



Statutory Orders (Special Procedure) Act 1945

1945 CHAPTER 18 9 10 Geo 6

1 Application of Act to certain statutory orders made under future enactments

- (1) Where, by any Act passed after the passing of this Act, power to make or confirm orders is conferred on any authority, and provision is made requiring that any such order shall be subject to special parliamentary procedure, the provisions of this Act shall apply in relation to any order so made or confirmed.
- (2) An order to which this Act applies shall be of no effect until it has been laid before Parliament by the Minister and has been brought into operation in accordance with the provisions of this Act.

2 Preliminary proceedings

- (1) No order to which this Act applies shall be laid before Parliament until the requirements of the empowering enactment with respect to the publication or service of notices, the consideration of objections, and the holding of inquiries or other proceedings preliminary to the making or confirmation of the order have been complied with, or, where no such requirements are imposed by that enactment, until the requirements of the First Schedule to this Act have been complied with ; and after any such requirements as aforesaid have been complied with, notice of the Minister's intention to lay the order before Parliament shall be published in the London Gazette not less than three days before the order is so laid.
- (2) When any order to which this Act applies is laid before Parliament there shall, together with it, be laid before Parliament a certificate by the Minister specifying the requirements as to the matters aforesaid which relate to the order, and certifying that they have been complied with. Where a local inquiry has been dispensed with in accordance with any such requirements the said certificate shall include a statement to that effect.
- (3) In this section the expression " empowering enactment," in relation to any order, includes any enactment other than this Act which has the effect of requiring the

publication or service of notices, the ' consideration of objections or the holding of inquiries or other proceedings preliminary to the making or confirmation thereof.

3 Petitions

- (1) If, within the period of fourteen days beginning with the day on which an order to which this Act applies is laid before Parliament, or, if the order is so laid on different days, with the later of the two days, a petition is duly presented against the order, the petition shall stand referred for examination to the Lord Chairman of Committees and the Chairman of Ways and Means (hereinafter together referred to as " the Chairmen ").
- (2) The following provisions shall have effect with respect to petitions against an order to which this Act applies :—
 - (a) a petition praying for particular amendments to be made in the order shall specify the amendments asked for, and shall be known as a petition for amendment ;
 - (b) a prayer against the order generally shall not be included ' in a petition for amendment, but may be contained in a separate petition which shall be known as a petition of general objection.
- (3) As soon as practicable after the expiration of the said period of fourteen days, the Chairmen shall take into consideration all petitions referred to them under this section, and if the Chairmen are satisfied with respect to any such petition that the provisions of this Act and of Standing Orders have been complied with in respect thereof and that the petition discloses a substantial ground of objection to the order, they shall certify that the petition is proper to be received and is a petition for amendment or a petition of general objection as the case may be.
- (4) Where in the opinion of the Chairmen a petition presented as a petition for amendment involves amendments of the order which would constitute a negative of the main purpose of the order, they shall if they certify that the petition is proper to be received, certify it as a petition of general objection provided that if the petitioner satisfies the Chairmen that some only of the amendments involved would constitute a negative of the main purpose of the order, the Chairmen may direct the deletion of so much of the petition as requires such amendments and certify the remainder thereof as a petition for amendment.
- (5) In respect of every order to which this Act applies, the Chairmen shall report whether any petitions have been presented against it, and if so what petitions, if any, have been certified as proper to be received and as petitions for amendment and petitions of general objection respectively; and subject to Standing Orders, every such report shall be laid before both Houses of Parliament.

4 Proceedings consequent upon report as to petitions

- (1) If either House, within the period of fourteen days beginning with the date on which the report of the Chairmen relating to any order to which this Act applies is laid before it, resolves that the order be annulled, the order shall thereupon become void and no further proceedings shall be taken thereon, but without prejudice to the laying before Parliament of a new order:

Provided that on the consideration of any motion for the annulment of an order under this subsection either House may, if a petition of general objection to the order has been certified as proper to be received, and the House is of opinion that the question of

annulment ought not to be determined until that objection has been further examined, order that the petition be referred to a joint committee of both Houses in accordance with the provisions of this section, and in that case the order shall not be annulled except in accordance with the provisions of the two next following sections.

