



# Municipal Corporations Act 1882

## 1882 CHAPTER 50

### PART VIII

#### ADMINISTRATION OF JUSTICE.

##### *Borough Civil Court.*

#### **175 Judge of borough civil court where there is a recorder.**

- (1) The recorder, if there is one, shall continue to be the judge of the borough civil court, except in the following cases, that is to say, where the court is regulated by a local Act of Parliament, or where a barrister of five years standing acted at the passing of the Municipal Corporations Act, 1835, as judge or assessor of the court.
- (2) The recorder, if judge, may, in case of his illness or unavoidable absence, appoint by writing signed by him a barrister of five years standing to act for him as deputy judge of the court at the court or courts then next to be holden, or then being holden, and not longer or otherwise.
- (3) The recorder on every occasion of his appointing a deputy judge shall forthwith send to the Secretary of State a statement of his reason for so doing.
- (4) A court shall not be illegal, nor shall the acts of the deputy judge be invalid, by reason of the absence of the recorder not being unavoidable.
- (5) The recorder, where judge, and the deputy judge, shall have such remuneration as the council fix by byelaw.
- (6) Where the recorder is judge, the court may in his absence be holden for all purposes within the competency of the court, except the trial of issues of fact or of law, before any person, being a barrister of five years standing or a solicitor of five years practice, from time to time appointed for that purpose by the recorder by writing signed by him.
- (7) Where the recorder or his deputy is judge, all orders, affidavits, and matters, except the trial of issues in law or in fact, relating to the business of the court, if not regulated by a local Act, may be made, sworn, or done in or out of court in the absence of the

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recorder and his deputy by or before the registrar or such other person, being a barrister of five years standing, or a solicitor of five years practice, as the recorder appoints by writing signed by him.

**176 Judge of borough civil court where there is no recorder.**

Where there is a borough civil court, but no recorder, such officer of the borough as by the charter constituting the court, or by custom, is the judge of the court, shall continue to be and act as such judge ; and the council, whether the court is regulated by a local Act or not, shall have power for that purpose to appoint the necessary officer.

**177 Tenure of judge.**

Every judge or assessor of a borough civil court, other than the mayor, shall hold his office during good behaviour.

**178 Registrar and other officers and fees.**

- (1) Except where the town clerk acts as registrar, the council shall from time to time appoint a registrar of the borough civil court.
- (2) The council shall from time to time appoint other requisite officers and servants of the court.
- (3) The fees to be taken by the registrar and other officers of the court shall be from time to time fixed by the council, subject to the approval of the Secretary of State.
- (4) If and as far as the fees are not so fixed, they shall be those usually taken before the passing of the Municipal Corporations Act, 1835.

**179 Solicitors.**

- (1) The registrar of a borough civil court, or any other officer of the court, shall not himself, or by any partner or clerk, practise as a solicitor or attorney, in the court; nor shall any partner or clerk of the registrar act as agent for any other solicitor or attorney in the court.
- (2) Unless so disqualified, every solicitor of the Supreme Court of Judicature may practise as solicitor in the court.

**180 Time of holding court.**

- (1) Each borough civil court shall be holden for trial of issues of fact and of law four times at least in each year, and with no greater interval than four months between two successive courts.
- (2) Subject as aforesaid, where the recorder is judge, the court shall be holden at such times as the recorder thinks fit, or as the Secretary of State from time to time directs.

**181 Procedure.**

Every personal action brought in a borough civil court shall be commenced by writ of summons.

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**182 Power for judge to make rules of procedure.**

- (1) Subject to the provisions of this Act, the judge of a borough civil court may from time to time make rules for regulating the times of holding the court and the procedure, practice, and pleadings therein, and the fees of solicitors therein, and may by any rule revoke or alter any former rule.
- (2) But where there is a recorder and he is not the judge of the court, every rule made by the judge shall be subject to the approval of the recorder in writing signed by him; save that this provision shall not apply where the recorder acts as deputy of the judge.
- (3) In every case (whether the recorder is judge or not) rules made by the judge under this section shall be subject to the approval of three judges of the High Court.

**183 Jurisdiction of Court.**

- (1) Where by the Municipal Corporations Act, 1835, jurisdiction was conferred on a borough civil court whereof the recorder is judge, or wherein a barrister of five years standing acts as judge or assessor, to try personal actions wherein the sum sought to be recovered does not exceed twenty pounds, and actions of ejectment between landowner and tenant wherein the annual rent of the property whereof possession is sought to be recovered does not exceed twenty pounds, no fine having been reserved or made payable, then that court shall continue to have that jurisdiction.
- (2) Any action wherein the title to land of any tenure, or to any tithe, toll, market, fair, or other franchise is in question shall not be tried in a borough civil court which before the passing of the Municipal Corporations Act, 1835, had not authority to try actions wherein such titles were in question. If it appears to such a court that such a title is in question in an action the jurisdiction of the court in the matter of the action shall cease; and the court may, if it thinks fit, award costs against the party commencing the action.

**184 Saving for borough civil courts and for 35 & 36 Vict. c.86.**

- (1) Nothing in this Act shall take away or abridge in respect of local extent, amount, or otherwise, any power, jurisdiction, or authority of a borough civil court, or of a judge, or assessor, or registrar thereof, or of any deputy of a judge, or assessor, or registrar thereof, or affect the constitution or procedure thereof; and, subject to the express provisions of this Act, such power, jurisdiction, authority, constitution, and procedure, shall continue and be as if this Act had not been passed.
- (2) Nothing in this Act shall affect the Borough and Local Courts of Record Act, 1872.

**185 Power to extend jurisdiction of borough civil court.**

It shall be lawful for the Queen, by Order in Council, on the joint petition of the justices of a county in quarter sessions and of the council of a borough, to grant that the jurisdiction of the borough civil court shall extend over any district adjacent to the borough within the jurisdiction of those quarter sessions ; and the same shall extend accordingly.