



# Private Legislation Procedure (Scotland) Act 1936

1936 CHAPTER 52 26 Geo 5 and 1 Edw 8

## *Application for Provisional Order*

### **1 Application for Provisional Order. Notices.**

- (1) When any public authority or any persons (hereinafter referred to as the petitioners) desire to obtain Parliamentary powers in regard to any matter affecting public or private interests in Scotland for which they would have been, before the commencement of the<sup>M1</sup> Private Legislation Procedure (Scotland) Act 1899, entitled to apply to Parliament by a petition for leave to bring in a Private Bill, they shall proceed by presenting a petition to the Secretary of State, praying him to issue a Provisional Order in accordance with the terms of a draft Order submitted to him, or with such modifications as shall be necessary.
- (2) A printed copy of the draft Order shall, at such time as shall be prescribed, be deposited in the office of the Clerk of the Parliaments and in the Committee and Private Bill Office of the House of Commons, and also at the office of the Treasury and of such other public departments as shall be prescribed.
- (3) The petitioners shall make such deposits and give such notice by public advertisement, and, where land is proposed to be taken, by such service on owners, lessees and occupiers, as shall be prescribed as sufficient for procedure by way of Provisional Order under this Act.
- (4) If a representation is made to the Secretary of State by any public authority or persons that they desire to obtain Parliamentary powers to be operative in Scotland and elsewhere, and that it is expedient that such powers should be conferred by one enactment by reason of the fact that it is necessary to provide for the uniform regulation of the affairs of an undertaking or institution carried on or operating in Scotland and elsewhere, the Secretary of State and the Chairman of Committees of the House of Lords and the Chairman of Ways and Means in the House of Commons (in this Act referred to as the Chairmen) shall take such representation into their consideration, and, if they shall be of opinion that the said powers or some of them would more

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**Changes to legislation:** There are currently no known outstanding effects for the Private Legislation Procedure (Scotland) Act 1936, Cross Heading: Application for Provisional Order. (See end of Document for details)

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properly be obtained by the promotion of a Private Bill than by the promotion of a Private Bill and of a Provisional Order [<sup>F1</sup>(or a Provisional Order and an order under section 1 or 3 of the Transport and Works Act 1992)], they shall cause a notice of a decision to that effect to be published in the London and the Edinburgh Gazettes and shall lay a report of such decision before both Houses of Parliament, and, on the publication of such notice as aforesaid, subsection (1) of this section shall not apply as regards any powers to which the said decision relates.

[<sup>F2</sup>(5) This section shall not apply where any public authority or any persons desire to obtain parliamentary powers the conferring of which is wholly within the legislative competence of the Scottish Parliament.]

#### Textual Amendments

- F1** Words in s. 1(4) inserted (E.W.S.) (1. 1. 1993) by Transport and Works Act 1992 (c. 42), s. 24; S.I. 1992/2784, art. 2(a), Sch. 1.
- F2** S. 1(5) inserted (1.7.1999) by 1998 c. 46, s. 125, Sch. 8 para. 5; S.I. 1998/3178, art. 2

#### Marginal Citations

- M1** 1899 c. 47.

## 2 Report by Chairman that procedure should not be by Provisional Order.

- (1) The Chairmen shall, if the two Houses of Parliament think fit so to order, determine all matters of practice and procedure which will enable them to take into consideration the draft Order, and to report thereon to the Secretary of State:  
Provided that with a view to such report the Secretary of State shall forthwith inform the Chairmen of any dissents from, or objections to, any of the provisions of the Order which have been stated in the prescribed manner and within the prescribed time.
- (2) If it appears from the report of the Chairmen that in their opinion the provisions or some of the provisions of the draft Order relate to matters outside Scotland to such an extent, or raise questions of public policy of such novelty and importance, that they ought to be dealt with by Private Bill and not by Provisional Order, the Secretary of State shall, without further inquiry, refuse to issue the Provisional Order, so far as the same is objected to by the Chairmen.
- (3) A copy of every report by the Chairmen in pursuance of this section shall, as soon as possible, be laid before both Houses of Parliament.
- (4) If the Secretary of State shall refuse to issue the Provisional Order or part thereof in pursuance of the provisions of this section, the notices published and served and the deposits made for the proposed Provisional Order shall, subject to Standing Orders, be held to have been published and served and made for a Private Bill applying for similar powers:  
Provided that the petitioners shall, by notice served in the prescribed manner and within the prescribed time, inform all opponents of their intention to proceed by way of Private Bill, and, subject to Standing Orders, the petition for the Provisional Order shall be deemed and taken to be the petition for leave to bring in a Private Bill, and the petitioners shall also give such additional notices (if any) as shall be required by Standing Orders.

**Changes to legislation:**

There are currently no known outstanding effects for the Private Legislation Procedure (Scotland) Act 1936, Cross Heading: Application for Provisional Order.