

PORTSMOUTH TOWN COUNCIL ACT

CHAPTER 25:10

Act

27 of 1969

Amended by

15 of 1971

16 of 1971

24 of 1971

13 of 1974

27 of 1974

4 of 1975

6 of 1987

12 of 1990

Current Authorised Pages

<i>Pages</i> <i>(inclusive)</i>	<i>Authorised</i> <i>by L.R.O.</i>
1-53	1/1991

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Note on Omissions

- A. The following Subsidiary Legislation made under the Act have been omitted.
Dissolution Orders - S.R.O.'s 15/1978; 34/1981; 25/1984 and 45/1987.
- B. The following Subsidiary Legislation (made under the repealed Portsmouth Town Council Ordinance (Cap.188 1961 Ed.) and preserved under the Act) have been omitted:
 - (1) Adulteration of Food By-Law (By-Law 1/1941).
 - (2) Bakeries By-Law (By-Law 1/1916).
 - (3) Buildings By-Law (By-Law 1/1916) (amended by By-Laws 1/1917; 1/1918 and 1/1929).
 - (4) Buildings (Demolitions) By-Law (By-Law 1/1944).
 - (5) Dances By-Law (By-Law 1/1967).
 - (6) Dog Licence By-Law (By-Law 8/1916) (amended by By-Law 2/1968).
 - (7) Fish and Meat House By-Law (By-Law 1/1928) (amended by By-Laws 1/1930; 1/1937).
 - (8) Ice and Aerated Waters Factories By-Law (By-Law 7/1916).
 - (9) Portsmouth Town Council (Market) By-Law (By-Law 1/1946) (amended by By-Law 3/1968).
 - (10) Portsmouth Meat and Fish By-law (By-Law 1/1936).
 - (11) Mick By-Law (By-Law 6/1916).
 - (12) Miscellaneous Matters By-Law (By-Law 3/1916) (amended by By-Law 2/1917).
 - (13) Mosquito Control By-Law (By-Law 4/1916).
 - (14) Portsmouth Town Council Committees' Regulations (By-Law 2/1941).
 - (15) Sanitation By-Law (By-Law 1/1916) (amended by By-Law 1/1940).
 - (16) Portsmouth Town Council Numbering of Buildings and Lots By-Law.

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PORTSMOUTH TOWN COUNCIL ACT

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CHAPTER 25:10

PORTSMOUTH TOWN COUNCIL ACT

27 of 1969. **AN ACT to consolidate and amend the law relating to the establishment of a body corporate for the town of Portsmouth, and to make provision for the good government of the said town.**

Commencement. [22nd January 1970]

Short title. **1. This Act may be cited as the –
PORTSMOUTH TOWN COUNCIL ACT.**

Interpretation.
[24 of 1971
6 of 1987].

2. In this Act –

“Bay Front” means the sea wall and the street abutting thereon known as Bay Street in the town;

“By-Laws” means any By-Laws in force under section 18;

“clear income” means the gross income received by a person for his own use, less such payments made by him as would be allowable as deductions (excepting those allowed in respect of earned income, residence in the State, British nationality, a wife, children and life insurance premiums) in arriving at a chargeable income under the provisions of any Income Tax Act, or Regulations made thereunder for the time being in force in the State;

“Council” means the Portsmouth Town Council established in accordance with the provisions of this Act;

“Financial Secretary” means the officer holding the office of Financial Secretary of Dominica;

“Local Government Commissioner” means the Local Government Commissioner or any person acting on his behalf;

“Minister” means the Minister responsible for local government;

“minister of religion” means any clergyman, minister, priest or other person who exercises spiritual functions or performs the offices of religion for or in respect of any Christian or other church, community or body within the State;

“municipal limits” means the boundaries of the town and one mile beyond;

“occupier” means any person actually occupying premises either as owner or by virtue of any lease or agreement whereby he is entitled as of right to occupy them;

“Presiding Officer” means a person appointed by the Chief Elections Officer to preside in a polling station on election day;

“register of voters” means the register of electors qualified to vote for members of the Council;

“Returning Officer” means the person appointed by the Chief Elections Officer to preside at an election of members of the Council, to watch over the polling at such elections and to declare and return the members elected to the Council;

“Registrar of Voters” means the person appointed by the Minister for the purpose of revising and settling the list of voters under this Act;

“street” includes any square, road, bridle-path, pathway, blind-alley, passage, footway, pavement or public place;

“town” means the town of Portsmouth, provided that Bay Front shall be deemed within the limits of the town for the purpose of lighting, scavenging and sanitation only and that for repairs and other purposes, Bay Front shall be under the control and jurisdiction of the Government, subject to the approval of the Council.

PART I

CONSTITUTION AND POWERS OF COUNCIL

3. (1) There shall be in and for the town a body corporate which shall take such measures for the government of the town as are required under this Act.

Constitution and
duration of
Council.
[24 of 1971
6 of 1987].

(2) The body corporate shall bear the name of the “Portsmouth Town Council” and shall consist of thirteen persons, five of whom shall be nominated by the Minister as occasion or vacancy may require, and eight of whom shall be qualified and elected as hereinafter provided.

(3) For the purposes of election of members of the Council, the town shall be divided into four wards as described in Schedule E and each ward shall elect not more than two persons to the Council; but if a sufficient number of members are not elected or if no persons offer themselves for election or are elected, the Minister may nominate as

Schedule E.

many additional members as may be required for the representation of each ward and the constitution of the Council.

(4) The body corporate shall have an office in the town and an official seal.

(5) Subject to the provisions of this Act, all powers, authorities, interests, rights, immunities and privileges vested in the Portsmouth Town Council as constituted immediately before the commencement of this Act shall be deemed to be vested in the Council, and all property real and personal, belonging to the former Council is hereby declared to be vested in the Council.

(6) The Minister shall, three days before any general election of members held under the provisions of section 29 or in keeping with the provisions of section 67, dissolve the Council by Order published in the *Gazette*.

Qualifications of
members of
Council.
[6 of 1987].

4. No person shall be qualified to be elected as a member of the Council unless he –

- (a) is a citizen of Dominica;
- (b) has attained the age of eighteen years;
- (c) is a resident in the ward for which he is nominated as a candidate and has been so resident for a period of not less than six months immediately prior to the date of nomination;
- (d) is a registered voter for the election of Council members.

Disqualification
of member.

5. (1) A person shall be disqualified from being a member of the Council if and while he –

- (a) cannot speak, read or write English;
- (b) is a minister of religion;
- (c) holds any office or place of profit in the gift or disposal of the Council;
- ~~(d) is an undischarged bankrupt;~~
- (e) is suffering from mental disorder;
- (f) has directly or indirectly by himself or his partner, or any person in his employ, any share or interest in any contract or employment with, by or on behalf of the Council.

(2) Notwithstanding subsection (1)(f), a person shall not be so disqualified, or deemed to have any share or interest in such contract or employment by reason only of his having any share or interest in –

- (a) any lease, or sale or purchase of land, or any agreement for the same; or
- (b) any agreement for the loan of money or any security for the payment of money only; or
- (c) any newspaper in which any advertisement relating to the affairs of the Council is published; or
- (d) any company which contracts with the Council for lighting, or supplying with water or insuring against fire or hurricane any part of the town; or
- (e) any company incorporated by Act of Parliament or Royal Charter, or under the Companies Ordinance,

Cap. 318.
(1961 Ed.).

nor shall any person being a member of the Council be so disqualified if after having tendered for the supply of any materials for the use of the Council it is found by a majority of four members at least of the Council that the supply of the materials by that member will be beneficial to the Council.

6. If any member of the Council –

- (a) becomes bankrupt; or
- (b) is absent from three consecutive meetings of the Council without leave of the Council; or
- (c) is absent from the State for more than thirty days without leave of the Council; or
- (d) is in Dominica or any other country convicted of perjury or sentenced to death or penal servitude or imprisonment for a term exceeding twelve months,

Forfeiture of seat
by member.
[6 of 1987].

he shall cease to be a member of the Council and his seat shall thereupon become vacant and a notification of the facts and circumstances of the vacancy shall be published in the *Gazette* and in the case of a nominated member, sent to the Minister.

7. If any member of the Council refuses to obey and conform to the rules thereof, the Council may, after affording the member an opportunity of defending himself, by resolution expel the member from the Council, and declare his seat vacant, and his seat shall thereupon become vacant accordingly.

Expulsion of
member.

Penalty for unqualified persons sitting and voting.

8. Any person who, having been returned as an elected member of the Council, but not having been at the time of his election qualified to be an elected member, and every person who, after his seat has become vacant, sits or votes in the Council, shall for every day on which he sits or votes be liable to a penalty of five hundred dollars to be recoverable by action at law at the suit of the Town Clerk.

Resignation of member.

9. A member of the Council may resign his seat by giving fourteen days' notice in writing to the Chairman.

CHAIRMAN

Election of Chairman.