In reckoning the said period of fourteen days, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days.

- (2) If within the period mentioned in the foregoing subsection (hereinafter referred to as "the resolution period ") no resolution that the order be annulled has been passed, then, subject as hereinafter provided, any petitions certified by the Chairmen as proper to be received shall stand referred to a joint committee of both Houses :

Provided that where any petition so certified has been certified as a petition of general objection, that petition shall not stand so referred unless either House has ordered as aforesaid that the petition be so referred.

- (3) If during the resolution period neither House has resolved that the order be annulled, and no petitions relating to the order stand referred to the joint committee under this section, the order shall come into operation at the expiration of that period, or on such later date, if any, as may be specified in the order.

5 Powers of joint committee on opposed orders

- (1) Where any petition against an order to which this Act applies is referred to a joint committee of both Houses under the last foregoing section, the order shall stand referred to that committee for the purpose of the consideration of the petition, and the committee shall have power to report the order either without amendment or with such amendments as they think expedient to give effect, either in whole or in part, to any such petition, and with such consequential amendments, if any, as they think proper.
- (2) Where any petition so referred to the joint committee is a petition of general objection, and the committee, upon consideration of the petition, are satisfied that effect ought to be given thereto, they may report the order with amendments notwithstanding that the petition is one of general objection, but if in their opinion the order ought not to take effect, they shall report that the order be not approved.
- (3) Subject to Standing Orders, the report of the joint committee in respect of any such order shall be laid before both Houses of Parliament.

6 Operation of orders

- (1) Where an order to which this Act applies is reported by the joint committee without amendment, the order shall come into operation on the date on which the report of the committee is laid before Parliament in accordance with the last foregoing section, or on such later date, if any, as may be specified in the order.
- (2) Where any such order is reported by the joint committee with amendments, then, subject as hereinafter provided, the order shall come into operation as so amended on such date as the Minister may, by notice given in the prescribed manner, determine:

Provided that if the Minister considers it inexpedient that the order should take effect as so amended, he may, by notice given in the prescribed manner, withdraw the order,

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or may cause the order to be submitted to Parliament for further consideration by means of a Bill for the confirmation thereof.

- (3) Where the joint committee report, with respect to any such order as aforesaid, that the order be not approved, the order shall not take effect unless it is confirmed by Act of Parliament.
- (4) A Bill presented for the purposes of subsection (2) of this section shall set out the order as amended by the joint committee, and any such Bill shall be treated for all purposes as a public Bill except that it shall, after its presentation, be deemed to have passed through all its stages up to and including committee in the House in which it is presented, and shall be ordered to be considered in that House as if it had been reported from a committee thereof, and as if the amendments had been made in committee on the Bill; and when the Bill has been read a third time and passed in that House, the like proceedings shall be taken in the second House.
- (5) A Bill presented for the purposes of subsection (3) of this section shall set out the order as referred to the joint committee, and any such Bill shall be treated for all purposes as a public Bill, except that—
 - (a) where a petition for amendment of the order certified as proper to be received was not dealt with by the joint committee, the Bill shall, after being read a second time in the House in which it is presented, be referred to that committee for the purposes of the consideration of that petition, and thereafter shall be ordered to be considered in that House as if it had been reported from a committee thereof; and when the Bill has been read a third time and passed in that House, it shall be deemed to have passed through all its stages up to and including committee in the second House ;
 - (b) where no such petition has been so certified, the Bill shall, after its presentation, be treated as having passed all its stages up to and including committee in the House in which it is presented, and shall be ordered to be considered in that House as if it had been reported from a committee thereof ; and when the Bill has been read a third time and passed in that House the like proceedings shall be taken in the second House.

