



# Local Government Act 1888

## 1888 CHAPTER 41

### PART I

#### COUNTY COUNCILS.

##### *Powers of County Council.*

### **3 Transfer to county council of administrative business of quarter sessions.**

There shall be transferred to the council of each county on and after the appointed day, the administrative business of the justices of the county in quarter sessions assembled, that is to say, all business done by the quarter sessions or any committee appointed by the quarter sessions, in respect of the several matters following, namely,—

- (i) The making, assessing, and levying of county, police, hundred, and all rates, and the application and expenditure thereof, and the making of orders for the payment of sums payable out of any such rate or out of the county stock or county fund, and the preparation and revision of the basis or standard for the county rate;
- (ii) The borrowing of money;
- (iii) The passing of the accounts of and the discharge of the county treasurer;
- (iv) Shire halls, county halls, assize courts, judges lodgings, lockup houses, court houses, justices rooms, police stations, and county buildings, works, and property, subject as to the use of buildings by the quarter sessions and the justices to the provisions of this Act respecting the joint committee of quarter sessions and the county council;
- (v) The licensing under any general Act of houses and other places for music or for dancing, and the granting of licences under the Racecourses Licensing Act, 1879 ;
- (vi) The provision, enlargement, maintenance, management, and visitation of and other dealing with asylums for pauper lunatics;
- (vii) The establishment and maintenance of and the contribution to reformatory and industrial schools ;

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- (viii) Bridges and roads repairable with bridges, and any powers vested by the Highways and Locomotives (Amendment) Act, 1878, in the county authority;
- (ix) The tables of fees to be taken by and the costs to be allowed to any inspector, analyst, or person holding any office in the county other than the clerk of the peace and the clerks of the justices;
- (x) The appointment, removal, and determination of salaries, of the county treasurer, the county surveyor, the public analysts, any officer under the Explosives Act, 1875, and any officers whose remuneration is paid out of the county rate other than the clerk of the peace and the clerks of the justices;
- (xi) The salary of any coroner whose salary is payable out of the county rate, the fees, allowances, and disbursements allowed to be paid by any such coroner, and the division of the county into coroners' districts, and the assignment of such districts ;
- (xii) The division of the county into polling districts for the purposes of parliamentary elections, the appointment of places of election, the places of holding courts for the revision of the lists of voters, and the costs of and other matters to be done for the registration of parliamentary voters ;
- (xiii) The execution as local authority of the Acts relating to contagious diseases of animals, to destructive insects, to fish conservancy, to wild birds, to weights and measures, and to gas meters, and of the Local Stamp Act, 1869 ;
- (xiv) Any matters arising under the Riot (Damages) Act, 1886 ;
- (xv) The registration of rules of scientific societies under the Act of the session of the sixth and seventh years of the reign of Her present Majesty, chapter thirty-six; the registration of charitable gifts under the Act of the session of the fifty-second year of the reign of George the Third, chapter one hundred and two; the certifying and recording of places of religious worship under the Act of the session of the fifty-second year of the reign of George the Third, chapter one hundred and fifty-five; the confirmation and record of the rules of loan societies under the Act of the session of the third and fourth years of the reign of Her present Majesty, chapter one hundred and ten; and
- (xvi) Any other business transferred by this Act.

#### **4 Transfer of certain powers under local Acts.**

Where it appears to the Local Government Board that any powers, duties, or liabilities of any quarter sessions or justices, or any committee thereof, under any local Act are similar in character to the powers, duties, and liabilities transferred to county councils by this Act, or relate to property transferred to a county council by this Act, the Board may, if they think fit, make a Provisional Order for transferring such powers, duties, and liabilities to the county council.

#### **5 Appointment of coroners by county council.**

- (1) After the appointed day a coroner for a county shall not be elected by the freeholders of the county, and on any vacancy occurring in the office of a coroner for a county, who is elected to that office in pursuance of a writ de coronatore eligendo, a like writ for the election of a successor shall be directed to the county council of the county instead of to the sheriff, and the county council shall thereupon appoint a fit person, not being a county alderman or county councillor, to fill such office, and in the case of a county divided into coroners districts shall assign him a district; and any person

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so appointed shall have like powers and duties, and be entitled to like remuneration, as if he had been elected coroner for the county by the freeholders thereof.