10. At the first meeting of a new Council, and thereafter on the same date in each year of the duration of the Council, the Council shall elect one of its members to be Chairman of the said Council and the Chairman shall continue in office for one year, and in case a vacancy is occasioned in the office of Chairman, the Council shall within ten days after the vacancy elect another of its members to fill the vacancy; and in the event of the Council failing to elect the Chairman or any two or more members of the Council obtaining the same number of votes at the election of a Chairman, the Minister may nominate a member of the Council to be Chairman.

Powers of Chairman.

11. The Chairman shall –

- (a) preside at the meetings of the Council and have such other functions and powers as may from time to time be assigned to him by the Council;
- (b) have no original vote, but a casting vote in the event of an equality of votes; and
- (c) be entitled to the title of “Mayor of Portsmouth”.

Deputy Chairman.

12. In the event of the absence of the Chairman the Council may elect one of its members to act as Deputy Chairman, who while so acting shall have all the powers of the Chairman.

MEETINGS OF THE COUNCIL

Meetings of Council.
[6 of 1987].

13. (1) The Council shall meet at least once in every month and at such other times as may be fixed by any regulation of the Council or

(2) If any three members of the Council present to the Chairman a request in writing that the Council be convened for the consideration of some particular matter, the Chairman shall summon a meeting of the Council accordingly.

(3) Any five members of the Council shall form a quorum for the transaction of business. Quorum.

(4) Every question before the Council shall be decided by a majority of votes of the members present and voting.

(5) No act or proceeding of the Council or any committee thereof, shall be questioned on account of any vacancy therein.

(6) A member of the Council shall not vote upon, or take part in the discussion of any matter in which he has directly or indirectly, by himself or his partner or any person in his employ, any pecuniary interest. Member having pecuniary interest in any matter not to vote.

(7) The Council may adjourn its sittings from time to time.

FUNCTIONS AND POWERS OF THE COUNCIL

14. (1) The Council shall provide for the collection and expenditure for the benefit of the town of all moneys authorised by law to be raised for such purpose; to take all measures requisite under this Act for the good government and improvement of the town; and to enforce the provisions of this or any Act relating thereto, and also of all Regulations and By-Laws made under this or any other Act. Duties of Council. [24 of 1971].

(2) The Minister may whenever he thinks fit require the Local Government Commissioner to carry out an inspection or enquiry into any matter pertaining to, or into any aspect of the functioning of, the Council; and the Council shall take all steps necessary to facilitate the inspection or enquiry.

(3) The Town Clerk shall forward to the Local Government Commissioner within forty-eight hours of the passing thereof, a copy certified by him of all resolutions moved and passed or accepted by the Council.

(4) The Minister may by letter addressed to the Chairman require the Council to refrain from taking action on any resolution passed or accepted by the Council for such period as he may consider necessary; and the Council shall comply with the request of the

Power to make
Regulations.

15. (1) The Council may make Regulations relating to all or any of the following matters:

- (a) the time and place of its meetings;
- (b) the mode of convening its meetings;
- (c) the attendance of its members;
- (d) the powers and duties of its officers and servants;
- (e) the form and order of its debates; and
- (f) the general regulation of the proceedings of the Council and of any committee thereof, and the mode of conducting its business respectively.

(2) No such Regulations shall be made, or when made shall be altered or rescinded unless special notice of the intended making, alteration or rescission has been given at the meeting preceding that at which the making, alteration or rescission is proposed, and unless special notice as aforesaid has been transmitted to the members of the Council at least three days before the meeting.

Appointment of
committees.

16. The Council may appoint out of its body and such persons resident within the town council boundaries so many committees, either of a general or special nature and consisting of such number of persons as it may think fit, for any purposes which, in the opinion of the Council would be better regulated by means of such committees; but the acts of every such committee shall be subject to the approval of the Council.

Minutes of
Council to be
received in
evidence.

17. (1) A minute of the proceedings at a meeting of the Council, or of a committee, signed at the same or next ensuing meeting by the Chairman, or by a member of the committee describing himself as or appearing to be Chairman of the committee, shall be received in evidence without further proof in all Courts of Justice and for all other purposes whatsoever.

Proceedings
deemed to be
regular.

(2) Until the contrary is proved, every meeting of the Council, or of a committee in respect of the proceedings whereof a minute has been so made, shall be deemed to have been duly convened and held, and all members present at the meeting shall be deemed to have been duly qualified; and where the proceedings are the proceedings of a committee, the committee shall be deemed to have been duly constituted, and to have had power to deal with the matter referred to in the minute.

(3) The minutes of every meeting of the Council, or of a committee, certified by the Chairman, shall, within three days after confirmation, be forwarded by the Town Clerk to the Minister and shall be published in the *Gazette*. Minutes to be published.

BY-LAWS

18. (1) The Council may make By-Laws for –

Making of By-Laws.

[24 of 1971
12 of 1990].

- (a) the cleanliness of streets and drains;
- (b) the sanitation of buildings, walls, fences and structures of all kinds;
- (c) the suppression and abatement of nuisances;
- (d) dogs;
- (e) the keeping of animals, birds and bees;
- (f) the establishment and maintenance of markets, slaughter houses, bath houses, latrines and the regulation thereof;
- (g) the destruction of insects;
- (h) the sanitation of unoccupied lands;
- (i) cemeteries and graves;
- (j) drainage and sewerage;
- (k) scavenging and the removal and disposal of excreta;
- (l) the cleanliness of hotels, cookshops, public baths, coffee houses, confectioners and pastry shops;
- (m) the establishment of bath houses, latrines, and the regulation thereof;
- (n) entry of members, officers and servants of the Council upon premises for the purposes of this Act and By-laws made thereunder;
- (o) public entertainments and performances;
- (p) parks and playing fields.

(2) By-Laws made by the Council shall be styled By-laws ordained by the Portsmouth Town Council and shall be subject to the approval of the Minister and shall not come into operation until they

(a) the Minister may from time to time review the working of any By-laws so in operation, and may if of the opinion that they are causing or likely to cause hardship require the Council to have them revoked; and

(b) should the Council fail to revoke any By-laws within such time as may be stipulated by the Minister, the Minister may by Order published in the *Gazette* have the By-laws revoked.

(3) By-laws shall have force only within the boundaries of the town and whenever so expressly stated within municipal limits.

(4) The powers conferred by this section shall include power to require, impose and charge licences, rates, dues and fees within municipal limits with respect to matters dealt with under any By-laws.

(5) The Council may by any By-laws, Rules, or Regulations impose on offenders such penalties as it may think fit, not exceeding one thousand five hundred dollars for each offence, and in the case of a continuing offence, a further penalty not exceeding fifty dollars for each day during which the offence continues after service of written notice thereof by the Council, and in default of payment of such penalties, imprisonment for any term not exceeding six months.

24 of 1971.

*(6) All By-laws made under the former subsection (1) of this section before its repeal by the Portsmouth Town Council (Amendment) Act 1979 are cancelled to the extent that they are repugnant to this section with effect from the coming into operation of the said Act.

Borrowing
powers.
[24 of 1971].

19. Subject to the provisions of this Act, it shall be within the power of the Council –

(a) to borrow, with the sanction of and subject to such terms and conditions as may be imposed by the Minister, any sum or sums of money on the security of the immovable estate, rent, rates, and other income or assets of the Council, for the purpose of carrying out any work of public utility within municipal limits, or any work which the Council is authorised to execute under this Act; but –

(i) the total annual charges for interest and sinking fund in respect of any loans in existence at any one time

* The Portsmouth Town Council (Amendment) Act 1971 (Act No.24 of 1971) came into operation on 1st October 1971.

shall not exceed one-fourth of the total yearly income of the Council; and

- (ii) the annual charge for interest and repayment of any loan which may be made under the provisions of this Act shall be a first charge upon the revenue of the Council and shall be paid to the Financial Secretary in such manner and at such time as the Minister shall direct;
- (b) to contribute towards, either by way of grant or loan, or to undertake the cost of any scheme or institution for public education or entertainment or any charitable scheme or charitable institution connected with or for the benefit of the town; Charitable and educational schemes.
- (c) to carry out such duties in relation to any scheme submitted by the Planning Division of the Economic Development Unit of the Government as may from time to time be requested by the Minister responsible for planning and development. Land and buildings.
- (d) to provide for the establishment and regulation of municipal markets and to regulate the fees, rents and tolls to be paid for the use of such markets; Municipal markets.
- (e) to provide for the allotment of special places for the sale of perishable goods, and to regulate the fees, rents and tolls for the use of such special places; Markets for perishable goods.
- (f) at the request of the Minister to maintain and regulate parks and gardens and other places of resort or recreation for the use of the public. Parks and other places of recreation.

20. (1) Notwithstanding the provisions of sections 3 and 4 of the Pounds Act, the Council may establish, erect and maintain at any convenient place or places within the municipal limits of the town a public pound or pounds and may appoint some fit and proper person to be the pound-keeper at any such pound. Establishment of pounds. Ch. 61:03.