7 Costs

- (1) A joint committee by which an order to which this Act applies is considered shall have the like power to award costs as a select committee of either House in relation to a Provisional Order Bill under the Parliamentary Costs Act, 1865, as applied by the Parliamentary Costs Act, 1871, and the provisions of the first mentioned Act shall apply accordingly subject to any necessary modifications.
- (2) The provisions of the House of Commons Costs Taxation Act, 1847, and the House of Lords Costs Taxation Act, 1849, shall apply with any necessary modifications to costs incurred in respect of an order to which this Act applies, as they apply to costs incurred in respect of a private Bill, and section two of the House of Commons Costs Taxation Act, 1879 (which requires the Taxation Officer to tax the costs of Bills and provisional orders on the request of a Secretary of State or the Minister of Health) shall have effect as if the reference therein to a provisional order included a reference to an order to which this Act applies, and as if any reference therein to a Secretary of State or the Minister of Health included a reference to the Minister.
- (3) The reasonable costs incurred by a local authority in applying for or supporting an order to which this Act applies, or in opposing any such order, including costs incurred

in connection with any local inquiry preliminary thereto, shall, to such extent as may be sanctioned by the Minister of Health, be deemed to be expenses properly incurred by the local authority and shall be paid accordingly, and the local authority may borrow for the purpose of defraying such costs.

8 Application of Act to orders made under certain existing enactments

- (1) This Act shall apply to any order made or confirmed after the commencement of this Act under any of the enactments specified in the Second Schedule to this Act, being an order which, but for the provisions of this subsection, would be provisional only and of no effect until confirmed by Parliament, and accordingly, in relation to any order so made or confirmed, the provisions of those enactments shall have effect subject to the amendments set out in relation thereto in the second column of that Schedule.
- (2) For the avoidance of doubt it is hereby declared that in the application of this Act—
 - (a) to any order made by the Minister of Town and Country Planning and the appropriate Minister under subsection (2) of section thirty-five or paragraph (d) of subsection (1) of section thirty-six of the Town and Country Planning Act, 1944 (which provide that certain decisions and consents given by those Ministers must in certain cases be embodied in an order made by them) ; or
 - (b) to any order made by the Minister of Health under subsection (2) of section twelve or subsection (6) of section twenty-six of the Water Act, 1945 (which provide that the approval by that Minister of certain agreements shall in certain cases be given by order),the requirements imposed by the Town and Country Planning Act, 1944, and by the Town and Country Planning Acts, 1932 and 1943, with respect to the procedure to be followed in connection with the giving of such decisions and consents by the Minister of Town and Country Planning and the appropriate Minister otherwise than by order, and the provisions of the Water Act, 1945, with respect to the giving of such approval by the Minister of Health otherwise than by order, are to be deemed for the purposes of section two of this Act to be requirements with respect to proceedings preliminary to the making of the order.
- (3) If at any time after the commencement of this Act an address is presented to His Majesty by both Houses of Parliament praying that the provisions of this Act be applied to orders thereafter to be made under any enactment passed before the commencement of this Act, in substitution for the provisions of any such enactment providing that such orders shall be provisional only and shall not have effect until confirmed by Parliament, His Majesty may by Order in Council make provision for that purpose ; and any such Order in Council may adapt or modify any enactment to such extent as may be expedient in consequence of the order.
- (4) The power to make Orders in Council conferred by this section shall include power to revoke or vary any such Order by a subsequent Order.