- (2) Where the district of any such coroner is situate wholly within any administrative county, the council of that county shall, subject as herein-after mentioned, appoint the coroner.
- (3) Where the district of any such coroner is situate partly in one and partly in another administrative county forming part of an entire county, the joint committee for the entire county may arrange for the alteration in manner provided by law of the district, so that, on the next avoidance of the office of coroner of that district, or at any earlier time fixed by the joint committee when the alteration is made, the coroner's district shall not be situate in more than one administrative county.
- (4) Until such arrangement is made, the joint committee for the entire county shall appoint the coroner for the said district, and the amount payable in respect of the salary, fees, and expenses of such coroner shall be defrayed in like manner as costs of the joint committee are directed by this Act to be defrayed.
- (5) Nothing in this Act respecting the appointment of a coroner shall alter the jurisdiction of a coroner for the entire county, or any power of removing such coroner, whether by writ de coronatore exonerando or otherwise, and all writs for the election or removal of a coroner shall be altered so as to give effect to this section.
- (6) Sections eleven and fourteen and the First Schedule of the Coroners Act, 1887, and any other enactment relating to the election of a coroner for a county by the freeholders of such county or any district thereof, are hereby repealed 'as from the appointed day, without prejudice to anything done or suffered, or any legal proceeding commenced or penalty incurred before such repeal takes effect.
- (7) A person who holds the office of coroner shall not be qualified to be elected as a county alderman or county councillor for the county for which he is a coroner.

## **6 Power of council as to bridges.**

The county council shall have power to purchase, or take over on terms to be agreed on, existing bridges not being at present county bridges, and to erect new bridges, and to maintain, repair, and improve any bridges so purchased, taken over, or erected.

## **7 Transfer to county council of certain powers of justices out of session.**

There shall be transferred to the county council on and after the appointed day the business of the justices of the county out of session—

- (a) in respect of the licensing of houses or places for the public performance of stage plays, and
- (b) in respect of the execution as local authority of the Explosives Act, 1875.

## **8 Reservation of business to quarter sessions.**

- (1) Nothing in this Act shall transfer to a county council any business of the quarter sessions or justices in relation to appeals by any overseers or persons against the basis or standard for the county rate or against that or any other rate.

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- (2) All business of the quarter sessions or any committee thereof not transferred by or in pursuance of this Act to the county council shall be reserved to and transacted by the quarter sessions or committee thereof in the same manner, as far as circumstances admit, as if this Act had not passed.

## **9 Powers as to police.**

- (1) The powers, duties, and liabilities of quarter sessions and of justices out of session with respect to the county police shall, on and after the appointed day, vest in and attach to the quarter sessions and the county council jointly, and be exercised and discharged through the standing joint committee of the quarter sessions and county council appointed as herein-after mentioned:
- (2) Provided that the powers conferred by section seven of the County and Borough Police Act, 1856, which requires constables to perform, in addition to their ordinary duties, such duties connected with the police as the quarter sessions may direct or require, shall continue to be exercised by the quarter sessions as well as by the said standing joint committee, and may also be exercised by the county council; and the said section shall be construed as if the county council and the said standing joint committee were therein mentioned as well as the quarter sessions.
- (3) Nothing in this Act shall affect, the powers, duties, and liabilities of justices of the peace as conservators of the peace, or the obligation of the chief constable or other constables to obey their lawful orders given in that behalf.

## **10 Transfer to county council of powers of certain Government departments and other authorities.**

- (1) After the passing of this Act it shall be lawful for the Local Government Board to make from time to time a Provisional Order for transferring to county councils—
- (a) any such powers, duties, and liabilities of Her Majesty's Privy Council, a Secretary of State, the Board of Trade, the Local Government Board, or the Education Department, or any other Government department, as are conferred by or in pursuance of any statute and appear to relate to matters arising within the county, and to be of an administrative character: also
  - (b) any such powers, duties, and liabilities arising within, the county, of any commissioners of sewers, conservators, or other public body, corporate or unincorporate (not being the corporation of a municipal borough or an urban or rural authority, or a school board, and not being a board of guardians) as are conferred by or in pursuance of any statute ;
- and such Order shall make such exceptions and modifications as appear to be expedient, and also such provisions as appear necessary or proper for carrying into effect such transfer, and for that purpose may transfer any power vested in Her Majesty in Council:
- (2) Provided that before any such Order is made, the draft thereof shall be approved, if it relates to the powers, duties, or liabilities of a Secretary of State, or the Board of Trade, or any other Government department, by such Secretary of State, Board, or department, and approved, if it affects the powers, duties, or liabilities of any commissioners, conservators, or body, corporate or unincorporate, by such commissioners, conservators, or body ; and every such Provisional Order shall be of no effect until it is confirmed by Parliament.