(2) A notification of the establishment of any such pound and the appointment or removal of any pound-keeper, as the case may be, shall be inserted in the *Gazette*, and the notification shall be taken in all courts of law in this State and for all intents and purposes to be evidence that such pound has been legally established and the pound-keeper legally appointed or removed as in the said notification is stated.

(3) The Pounds Act, and any Regulations made thereunder shall apply –

(a) to any pound established, erected and maintained under the provisions of this section, and

(b) to the pound-keeper of any such pound,

in the same manner, as they apply to a pound established, erected and maintained under that Act, and to the pound-keeper thereof; and pound-keepers appointed under this section shall have the same rights, powers and duties and shall be liable to the same penalties as are conferred or imposed upon pound-keepers appointed under the Pounds Act, and any Regulations made thereunder.

Officers of the
Council.

21. (1) The Council may, with the prior approval of the Minister –

(a) appoint fit and proper persons to be Town Clerk, chief sanitary inspector, assistant Town Clerk, market clerk, town overseer and town constable of Portsmouth respectively;

(b) from time to time fix or alter the salaries to be paid to such officers; and

(c) suspend or dismiss any of the said officers.

(2) The Minister may call upon the Council to give reasons why any of the said officers should not be suspended or dismissed, and upon consideration thereof direct the Council to suspend or dismiss the said officer upon such terms and conditions as may be considered fit. In the event of the Council failing to comply with the direction within three months or such shorter period as may be set out in the direction, the Minister may proceed to suspend or dismiss the said officer.

Town Clerk chief
executive officer
of the Council.

22. (1) The Town Clerk shall be the chief executive officer of the Council; he shall have all such powers and perform all such duties as are or may be conferred or imposed upon him by this or any other Act or by any Regulations, or By Laws or Order of the Council and shall collect the rates, dues and fees payable to the Council under the By-Laws.

Town Clerk to
attend meetings.

(2) The Town Clerk shall attend the meetings of the Council and of every committee, and shall keep minutes of the proceedings at

every such meeting, and shall be subject to the direction of the Council.

23. (1) If from any cause the Town Clerk, assistant Town Clerk, town constable or town overseer is unable to perform his duties, the Council may appoint some fit and proper person to act as deputy Town Clerk, deputy assistant Town Clerk, deputy town constable or deputy town overseer respectively.

Deputy Town Clerk, assistant Town Clerk, town constable or town overseer.

(2) Such deputy officer shall hold office during the pleasure of the Council and shall have the same powers and duties as the officer in whose place he is acting.

24. (1) The Council may appoint such other officers and servants as may be required for the efficient administration of the affairs of the town.

Appointment of officers and servants.

(2) Every such officer or servant, shall hold office during the pleasure of the Council and shall receive such salary and perform such duties as may be assigned to him by the Council.

25. The Council may require any officer or servant to give such security as may be thought proper, for the true and faithful performance of the duties of his office, and for the due accounting for, paying over, and delivering up of all moneys, goods and chattels which may come into his hands by virtue of such office.

Security of officers and servants.

26. (1) Every officer or servant appointed by the Council shall at such times during the continuance of his office, or within ten days after his ceasing to hold it, and in such manner as the Council may direct deliver to the Council, or as the Council may direct, a true account in writing of all matters committed to his charge and of his receipts and payments, with vouchers and a list of persons from whom moneys are due for the purposes of this Act, in connection with his office showing the amount due from each.

Delivery by servants of receipts and vouchers.

(2) Every such officer or servant shall pay all moneys due from him to the Financial Secretary, or as the Council may direct.

Payments of moneys to Financial Secretary.

(3) If any such officer or servant –

Punishment of

(a) refuses or neglects to deliver any account or list which he ought to deliver or any voucher relating thereto, or to make any payment which he ought to make; or

servants.

(b) after three days' notice in writing, signed by the Chair-

abode, refuses or neglects to deliver to the Council, or as the Council may direct, anything which he ought to deliver, or to give satisfaction respecting it,

a Magistrate on complaint of the Chairman may by summary order, require the said officer or servant to make such delivery or payment or to give satisfaction, and may enforce such order as provided by law.

(4) Nothing in this section shall affect any remedy by action against such officer or servant or his surety, except that such officer or servant shall not be both sued by action and proceeded against summarily for the same cause.

Pensions and gratuities.

27. The Council may subject to the approval of the Minister, in dispensing with the services of its officers or servants, pass a resolution granting the officers or servants a pension or gratuity at the same rate and subject to the same conditions as are applicable to civil servants or to non-pensionable officers of Government in accordance with the pension laws in force in the State.

PART II

PROCEEDINGS FOR AND AT ELECTIONS

Duration of Council.
[16 of 1971
6 of 1987].

*28. (1) Notwithstanding the provisions of any law to the contrary, the term of office of the Council in existence at the time of the commencement of this Act shall expire on 31st October 1971, and the term of office of each subsequent Council shall unless the Council is sooner dissolved be of three years duration and shall commence on 1st November triennially. At the expiration of every such term the nominated and elected members shall vacate their seats, but shall be eligible for re-nomination or re-election.

Time for holding election.

Schedule F.

(2) One month at least before the termination of every Council the electors of the town shall vote in the manner hereinafter provided for the election of members of the Council. The date of election shall be fixed by the Chief Elections Officer in the form set out in Schedule F and shall be published by him in the *Gazette* or in one of the newspapers published in the State; such notice shall also be posted on the principal door of the office of the Council and in any other place in the town as the Chief Elections Officer may think fit.

* For dates of extension of term of office see R.O. 16 22/1971 and 2/1975

29. (1) Every election shall be held before the Returning Officer and such persons as may be appointed to assist him, all of whom shall be appointed by the Chief Elections Officer.

Mode of holding
election and
manner of voting.
[24 of 1971
6 of 1987].

(2) The voting shall commence at seven o'clock in the morning and shall close at five o'clock in the afternoon of the same day, and shall be by ballot and conducted in the manner hereinafter provided.

(3) Every elector may vote for not more than two persons as members of the Council, such persons having been duly nominated as candidates for the election in the ward in which the elector resides.

(4) Every candidate shall be designated by his full name and residence on a nomination paper signed by two voters who are duly qualified to vote in the ward for which the candidate is nominated. The nomination paper shall be delivered to the Returning Officer on a date fixed for the purpose by the Chief Elections Officer being at least seven days before the date fixed for an election and the person nominated shall express in writing on the nomination paper his consent to the nomination.

(5) Every candidate for election shall deliver, or cause to be delivered to the Returning Officer at the time of presenting his nomination paper, a declaration in writing signed by him, stating the qualifications possessed by him under section 4 and that he is in no way disqualified under section 5 from being a member of the Council.

(6) If at the end of the time fixed for the nomination of candidates the number of candidates nominated and standing for election does not exceed the number then to be elected, the Returning Officer shall declare that the said candidates are duly elected.

(7) Any person whose name appears on the register of voters may object to the nomination of any candidate for election as not being duly qualified, and the Chief Elections Officer shall decide the validity of every objection.

(8) The decision of the Chief Elections Officer is subject to reversal on an election petition.

30. (1) A candidate for election or someone on his behalf shall deposit with the Returning Officer, on or before the date of his nomination, the sum of sixty dollars, and if he fails to do so, he shall be deemed to have withdrawn.

Deposit by
candidates for
election.
[6 of 1987].

(2) The deposit must be made in cash to the Returning Officer.

(3) If after the deposit is made the candidature is withdrawn not less than forty-eight hours before the poll is begun, the deposit shall be returned to the person by whom it was made; and if the candidate dies after the deposit is made and before the poll is begun, the deposit, if made by him, shall be returned to his legal personal representative or, if not made by him, shall be returned to the person by whom it was made.

If votes do not exceed one-sixth of total votes polled in ward, deposit to be forfeited.
[6 of 1987].

31. (1) If a candidate who has made a deposit is not elected and the number of votes polled by him in the ward in which he is a candidate does not exceed one-sixth of the total number of votes polled in that ward, the amount deposited shall be forfeited to the Council; and in any other case that amount shall be returned as soon as practicable after the result of the election is declared.

(2) For the purposes of this section the total number of votes polled in a ward shall be deemed to be the number of ballot papers counted in that ward, other than spoilt ballot papers.

Providing of apparatus for election.
[6 of 1987].

32. The Chief Elections Officer shall, before the polling day at any election, provide such ballot boxes, ballot papers, polling compartments, materials for electors to mark the ballot papers, directions for the guidance of electors in voting and all such other things as may be necessary for effectually conducting the elections; and all expenses incurred in respect of such provision shall be defrayed from the town fund.

Place of polling.
[6 of 1987].

33. The polling and election of members of the Council shall take place at such rooms or buildings in the town as may be appointed by the Chief Elections Officer by Notice in the *Gazette* or in one of the newspapers published in the State and posted on the principal door of the office of the Council and in any other place in the town as he may think fit.

