



BILLE BAINISTI CHATHAIR CHORCAIGHE, 1928.
CORK CITY MANAGEMENT BILL, 1928.

Mar do tugadh isteach.
As introduced.

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SAORSTÁT EIREANN.

BILLE BAINISTI CHATHAIR CHORCAIGHE, 1928. CORK CITY MANAGEMENT BILL, 1928.

BILL

entitled

5

AN ACT TO MAKE PROVISION FOR THE MANAGEMENT
OF THE ADMINISTRATIVE AND FINANCIAL BUSI-
NESS OF THE COUNTY BOROUGH OF CORK AND FOR
OTHER MATTERS INCIDENTAL TO SUCH MANAGE-
MENT OR IN CONNECTION THEREWITH. 10

BE IT ENACTED BY THE OIREACHTAS OF SAORSTAT
EIREANN AS FOLLOWS:—

Definitions.

1.—In this Act, save where the context otherwise requires,
the following words and expressions shall have the meanings
hereinafter assigned to them respectively, that is to say:— 15
the word "Minister" means the Minister for Local Govern-
ment and Public Health,
the expression "the Corporation" means the Lord Mayor,
Aldermen and Burgesses of Cork,
the expression "the Borough" means the county borough of 20
Cork,
the expression "the Council" means the Council of the Borough
as constituted from time to time under this Act,
the expression "the Manager" means the Cork City Manager
appointed by this Act or by the Council in accordance with the 25
provisions of this Act,
the expression "the Town Clerk" means the town clerk of the
Borough,
the expression "borough election" means an election of
members of the Council, and 30
the word "prescribed" means prescribed by the Minister.

Vesting of powers, etc., in the Corporation.

2.—(1) The Cork County Borough (Dissolution) Order, 1924
whereby the council of the county borough of Cork was dissolved
shall cease to have effect as on and from the appointed day.

(2) All the property of the council of the county borough of 35
Cork which by virtue of the County Borough of Cork (Dissolu-
tion) Order 1924 was transferred to the person named in that
behalf in the said Order shall on the appointed day vest in the
Corporation.

(3) The powers, functions and duties of the council of the 40
county borough of Cork which by virtue of the order herein-
before mentioned are at the date of the passing of this Act exer-
cised and performed by the person named in that behalf in the
said order shall as on and from the appointed day become and
be powers, functions and duties of the Corporation and all and 45
every of the powers, functions and duties which shall by or
under the provisions of any Act passed after the passing of this
Act be conferred and imposed on the said council shall as on
and from the date on which such powers, functions and duties
are so conferred and imposed respectively become and be powers, 50
functions and duties of the Corporation.

(4) Whenever by or under any Act passed after the passing
of this Act any powers, functions or duties are conferred or
imposed on the council of a borough, county borough, or urban
district such powers, functions and duties in so far as they relate 55

to the council of the county borough of Cork, shall as on and from the date on which they are so conferred and imposed respectively become and be powers, functions and duties of the Corporation.

- 5 (5) All and every of the powers, functions and duties of the Corporation shall be exercised and performed for and on behalf of the Corporation by the council or the manager (as the case may require) subject to and in accordance with the provisions of this Act.

- 10 **3.—**(1) A borough election shall be held in the year 1928 and in every year thereafter. Borough elections.

(2) At every borough election the Borough shall form one electoral area and five persons shall be elected to be members of the Council.

- 15 (3) In the year 1928 the borough election shall be held on a day to be fixed by the Minister not being later than one month before the appointed day, and in every subsequent year the borough election shall be held on such day, not being earlier than the 23rd day of June or later than the 1st day of July, as shall
20 be fixed by the Corporation.

- (4) Subject to the provisions of this Act in relation to the persons appointed to fill casual vacancies, every member of the Council shall, unless he sooner dies, resigns, or becomes disqualified hold his office as such member until the fifth day after the borough
25 election held in the third year after the year in which he is elected and, unless previously re-elected, shall then retire from office as such member.