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- (3) If any such powers, duties, or liabilities as are referred to in any Provisional Order under this section arise within two or more counties, they may be transferred to the county councils of such two or more counties jointly, and may be exercised and discharged by a joint committee of such councils.
- (4) The Act of Parliament confirming any provisional order made under this section shall be a public general Act.

## **11 Entire maintenance of main roads by county council.**

- (1) Every road in a county, which is for the time being a main road within the meaning of the Highways and Locomotives (Amendment) Act, 1878, inclusive of every bridge carrying such road if repairable by the highway authority, shall, after the appointed day, be wholly maintained and repaired by the council of the county in which the road is situate, and such council, for the purpose of the maintenance, repair, improvement, and enlargement of, and other dealing with such road, shall have the same powers and be subject to the same duties as a highway board, and may further exercise any powers vested in the council for the purpose of the maintenance and repair of bridges, and the enactments relating to highways and bridges shall apply accordingly; and the county council shall have the same powers as a highway board for preventing and removing obstructions, and for asserting the right of the public to the use and enjoyment of the roadside wastes; and the execution of this section shall be a general county purpose, and the costs thereof shall be charged to the general county account.
- (2) Provided that any urban authority may, within twelve months after the appointed day, or in case of a road in the district of such authority becoming a main road at any subsequent date then within twelve months after that date, claim to retain the powers and duties of maintaining and repairing a main road within the district of such authority, and thereupon they shall be entitled to retain the same, and, for the purpose of the maintenance, repair, improvement, and enlargement of, and other dealing with such road, shall have the same powers and be subject to the same duties as if such road were an ordinary road vested in them, and the council shall make to such authority an annual payment towards the costs of the maintenance and repair, and reasonable improvement connected with the maintenance and repair of such road.
- (3) The amount of such payment shall be such annual sum as may be from time to time agreed on, or in the absence of agreement may be determined by arbitration of the Local Government Board.
- (4) The county council and any district council may from time to time contract for the undertaking by the district council of the maintenance, repair, improvement, and enlargement of, and other dealing with any main road, and, if the county council so require, the district council shall undertake the same, and such undertaking shall be in consideration of such annual payment by the county council for the costs of the undertaking as may from time to time be agreed upon, or, in case of difference, be determined by arbitration of the Local Government Board; and for the purposes of such undertaking the district council shall have the same powers and be subject to the same duties and liabilities as if the road were an ordinary road vested in them.
- (5) Provided that in no case shall a county council make any payment to a district council towards the costs of such undertaking as respects any road, or towards the costs of the maintenance, repair, or improvement of any road by an urban authority, until the county council are satisfied by the report of their surveyor, or such other person as the county council may appoint for the purpose, that the road has been properly maintained

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and repaired, or that the improvement or enlargement of or other dealing with the road, as the case may be, has been properly executed.

- (6) A main road and the materials thereof, and all drains belonging thereto, shall, except where the urban authority retain the powers and duties of maintaining and repairing such road, vest in the county council, and where any sewer or other drain is used for any purpose in connexion with the drainage of any main road, the county council shall continue to have the right of using such sewer or drain for such purpose, and if any difference arises between a county council and any highway or sanitary authority as respects the authority in whom the drain is vested, or as to the use of any sewer or other drain, the council or the highway or sanitary authority may require such difference to be referred to arbitration, and the same shall be referred to arbitration in manner provided by this Act.
- (7) Where a county council declare a road to be a main road, such declaration shall not take effect until the road has been placed in proper repair and condition to the satisfaction of the county council.
- (8) If at any time the county council are satisfied, on the report of their surveyor or other person appointed by them for the purpose, that any portion of a main road, the maintenance and repair of which are undertaken by any district council, is not in proper repair and condition, the county council may cause notice to be given to such district council, requiring them to place the road in proper repair and condition; and, if such notice is not complied with within a reasonable time, the county council may do everything that seems to them necessary to place the road in proper repair and condition, and the expenses of so doing shall be a debt of the said district council to the county council.
- (9) If any difference arises under this section between a county council and a district council as to the refusal of the county council to make a payment under this section to the district council in respect of any undertaking or road, or as to a road having been placed in proper repair and condition previously to its becoming a main road, or as to any notice given to the district council by the county council to place a road in proper repair and condition, such difference shall, if either council so require, be referred to the arbitration of the Local Government Board.
- (10) The county council may, if they think fit, contribute towards the costs of the maintenance, repair, enlargement, and improvement of any highway or public footpath in the county, although the same is not a main road.
- (11) Every authority having any power or duty to light the roads in their district shall have the same power and duty to light any main road in their district.
- (12) Anything authorised or required by law to be done by or to a highway or road authority shall, as respects a main road maintained by a county council, be authorised or required to be done by or to that council; and every authority having any power to break up any road in their district for the purpose of sewerage or otherwise shall have the like power of breaking up any main road in their district, but if the road is broken up the authority shall repair it to the satisfaction of the county council maintaining such road, and if it is not repaired to the satisfaction of the county council, that council may cause the necessary repairs to be done and may charge the costs against the authority, and the same shall be a debt due from the authority to the council.
- (13) Section twenty of the Highways and Locomotives (Amendment) Act, 1878, shall apply as if it were herein re-enacted and in terms made applicable to this section.

