



# House of Lords Costs Taxation Act 1849

## 1849 CHAPTER 78

An Act for the more effectual Taxation of Costs on Private Bills in the House of Lords, and to facilitate the Taxation of other Costs on Private Bills in certain Cases. [28th July 1849]

WHEREAS an Act was passed in the Seventh Year of the Reign of His late Majesty King *George* the Fourth, intituled *An Act to establish a Taxation of Costs on Private Bills in the House of Lords*: And whereas it is expedient to repeal the same, and to make more effectual Provision for taxing the Costs and Expenses to be charged by Parliamentary Agents, Attornies, Solicitors, and others, in future Sessions of Parliament, in respect of Bills subject to the Payment of Fees in Parliament, commonly called Private Bills, and to be incurred in complying with the Standing Orders of the House of Lords relative to such Bills, and in preparing, bringing in, and carrying the same through, or in opposing the same in, the House of Lords, and to facilitate the Taxation of other Costs incurred in respect of Private Bills, in certain Cases :

Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same,

### **Recited Act 7 & 8 G. 4. c. 64. repealed.**

That, except as to any Costs, Charges, and Expenses which, shall have been incurred in the present or any preceding Session of Parliament, the said recited Act shall be repealed.

### **II Parliamentary Agent, Attorney, or Solicitor not to sue for Costs until One Month after Delivery of his Bill. Evidence of Delivery of Bill. Power to Judge to authorize Action before Expiration of One Month.**

And be it enacted, That no Parliamentary Agent, Attorney, or Solicitor, nor any Executor, Administrator, or Assignee of any Parliamentary Agent, Attorney, or Solicitor, shall commence or maintain any Action or Suit for the Recovery of any Costs, Charges, or Expenses in respect of any Proceedings in the House of Lords in any future Session of Parliament relating to any Petition for a Private Bill, or Private Bill, or in respect of complying with the Standing Orders of the said House relative thereto,

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*Status: This is the original version (as it was originally enacted).*

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or in preparing, bringing in, and carrying the same through, or opposing the same in, the House of Lords, until the Expiration of One Month after such Parliamentary Agent, Attorney, or Solicitor, or Executor, Administrator, or Assignee of such Parliamentary Agent, Attorney, or Solicitor, has delivered unto the Party to be charged therewith, or sent by Post to or left for him at his Counting-house, Office of Business, Dwelling House, or last known Place of Abode, a Bill of such Costs, Charges, and Expenses, and which Bill shall either be subscribed with the proper Hand of such Parliamentary Agent, Attorney, or Solicitor, or in the Case of a Partnership by any of the Partners, either with his own Name or with the Name of such Partnership, or of the Executor, Administrator, or Assignee of such Parliamentary Agent, Attorney, or Solicitor, or be enclosed in or accompanied by a Letter subscribed in like Manner referring to such Bill: Provided always, that it shall not in any Case be necessary, in the first instance, for such Parliamentary Agent, Attorney, or Solicitor, or the Executor, Administrator, or Assignee of such Parliamentary Agent, Attorney, or Solicitor, in proving a Compliance with this Act, to prove the Contents of the Bill delivered, sent, or left by him, but it shall be sufficient to prove that "a Bill of Costs, Charges, and Expenses, subscribed in manner aforesaid, or enclosed in or accompanied by such Letter as aforesaid, was delivered, sent, or left in manner aforesaid; but nevertheless it shall be competent for the other Party to show that the Bill so delivered, sent, or left was not such a Bill as constituted a *bonâ fide* Compliance with this Act: Provided also, that it shall be lawful for any Judge of the Superior Courts of Law or Equity in *England* or *Ireland*, or of the Court of Session in *Scotland*, to authorize a Parliamentary Agent, Attorney, or Solicitor to commence an Action or Suit for the Recovery of his Costs, Charges, and Expenses against the Party chargeable therewith, although One Month has not expired from the Delivery of a Bill as aforesaid, on Proof to the Satisfaction of the said Judge that there is probable Cause for believing that such Party is about to quit that Part of the United Kingdom in which such Judge hath Jurisdiction.