- (5) Subject to the foregoing provisions of this section, the law for the time being in force in relation to the election of coun-
30 cillors of county boroughs and to the qualification of persons for such election shall apply to every borough election and to the qualification of persons for membership of the Council in like manner as it applies to the election of councillors of county boroughs and to the qualification of persons for such election.

- 35 **4.—**(1) In this section the expression "casual vacancy" means a vacancy in the membership of the Council caused by the death, resignation or disqualification of a member thereof. Casual vacancies.

- (2) Where a casual vacancy occurs in the Council by reason of the death, resignation or disqualification of any member thereof
40 other than a member whose term of office would, but for such death, resignation or disqualification, have continued until the fifth day following the borough election to be held under this Act next after the occurrence of such casual vacancy there shall be elected at such borough election a member of the Council
45 additional to the five members thereof otherwise required by this Act to be elected at such election and such additional member shall, unless he sooner dies, resigns or becomes disqualified hold office for the residue of the term for which the member whose death, resignation or disqualification occasioned the vacancy
50 would have held office if he had not died, resigned or become disqualified.

- (3) The last person elected as a member of the Council at a borough election at which a casual vacancy is by this section required to be filled shall be chosen to fill such vacancy and where
55 more than one casual vacancy is required to be filled at such election the sixth person elected thereat shall be chosen to fill whichever of those vacancies is then to be filled for the longest period of time and so on.

- 5.—**(1) The Council shall at any time and from time to time
60 after the appointed day consist of the members thereof elected whether before or after the appointed day in accordance with the provisions of this Act whose terms of office are then unexpired. Constitution, etc., of the Borough Council.

- (2) The members of the Council elected at the borough election held in the year 1928 shall be aldermen and the member of the
65 Council who is first elected at the borough election held in any subsequent year shall be an alderman.

(3) Every member of the Council other than a member who by virtue of the foregoing provisions of this section is an alderman shall be a councillor.

First meeting
of the Council
and election of
Lord Mayor.

6.—(1) The first meeting of the Council shall be a quarterly meeting and shall be held at noon on the appointed day. 5

(2) The Council shall at their first meeting and at the quarterly meeting thereof held next after every borough election elect one of their members to be the Lord Mayor of Cork (in this Act referred to as the Lord Mayor).

(3) The Lord Mayor shall continue in office until his successor 10 shall have been elected at the quarterly meeting of the Council at which having regard to the provisions of the foregoing subsection a Lord Mayor may be elected by the Council and such successor shall have made the declaration accepting office which is by the law for the time being in force in relation to the election 15 of the Lord Mayor or Mayor of a county borough required to be made by a Lord Mayor-elect or Mayor-elect.

(4) The Town Clerk shall be the chairman of the first meeting of the Council until the Lord Mayor has been elected and has made the declaration aforesaid. 20

(5) The Town Clerk shall not be entitled to vote on any question which is to be decided at the first meeting of the Council by a vote of the members of the Council.

(6) Subject to the provisions of this section, the law for the time being in force in relation to the holding of quarterly meet- 25 ings of the council of a county borough and to the meetings so held and to the election, tenure of office, powers, duties, privileges and remuneration of the Lord Mayor or the Mayor of a county borough shall apply to the holding of quarterly meetings of the Council and to the meetings so held and to the election, 30 tenure of office, powers, duties, privileges and remuneration of the Lord Mayor.

Procedure at
meetings.

7.—(1) Subject to the provisions of any regulations made by the Minister under any Act and for the time being in force respecting the procedure of local authorities in connection with 35 the business imposed on or transferred to them under any enactment the procedure of the Council at its meetings shall be conducted in accordance with standing orders made by the Council for that purpose.

(2) At every meeting of the Council held prior to the borough 40 election to be held in the year 1929 three members of the Council shall constitute a quorum and at every meeting of the Council held after the said borough election and prior to the borough election to be held in the year 1930 six members of the Council shall constitute a quorum and at every meeting of 45 the Council held after the borough election held in the year 1930 nine members of the Council shall constitute a quorum.

(3) The Council may act notwithstanding a vacancy in its membership.

Reserved
functions.