Ballot paper.
[6 of 1987].

34. (1) The ballot of each vote shall consist of a paper in this Act called a ballot paper showing the names, descriptions and addresses of the candidates, arranged alphabetically in the order of their surnames; it shall have a number printed on the back, and shall have attached a counterfoil with the same number printed on the face, and shall be capable of being folded up.

(2) The surname of each candidate, and if there are two or more candidates of the same surnames, also the other names of such candidates, shall be printed in large characters, and subject as aforesaid the

names, descriptions and addresses, and the number on the back of the ballot paper shall be printed in small characters.

(3) There shall be printed upon every ballot paper opposite to the name of each candidate, one of the symbols shown in Schedule A, which shall be allotted to each candidate in the manner hereinafter provided. Schedule A.

(4) When the Chief Elections Officer is satisfied that a recognised political party has applied to him for a party symbol, he shall allocate one of the symbols numbered 1 - 5 shown in Schedule A to such party and the official candidate or candidates of such party shall be entitled to have the party symbol printed opposite his name.

(5) Subject to subsection (6), in the case of other candidates the Chief Elections Officer shall allocate one of the symbols numbered 6 - 12 in Schedule A to each such candidate.

(6) Under subsection (5), the order in which the symbols are allocated shall correspond with the order in which the names of the candidates, excluding the official party candidates, appear on the ballot paper, that is to say, in alphabetical order.

35. (1) Every ballot box shall be so constructed that the ballot papers can be introduced therein, but cannot be withdrawn therefrom, without the box being unlocked. Construction of
ballot box.

(2) The Presiding Officer shall, immediately before the commencement of the poll, show the ballot box empty to such persons as may be present in the polling place, so that they may see that it is empty, and shall then lock it up and place his seal upon it in such manner as to prevent it being opened without breaking the seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed.

36. Every elector shall be entitled to demand and receive a ballot paper; but immediately before it is delivered to the elector, it shall be marked on both sides by the Presiding Officer with a mark in this Act called "the official mark," and the number and name of the elector, as stated in the copy of the register of voters, shall be called out, and the number of the elector shall be marked on the counterfoil, and a mark shall be placed on the copy of the register of voters against the number of the elector to denote that he has received a ballot paper, but without attaching the particular ballot paper which he has received. Marking and
delivering of
ballot.

Directions to
voters.
Schedule B.

37. The Presiding Officer shall put on a table in the compartment set aside for the votes, directions for their guidance in the form prescribed in Schedule B.

Mode of giving
vote.

38. (1) The elector shall, on receiving the ballot paper, forthwith proceed into the compartment or one of the compartments in the polling place and there secretly mark his vote by placing a cross on the right-hand side of the ballot paper with the lead pencil provided, opposite the name of each candidate for whom he votes, thus X; and shall then fold up the ballot paper, in such a manner as to conceal his vote, but to show the official mark on the back, and shall then put his ballot paper so folded up into the ballot box in the presence of the Presiding Officer, after having shown to him the official mark on the back.

(2) Any ballot paper which has not on its back the official mark, or on which votes are given to more candidates than the elector voting is entitled to vote for, or on which anything except the said number on the back is written or marked by which the elector can be identified, shall be void and shall not be counted.

(3) The elector shall vote without undue delay, and shall quit the polling place as soon as he has put his ballot paper into the ballot box.

Giving of vote by
blind elector.

39. (1) On the application of any elector who is incapacitated by blindness or other physical cause from voting in the manner prescribed by this Act, the Presiding Officer shall, in the presence of the person appointed to assist him at the election, cause the vote of the elector to be marked on the ballot paper in the manner directed by the elector and the ballot paper to be placed in the ballot box.

(2) The name and number in the register of voters of every elector whose vote is marked in pursuance of this section and the reason why it is so marked, shall be entered on a list to be called "the list of voters marked by the Presiding Officer".

Spoilt ballot
paper

40. Any elector who has inadvertently dealt with his ballot paper in any manner other than that prescribed in the foregoing sections, on delivering to the Presiding Officer the ballot paper so inadvertently dealt with, and on proving the fact of such inadvertence to the satisfaction of the Presiding Officer, obtain another ballot paper in the place of the ballot paper so delivered up, and the spoilt ballot paper shall immediately be cancelled by the Presiding Officer.

41. (1) After the close of the poll, and before the Presiding Officer Procedure at
close of poll.
departs from the place of election, the ballot box shall be opened by the
Presiding Officer, in the presence of the person appointed to assist him
at the election, and of the candidates, or of the persons who proposed
them, or any other persons in attendance nominated by them for the
purpose; and no other person shall, except with the sanction of the
Presiding Officer, be present.

(2) The Presiding Officer shall ascertain the result of the poll
by counting the votes given to each candidate, but while doing so, he
shall keep the ballot papers, with their faces upwards, and shall take all
proper precautions for preventing any person from seeing the numbers
on such papers.

42. (1) The Presiding Officer shall endorse " Rejected" on any Mode of dealing
with rejected
ballot paper.
[6 of 1987].
ballot paper which he may reject as invalid, and shall add to the
endorsement the words "Rejection objected to," if an objection is in fact
made to his decision by any candidate, or any other person nominated
as mentioned in section 41.

(2) The Presiding Officer shall report to the Returning Officer
the number of ballot papers rejected, and not counted by him, under the
several heads of –

- (a) want of official mark;
- (b) voting for more candidates than the voter was entitled
to vote for;
- (c) presence of writing or mark by which the voter could be
identified; and
- (d) want of voters mark, or avoidance for uncertainty.

(3) The Presiding Officer shall, on request, allow any candi-
date, or any other person nominated as aforesaid, to copy the report
before it is sent in.

43. The decision of the Presiding Officer as to any question in Decision on
question as to
ballot papers.
[6 of 1987].
respect of any ballot paper shall be subject to the Returning Officer
whose decision may be reversed on petition to the High Court question-
ing the election return.

44. (1) Upon the completion of the counting, each Presiding Offi- Declaration and
return of result of
election.
[6 of 1987].
cer shall transmit to the Returning Officer at the place appointed by the

(a) the ballot box;

(b) the envelope containing the key thereof; and

(c) the preliminary statement of the poll in such manner as the Chief Elections Officer may direct.

(2) The Returning Officer, upon receipt by him of each of the ballot boxes, shall –

(a) take every precaution for its safe keeping and for preventing any person other than himself and those appointed to assist him, having access thereto; and

(b) without effacing or covering any other seals affixed thereto, seal it under his own seal so that it cannot be opened without his seal being broken.

(3) After all the ballot boxes have been received, the Returning Officer shall, based on the preliminary statements of the poll, publicly announce the results of the election, and thereafter at the time of the final count he shall open all the ballot boxes in the presence of the candidates or their representatives as are present, and –

(a) count the votes contained therein cast for each candidate (allowing the candidates and their representatives to see the votes) determining whether any of the votes so cast shall be rejected;

(b) count the votes rejected by the Presiding Officer (allowing the candidates and their representatives to see the votes) determining whether any of the votes should be regarded as having been validly cast for any, and if so for what candidates;

(c) add up the total number of votes (including any votes rejected by the Presiding Officer but which he thinks should not have been so rejected) cast for each candidate;

(d) make or sign any necessary amendments to the statement of the poll.

(4) If for the final count of the votes, none of the candidates or their representatives are present, it shall be the duty of the Returning Officer or those appointed to assist him to secure the presence of at least two electors who shall remain in attendance until the final count of the votes has been completed.

(5) Subject to subsection (7), in the case of a by-election to fill a vacancy in the Council, the candidate who on the final count of the votes, is found to have received the greatest number of votes in the ward in which he was a candidate shall be publicly declared by the Returning Officer to be elected.

(6) Subject to subsection (7), in the case of a general election for the Council, the two candidates from each of the four wards, who in the final count of the votes, are found to have received the greatest number of votes in the ward in which they were candidates, shall be publicly declared by the Returning Officer to be elected.

(7) Under subsections (5) and (6) each declaration shall be in writing and forthwith delivered to each elected candidate or his agent if present at the final count of the votes, or if the candidate is neither present nor represented thereat, shall be forthwith transmitted to the candidate by registered post.

(8) Where two or more candidates have an equal number of votes, and the addition of a vote would entitle any such candidates to be declared elected, the Returning Officer shall give such additional vote or votes as is required.

45. (1) Immediately after making the declaration, the Returning Officer shall seal up all documents and papers relating to the election in separate packets according to their description, and shall deliver the same to the Chief Elections Officer, endorsing on each packet a description of its contents and the date of the election.

Disposal of documents and papers relating to election.
[6 of 1987]

(2) The documents and papers shall be sealed up in the presence of the candidates, or the persons who proposed them, or any other person nominated by them for the purpose in attendance; and no other person shall, except with the sanction of the Returning Officer, be present.

