



Municipal Corporations Act 1882

1882 CHAPTER 50

PART III

PREPARATIONS FOR AND PROCEDURE AT ELECTIONS.

Parish Burgess Lists; Burgess Rolls ; Ward Rolls.

44 Preparation and revision of parish burgess lists.

- (1) Where the whole or part of the area of a borough is coextensive with or included in the area of a parliamentary borough, the lists of burgesses are to be made out and revised, and claims and objections relating thereto are to be made, in accordance with the provisions of the Parliamentary and Municipal Registration Act, 1878.
- (2) Where no part of the area of a borough is co-extensive with, or included in the area of a parliamentary borough, the lists of burgesses shall be made out and revised, and claims and objections relating thereto may be made, in accordance, as nearly as may be, with the provisions of Part I. of the Third Schedule.
- (3) In either case the lists shall be styled the parish burgess lists.

45 The burgess roll and ward rolls.

- (1) When the parish burgess lists have been revised and signed, the revising authority shall deliver them to the town clerk, and a printed copy thereof, examined by him and signed by him, shall be the burgess roll of the borough.
- (2) The burgess roll shall be completed on or before the twentieth of October in each year, and shall come into operation on the first of November in that year, and shall continue in operation for the twelve months beginning on that day.
- (3) The names in the burgess roll shall be numbered by wards or by polling districts, unless in any case the council direct that the same be numbered consecutively without reference to wards or polling districts.

Status: This is the original version (as it was originally enacted).

- (4) Where the borough has no wards, the burgess roll shall be made in one general roll for the whole borough.
- (5) Where the borough has wards, the burgess roll shall be made in separate rolls, called ward rolls, one for each ward, containing the names of the persons entitled to vote in that ward, and the ward rolls collectively shall constitute the burgess roll.
- (6) A burgess shall not be enrolled in more than one ward roll.
- (7) . Where a duplicate of a burgess list is made under section thirty-one of the Parliamentary and Municipal Registration Act, 1878, it shall have the same effect as the original, and may be delivered instead thereof.
- (8) Every person enrolled in the burgess roll shall be deemed to be enrolled as a burgess, and every person not enrolled in the burgess roll shall be deemed to be not enrolled as a burgess.
- (9) No stamp duty shall be payable in respect of the enrolment of a burgess.

46 Arrangement of lists and rolls.

- (1) If and as far as the council so direct, the parish burgess lists, and the burgess roll, and the ward rolls (if any), and the lists of claimants and respondents, or any of those documents, shall be arranged in the same order in which the qualifying properties appear in the rate book for the parish in which they are situate, or otherwise in such order as will cause those lists and rolls to record the qualifying properties in successive order in the street or other place in which they are situate.
- (2) Subject to any such direction, and to the provisions of this Act as to polling districts, the arrangement of the lists and rolls shall be alphabetical.

47 Correction of burgess roll.

- (1) Where the parish burgess lists are revised under the Parliamentary and Municipal Registration Act, 1878, the burgess roll is subject to alteration or correction in manner provided by section thirty-five of that Act.
- (2) Where the parish burgess lists are revised under this Act, any person whose claim has been rejected or name expunged at the revision of the lists may apply, within two months after the last sitting of the revision court, to the High Court in the Queen's Bench division for a mandamus to the mayor to insert his name in the burgess roll; and thereupon the court shall inquire into the title of the applicant to be enrolled.
- (3) If the court grants a mandamus, the mayor shall insert the name in the burgess roll, and shall add thereto the words " by order of Her Majesty's High Court of Justice, " and shall subscribe his name to those words.

48 Printing and sale of burgess roll and other documents.

- (1) The town clerk shall cause the parish burgess lists, the lists of claimants and respondents, and the burgess roll, to be printed, and shall deliver printed copies to any person on payment of a reasonable price for each copy.
- (2) Subject to section thirty of the Parliamentary and Municipal Registration Act, 1878, the proceeds of sale shall go to the borough fund.