8.—(1) The Council shall directly exercise and perform all 50 and every of the powers, functions and duties of the Corporation in relation to the following matters, that is to say:—

- (a) the making of any rate or the borrowing of any moneys,
- (b) the making, amending or revoking of any bye-law, 55
- (c) the making of any order and the passing of any resolution by virtue of which any enactment is brought into operation in or made to apply to the Borough and the revoking of any such order and the rescinding of any such resolution, ()
- (d) the application to be made to any authority in respect of the making or revoking of any such order as aforesaid,
- (e) the promotion or the opposing in the Oireachtas of any legislation affecting the Borough or any part of the 65 Borough,

- (f) the appointment or election of any person to be a member of any public body,
- (g) parliamentary and local elections,
- (h) subject to the provisions of this Act, the appointment, suspension and removal of the Manager and the granting of an allowance or gratuity to the Manager on his ceasing to be the Manager, and
- (i) the determination of the amount of the salary and remuneration of the Lord Mayor.

(2) The Minister may, subject to the provisions of this section, by order require that the powers, functions and duties of the Corporation in relation to any matter not included in the matters referred to in the foregoing sub-section shall be exercised and performed directly by the Council and upon such order being made the said powers, functions and duties shall as on and from the date specified in that behalf in such order be exercised and performed directly by the Council and shall continue so to be exercised and performed while such order remains in force.

(3) The Minister may, subject to the provisions of this section, revoke an order made by him under this section.

(4) The Minister shall not make or revoke an order under this section save upon the application of the Council made to the Minister in pursuance of a resolution passed by a majority of not less than two-thirds of the members of the Council present and voting at a meeting thereof and of which resolution not less than one month's notice shall have been given in writing by the Town Clerk to every member of the Council.

(5) Upon receipt by him of any such application as aforesaid the Minister, before (as the case may be) making or revoking an order under this section, may, if he thinks fit, hold a local inquiry into any matters which appear to him to be relevant to the purpose of (as the case may be) making or revoking such order and the provisions of Article 32 of the Schedule to the Local Government (Application of Enactments) Order, 1898, shall apply to every such local inquiry.

(6) In this Act the expression "reserved functions" means the powers, functions and duties of the Corporation which are by this section required to be exercised and performed by the Council directly and includes all other powers, functions and duties of the Corporation which are at any time required by an order made under this section and for the time being in force to be exercised and performed by the Council.

9.—(1) On and after the appointed day a person appointed for the purpose by or under this Act who shall be called and known as the Cork City Manager (in this Act referred to as the Manager) shall exercise and perform for and on behalf of the Corporation the powers, functions and duties of the Corporation in relation to the appointment and removal of officers and servants of the Corporation (including the Town Clerk, but not including the Manager) and shall also exercise and perform all other the powers, functions and duties of the Corporation other than the reserved functions.

The Cork City Manager.

(2) Every person appointed by or under this Act to be the Manager shall by virtue of such appointment be an officer of the Corporation.

10.—(1) Philip Monahan, the person to whom the powers and duties and the property of the Corporation were transferred by virtue of the County Borough of Cork (Dissolution) Order, 1924 shall be and is hereby appointed to be the first Manager and the said Philip Monahan shall take office as the first Manager on the appointed day.

Appointment, etc., of the Manager.

(2) The office of the Manager shall be included in the offices to which the Local Authorities (Officers and Employees) Act, 1926 (No. 39 of 1926), applies.

(3) As soon as may be after the termination of the office of the said first Manager (whether by his death, resignation or

removal from office in accordance with this section) and from time to time thereafter as occasion may require the Council shall appoint a fit and proper person to be the Manager and every such appointment shall be made subject to and in accordance with the provisions of the said Local Authorities (Officers and 5 Employees) Act, 1926.

(4) The Manager shall hold office until he dies, resigns or is removed from office.

(5) The Manager shall not be suspended or removed by the Council save— 10

(a) by a resolution of the Council passed for the purpose of such suspension or such removal (as the case may be) by a majority of not less than two-thirds of the members of the Council present and voting at a meeting thereof of which resolution not less than 15 seven days' notice shall have been given to every member of the Council, and

(b) in the case of the removal of the Manager, with the sanction of the Minister.