### **III Taxing Officer to be appointed by the Clerk of Parliaments or Clerk Assistant.**

And be it enacted, That the Clerk of the Parliaments, when discharging the Duties of his Office in Person, or in his Absence the Clerk Assistant, shall appoint a fit Person to be the Taxing Officer of the House of Lords; and every Person so appointed shall hold his Office during the Pleasure of the Clerk of the Parliaments or Clerk Assistant, and shall execute the Duties of his Office conformably to such Directions as he may from Time to Time receive from the Clerk of the Parliaments or Clerk Assistant.

### **IV The Clerk of Parliaments or Clerk Assistant to prepare List of Charges thenceforth to be allowed.**

And be it enacted, That the Clerk of the Parliaments, when discharging the Duties of his Office in Person, or in his Absence the Clerk Assistant, may from Time to Time prepare a List of such Charges as it shall appear to him that, after the present Session of Parliament, Parliamentary Agents, Attornies, Solicitors, and others may justly make with reference to the several Matters comprised in such List; and the several Charges therein specified shall be the utmost Charges thenceforth to be allowed upon the Taxation of any such Bill of Costs, Charges, and Expenses in respect of the several Matters therein specified ; Provided always, that the said Taxing Officer may allow all fair and reasonable Costs, Charges, and Expenses in respect of any Matters not included in such List.

**V Taxing Officer empowered to examine Parties and Witnesses on Oath.**

And be it enacted, That for the Purpose of any such Taxation the said Taxing Officer may examine upon Oath any Party to such Taxation, and any Witnesses who may be examined in relation thereto, and may receive Affidavits, sworn before him or before any Master or Master Extraordinary of the High Court of Chancery, relative to such Costs, Charges, or Expenses; and any Person who on such Examination on Oath or in any such Affidavit shall wilfully or corruptly give false Evidence shall be liable to the Penalties of wilful and corrupt Perjury.

**VI Taxing Officer empowered to call for Books and Papers.**

And be it enacted, That the said Taxing Officer shall be empowered to call for the Production of any Books or Writings in the Hands of any Party to such Taxation relating to the Matters of such Taxation.

**VII Taxing Officer to take such Fees as may be allowed by House of Lords.  
Application of Fees.**

And be it enacted, That it shall be lawful for the said Taxing Officer to demand and receive for any such Taxation such Fees as the House of Lords may from Time to Time by any Order authorize and direct, and to charge the said Fees, and also to award Costs of such Taxation against either Party to such Taxation, or in such Proportion against each Party as he may think fit, and he shall pay and apply the Fees so received by him in such Manner as shall be directed by any such Order as aforesaid.

**VIII On Application of Party chargeable, or on Application of Parliamentary Agent, Attorney, or Solicitor, the Taxing Officer to tax the Bill. No Application to be entertained by Taxing Officer after Verdict obtained.**

And be it enacted, That if any Person upon whom any Demand shall be made by any Parliamentary Agent, Attorney, or Solicitor, or Executor, Administrator, or Assignee of such Parliamentary Agent, Attorney, or Solicitor, or other Person, for any Costs, Charges, or Expenses in respect of any Proceedings in the House of Lords in any future Session of Parliament relating to any Petition for a Private Bill, or Private Bill, or in respect of complying with the Standing Orders of the said House relative thereto, or in preparing, bringing in, or carrying the same through, or in opposing the same in, the House of Lords, or if any Parliamentary Agent, Attorney, or Solicitor, or the Executor, Administrator, or Assignee of such Parliamentary Agent, Attorney, or Solicitor, or other Person, who shall be aggrieved by the Nonpayment of any Costs, Charges, and Expenses incurred or charged by him in respect of any such Proceedings as aforesaid, shall make Application to the said Taxing Officer at his Office for the Taxation of such Costs, Charges, and Expenses, the said Taxing Officer, on receiving a true Copy of the Bill of such Costs, Charges, and Expenses which shall have been duly delivered as aforesaid to the Party charged therewith, shall in due Course proceed to tax and settle the same; and upon every such Taxation, if either the Parliamentary Agent, Attorney, or Solicitor, or the Executor, Administrator, or Assignee of such Parliamentary Agent, Attorney, or Solicitor, or other Person, by whom such Demand shall be made as aforesaid, or the Party charged with such Bill of Costs, Charges, and Expenses, having due Notice, shall refuse or neglect to attend such Taxation, the said Taxing Officer may proceed to tax and settle such Bill and Demand ex parte; and if pending such Taxation any Action or other Proceeding shall be commenced for the Recovery of such Bill of Costs, Charges, and Expenses, the Court or Judge before

