



# Municipal Corporations Act 1882

## 1882 CHAPTER 50

### PART VII

BOROUGH FUND: BOROUGH RATE: COUNTY RATE.

#### *Borough Fund.*

#### **139 Payments to borough fund.**

The rents and profits of all corporate land, and the interest, dividends, and annual proceeds of all money, dues, chattels, and valuable securities belonging or payable to a municipal corporation, or to any member or officer thereof in his corporate capacity, and every fine or penalty for any offence against this Act (except where and as far as the application thereof is otherwise provided for) shall go to the borough fund.

#### **140 Application of borough fund.**

- (1) The borough fund shall be applicable to and charged with the several payments specified in the Fifth Schedule.
- (2) The payments specified in Part I. of that schedule may be made without order of the council; those specified in Part II. may not be made without such order.
- (3) No other payment shall be made out of the borough fund, except—
  - (a) Under the authority of an Act of Parliament; or
  - (b) By order of the council; or
  - (c) By order of the court of quarter sessions for the borough; or
  - (d) By order of a justice in pursuance of this Act; or
  - (e) In cases in which the court of quarter sessions for a county, or a justice acting in and for a county in the discharge of his judicial duty, might make an order for the payment of money on the treasurer of the county.
- (4) Saving, nevertheless, in relation to the application of the borough fund as authorized by this section, or otherwise by this Act, all rights, interests, and demands of all persons

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in or on the real or personal estate of the municipal corporation, by virtue of any legal proceeding, or of any mortgage, or otherwise.

**141 Orders for payment of money.**

- (1) An order of the council for payment of money out of the borough fund shall be signed by three members of the council, and countersigned by the town clerk.
- (2) Any such order may be removed into the Queen's Bench Division of the High Court by writ of certiorari, and may be wholly or partly disallowed or confirmed on motion and hearing, with or without costs, according to the judgment and discretion of the court.

**142 Payments to and by treasurer.**

- (1) All payments to and out of the borough fund shall be made to and by the treasurer.
- (2) All payments to the treasurer shall go to the borough fund.

**143 Application of surplus of borough fund.**

- (1) If the borough fund is more than sufficient for the purposes to which it is applicable under this Act, or otherwise by law, the surplus thereof shall be applied under the direction of the council for the public benefit of the inhabitants and improvement of the borough.
- (2) If the surplus arises from the rents and profits of the property of the municipal corporation, and not from a borough rate. and the borough is a sanitary district under the Public Health Act, 1875, then the municipal corporation, as the sanitary authority for the borough, may apply the surplus in payment of any expenses incurred by them as such sanitary authority, before or after the commencement of this Act, in improving the borough, or any part thereof, by drainage, enlargement of streets, or otherwise, under the Public Health Act, 1875, or any Act thereby repealed.

*Borough Rate.*

**144 Power for council to make borough rate and assess contribution thereto.**

- (1) If the borough fund is insufficient for the purposes to which it is applicable under this Act or otherwise by law, the council shall from time to time estimate, as correctly as may be, what amount, in addition to the borough fund, will be sufficient for those purposes.
- (2) In order to raise that amount, the council shall, subject to the provisions of this Act, from time to time order a rate, called a borough rate, to be made in the borough.
- (3) A borough rate may be made retrospectively, in order to raise money for the payment of charges and expenses incurred, or which have come in course of payment, at any time within six months before the making of the rate.
- (4) The council shall assess the contributions to the borough rate on the several parishes and parts of parishes in the borough in proportion to the total annual value of the hereditaments in each parish or part which are rateable to the poor, or in respect of which a contribution is made to the poor rate.