9 Standing Orders for the purposes of this Act

Without prejudice to any other powers exercisable in that behalf by the House of Lords and the House of Commons respectively, Standing Orders may be made for any purpose connected with the provisions of this Act, and in particular—

- (a) for regulating the manner in which petitions against an order to which this Act applies shall be framed and presented, and for extending the period of fourteen

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days prescribed by this Act in relation to the presentation of such petitions in any case where that period expires on a day on which the House is not sitting or, in the case of the House of Lords, is sitting for judicial business only ;

- (b) for enabling the functions of the Lord Chairman of Committees and of the Chairman of Ways and Means under this Act to be performed by any deputy appointed in accordance with Standing Orders ;
- (c) for regulating the proceedings of the Chairmen in connection with the examination of petitions under this Act;
- (d) for prescribing the cases in which a petitioner against an order to which this Act applies shall be treated for the purposes of this Act as having locus standi, and for enabling the Chairmen to determine questions of locus standi in connection with the examination of petitions ;
- (e) for prescribing the constitution of any joint committee of both Houses which may be appointed for the purposes of this Act ;
- (f) for regulating the proceedings of any such committee upon the consideration of any order or Bill referred to them, and in particular for enabling the committee, if satisfied that an amendment prayed for by any petition which is referred to them may affect the interests of persons not represented before them, to afford to any such person an opportunity to be so represented ;
- (g) for regulating the procedure to be followed in connection with any Bill introduced under section six of this Act; .and
- (h) for prescribing anything required under this Act to be prescribed.

10 Application to orders extending to Scotland only

- (1) The provisions of this section shall have effect for the purpose of the application of this Act to orders extending to Scotland only.
- (2) For section two the following section shall be substituted :—
 - (1) Before any order to which this Act applies is made or confirmed by the Minister, the requirements of the empowering enactment with respect to the service of notices shall be complied with, and the following notice shall be given by advertisement in the Edinburgh Gazette and, in the case of an order relating to a particular area, in at least one newspaper circulating in that area, that is to say—
 - (a) in the case of an order to be made by the Minister on the application of any person, notice by the applicant of the purport of the application ;
 - (b) in the case of an order to be confirmed by the Minister, notice by the applicant of the order as-submitted by him for confirmation ;
 - (c) in the case of an order to be made by the Minister otherwise than on the application of any person, notice by the Minister of the order as proposed to be made.
 - (2) Any such notice shall specify the time within which and the manner in which objections may be made to the application or to the proposed order, as the case may be, and if any objection (other than an objection which in the opinion of the Minister is frivolous or which relates to a matter that can be dealt with by an arbiter by whom compensation is to be assessed) is duly made in the time and manner so specified or in accordance with the provisions of the empowering enactment and is not withdrawn, or if for any other reason the Minister considers an inquiry necessary, he shall direct an inquiry to be held by

Commissioners under the Private Legislation Procedure (Scotland) Act, 1936, and the provisions of that Act with regard to inquiries thereunder shall apply in relation to inquiries to be held under this section subject to the following and any other necessary modifications :—

- (a) for any reference to the Secretary of State (except in paragraph (a) of subsection (6) of section six which empowers the Secretary of State to prescribe a scale of costs) there shall be substituted a reference to the Minister :

Provided that subsections (5) and (6) of section five (which relate to the taking of Commissioners from the extra-parliamentary panel and to the filling of casual vacancies) shall, in their application to an order made by the Minister otherwise than on the application of any person, have effect with the substitution of references to the Lord President of the Court of Session for references to the Secretary of State :

- (b) subsection (4) of section six (which relates to the reference of recommendations to the Commissioners) shall not apply.

- (3) The power conferred by section fifteen of the aforesaid Act to make general orders shall extend to the making of general orders for the regulation of proceedings in inquiries directed to be held under this section, including the fixing, with the consent of the Treasury, of a scale of fees to be paid by applicants for, and supporters and opponents of, orders to which this Act applies.

- (4) If the Minister is not prepared to accept the recommendations of the Commissioners with regard to any application or proposed order referred to them under this section, he may cause to be presented to Parliament a Bill for the confirmation of the order, and the provisions of section nine of the Private Legislation Procedure (Scotland) Act, 1936, shall apply to such Bill in like manner as they apply to the Confirmation Bills therein mentioned.