whom the same shall be brought shall stay all Proceedings thereon until the Amount of such Bill shall have been duly certified by the Clerk of the Parliaments or Clerk Assistant as hereinafter provided: Provided always, that no such Application shall be entertained by the said Taxing Officer if made by the Party charged with such Bill after a Verdict shall have been obtained or a Writ of Inquiry executed in any Action for the Recovery of the Demand of any such Parliamentary Agent, Attorney, or Solicitor, or the Executor, Administrator, or Assignee of such Parliamentary Agent, Attorney, or Solicitor, or other Person, or after the Expiration of Six Months after such Bill shall have been delivered, sent, or left as aforesaid: Provided also, that if any such Application shall be made after the Expiration of Six Months as aforesaid it shall be lawful for the Clerk of the Parliaments or Clerk Assistant aforesaid, if he shall so think fit, on receiving a Report of special Circumstances from the said Taxing Officer, to direct such Bill to be taxed.

**IX Taxing Officer to report to the Clerk of the Parliaments. If either Party complain of Report, they may deposit a Memorial and the Clerk of the Parliaments may require a further Report. If no Memorial deposited, Clerk of Parliaments may issue Certificate of the Amount found due. Certificate to have the Effect of a Warrant to confess Judgment.**

And be it enacted, That the said Taxing Officer shall report his Taxation to the Clerk of the Parliaments or Clerk Assistant as aforesaid, and in such Report shall state the Amount fairly chargeable in respect of such Costs, Charges, and Expenses, together with the Amount of Costs and Fees payable in respect of such Taxation as aforesaid, and shall also state in such Report the Amount due in respect of the said Costs, Charges, and Expenses ; and within Twenty-one clear Days after any such Report shall have been made either Party may deposit in the Office of the Clerk of the Parliaments a Memorial, addressed to the Clerk of the Parliaments or Clerk Assistant as aforesaid, complaining of such Report or any Part thereof, and such Clerk of the Parliaments or Clerk Assistant as aforesaid may, if he shall so think fit, refer the same, together with such Report, to the said Taxing Officer, and may require a further Report in relation thereto, and on receiving such further Report may direct the said Taxing Officer, if necessary, to amend his Report; and if no such Memorial be deposited as aforesaid, or so soon as the Matters complained of in any such Memorial shall have been finally disposed of, such Clerk of the Parliaments or Clerk Assistant as aforesaid shall, upon Application made to him, deliver to the Party concerned therein, and requiring the same, a Certificate of the Amount so ascertained, which Certificate shall be binding and conclusive on the Parties as to the Matters comprised in such Taxation, and as to the Amount of such Costs, Charges, and Expenses, and the Amount due in respect of the same, and of the Costs and Fees payable in respect of such Taxation, in all Proceedings at Law or in Equity or otherwise ; and in any Action or other Proceeding brought for the Recovery of the Amount so certified to be due such Certificate shall have the Effect of a Warrant of Attorney to confess Judgment; and the Court in which such Action shall be commenced, or any Judge thereof, shall, on Production of such Certificate, order Judgment to be entered up for the Sum specified in such Certificate, in like Manner as if the Defendant in any such Action had signed a Warrant to confess Judgment in such Action to that Amount: Provided always, that if such Defendant shall have pleaded that he is not liable to the Payment of such Costs, Charges, and Expenses, such Certificate shall be conclusive only as to the Amount thereof which shall be payable by such Defendant in case the Plaintiff shall in such Action recover the same.