(3) The Chief Elections Officer shall retain for three years all such documents and papers so delivered to him, and at the expiration of such time he shall, unless otherwise directed by the High Court, cause them to be destroyed.

46. (1) No person shall be allowed to inspect any ballot paper in the custody of the Returning Officer except under the order of the High Court.

Inspection of ballot papers.
[6 of 1987].

(2) The order may be made by the High Court on petition, and on proof being made to its satisfaction that the inspection of the ballot papers is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a petition questioning an election or return.

(3) Any such order for the inspection or production of ballot papers may be made subject to such conditions as to person, time, place and mode of inspection or production as the High Court may think expedient, and shall be obeyed by the officer or person having custody of the ballot papers.

Opening of
sealed packet of
documents and
papers relating to
elections.
[6 of 1987].

47. (1) No officer of the Council or other person shall, except under the order of the High Court, open any sealed packet of documents or papers relating to an election and delivered as aforesaid to the Returning Officer.

(2) Any such order may be made subject to such conditions as to person, time, place and mode of opening or inspections as the High Court may think expedient; and such documents or papers shall be sealed by such person at such time and in such manner as the High Court may direct.

Effect of ballot
paper as
evidence of vote.

48. The production from proper custody of any ballot paper purporting to have been used at any election, and of the counterfoil corresponding thereto, shall be *prima facie* evidence that the person who voted by such ballot paper was the person who at the time of the election, had, annexed to his name in the register of voters in use at the election, the same number as that written on the counterfoil.

PART III

ELECTION PETITIONS AND OFFENCES

PETITIONS

Petitions against

49. A petition complaining of an undue return or undue election of a member of the Council in this Act called an election petition may be presented to the High Court within twenty-one days after the date of the return or election by any person –

(a) who voted or had a right to vote at the election to which
the petition relates

- (b) claiming to have had a right to be returned at the election;
- (c) alleging himself to have been a candidate at the election.

50. Every election petition shall be tried in the same manner as an action in the High Court by a Judge sitting alone. At the conclusion of the trial the Judge shall determine whether the member of the Council whose return or election is complained of or any, and what, other person was duly returned and elected, or whether the election was void, and shall certify the determination to the Chief Elections Officer, and the determination so certified shall be final; and the return shall be confirmed or altered or a new election ordered, as the case may require, in accordance with the determination.

Trial of election petitions.
[24 of 1971].

51. At the trial of an election petition the Judge shall subject to the provisions of this Act have the same powers, jurisdiction and authority, and witnesses shall be subpoenaed and sworn in the same manner, as nearly as circumstances admit, as in the trial of a civil action in the High Court, and such witnesses shall be subject to the same penalties for perjury.

Powers of Judge.

OFFENCES

52. The following persons shall be deemed guilty of bribery within the meaning of this Act:

Bribery.

- (a) every person who, directly or indirectly, by himself or by any other person on his behalf, gives, lends or agrees to give or lend, or offers, promises, or promises to procure or to endeavour to procure, any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce any voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of the voter having voted or refrained from voting at any election,
- (b) every person, who directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers, promises, or promises to procure or to endeavour to procure, any office,

place or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce the voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any voter having voted or refrained from voting at any election;

- (c) every person who, directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement, or agreement as aforesaid to or for any person in order to induce that person to procure, or endeavour to procure, the return of any person as an elected member of the Council, or the vote of any voter at any election;
- (d) every person who, upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement procures or engages promises or endeavours to procure the return of any person as an elected member of the Council, or the vote of any voter at any election;
- (e) every person who advances or pays, or causes to be paid, any money to or to the use of any other person with the intent that the money, or any part thereof shall be expended in bribery at any election, or who knowingly pays, or causes to be paid, any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election;
- (f) every voter who, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receives, agrees, or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election;
- (g) every person who, after any election, directly or indirectly by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or to refrain from voting at any election;

(h) every person who directly or indirectly corruptly pays

any rate or tax on behalf of any other person for the purpose of enabling him to be registered as a voter in order thereby to influence his vote at any future election, and every person on whose behalf, and with whose privity, any such payment as last aforesaid is made.

53. The following persons shall be deemed guilty of treating within the meaning of this Act: Treating.

- (a) every person who corruptly, by himself or by any other person, either before, during or after an election, directly or indirectly gives or provides or pays wholly or in part the expense of giving or providing any food, drink, entertainment, or provision to or for any person for the purpose of corruptly influencing that person, or any other person, to vote or to refrain from voting, at the election, or on account of that person or any other person having voted or refrained from voting at the election;
- (b) every elector who corruptly accepts or takes any such food, drink, entertainment or provision.

54. Any person who, directly or indirectly, by himself, or by any other person on his behalf, makes use of or threatens to make use of any force, violence or restraint, or inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person, in order to induce or compel such person to vote or refrain from voting or on account of such person having voted or refrained from voting at any election, or who by abduction, duress, or any fraudulent contrivance, impedes or prevents the free exercise of the franchise of any elector, or thereby compels, induces, or prevails upon any elector either to give or refrain from giving his vote at any election is guilty of undue influence within the meaning of this Act. Undue influence.

55. Any person who at any election, applies for a ballot paper in the name of another person, whether that name be the name of a person living or dead, or of a fictitious person, or who, having voted once at any election, applies at the same election for a ballot paper in his own name, is guilty of personation within the meaning of this Act. Personation.

Penalty for
bribery, treating
or undue
influence.

56. Any person who is guilty of bribery, treating or undue influence shall, on conviction therefor, be liable to imprisonment for one year or to a fine of five thousand dollars.

Penalty for
personation.

57. Any person who is guilty of personation, or of aiding, abetting, counselling, or procuring the commission of the offence of personation, shall, on conviction thereof, be liable to imprisonment for two years.

Disqualification
for bribery, etc.

58. Any person who is convicted of bribery, treating, undue influence, or personation, or of aiding, counselling or procuring the commission of the offence of personation, shall, in addition to any other punishment, be incapable during a period of seven years from the date of the conviction –

- (a) of being registered as a voter, or voting at any election of a member of the Council;
- (b) of being elected a member of the Council, and, if elected before his conviction, he shall vacate his seat as such member.

Penalty for
certain illegal
practices at
elections.

59. Any person who –

- (a) votes, or induces or procures any person to vote, at any election knowing that he or such other person is prohibited by this Act, or by any law, from voting at the election;
- (b) before or during an election knowingly publishes a false statement of the withdrawal of a candidate at the election for the purpose of promoting or procuring the election of another candidate,

is guilty of an illegal practice and liable on summary conviction to a fine of three thousand dollars and shall be incapable, during a period of five years from the date of his conviction, of being registered as a voter, or voting at any election of a member of the Council.

Offences in
connection with
ballot
papers.

60. (1) Any person who –

- (a) forges or counterfeits, or fraudulently defaces or destroys any ballot paper or the official mark on any ballot paper;
- (b) without due authority supplies a ballot paper to any person;

- (c) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in;
- (d) fraudulently takes out of the polling station any ballot paper;
- (e) without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of any election;
- (f) not being duly registered as a voter votes at the election of a member of Council,

is guilty of a misdemeanour, and is liable, if he is a Presiding Officer (or person appointed to assist him), to a fine of five thousand dollars or to imprisonment for two years and if he is any other person, to a fine of one thousand five hundred dollars or to imprisonment for six months.

(2) Any attempt to commit any offence specified in this section shall be punishable in the manner in which the offence itself is punishable.

(3) In any information or prosecution for an offence in relation to the ballot boxes, ballot papers, and other things in use at an election, the property in the ballot boxes, ballot papers, or things may be stated to be in the Presiding Officer at the election.

61. (1) Every officer, clerk, or agent, in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in the station, and shall not communicate, except for some purpose authorised by law, before the poll is closed, to any person any information as to the name or number on the register of voters of any voter who has or has not applied for a ballot paper or voted at that station, and no person shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling station any information as to the candidate for whom any voter in such station is about to vote or has voted, or as to the number on the back of the ballot paper given to any voter at such station. Infringement of secrecy.

~~(2) Every officer, clerk, or agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the back of any ballot paper or communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot paper~~

(3) No person shall, directly or indirectly, induce any voter to display his ballot paper after he has marked it so as to make known to any person the name of the candidate for whom or against whose name he has so marked his vote.

(4) Any person who acts in contravention of the provisions of this section is liable on summary conviction to a fine of one thousand five hundred dollars or to imprisonment for six months.

Corrupt practice renders election void.

62. (1) No election shall be valid if any corrupt practice or the offence of aiding, counselling or procuring the offence of personation is committed in connection therewith by the candidate elected.

(2) The expression "corrupt practice" as used in this section means any of the following offences: bribery, treating, undue influence, and personation as hereinbefore set forth.

(3) A corrupt practice shall be deemed to be committed by a candidate if it is committed with his knowledge and consent, or, for the purposes of this section, by a person who is acting under the general or special authority of such candidate with reference to the election.