- (5) When any order to which this Act applies is laid before Parliament, or a Bill for the confirmation of any such order is presented to Parliament in pursuance of the last foregoing subsection, there shall, together with it, be laid before or presented to Parliament, a statement by the Minister specifying any objections made to the order and not withdrawn ; stating whether an inquiry has been held under subsection (2) of this section, and, in any case where any inquiry was not so held, what objections, if any, were (a) in the opinion of the Minister frivolous, or (b) related to matters which could be dealt with by an arbiter assessing compensation.

- (6) In this section, the expression ' empowering enactment ' in relation to any order includes any enactment other than this Act which has the effect of requiring the service of notices in connection therewith, and for the purposes of subsection (1) of this section a notice shall be sufficient notice of an order if it sets out the purport of the order and specifies a place where copies thereof may be inspected free of charge at all reasonable hours.”

- (3) For section four the following section shall be substituted :—

- (1) If either House within the period of fourteen days beginning with the date on which the report of the Chairmen relating to any order to which this Act applies is laid before it, resolves that the order be annulled, the order shall

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thereupon become void, and no further proceedings shall be taken thereon, but without prejudice to the laying before Parliament of a new order.

In reckoning any such period, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

- (2) If a petition against the order has been certified by the Chairmen as proper to be received, either House may, within the period mentioned in the last foregoing subsection, on the consideration of a motion that the petition be referred to a joint committee of both Houses or of a motion for the annulment of the order under the last foregoing subsection order that the petition be referred to a joint committee of both Houses.

Provided that the order shall not be annulled except in accordance with the next two succeeding sections if either—

- (i) a petition of general objection has been so referred; or
- (ii) a petition for amendment has been so referred on consideration of a motion for annulment.

- (3) If, at the expiration of the period mentioned in subsection (1) of this section neither House has resolved that the order be annulled or ordered that a petition against the order be referred to the joint committee, the order shall come into operation at the expiration of that period or on such later date, if any, as may be specified in the order.”

- (4) Section six of this Act shall have effect as if—

- (i) in paragraph (a) of subsection (5) for the words from " certified as" to " joint committee" there were substituted the words " has been referred to the joint committee and has not been dealt with by them "; and
- (ii) in paragraph (b) of the said subsection for the word " certified " there was substituted the word " referred ".

- (5) Section seven of. this Act shall have effect as if for subsection (3) the following subsection were substituted :—

“(3) The expenses reasonably incurred by a local authority within the meaning of the Local Authorities Loans (Scotland) Act, 1891, in applying for or supporting or opposing an order to which this Act applies including expenses incurred in connection with any inquiry before Commissioners under the Private Legislation Procedure (Scotland) Act, 1936, shall, save as otherwise provided in any enactment, be defrayed in like manner as expenditure by the authority on the functions for the purposes of which such application was made, supported or opposed by the authority.”

11 Interpretation

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

" Chairman of Ways and Means " means the Chairman of Ways and Means in the House of Commons, and includes any deputy acting on his behalf in accordance with Standing Orders ;

" Local authority " means any authority being, within the meaning of the Local Loans Act, 1875, an authority having power to levy a rate.

" Lord Chairman of Committees " means the Lord Chairman of Committees of the House of Lords, and includes any deputy acting on his behalf in accordance with Standing Orders ;

" Order " includes a scheme, certificate or byelaws;

" Prescribed " means prescribed by Standing Orders under this Act ;

" Standing Orders " means standing orders of the House of Lords and the House of Commons respectively;

" The applicant, " in relation to an order to which this Act applies, means the person on whose application the order is made or confirmed ;

" The Minister, " in relation to any such order, means the Minister of-the Crown responsible for laying the order before Parliament.

- (2) For the avoidance of doubt it is hereby declared that any power to amend or revoke an order to which this Act applies by a subsequent order may be exercised notwithstanding that the original order has been confirmed by Act of Parliament in accordance with the provisions of this Act.

12 Short title, commencement and extent

- (1) This Act may be cited as the Statutory Orders (Special Procedure) Act, 1945.
- (2) This Act shall come into operation on the first day of June, 1 nineteen hundred and forty-six.
- (3) This Act shall not extend to Northern Ireland.