



Statutory Orders (Special Procedure) Act 1945

1945 CHAPTER 18 9 and 10 Geo 6

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made in the time and manner so specified or in accordance with the provisions of the empowering enactment and is not withdrawn, or if for any other reason the Minister considers an inquiry necessary, he shall direct an inquiry to be held by Commissioners under the Private Legislation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

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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 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 [^{F1}twenty-one 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 [^{F2}(being a regional, islands or district council)], 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.”

Textual Amendments

- F1** Words substituted by [Statutory Orders \(Special Procedure\) Act 1965 \(c. 43\) s. 1 \(1\) \(2\)](#)
- F2** Words in s. 10(5) substituted (5.11.1993) by [1993 c. 50, s. 1\(2\), Sch. 2 para. 26\(2\)](#).

Modifications etc. (not altering text)

- C1** S. 10 extended by [Water \(Scotland\) Act 1980 \(c. 45, SIF 130\), s. 99 \(1\)](#)
S. 10 extended (S.) (27.5.1997) by [1997 c. 8, ss. 268\(2\), 278\(2\)](#).

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- C2** S. 10 modified (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), **ss. 5** (5), 7 (9), 76, 77, 128 (1), Sch. 1 para. 19 (a) (b)
- S. 10 applied (with modifications) (28.7.1998) by s. 59(3)(b) of a provisional Order, as confirmed by [1998 c. iii, s. 1, Sch.](#)

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