Voter not required to state for whom he has voted.

63. No voter who has voted at any election shall, in any proceeding to question the election, be required to state for whom he has voted.

PART IV

SUPPLEMENTAL PROVISIONS

Oath or affirmation to be taken by members.

64. Every person who is elected or nominated a member of the Council shall previous to taking his seat take before the Local Government Commissioner or the Chairman at a meeting of the Council an oath or affirmation in the following form:

"I, do swear (or declare) that I will well and faithfully discharge the duties of a member of the Council of Portsmouth (So help me God.)"

Holding of election in case of vacancy on the Council.

65. (1) If any vacancy occurs in the office of elected members of the Council, the electors shall, on a day to be fixed by the Chairman being within thirty days after the vacancy arises, and after the publication of due notice in the *Gazette* and in one of the newspapers published in the State, elect another person to fill the vacancy.

(2) ~~The election shall be held, and the voting and other proceedings shall be conducted, in the same manner and subject to the same rules and formalities as are hereinbefore provided in respect of the ordinary elections of members of the Council.~~

(3) Every member so elected shall hold office until the time at which the person in place of whom he is elected would regularly have gone out of office; but shall be eligible for re-election if he is then qualified as herein provided.

66. (1) Every person who is elected as a member of the Council shall before voting or sitting thereat deliver to the Chairman of the Council a statement in writing signed by the member of his qualification in the form contained in Schedule C and shall sign the declaration in the form contained in that Schedule.

Delivery by
elected member
of the Council of
a statement of his
qualification.
Schedule C.

(2) Any person who in any such statement knowingly makes any false declaration of his qualification is liable on summary conviction to a fine of five thousand dollars.

67. (1) If the Council in the judgment of the Minister, persistently makes default in the performance of the duties by law imposed upon it, or exceeds or abuses its powers, the Minister, may by an Order published in the *Gazette*, dissolve the Council.

Dissolution of
Council by
Minister when
default is made.
[24 of 1971].

(2) In case of such dissolution, the following consequences shall ensue:

Consequences of
dissolution.

- (a) all members of the Council shall, from the date of the Order, vacate their offices as such members;
- (b) all the powers and duties of the Council shall, until the constitution of a new Council under this Act, be exercised and performed by such person or persons as the Minister may appoint in that behalf, and any payment made to such person or persons for his or their services shall be a charge upon the town fund;
- (c) all property vested in the Council shall, during the period aforesaid, vest in the person or persons aforesaid until the constitution of a new Council, whereupon all such property shall again become vested in the Council.

(3) An Order for dissolution shall make provision for the constitution under this Act of a new Council in lieu of the Council so dissolved within a period not exceeding twelve months from the date of the Order.

Appointment of
collector of rates
in case of
dissolution.

68. In the case of the dissolution of the Council under section 67, the Minister may appoint a collector of rates who shall have all the powers and duties conferred and imposed by this Act upon the Council or the Town Clerk.

PART V

ADMINISTRATION AND GOVERNMENT OF THE TOWN FUND

Payment of
moneys to
Financial
Secretary for
town fund.
[24 of 1971].

69. (1) All moneys due to the Council shall be paid to the Town Clerk, and such payments must be deposited every day at the Sub-Treasury for and on behalf of the Financial Secretary by the Town Clerk, before 3.00 p.m. and shall form a town fund to be kept separate and distinct in the Treasury books from all other accounts.

Payment from
town fund.

(2) All payments from the town fund shall be made on the written order of the Town Clerk countersigned by the Chairman or other person designated by the Council.

(3) All payments of wages or in money from the town fund shall be made at the office of the Town Council by the cashier or other duly appointed officer or servant of the Council; and any person making or accepting such payments from the town fund otherwise than as provided by this subsection shall be guilty of an offence.

Composition of
town fund.

70. The town fund shall be composed of moneys derived in the town from –

- (a) house and land rate imposed by this Act;
- (b) rates, taxes, dues and fees payable to the council under this Act or any Rules or By-Laws made thereunder;
- (c) fines for breaches of the By-Laws of the Council;
- (d) moneys derived from the sale, hire or mortgage of properties vested in the Council;
- (e) all other sources from which the same may lawfully be derived, including any vote or contribution from the

71. (1) In or before the month of November in each year annual estimates of the revenue and expenditure shall be prepared by the Council in respect of the financial year commencing on 1st January then next ensuing in such form as may be prescribed by the Minister; and the same shall be submitted to the Minister for approval in that month of November.

Preparation of estimates.

(2) The Minister may approve of the estimates as submitted in whole or in part and may amend, vary or delete any item of revenue or expenditure as he may think fit.

Estimates to be approved by the Minister.

(3) The estimates shall, when so approved by the Minister, be binding in their details upon the Council subject nevertheless to any addition, deletion, re-vote or transfer agreed to by resolution of the Council subsequent to the approval, which has been communicated to the Minister and approved by him.

72. The accounts of the Council shall be open at all reasonable times to inspection by any member of the Council or of the House of Assembly.

Accounts open to inspection by members of Council or members of House of Assembly.

73. (1) The accounts of the Council shall be produced by the town Clerk for audit by the Director of Audit at such time as the Director of Audit may from time to time require, and such accounts shall thereupon be audited by the Director of Audit.

Audit of accounts.

(2) The Director of Audit shall make and sign a report upon the accounts, and a duplicate of the accounts with the report thereon shall be forwarded to the Minister and the Chairman of the Council. The said accounts shall be published in the *Gazette*.

74. For the purpose of any audit as hereinbefore provided the Director of Audit may require the production before him of all books, and papers which he may consider necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, receipts, documents or papers to appear before him at any such audit or any adjournment thereof, and to make and sign a declaration as to the correctness of the same.

Power of Director of Audit to call for books, etc.

Director of Audit
may enter office
of Council.

75. The Director of Audit may at all reasonable times enter any offices of the Council and have access to all books, deeds, contracts, accounts, vouchers, receipts and all other documents and papers.

Financial
Secretary to
furnish statement
of accounts.

76. (1) The Financial Secretary shall furnish monthly to the Council a statement of the town fund and the same shall be published in the *Gazette*.

(2) Whenever called upon to do so by the Council, the Financial Secretary shall furnish an account showing the state of the town fund.

Interim
appropriation of
town fund
moneys.

77. The Financial Secretary may, on the recommendation of the Council, invest any accumulation of the town fund in any manner approved by the Minister.

Payments from
town fund.

78. The debts of the Council shall be discharged from the town fund.

Appropriation of
money in
general.

79. All money raised under or by virtue of this Act shall be used exclusively for the purposes of this Act and the By-Laws.

PART VI

LAND AND HOUSE RATE.

Amount of land
and house rate.

80. (1) The Council shall twice in each year not later than 31st January and 31st July by resolution, declare that a rate not exceeding one and a quarter per cent on the value of all houses and lots of land in the town shall be leviable as house and land rate for the current year, and the resolution shall be published in the *Gazette* and in at least one of the newspapers in the State and the rates fixed in the resolutions shall be the rates leviable as house and land rate for the current year; and the Council may with the approval of the Minister impose such rate on any house or land outside the boundaries of the town, but within municipal limits.

(2) The rate shall be imposed or charged on any public buildings, church, school, convent or buildings set apart and used as a residence for a minister of religion or on the land reasonably occupied therewith, except where in the case of any premises, other than public buildings, rent is paid to the owner of any such building when the owner shall pay the rate.

81. For the purpose of assessing the rate, the Council may appoint two or more persons as valuers to prepare a valuation list of all premises upon which the rate is leviable; the valuation list shall be in the form prescribed in Schedule D, and shall be prepared twice each year, that is to say, not later than 31st January and 31st July.

Valuation list.

Schedule D.

82. For the purpose of making the valuation list the valuers may, with their assistants and servants at all reasonable times until the valuation list is completed, enter, view, examine, survey and measure all and every part of any rateable premises and do or cause to be done any act or thing necessary.

Valuers may enter, examine lands, etc.

83. The Council and all and every person or persons shall give the valuers every facility, by allowing them to inspect any books and take any copies or extracts or to do any other thing necessary to enable them to make the valuation list.

Valuers may inspect books, etc.

84. Within fourteen days after the valuers have valued the premises or revised the valuation thereof they shall cause two lists to be prepared of the valuation or revised valuation, and shall sign their names at the foot or end thereof, and shall lodge a copy thereof with the Financial Secretary and Provost Marshall and shall cause the list to be published in the *Gazette* and one newspaper published in the State.

Preparation and publication of valuation list.

85. Any person who may feel aggrieved by any valuation list, on the ground of unfairness or incorrectness in the valuation of any premises included therein or of the inclusion therein or omission therefrom of any premises may, within fourteen days after the publication thereof under section 84, give to the Council a notice in writing of his objection specifying the grounds thereof, and, where the ground of any objection is unfairness or incorrectness in the valuation of any premises in respect of which any person other than the person objecting is liable to be valued, or the inclusion or omission of the premises, shall also give notice in writing of the objection and of the ground thereof to such person.