(6) There shall be paid by the Council to the Manager such 20 remuneration as the Minister shall from time to time determine and the amount of such remuneration shall be raised by the Council by the same rate as the rate by which the salary of the Town Clerk is raised.

(7) The Manager may do all such matters and things, including the making of contracts for and on behalf of the Corporation and the affixing of the official seal of the Corporation to documents, as may be necessary for or incidental to the purpose of exercising and performing the powers, functions and duties of the Corporation which are by this section required to be exercised 30 and performed by the Manager.

(8) Every reference contained in this Act to the Manager save and except the reference contained in this section to the appointment of the Manager by the Council shall be construed as including the first Manager. 35

Manager to
advise the
Council.

11.—It shall be the duty of the Manager to advise and assist the Council generally in regard to the exercise and performance by them of the reserved functions and in particular in regard to any matter or thing in relation to the exercise or performance by the Council of the reserved functions on or in respect of which 40 the Council requests the advice or assistance of the Manager.

Attendance, etc.,
of Manager at
meetings of the
Council.

12.—The Manager shall have the same right to attend meetings of the Council and to take part in discussions at such meetings as if he were a member of the Council, but he shall not be entitled to vote on any question raised at any such meeting which is to 45 be decided by a vote of the members of the Council.

Control, etc.,
of officers and
servants of the
Corporation.

13.—(1) The officers and servants of the Corporation (including the Town Clerk) shall perform their duties as such officers and servants in accordance with such directions as the Manager may from time to time give either generally or in regard to the performance of any particular duty or any particular class or classes of duties or in regard to the performance of any such duty by any particular officer or servant of the Corporation and the Manager shall have and exercise absolute control and full supervision of and over such officers and servants and of and over 55 every act and proceeding done or to be done by them in their official capacity of officers and servants of the Corporation.

(2) Subject to the provisions of any regulations made by the Minister under any Act and for the time being in force in relation to the service, remuneration, privileges, or superannuation (as 60 the case may be) of the officers and servants of a local authority, the Manager shall consider and decide all such questions as may from time to time arise in relation to the service, remuneration, privileges and superannuation of the officers and servants of the Corporation and the decision of the Manager on any such question 65 shall be final and conclusive.

14.—(1) Every act or thing done and every decision taken by the Manager for the purpose of or in connection with the exercise or performance by him under this Act of any of the powers, functions or duties of the Corporation being an act or thing or a decision which, if done or taken by the council of a borough, county borough, or urban district would be required by or under any enactment to be done or taken by a resolution of such council shall be done or taken by the Manager by his signed order.

Manager to act
by signed order.

(2) Where by or under the provisions of any Act any public notice is required to be given before the passing by any such council as aforesaid of the resolution by which any such act or thing or any such decision is to be done or taken or before the holding of any meeting of such council at which such resolution is to be passed the like notice shall be given before the doing of such act or thing or the taking of such decision under this section by the Manager.

(3) The Town Clerk shall keep in the prescribed form a register or registers in which he shall enter or cause to be entered a copy of every order made under this section by the Manager and a record of the time when such order was so made and the said register or registers shall be produced by the Town Clerk at every meeting of the Council for the inspection of the members thereof.

(4) A copy of any such order as aforesaid which is certified by the Town Clerk and by the Manager to be a true copy of such order shall be received in all courts as evidence of the fact that such order was made and of the contents of such order unless the contrary is shown.

(5) A copy of any record contained in any register kept under this section or of any entry therein which is itself a copy of any such order as aforesaid shall if certified by the Town Clerk and the Manager to be a true copy of such record or such entry (as the case may be) be received in all courts as evidence either (as the case may require) of the fact that such record was made and of the contents thereof or of the fact that the order to which such entry relates was made and of the contents of such order.