49 Separate list of persons qualified to be councillors but not to be burgesses.

- (1) The overseers of each parish shall at the same time that they make the parish burgess list make a list of the persons entitled in respect of the occupation of property in that parish to be elected councillors, as being resident within fifteen miles although beyond seven miles from the borough.
- (2) The provisions of this Act as to the parish burgess lists, and claims and objections relating thereto, and the revision of those lists shall, as nearly as circumstances admit, apply to the lists made under this section.
- (3) The town clerk shall arrange the names entered in these lists, when revised, in alphabetical order as a separate list (in this Act called the separate non-resident list), with an appropriate heading, at the end of the burgess roll.

Election of Councillors.

50 Borough and ward elections.

- (1) Where a borough has no wards, there shall be one election of councillors for the whole borough.
- (2) Where a borough has wards, there shall be a separate election of councillors for each ward.

51 Title to vote.

- (1) At an election of councillors a person shall be entitled to subscribe a nomination paper, and to demand and receive a voting paper, and to vote, if he is enrolled in the burgess roll, or, in the case of a ward election, the ward roll, and not otherwise.
- (2) No person shall subscribe a nomination paper in "or for more than one ward, or vote in more than one ward.
- (3) Nothing in this section shall entitle any person to do any act therein mentioned who is prohibited by law from doing it, or relieve him from any penalty to which he may be liable for doing it.

52 Day of election.

The ordinary day of election of councillors shall be the first of November.

53 Returning officer at election.

- (1) At an election of councillors for a whole borough the returning officer shall be the mayor.
- (2) At an election for a ward the returning officer shall be an alderman assigned for that purpose by the Council at the meeting of the ninth of November.

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54 Notice of election.

Nine days at least before the day for the election of a councillor, the town, clerk shall prepare and sign a notice thereof, and publish it by fixing it on the town hall, and, in the case of a ward election, in some conspicuous place in the ward.

55 Nomination of candidates.

The nomination of candidates for the office of councillor shall be conducted in accordance with the rules in Part II. of the Third Schedule.

56 Relation of nomination to election.

- (1) If the number of valid nominations exceeds that of the vacancies, the councillors shall be elected from among the persons nominated.
- (2) If the number of valid nominations is the same as that of the vacancies, the persons nominated shall be deemed to be elected.
- (3) If the number of valid nominations is less than that of the vacancies, the persons nominated shall be deemed to be elected, and such of the retiring councillors for the borough or ward as were highest on the poll at their election, or, if the poll was equal, or there was no poll, as are selected for that purpose by the mayor, shall be deemed to be re-elected to make up the required number.
- (4) If there is no valid nomination, the retiring councillors shall be deemed to be re-elected.

57 Publication of uncontested election.

If an election of councillors is not contested, the returning officer shall publish a list of the persons elected not later than eleven o'clock in the morning on the day of election.

58 Mode of conducting poll at contested election.

- (1) If an election of councillors is contested, the poll shall, as far as circumstances admit, be conducted as the poll at a contested parliamentary election is by the Ballot Act, 1872, directed to be conducted, and, subject to the modifications expressed in Part III. of the Third Schedule, and to the other provisions of this Act, the provisions of the Ballot Act, 1872, relating to a poll at a parliamentary election (including the provisions relating to the duties of the returning officer after the close of the poll), shall apply to a poll at an election of councillors.
- (2) Every person entitled to vote may vote for any number of candidates not exceeding the number of vacancies.
- (3) The poll shall commence at nine o'clock in the forenoon and close at four o'clock in the afternoon of the same day.
- (4) But if one hour elapses during which no vote is tendered, and the returning officer has not received notice that any person has within that hour been prevented from coming to the poll by any riot, violence, or other unlawful means, the returning officer may, if he thinks fit, close the poll at any time before four o'clock.
- (5) Where an equality of votes is found to exist between any candidates, and the addition of a vote would entitle any of those candidates to be declared elected, the returning

officer, whether entitled or not to vote in the first instance, may give such additional vote by word of mouth or in writing.

- (6) Nothing in the Ballot Act, 1872, as applied by this Act, shall be deemed to authorize the appointment of any agents of a candidate at a municipal election; but if, in the case of a municipal election, an agent of a candidate is appointed, and notice in writing of the appointment is given to the returning officer, one clear day before the polling day, then the provisions of the Ballot Act, 1872, with respect to agents of candidates, shall, as far as regards that agent, apply in the case of that election.