Objections to valuation list.

86. (1) After the expiration of the period provided in sections 84 and 85 for making objections to the valuation list, the Council shall within thirty days fix a day for hearing the objections, and on the day so fixed, the Council, after hearing the interested parties in each objection, and the evidence that they may produce shall determine the

Council to hear objections and decide.

objections and correct the valuation list accordingly. The Council may adjourn or postpone the hearing or further hearing and determination of any such objections.

(2) The valuation list as revised by the Council shall be signed by the Chairman and posted in a conspicuous place within the office of the Council and the Town Clerk shall cause a notice to be published in the *Gazette* and a newspaper published in the State, that the valuation list has been revised by the Council and may be seen at the office of the Council.

(3) The valuation list as revised by the Council shall be the finally revised valuation list.

Addition to
valuation list.

87. The Council may, at any time whenever it appears that the name of any owner or occupier of any rateable premises has not been included in the valuation list, add his name thereto; and the Council shall give him notice in writing that his name has been inserted in the said list and the assessment made in respect of the premises of which he is owner or occupier; and the owner or occupier shall be at liberty to object to the said inclusion or valuation in the manner hereinbefore provided.

Appeal to
Magistrate.

88. (1) Any person who has objected to the valuation list and who is not satisfied with the decision of the Council on his objection, may, within fourteen days from the date of the publication of the notice that the valuation list has been revised by the Council and posted, appeal to the Magistrate who shall hear and determine the appeal and his decision shall be final and conclusive.

(2) The Magistrate shall communicate to the objector and to the Council his decision, and if the decision of the Magistrate requires the correction of the valuation list the Chairman shall correct the same accordingly and countersign the correction after adding the words "by decision of the Magistrate".

Incidence of rate.

89. (1) Every owner or occupier whose name appears in the finally revised valuation list shall pay land and house rate in accordance with the rate declared by the Council as hereinbefore provided; and the collection thereof shall be in all respects in accordance with the provisions of the Collection of Taxes Act; but the Council may recover the amount of the said rate, and all extra charges due thereon by action at law at the suit of the Town Clerk.

Ch. 66:01.

(2) Where the rate payable in respect of any property under this Part is collected from and paid by any occupier who is not the owner of the property, the occupier may deduct the amount of the rate so paid from any rent payable by him in respect of the premises; and in the event of any action being brought by the owner of any such property for the recovery of rent from any such occupier the Court before which the action is brought shall allow to such occupier the amount so paid; but nothing herein contained shall affect any contract between landlord and tenant with respect to the payment of the rate.

(3) The rate shall be paid in the month of April and in the month of October in each year, and in the event of the rate not being paid as aforesaid, the following extra charges shall be made:

- (a) in the case of rates payable in April if paid in May, and in the case of rates payable in October if paid in November, a charge of twenty-five cents;
- (b) in the case of rates payable in April if paid in June, and in the case of rates payable in October if paid in December, a charge of fifty cents;
- (c) in either case if the rate is paid subsequent to the dates above mentioned, a charge of seventy-five cents.

90. The Council may remit wholly or in part any rate on the ground of the poverty of any person, or that the premises in respect of which the rate is payable has become deteriorated or is used exclusively for charitable purposes, or for any other good and sufficient reason.

Remission of rate
by Council.

PART VII

MISCELLANEOUS

91. (1) Whenever any lot of land or house within the town is sold, transferred or removed, notice in writing of the sale, transfer or removal shall be given by the seller and the purchaser, transferee or person removing, as the case may be, to the Council within thirty days after the sale, transfer or removal, and in the case of removal of a house the notice shall specify the place to which the house has been removed.

Notice of transfer
or removal to be
given.

(2) The Council may disapprove the application for the removal of any house on which land or house rate has not been paid.

Penalty.

92. Any person who refuses or fails to comply with section 91(1) is liable on summary conviction to a fine of five hundred dollars and in default of payment to imprisonment for three months.

Boundaries of town.
[6 of 1987].

93. (1) The boundaries of the town of Portsmouth are as follows:

(a) **NORTH:** From the mouth of the Swamp Ravine eastwards along its southern bank to a point 100 feet north-east of the Swamp Ravine bridge, thence south-easterly in a straight line to the source of the southern branch of the Gutter Ravine, thence eastwards to the source of the Lagoon River, thence due east to a point on the northern branch of the North River.

(b) **EAST:** From a point on the northern branch of the North River south-westerly along the North River to the junction of its northern and southern branches, thence southwards to the ruins of the old Indian River bridge (Monkey Bridge); thence southwards in a straight line to the intersection of a foot path and the Balvine Road.

(c) **SOUTH:** Westerly along Balvine Road to its intersection with West Coast Road, thence northwards along the West Coast to the northern boundary of the Industrial Site, thence in a north-west direction along the access road to the Government Housing Scheme across the Portsmouth - Long House Road to the sea.

(d) **WEST:** The sea.

(2) The Council may reduce, extend or vary the said boundaries by resolution subject to the approval of the House of Assembly.

Control of Bay Front.

94. The Minister may make such Rules as he considers necessary for the regulation of traffic upon and generally for the good order, maintenance and management of the Bay Front and may attach a fine not exceeding three thousand dollars for the breach of any provisions of such Rules. The said Rules shall be subject to the approval of the House of Assembly.

Penalty for offences under this Act.

95. (1) Every person who is guilty of any offence against this Act or against any Rules, Regulations or By-Laws of the Council, for which no other penalty is provided shall, on being convicted thereof before a Magistrate, be liable to a fine of one thousand dollars and in default of payment to imprisonment for six months.

(2) Every proceeding instituted against such offender shall be taken in the name and at the instance of the Town Clerk.

Proceedings how
instituted.

96. All By-Laws, Rules, Regulations and instruments made under the Portsmouth Land and House Rate Ordinance and the Portsmouth Town Council Ordinance (repealed by this Act) shall remain in full force and effect until cancelled, revoked or replaced by new By-Laws, Rules, Regulations or Instruments.

Saving.
Cap. 187.
(1961 Ed.)
Cap. 188.
(1961 Ed.)

SCHEDULE A

Section 34(3)

- | | |
|-------------|--------------|
| 1. HAT | 16. FLAG |
| 2. BOTTLE | 17. CHAIR |
| 3. HAMMER | 18. HORSE |
| 4. HAND | 19. BAT |
| 5. SHOE | 20. HOUSE |
| 6. CLOCK | 21. KEY |
| 7. TREE | 22. RAKE |
| 8. SAW | 23. TABLE |
| 9. FORK | 24. UMBRELLA |
| 10. CAR | 25. BELL |
| 11. TEACUP | 26. SCISSORS |
| 12. SHIP | 27. PEN |
| 13. LANTERN | 28. BOOK |
| 14. CUTLASS | 29. SHOVEL |
| 15. BRUSH | 30. FISH. |

SCHEDULE B

Section 37.

FORM OF DIRECTIONS FOR THE GUIDANCE OF ELECTORS IN VOTING

PLEASE READ BEFORE VOTING

1. The voter may vote for candidates.

2. The voter will go into one of the compartments and, with the pencil provided in the compartment, place a cross in the right hand

side, opposite the name of each candidate for whom he votes, thus X.

For Example. – Supposing John Jones and George Smith are the candidates for election and the voter wishes to vote for Jones, he must place a cross opposite Jones' name as in the following form of ballot paper:

JONES
John Jones, Shopkeeper, X
Cork Street.

SMITH
George Smith, Carpenter,
Hanover Street.

3. The voter will then fold up the ballot paper, so as to show the official mark on the back and, leaving the compartment, will without showing the front of the paper to any person, show the official mark on the back to the Presiding Officer and then in the presence of the Presiding Officer put the paper into the ballot box and forthwith quit the polling booth.

4. If the voter inadvertently spoils the ballot paper he can return it to the Presiding Officer, who will, if satisfied of such inadvertence, give him another paper.

5. If the voter votes for more than candidates or places any mark on the paper by which he may be afterwards identified, his ballot paper will be void and will not be counted.

6. If the voter takes a ballot paper out of the polling booth or deposits in the ballot box any other paper than the one given him by the Presiding Officer, he shall be guilty of a misdemeanour and be liable to imprisonment for any term not exceeding one year.

Section 66.

SCHEDULE C

FORM OF STATEMENT OF QUALIFICATION OF PERSON ELECTED TO BE A MEMBER OF THE PORTSMOUTH TOWN COUNCIL

Qualification of of elected to
be a member of the Portsmouth Town Council in the year 19.....

(Here state nature of qualification)

I hereby declare that I possess the foregoing qualification.

Dated the day of, 19.....

(Signed)

(Address)

SCHEDULE D

Section 81.

LIST OF LANDS, TENEMENTS AND HEREDITAMENTS WITHIN MUNICIPAL LIMITS IN RESPECT OF WHICH LAND AND HOUSE RATE IS PAYABLE.