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- (5) That value shall be estimated according to the valuation list (if any) in force for the time being, and if there is none, according to the last poor rate.
- (6) But if for any reason the council think that the valuation list or poor rate is not a fair criterion of value they may cause an independent valuation to be made.
- (7) For the purpose of assessing a borough rate, or for the purpose of an independent valuation, the council from time to time may cause any of the books of assessment of any rates or taxes, parliamentary or parochial, on any property, and the valuation by which the assessment is made, in the hands of the overseers, to be brought before them, and may take copies thereof or extracts therefrom, or may direct any person to take copies of or extracts from such books being in his hands, without having the same brought before the council, or may call before them any overseer to give evidence respecting the same; and may cause copies of the total amount assessed in each parish in respect of any tax payable to the Crown, and the total amount of the valuation of the property on which that assessment was made in any past year, to be made out by the clerk to the commissioners of each district.
- (8) The overseers and such persons as they select, by warrant of the council, signed by the mayor and sealed with the corporate seal, may enter on, view, and examine any land chargeable to the borough rate, in order to ascertain the annual value at which it ought to be charged ; but no such entry shall in any case be made unless fourteen days previous notice in writing, signed by the mayor and sealed with the corporate seal, of the intention to make the entry, has been given to the overseers and to the persons on whose land the entry is to be made.
- (9) If on any occasion the overseers of a parish think that their parish is aggrieved by a borough rate, on account of the proportions assessed as the contributions of the respective parishes being unequal, or on account of some parish being without sufficient cause omitted, or on account of any other just cause of complaint, they may appeal to the recorder at the next quarter sessions for the borough, or if there is none, to the next quarter sessions for the county wherein the borough is situate, or whereto it is adjacent, against such part of the rate only as affects their parish.
- (10) The recorder or quarter sessions shall hear and finally determine the appeal, and either confirm such parts of the rate as are appealed against, or correct any inequalities, disproportions, or omissions proved to exist therein, as to him or them appears just.
- (11) The expenses of the appeal shall be paid by such parishes or persons and in such proportions as the recorder or court having cognisance of the appeal directs.
- (12) If any person having custody of any book for which the council call under this section, fails to produce it to the council or to permit any copy thereof or extract therefrom to be made or taken, or to give such evidence as the council require, he shall, on summary conviction, be liable to a fine not exceeding ten pounds.
- (13) If any clerk to the commissioners of a district fails to make any copy, which he is required to make under this section, within a reasonable time after his receipt of the order to make it, he shall, on summary conviction, be liable to a fine not exceeding twenty pounds.

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**145 Collection of borough rate in undivided parish.**

- (1) Where a parish is wholly in a borough, the council may from time to time, if they think fit, order the overseers to pay the contribution of the parish to the borough rate out of the poor rate made or to be made for the parish.
- (2) The overseers shall pay the contribution to the council or as they order.
- (3) If the overseers fail to pay as ordered, the amount may be levied off the goods of them or any of them, by distress, by virtue of a warrant signed by the mayor and sealed with the corporate seal, or signed by two justices in and for the borough.

**146 Collection of borough rate in divided parish.**

- (1) Where a parish is partly in and partly out of a borough, the overseers, on receipt of an order for payment of money for the contribution of the part in the borough towards a borough rate, which order the council may make as if the whole parish was in the borough, shall assess on and levy from the occupiers of hereditaments rateable to the poor rate in that part of the parish the amount necessary for the contribution, either as a separate rate, for which the overseers shall have all the powers which belong to them for levying a poor rate, or with and as part of the poor rate to which occupiers in that part of the parish are liable in common with occupiers in the other part.
- (2) Any person rated under this section may appeal against the rate in like manner and with the like consequences, and subject to the like provisions and regulations, as in appeals against a poor rate.
- (3) The overseers shall pay the amount of the contribution to the council, or as they order, and in default thereof shall be subject to all provisions and penalties provided by law concerning nonpayment of contribution to a borough rate.
- (4) Every overseer and collector shall account for the money collected and expended under this section to the auditor of the district comprising the parish in the like manner, and with the like incidents, consequences, liabilities, and power of appeal as in the case of the poor rate; and the Local Government Board shall have the like power to make orders to regulate the mode of accounting as they have in regard to other local rates.
- (5) If any balance is found in the hands of any such overseer or collector he shall apply it towards the next rate required under this section, or pay it to his successor in office.
- (6) In default of his so applying it while in office, or making payment to his successor within seven days after the balance is found, the auditor shall proceed to recover it.
- (7) The officers ordinarily employed in the collection of the poor rate shall, if required by the overseers, collect the rate under this section, and shall receive thereout such remuneration for the additional duty as the overseers, with the consent of the vestry, determine.
- (8) The collector or other person appointed shall, for the purposes of this section, have all the powers of overseers.
- (9) The overseers, in estimating the amount of their assessment under this section, may include a sum for costs of assessment and collection, and a reasonable sum for rates excused or irrecoverable.

**147 Rating of owners instead of occupiers for borough rate in certain cases.**

Where the vestry of a parish has made or makes, before or after the commencement of this Act, under section four of The Poor Rate Assessment and Collection Act, 1869, an order, as in that section provided, to the effect that the owners, instead of the occupiers, of such rateable hereditaments, as therein mentioned, shall be rated to the poor rate in respect thereof, every such order, while in force after the commencement of this Act, shall be deemed to apply to and include rating to the borough rate, with the same incidents, conditions, powers, liabilities, and remedies as if the borough rate were a poor rate.