59 Questions which may be put to voters.

- (1) At an election of councillors, the presiding officer shall, if required by two burgesses, or by a candidate or his agent, put to any person offering to vote, at the time of his presenting himself to vote, but not afterwards, the following questions, or either of them :
- (a) Are you the person enrolled in the burgess [*or ward*] roll now in force for this borough [*or ward*] as follows [*read the whole entry from the roll*] ?
 - (b) Have you already voted at the present election (add, *in case of an election for several wards*, in this or any other ward) ?
- (2) The vote of a person required to answer either of these questions shall not be received until he has answered it.
- (3) If any person wilfully makes a false answer thereto he shall be guilty of a misdemeanour.
- (4) Save as by this Act authorized, no inquiry shall be permitted at an election as to the right of any person to vote.

Election of Aldermen.

60 Time and mode of election of aldermen.

- (1) The ordinary day of election of aldermen shall be the ninth of November, and the election shall be held at the quarterly meeting of the council.
- (2) The election shall be held immediately after the election of the mayor, or, if there is a sheriff, the appointment of the sheriff. .
- (3) An outgoing alderman, although mayor elect, shall not vote.
- (4) Every person entitled to vote may vote for any number of persons not exceeding the number of vacancies, by signing and personally delivering at the meeting to the chairman a voting paper containing the surnames and other names and places of abode and descriptions of the persons for whom he votes.
- (5) The chairman, as soon as all the voting papers have been delivered to him, shall openly produce and read them, or cause them to be read, and then deliver them to the town clerk to be kept for twelve months.
- (6) In case of equality of votes the chairman, although as an outgoing alderman or otherwise not entitled to vote in the first instance, shall have the casting vote.

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- (7) The persons, not exceeding the number of vacancies, who have the greatest number of votes, shall be declared by the chairman to be, and thereupon shall be, elected.

Election of Mayor.

61 Time and mode of election of mayor.

- (1) The ordinary day of election of mayor shall be the ninth of November,
- (2) The election of mayor shall be the first business transacted at the quarterly meeting of the council on the day of election.
- (3) An outgoing alderman may vote although the person for whom he votes is an alderman.
- (4) In case of equality of votes, the chairman, although not entitled to vote in the first instance, shall have the casting vote.

Election of Auditors and Assessors.

62 Time and mode of election of auditors and assessors.

- (1) The ordinary day of election of elective auditors shall be the first of March, or such other day as the council, with the approval of the Local Government Board, from time to time appoint.
- (2) The ordinary day of election of revising assessors shall be the first of March.
- (3) If the election of elective auditors and that of revising assessors are held at the same time, then at the poll one voting paper only shall be used by any person voting. The names of the candidates for the respective offices shall be therein separate, and distinguished so as to show the office for which each is a candidate, and the provisions of the Ballot Act, 1872, shall be varied accordingly; but in the counting of the votes every voting paper shall be deemed to be a separate voting paper in respect of each office, and any objections thereto shall be considered and dealt with accordingly.
- (4) An elector shall not vote for more than one person to be elective auditor or revising assessor.
- (5) Elections of elective auditors and of revising assessors shall be held at the town hall or some one other convenient place appointed by the mayor.
- (6) Save as in this section provided, all the provisions of this Act with respect to the nomination and election of councillors for a borough not having wards shall apply to the nomination and election of elective auditors and revising assessors.

Supplemental and Exceptional Provisions.

63 Right of women to vote.

For all purposes connected with and having reference to the right to vote at municipal elections words in this Act importing the masculine gender include women.

64 Polling districts.

The council may divide the borough or any ward into polling districts, and thereupon the overseers shall, as far as practicable, make out the parish burgess lists so as to divide the names in conformity with the polling districts.

65 Notices as to elections.

Any notice required to be given in connexion with a municipal election may, as to elective auditors and revising assessors, be comprised in one notice, and may, as to ward elections, comprise matter necessary for several wards.

66 Time for filling casual vacancies.

- (1) On a casual vacancy in a corporate office, the election shall be held within fourteen days after notice in writing of the vacancy has been given to the mayor or town clerk by two burgesses.
- (2) Where the office vacant is that of mayor, the notice of the meeting for the election shall be signed by the town clerk.
- (3) In other cases the day of election shall be fixed by the mayor.