Assessment No.	Name of Owner Occupier of Property	Name, Extent Situation of Property	Description Number and size of buildings, if any	Valuation

SCHEDULE E

Section 3(3).
[6 of 1987].

WARD 1 – GLANVILLIA

Bounded as follows:

NORTH: Along Indian River from the sea to the remains of an old bridge (Monkey Bridge).

EAST: From Indian River (Monkey Bridge) southerly in a straight line to the intersection of a footpath and the Balvine Road.

SOUTH: Westerly along Balvine Road to its intersection with

Road to the northern boundary of the Industrial Site, thence in a north-west direction along the access road to the Government Housing Scheme across the Portsmouth/Long House Road to the sea.

WEST: The sea.

WARD 2 – PORTSMOUTH (WEST)

Bounded as follows:

NORTH: Along the North river from the sea to a point where the river intersects the line which runs along the eastern boundary of the Roman Catholic Church property.

EAST: From the North River southerly in a straight line along the Eastern boundary of the Roman Catholic Church property to Pembroke Street, thence westerly along Pembroke Street to its intersection with Market Lane, thence southerly along Market Lane to the northern boundary of Benjamin's Park, thence westerly along the northern boundary of Benjamin's Park to Rodney Street, thence southerly along Rodney Street in a straight line to the Indian River.

SOUTH: Westerly along the Indian River.

WEST: The sea.

WARD 3 – PORTSMOUTH (EAST)

Bounded as follows:

NORTH: Along the North River from the point which joins the straight line of the eastern boundary of the Roman Catholic Church property easterly to the junction of its northern and southern branches.

EAST: From the junction of the northern and southern branches of the North River southwards to the ruins of the old Indian River Bridge.

SOUTH: Along Indian River westwards from the ruins of the old bridge to the point where the Rodney Street drain crosses.

WEST: From the Indian River along the Rodney Street drain to the north-west boundary of Benjamin's Park, thence eastwards along the north boundary of Benjamin's Park to Market Lane, thence northwards along Market Lane to Pembroke Street, thence eastwards along Pembroke Street to the eastern boundaries of the Roman Catholic Church property, thence northwards along the eastern boundary of the Roman Catholic Church property to a point in the North River.

WARD 4 – LAGOON

Bounded as follows:

NORTH: From the mouth of the Swamp Ravine eastwards along its southern bank to a point 100 feet north-east of the Swamp Ravine bridge, thence south-easterly in a straight line to the source of the southern branch of the Gutter Ravine, thence eastwards to the source of the Lagoon River, thence from the souce of the Lagoon River due east to a point on the northern branch of the North River.

EAST: From a point on the North River south-westerly along the River to the junction of its northern and southern branches.

SOUTH: From the junction of the northern and southern branches of the North River westwards along the North River to the sea.

WEST: The sea.

SCHEDULE F

Section 28(2).
[6 of 1987].

NOTICE

PORTSMOUTH TOWN COUNCIL ELECTIONS 19

It is notified for general information that has been appointed Returning Officer for the Portsmouth Town Council By/ General Elections to be held on theday of 19..... in accordance with the Portsmouth Town Council Act 1987 (Chapter 25:10).

Nomination day is the day of 19 and prospective candidates should obtain the necessary nomination documents and information from the Returning Officer at in between the hours of 8:00 a.m. and 4:00 p.m. on nomination day.

In the event of election being contested the poll will take place between the hours of 7:00 a.m. and 5:00 p.m. on the 19 above-mentioned and the final count of the votes will take place thereafter at on 19.... at o'clock.

Dated this day of 19

.....
Chief Elections Officer.

SUBSIDIARY LEGISLATION

**PORTSMOUTH TOWN COUNCIL CUTTING OF
TREES BY-LAWS**

1/1971.

made under section 18

[17th June 1971]

Commencement.

1. These By-Laws may be cited as the –

Short title.

**PORTSMOUTH TOWN COUNCIL CUTTING OF
TREES BY-LAWS.**

2. The Council may, by notice in writing served on the owner or occupier of any land, order the owner or occupier within a specified time to cut down, lop or trim any tree which in the opinion of the Council is dangerous to human life or property.

Order to cut
trees.

3. The Council may, by notice in writing served upon the owner or occupier of any land adjoining a road, order the owner or occupier within a specified time to remove or cause to be removed from the road any tree or part thereof which has fallen accidentally or otherwise from his land.

Order to remove
trees from road.

4. (1) If the owner or occupier of any land upon whom a notice is served under section 2 or section 3 of these By-Laws does not comply with the order of the Council specified in the notice, the Council may cause the tree or part thereof to be cut, lopped, trimmed or removed as the case may be.

Non-compliance
with orders.

(2) Any expenditure incurred by the Council under subsection (1) of this section shall be recoverable from the owner or occupier as a simple contract debt.

5. Any person who interferes, obstructs, beats, molests or hinders any officer or servant of the Council in the execution of his duties under these By-Laws is guilty of an offence and liable on summary conviction to a fine of not less than seventy-five dollars and not exceeding seven hundred and fifty dollars and in default of payment of such fine to imprisonment for six months.

Penalty for

SUBSIDIARY LEGISLATION

**PORTSMOUTH TOWN COUNCIL REFUSE
DISPOSAL BY-LAWS****ARRANGEMENT OF BY-LAWS****BY-LAW**

1. Short title.
 2. Definitions.
 3. Preparation of house refuse for collection.
 4. Collection of house refuse.
 5. Special permits.
 6. Refuse other than house refuse.
 7. Penalty for violation of these By-Laws.
-

SUBSIDIARY LEGISLATION

**PORTSMOUTH TOWN COUNCIL REFUSE
DISPOSAL BY-LAWS**

2/1972.

made under section 18

[1st April 1971]

Commencement

1. These By-Laws may be cited as the –

Short title.

**PORTSMOUTH TOWN COUNCIL REFUSE
DISPOSAL BY-LAWS.**

2. In these By-Laws –

Definitions.

“building” means houses, outhouses and business premises;

“house refuse” includes dirt and sweepings from buildings, waste paper, broken glass and crockery, kitchen refuse, yard refuse and garden refuse, but does not include trees or part of trees, manure, human excreta, building materials waste products of any trade or manufacture or glass or crockery from business premises in larger quantities than would be produced from a dwelling house in the ordinary course of living therein;

“occupier” includes persons charged with the management of buildings.

3. (1) The occupier of a building shall place all house refuse accumulating on the premises in containers provided by him and approved by the Council:

Preparation of
house refuse for
collection.

Provided that –

- (a) newspapers and magazines shall be firmly tied with strong cord, and
- (b) cardboard containers, wooden crates and similar refuse shall be flattened and secured in bundles

- (2) All such containers shall be –

- (a) equipped with handles enabling them to be lifted;
- (b) of not less than five nor more than thirty gallons in capacity

- (c) watertight, vermin proof, animal proof and kept closed at all times with a tightly fitting cover;
- (d) thoroughly washed immediately after every collection of its contents.

(3) House refuse shall be drained of excess liquid before being placed in the containers.

(4) The occupier shall place the containers at ground level and in a position readily accessible for the purposes of refuse collection, either at the back of the building or in an unlocked area or passage thereof.

(5) No person shall keep or place containers, house refuse or refuse of any kind on the street, sidewalk or other public place; but the Council may place containers in public places for the deposit of refuse accumulating in such public places.

Collection of
house refuse.

4. (1) The Council, acting with the advice of a Public Health Inspector, shall arrange from time to time the dates, times and routes for the collection of house refuse in the various sections of the town and shall cause such dates, times and routes to be published in the *Gazette* and in one of the newspapers of the State.

(2) Subject to the provisions of section 5, no person other than the Council or persons authorised by it shall collect, transport or remove containers, house refuse or refuse of any kind through the streets of the town.

(3) No person, other than the occupier of a building, the Council or a person authorised by the occupier or by the Council, shall open or interfere with any refuse container on the premises of the occupier or with the contents of the container.

Special permits.

5. If the Council is satisfied on application in writing made to it that the applicant has suitable means for transporting waste building materials or other waste materials of trade or manufacture produced by him, the Council, acting with the advice of a Public Health Inspector may grant the applicant a permit to transport the waste materials through the streets of the town upon such conditions as it thinks fit.

Refuse other than
house refuse.

6. With regard to refuse other than house refuse the Council, at its earliest convenience and upon application of the occupier made to the Town Clerk, shall remove the same upon prepayment of the sum of three pence for every cartload or part thereof.

7. Any person who contravenes or fails to comply with any provision of these By-Laws is guilty of an offence and liable on summary conviction to a fine of seven hundred and fifty dollars, and in the case of a continuing offence to a further fine of thirty dollars for each day during which the offence continues after service of written notice thereof by the Council, and in default of payment of such fines to imprisonment for six months.

Penalty for violation of these By-Laws.