**X Taxing Officer of either House may tax Costs not otherwise taxable under the Act by virtue of which any Bill shall be taxed; and may request other Officers to assist him. Such Officers to have the same Powers as in taxing other Costs.**

And be it enacted, That if any Bill of Costs taxable by virtue of this Act, or of "The House of Commons Costs Taxation Act, 1847," shall comprise any Costs, Charges, and Expenses incurred in respect of a Private Bill, but not taxable by virtue of the Act in pursuance whereof such Bill shall come to be taxed, it shall be lawful for the Taxing Officer of the House of Lords, or for the Taxing Officer of the House of Commons, as the Case may be, either to tax and settle such last-mentioned Costs, Charges, and Expenses, or to request the Taxing Officer of the other House of Parliament, or the proper Officer of any other Court having such an Officer, to assist him in taxing and settling any Part of such Bill; and such Officer so requested shall thereupon proceed to tax and settle the same, and shall return the same, with his Opinion thereupon, to the Officer who shall have so requested him to tax and settle the same; and in taxing such Costs, Charges, and Expenses the Taxing Officer of the House of Lords and the Taxing Officer of the House of Commons respectively shall have the same Powers and may receive the same Fees in respect of such Taxation as if such Costs, Charges, and Expenses were taxable by virtue of this Act, or of the " House of Commons Costs Taxation Act, 1847," as the Case may be; and the proper Officer of any Court so requested to tax the same shall have the same Powers and may receive the same Fees as upon a Reference from the Court of which he is such Officer.

**XI Taxing Officers to include certain Costs in their Reports, and Certificates of the Amount to be delivered.**

And be it enacted, That the Taxing Officer of the House of Lords, or the Taxing Officer of the House of Commons, as the Case may be, may include the Amount of such last-mentioned Costs, Charges, and Expenses in the Report of his Taxation of any such Bill of Costs; and in case the Clerk of the Parliaments or Clerk Assistant, or the Speaker of the House of Commons, as the Case may be, shall deliver a Certificate of the Amount so ascertained and declared in such Report, including such last-mentioned Costs, Charges, and Expenses, such Certificate shall have the same Force and Effect as if the whole of such Bill of Costs were taxable by virtue of the Act in pursuance whereof such Certificate shall be so delivered.

**XII Officers of other Courts may request the Taxing Officer of either House to tax Parts of Bills.**

And be it enacted, That in case the Taxing Officer of the House of Lords, or the Taxing Officer of the House of Commons, shall be requested by the proper Officer of any other Court to assist him in taxing and settling any Costs, Charges, and Expenses incurred in respect of a Private Bill, being Part of any Bill of Costs which shall have been referred to him by the Court of which he is such Officer, such Taxing Officer so requested shall thereupon proceed to tax and settle the same, and shall return the same, with his Opinion thereupon, to the Officer who shall have so requested him to tax and settle the same, and shall have the same Powers and may receive the same Fees in respect of such Taxation as if Application had been made to him for the Taxation thereof in pursuance of this Act, or of the " House of Commons Costs Taxation Act, 1847," as the Case may be.

**XIII Taxing Officer of either House may take an Account between the Parties.**

And be it enacted, That it shall be lawful for the Taxing Officer of the House of Lords and for the Taxing Officer of the House of Commons to take an Account between the Parties to any Taxation under this Act or the " House of Commons Costs Taxation Act, 1847," of all Sums of Money paid or received in respect of any Bill of Costs which is the Subject of such Taxation, or any Matters Contained therein, and to report the Amount of all such Sums of Money and the Amount due in respect of such Bills of Costs.

**XIV Construction of certain Words in this Act.**

And be it enacted, That in the Construction of this Act the Word "Month" shall be taken to mean a Calendar Month ; and every Word importing the Singular Number only shall extend and be applied to several Persons, Matters, or Things, as well as one Person, Matter, or Thing; and every Word importing the Plural Number shall extend and be applied to one Person, Matter, or Thing, as well as several Persons, Matters, or Things; and every Word importing the Masculine Gender only shall extend and be applied to a Female as well as a Male ; and the Word " Person " shall extend to any Body Politic, Corporate, or Collegiate, Municipal, Civil, or Ecclesiastical, Aggregate or Sole, as well as an Individual; and the Word " Oath " shall include Affirmation in the Case of Quakers, and any Declaration lawfully substituted for an Oath in the Case of any other Person allowed by Law to make a Declaration instead of taking an Oath ; unless in any of the Cases aforesaid it be otherwise specially provided, or there be something in the Subject or Context repugnant to such Construction.

**XV Form of citing the Act.**

And be it enacted, That in citing this Act in other Acts of Parliament, and in legal and other Instruments, it shall be sufficient to use the Expression "The House of Lords Costs Taxation Act, 1849."

**XVI Act may be amended, &c.**

And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.