67 Illness, &c. of mayor or returning officer.

- (1) If the mayor is dead, or is absent or otherwise incapable of acting in the execution of his powers and duties as to elections under this Act, the council shall forthwith choose an alderman to execute those powers and duties in the place of the mayor.
- (2) In case of the illness, absence, or incapacity to act of the alderman assigned to be returning officer at a ward election, the mayor may appoint to act in his stead another alderman, or, if the number of aldermen does not exceed the number of wards, a councillor not being a councillor for that ward, and not being enrolled in the ward roll for that ward.

68 Election of councillor in more than one ward.

If a person is elected councillor in more than one ward, he shall, within three days after notice thereof, choose, by writing signed by him and delivered to the town clerk, or in his default the mayor shall, within three days after the time for choice has expired, declare, for which of those wards he shall serve, and the choice or declaration shall be conclusive.

69 Elections not in churches.

A municipal election shall not be held in any church, chapel, or other place of public worship.

70 Omission to hold election, or election void.

- (1) If a municipal election is not held on the appointed day or within the appointed time, it may be held on the day next after that day or the expiration of that time.

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- (2) If a municipal election is not held on the appointed day or within the appointed time, or on the day next after that day or the expiration of that time, or becomes void, the municipal corporation shall not thereby be dissolved or be disabled from electing, but the High Court may, on motion, grant a mandamus for the election to be held on a day appointed by the court.
- (3) Thereupon public notice of the election shall, by such person as the court directs, be fixed on the town hall, and shall be kept so fixed for at least six days before the day appointed for the election; and in all other respects the election shall be conducted as directed by this Act respecting ordinary elections.

71 Burgess roll to be in operation until revision of new burgess roll.

- (1) If a parish burgess list is not made or revised in due time, the corresponding part of the burgess roll in operation before the time appointed for the revision shall be the parish burgess list until a burgess list for the parish has been revised and become part of the burgess roll.
- (2) If a burgess roll is not made in due time, the burgess roll in force before the time appointed for the revision shall continue in force until the new burgess roll is made.

72 Non-compliance with rules.

An election shall not be invalidated by non-compliance with the rules in the Third Schedule, or mistake in the use of the forms in the Eighth Schedule, if it appears to the court having cognisance of the question that the election was conducted in accordance with the principles laid down in the body of this Act.

73 Election valid unless questioned within twelve months.

Every municipal election not called in question within twelve months after the election, either by election petition or by information in the nature of a quo warranto, shall be deemed to have been to all intents a good and valid election.

74 Offences in relation to nomination papers.

- (1) If any person forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the town clerk any forged nomination paper, knowing it to be forged, he shall be guilty of a misdemeanour, and shall be liable to imprisonment for any term not exceeding six months, with or without hard labour.
- (2) An attempt to commit any such offence shall be punishable as the offence is punishable.

75 Offences in relation to lists and elections.

- (1) If a mayor or revising assessor neglects or refuses to revise a parish burgess list, or a mayor or alderman neglects or refuses to conduct or declare an election, as required by this Act, he shall for every such offence be liable to a fine not exceeding one hundred pounds, recoverable by action.
- (2) If—

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- (a) An overseer neglects or refuses to make, sign, or deliver a parish burgess list, as required by this Act; or
- (b) A town clerk neglects or refuses to receive, print, and publish a parish burgess list or list of claimants or respondents, as required by this Act; or
- (c) An overseer or town clerk refuses to allow any such list to be inspected by a person having a right thereto ;

he shall for every such neglect or refusal be liable to a fine not exceeding fifty pounds, recoverable by action.

- (3) An action under this section shall not lie after three months from the neglect or refusal. A moiety of any fine recovered therein shall, after payment of the costs of action, be paid to the plaintiff.

76 Revival of former law on expiration of Ballot Act.

- (1) If the Ballot Act, 1872, ceases to be in force, so much of this Act as directs that the poll at a contested election of councillors shall be conducted as the poll at a contested parliamentary election is by the Ballot Act, 1872, directed to be conducted, and as applies provisions of the Ballot Act, 1872, to a poll at a contested election of councillors, shall forthwith cease to be in force, and thereupon the enactments in Part IV of the Third Schedule shall revive and be in force.
- (2) But this cesser and revivor shall not affect any act done, right acquired, or liability or fine incurred, or the institution or prosecution to its termination of any proceeding in respect of any such right, liability, or fine.