall have effect as if the council of that county had been named therein instead of the clerk of the peace or such justice or justices, and may be enforced by or against the county council accordingly.
- (4) This section shall apply in the case of a committee of any authority in like manner as if the committee were such authority, and the committee of a county council were that council, and as if contracts and agreements by any such committee appointed by quarter sessions were contracts and agreements on behalf of a county.

125 Saving for charters, local Acts, &c.

Save so far as may be necessary to give effect to this Act or any scheme or order or other thing made or done thereunder nothing in this Act shall prejudicially alter or affect the powers, rights, privileges, or immunities of any municipal corporation, or the operation of any municipal charter, local Act of Parliament, or order confirmed by Parliament, which immediately before the passing of this Act was in force.

Status: This is the original version (as it was originally enacted).

Repeals.

126 Repeal of Acts.

All enactments inconsistent with this Act are hereby repealed; Provided that—

- (1) Any enactment or document referring to any Act or enactment hereby repealed shall be construed to refer to this Act or to the corresponding enactment in this Act:
- (2) This repeal shall not affect—
 - (a) The past operation of any enactment hereby repealed, nor anything duly done or suffered under any enactment hereby repealed; or
 - (b) Any right, privilege, obligation, or liability acquired, accrued, or incurred under or in accordance with any enactment hereby repealed; or
 - (c) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed; or
 - (d) Any power, investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid; and any such power, investigation, legal proceeding, and remedy may be exercised and carried on as if this Act had not passed.