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## **12 Roads and tolls in Isle of Wight.**

- (1) After the appointed day, tolls shall cease to be, taken on any road maintained and repaired by the Isle of Wight Highway Commissioners, under the Isle of Wight Highway Acts, 1813 and 1883, and after such day the Highways and Locomotives (Amendment) Act, 1878, as amended by this Act, shall apply to the Isle of Wight, and to every such road above mentioned, in like manner as if it were ceasing within the meaning of the said Act to be a turnpike road, and the Act of the session of the forty-fourth and forty-fifth years of the reign of Her present Majesty, chapter seventy-two, shall be repealed.
- (2) Until provision is otherwise made by Parliament, or by a Provisional Order confirmed by Parliament, the repair and maintenance of the said roads shall continue to be undertaken by the said commissioners, and the . county council for the county of Southampton shall pay such commissioners, in respect of the said repairs and maintenance, and of the expenses of the commissioners, such sums as may be agreed upon, or, in case of difference, be settled by arbitration under this Act, and the provisions of this Act with respect to main roads shall apply as if the commissioners were a district council who had undertaken the maintenance and repair of such road.

## **13 Adaptation of Act to South Wales roads.**

- (1) After the appointed day no county road rate shall be levied, and tolls shall cease to be taken on any road maintained and repaired by a county roads board in South Wales, in pursuance of the South Wales Turnpike Trusts Act, 1844, and the Acts amending the same, and after such day the Highways and Locomotives (Amendment) Act, 1878, as amended by this Act shall apply to every county in South Wales as if the highway districts in that county had been constituted under the Highway Act, 1862, and the Highway Act, 1864, or one of those Acts, and shall apply to every such road as above-mentioned, in like manner as if it were ceasing, within the meaning of the said Act, to be a turnpike road.
- (2) On the appointed day every county roads board and district roads board in each county shall cease to exist, and the property, debts, and liabilities of any such board shall be transferred to the county council, and that council shall be the successors of the county and district roads boards, and the provisions of this Act, with respect to the transfer of the property, debts, and liabilities of quarter sessions to county councils, and with respect to the officers and servants of quarter sessions, shall apply as if they were herein re-enacted and made applicable to the property, debts, liabilities, and officers of the said county and district roads boards.
- (3) For the following purposes (that is to say):
  - (a) For giving effect to the said transfer of the property, debts, and liabilities, and for controlling the officers and servants transferred by this section to the county council, and otherwise winding up the affairs of the county and district roads boards; and
  - (b) For the purpose of the appointment of the surveyor of a highway board, the alteration of a highway district, and other purposes relating to highway boards;the county council of every county in South Wales shall have all the powers of a county roads board in a county under the South Wales Turnpike Trusts Act, 1844, and the Acts amending the same, so, however, that nothing shall confer on the county council any power to levy any toll or county road rate.