**148 Warrants for levy of borough rate.**

Any warrant required for the levy or collection of a borough rate may be issued by the mayor, signed by him, and sealed with the corporate seal.

**149 Borough rate to go to borough fund; and its application.**

All sums levied in pursuance of the borough rate shall go to the borough fund ; and, subject to the foregoing provisions of this Part, the same shall be applied to all purposes to which the borough fund is applicable under this Act, or otherwise by law; and, as regards a borough named in the schedules to the Municipal Corporations Act, 1835, to all purposes to which, before the passing of that Act, borough rate was by law applicable in the borough, or a county rate was applicable in a county.

*County Rate.*

**150 General exemption of quarter sessions boroughs from county rate.**

- (1) Where a borough has a separate court of quarter sessions, the justices of a county wherein the borough or any part thereof is situate shall not assess any hereditaments in the borough to any county rate ; and, except as is expressly by this Act provided, every part of the borough shall be wholly free from contributing to any rate or assessment of any kind of and for that county.
- (2) But nothing in this section shall prevent the levy or collection of arrears of any county rate made before the grant of a, separate court of quarter sessions.

**151 Liability of quarter sessions borough for prosecution expenses of county.**

The municipal corporation of a borough having -a separate court of quarter sessions shall be liable to pay such sums, if any, as are expended out of the county rate of the county in which the borough is situate, and as are not otherwise paid or chargeable, in respect of the costs arising out of the prosecution, maintenance, conveyance, transport, or punishment of all offenders committed for trial from the borough to the assizes for the county.

**152 Liability of certain quarter sessions boroughs to other county expenses.**

- (1) If the whole or any part of the area for the time being comprised in a borough having a separate court of quarter sessions was, before the eleventh of July one thousand eight hundred and thirty-two, chargeable with or liable to contribute to the county rate of

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the county in which it is situate, the municipal corporation shall, in addition to its liability to pay for the purposes mentioned in the last foregoing section, continue liable to contribute to the county rate for other purposes (in this Act referred to as general county purposes), as if this Act had not been passed.

- (2) General county purposes shall not include the costs arising out of coroners inquests, or the expenses incurred under the Sale of Food and Drugs Act, 1875, in respect of the county, or, in the case of a borough having its own inspector of weights and measures, the expenses relating to the inspection of weights and measures for the county, or payments to or in respect of special constables.

### **153 Mode of accounting by borough to county.**

- (1) The treasurer of each county shall, not more than twice in every year, send to the council of each borough situate in the county and having a separate court of quarter sessions an account shewing separately—
- (a) The sums, if any, expended out of the county rate in respect of the costs arising out of the prosecution, maintenance, conveyance, transporter punishment of offenders committed for trial from the borough to the assizes for the county ; and
  - (b) If the borough is liable to contribute to the county rate for general county purposes, all sums expended out of the county rate for general county purposes, and all sums received in aid or on account of the county rate, and the proportion chargeable on the borough of the sums so expended after deduction of the sums so received;
- and shall make an order on the council for the payment of the sum appearing by this account to be due from the municipal corporation of the borough.
- (2) The- council shall thereupon forthwith order the sum so appearing to be due with all reasonable charges of making and sending the account, to be paid to the treasurer of the county oat of the borough fund.
- (3) If the order is not complied with, two justices for the county may, on the complaint of the treasurer of the county, made within one month after the issue of the order, issue and send to the treasurer of the borough a warrant requiring him to pay to the treasurer of the county, besides the sum mentioned in the order, the additional sum mentioned in the warrant, the same being calculated in the proportion of one shilling to every ten on the sum mentioned in the order; and until payment thereof the treasurer of the county shall have, in respect of the warrant, all the powers for the recovery thereof which are given against a guardian or overseer for the recovery of county rates and surcharges.
- (4) If any difference arises concerning the account, it shall be decided by the arbitration of a barrister, named, on the application either of the treasurer of the county or of the treasurer of the borough, by the Secretary of State. The arbitrator may, if he thinks fit, adjourn the hearing from time to time, and may require all such information to be afforded by either party as he thinks fit. He shall by his award in writing determine the amount to be paid by the council to the treasurer of the county, and his award shall be final and conclusive. He shall also assess the costs of the arbitration and determine by whom and out of what fund they shall be paid.