15.—The Manager may by order signed by him and countersigned by the Town Clerk authorise the making of any payment out of the funds of the Corporation in respect of any expense or on account of any liability incurred by the Council or the Manager on behalf of the Corporation in the exercise or the performance by the Council or the Manager of any of the powers, functions or duties of the Corporation which are exercisable or performable by them or him under this Act.

Authorisation
of payments.

16.—(1) The Manager shall cause to be prepared in each year at the prescribed time and in the prescribed form an estimate (in this section referred to as the estimate of expenses) showing the amounts which in his opinion will be necessary to meet the expenses and provide for the requirements of the Corporation during the local financial year then next ensuing.

Estimate of
expenses and
rates meeting.

(2) The estimate of expenses prepared in each year shall be considered by the Council at a meeting thereof (in this section referred to as the rates meeting of the Council) at which the Manager shall be present held at the time prescribed in that behalf either generally or in regard to any particular year by the Minister and of which not less than fourteen days' notice in the prescribed form shall have been given by the Town Clerk to every member of the Council.

(3) The Town Clerk shall in each year not less than fourteen days before the date on which the rates meeting of the Council is to be held send to every member of the Council a copy of the estimate of expenses to be considered at the said meeting.

(4) In each year the Town Clerk shall, not less than fourteen days before the date on which the rates meeting of the Council is to be held, deposit in the offices of the Council for inspection by the public a copy of the estimate of expenses prepared under

this Act in that year and shall at the same time give public notice in the prescribed manner and form of the fact that such estimate of expenses has been made and that a copy thereof has been deposited by him as aforesaid.

(5) The copy of the estimate of expenses deposited under this section in the offices of the Council may be inspected by the public at any time at which the said offices are open for the transaction of official business and without the payment of any fee or premium for such inspection.

(6) The Town Clerk shall supply to every person making application to him therefor a copy of the estimate of expenses at a cost of one shilling per copy.

(7) The Council shall at the rates meeting of the Council held in every year consider and may amend or modify the estimate of expenses prepared for their consideration at such meeting and the Council shall by resolution adopt such estimate of expenses either with or without amendment or modification and shall by the same or any subsequent resolution passed by them at such meeting determine in accordance with such estimate as so adopted the rates in the pound to be levied for the several purposes specified in such estimate.

(8) Where the Council at any rates meeting of the Council propose to make any amendment or modification in or of the estimate of expenses considered at such meeting which in the opinion of the Manager would, if carried into effect, seriously prejudice the efficient or economic performance of the duties of the Corporation the Manager shall at such meeting make his objections to such proposed amendment or modification and shall state the reasons for such objection and, upon such objection being made, the Council shall not make such proposed amendment or modification in or of the estimate of expenses until after the expiration of fourteen days from the date on which such objection was made and the Council may for that purpose adjourn such rates meeting.

Appointment by
the Corporation
of members of
certain public
bodies.

17.—(1) On and after the appointed day the provisions contained in any statute and in any order having statutory force (other than a County Scheme prepared under the Local Government (Temporary Provisions) Act, 1923 (No. 9 of 1923)) whereby any person who is elected or nominated by the Corporation to be a member of any public body is required to be a member of the council of the county borough of Cork shall in so far as those provisions apply to the Corporation cease to have effect and in lieu thereof it is hereby enacted that any person who is on or after the appointed day elected or nominated by the Corporation to be a member of any public body and who but for this section would be required to be a member of the said council shall be such person, whether a member of the Council or not a member of the Council, as the Corporation, by reason of his special knowledge or practical experience of the matters administered by such public body, consider best fitted for membership thereof.

(2) The Manager shall be entitled to attend the meetings of any public body any one or more members of which are required by or under any statute or by any such order as aforesaid to be elected or nominated by the Corporation and shall be entitled to take part in the discussions at such meetings but he shall not be entitled to vote on any question to be decided at any such meeting by a vote of the members of such body.

Deputy
Manager.