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#### **14 Power to county council to enforce provisions of 39 & 40 Vict c.75.**

- (1) On and after the appointed day a county council shall have power, in addition to any other authority, to enforce the provisions of the Rivers Pollution Prevention Act, 1876 (subject to the restrictions in that Act contained), in relation to so much of any stream as is situate within, or passes through or by, any part of their county, and for that purpose they shall have the same powers and duties as if they were a sanitary authority within the meaning of that Act, or any other authority having power to enforce the provisions of that Act, and the county were their district.
- (2) Any county council shall have power to contribute towards the costs of any prosecution under the said Act instituted by any other county council or by any urban or rural authority.
- (3) The Local Government Board, by Provisional Order made on the application of the council of any of the counties concerned, may constitute a joint committee or other body representing all the administrative counties through or by which a river, or any specified portion of a river, or any tributary thereof, passes, and may confer on such committee or body all of the powers of a sanitary authority under the Rivers Pollution Prevention Act, 1876, or such of them as may be specified in the Order ; and the Order may contain such provisions respecting the constitution and proceedings of the said committee or body as may seem proper, and may provide for the payment of the expenses of such committee or body by the administrative counties represented by it, and for the audit of the accounts of such committee or body, and their officers.

#### **15 Council to have power to oppose Bills in Parliament.**

The county council of an administrative county shall have the same powers of opposing Bills in Parliament, and of prosecuting or defending any legal proceedings necessary for the promotion or protection of the interests of the inhabitants of the county, as are conferred on the council of a municipal borough by the Act of the thirty-fifth and thirty-sixth years of Victoria, chapter ninety-one ; and subject as herein-after provided the provisions of that Act shall extend to a county council as if such council were included in the expression " governing body," and the administrative county were the district in the said Act mentioned.

Provided that—

- (a) No consent of owners and ratepayers shall be required for any proceedings under this section;
- (b) This section shall not empower a county council to promote any Bill in Parliament, or to incur or charge any expense in relation thereto.

#### **16 Power of county council to make byelaws.**

- (1) A county council shall have the same power of making byelaws in relation to their county, or to any specified part or parts thereof, as the council of a borough have of making byelaws in relation to their borough under section twenty-three of the Municipal Corporations Act, 1882, and section one hundred and eighty-seven of the Public Health Act, 1875, shall apply to such byelaws:
- (2) Provided that byelaws made under the powers of this section shall not be of any force or effect within any borough.



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**17 Power of county councils to appoint medical officer of health.**

- (1) The council of any county may, if they see fit, appoint and pay a medical officer of health, or medical officers of health, who shall not hold any other appointment or engage in private practice without express written consent of the council.
- (2) The county council and any district council may from time to time make and carry into effect arrangements for rendering the services of such officer or officers regularly available in the district of the district council, on such terms as to the contribution by the district council to the salary of the medical officer, or otherwise, as may be agreed, and the medical officer shall have within such district all the powers and duties of a medical officer appointed by a district council.
- (3) So long as such an arrangement is in force, the obligation of the district council under the Public Health Act, 1875, to appoint a medical officer of health shall be deemed to be satisfied without the appointment of a separate medical officer.

**18 Qualification of medical officers of health.**

Except where the Local Government Board, for reasons brought to their notice, may see fit in particular cases specially to allow, no person shall hereafter be appointed the medical officer of health of any county or county district, or combination of county districts, or the deputy of any such officer, unless he be legally qualified for the practice of medicine, surgery, and midwifery.

- (2) No person shall after the first day of January one thousand eight hundred and ninety-two be appointed the medical officer of health of any county or of any such district or combination of districts, as contained, according to the last published census for the time being, a population of fifty thousand or more inhabitants, unless he is qualified as above mentioned, and also either is registered in the medical register as the holder of a diploma in sanitary science, public health, or State medicine under section twenty-one of the Medical Act, 1886, or has been during three consecutive years preceding the year one thousand eight hundred and ninety-two a medical officer of a district or combination of districts, with a population according to the last published census of not less than twenty thousand, or has before the passing of this Act been for not less than three years a medical officer or inspector of the Local Government Board

**19 Power of county council as to report of medical officer of health.**

- (1) Every medical officer of health for a district in any county shall send to the county council a copy of every periodical report of which a copy is for the time being required by the regulations of the Local Government Board to be sent to the Board, and if a medical officer fails to send such copy the county council may refuse to pay any contribution, which otherwise the council would in pursuance of this Act pay, towards the salary of such medical officer
- (2) If it appears to the county council from any such report that the Public Health Act, 1875, has not been properly put in force within the district to which the report relates, or that any other matter affecting the public health of the district requires to be remedied, the council may cause a representation to be made to the Local Government Board on the matter.