18.—(1) If and whenever the Manager is temporarily incapable through illness or absence from the Borough of exercising his powers and functions and performing his duties under this Act the Manager, after consultation with the Lord Mayor or, where the nature or circumstances of the incapacity of the Manager renders or render it impracticable for him so to do, the Lord Mayor may nominate a fit and proper person to be the Deputy Manager of the City of Cork (in this section referred to as the Deputy Manager) and may with the consent of the Minister at any time remove the Deputy Manager.

(2) The Deputy Manager shall during such incapacity or absence as aforesaid of the Manager have all the powers and shall exercise and perform all the functions and duties of the Manager and for that purpose all references in this Act to the
5 Manager (other than the references to the Manager in this section and the references in this Act to the appointment, tenure of office and remuneration of the Manager) shall be construed as including the Deputy Manager.

(3) There shall be paid by the Council to the Deputy Manager
10 such remuneration (if any) as the Minister shall determine and the amount of such remuneration shall be raised by the Council by means of the same rate as the rate by which the salary of the Town Clerk is raised.

19.—(1) In every action or other legal proceeding, whether
15 civil or criminal, instituted in any court of law or equity by or against the Corporation the Manager shall act for and on behalf of the Corporation and may do all such acts, matters or things as he may consider necessary for the preparation and prosecution or defence of such action or other proceeding in the same
20 manner in all respects as if (as the case may require) he were the plaintiff or the defendant therein and where any such action or other proceeding relates to the exercise or the performance by the Council of any of the reserved functions the Manager shall in the doing of any such act, matter or thing as aforesaid act with the express authority of the Council which authority shall be deemed to have been given unless and until the contrary is shown.

Legal
proceedings.

20.—(1) The Minister may by order make such adaptations
25 and modifications of and in any enactment (including any enactment contained in any local Act) whether passed before or after the passing of this Act relating generally to boroughs, county boroughs or urban districts or the councils of boroughs, county boroughs, or urban districts as appear to the Minister to be necessary or expedient for the purpose of carrying this Act into
30 effect and upon such order being made the enactment to which it relates shall in so far as such enactment relates to the Borough or the Corporation or to the Borough and the Corporation apply to the Borough or the Council or the Borough and the Council (as the case may be) subject to the adaptations thereof and the
35 modifications (if any) therein made by such order.

Adaptation of
enactments.

(2) Where it appears to the Minister that any local Act in force at the date of the passing of this Act contains provisions which are similar to or inconsistent with the provisions of this Act the Minister may by order declare that the provisions
45 thereof specified in such order shall not apply in or in relation to the Borough and upon such order being made the provisions specified in that behalf therein shall not apply in or in relation to the Borough.

(3) The provisions of any Act (including any local Act) or of
50 any order in force at the passing of this Act in or in relation to the Borough shall, on and after the passing of this Act, but subject to the provisions of any order adapting or modifying such enactment made by the Minister under this section and for the time being in force, be construed with such modifications as
55 may be necessary to give effect to this Act.

21.—(1) The Minister may appoint a day to be the appointed day for the purposes of this Act.

The appointed
day.

(2) All references in this Act to the appointed day shall be construed and have effect as references to the day appointed
60 under this section by the Minister.

22.—This Act may be cited as the Cork City Management Act, 1928.

Short title.

Saorstát Éireann

BILLE BAINISTÍ CHATHAIR
CHORCAIGHE, 1928.

BILLE

(*mar do tugadh isteach*)
dá ngairmtear

Acht chun socrú do dhéanamh chun gnó riaracháin agus airgeadais contae-bhuirg Chorcaighe do bhainistí agus i gcóir nithe eile a ghabhann no a bhaineann leis an mbainistí sin.

*An tAire Rialtas Aitiúla agus Sláinte Puiblí
do thug isteach.*

*Do hordúodh, ag Dáil Éireann, do chlóbhuála,
22adh Meitheamh, 1928.*

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Saorstát Éireann

CORK CITY MANAGEMENT BILL, 1928.

BILL

(*as introduced*)
entitled

An Act to make provision for the management of the administrative and financial business of the county borough of Cork and for other matters incidental to such management or in connection therewith.

*Introduced by the Minister for Local
Government and Public Health.*

*Ordered, by Dáil Éireann, to be printed,
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