



Private Legislation Procedure (Scotland) Act 1936

1936 CHAPTER 52

Appointment of and Inquiry by Commissioners

3 When inquiry by Commissioners to be directed

- (1) If the Chairmen report that the Provisional Order may proceed, or if a report against a part only of the Order is made by the Chairmen, upon due proof to the satisfaction of the examiner of compliance with the general orders herein-after mentioned, the Secretary of State shall take the petition for a Provisional Order into consideration, and subject to the report against any part of the Order (if any), shall, if there is opposition, or in any case in which he thinks inquiry necessary, direct an inquiry as to the propriety of assenting to the prayer of the petition, subject as aforesaid, to be held by Commissioners from time to time appointed in terms of this Act.
- (2) If the examiner under this Act shall find that the general orders have not been complied with, the petitioners may, in the prescribed manner and within the prescribed time, apply to the Chairmen to dispense with any general order which has not been complied with, and the decision of the Chairmen shall be final; provided that if any conditions are attached to any dispensation with compliance with any general order, the Provisional Order shall not be proceeded with until the examiner shall have reported that such conditions have been satisfied.

4 Formation of extra-parliamentary panel

- (1) There shall be formed a panel of persons (herein-after referred to as the extra-parliamentary panel) qualified by experience of affairs to act as Commissioners under this Act.
- (2) The extra-parliamentary panel shall be formed in manner following, that is to say:—
 - (a) The Chairmen, acting jointly with the Secretary of State, shall nominate twenty persons qualified as aforesaid, and the persons so nominated shall constitute the extra-parliamentary panel and shall remain thereon until the

expiration of five years. Any casual vacancy on the panel caused by death or resignation shall be filled by appointment made by the Chairmen acting jointly with the Secretary of State;

- (b) At the expiration of every period of five years, the extra-parliamentary panel shall be re-formed in like manner and with the like incidents.

5 Formation of parliamentary panels. Appointment of Commissioners

- (1) When it is determined that Commissioners shall be appointed for the purpose of inquiring as to the propriety of making and issuing a Provisional Order or Orders under this Act, the Chairmen shall appoint four Commissioners for that purpose, and shall at the same time nominate one of the Commissioners as Chairman.
- (2) Standing Orders may, if the two Houses of Parliament think fit so to order, provide for the formation of panels of members of the two Houses respectively to act as Commissioners under this Act (herein-after referred to as the parliamentary panels).
- (3) Subject to Standing Orders as aforesaid, two of the Commissioners shall be taken from the parliamentary panel of members of the House of Lords, and two shall be taken from the parliamentary panel of members of the House of Commons.
- (4) Subject to Standing Orders, as aforesaid, if the Chairmen shall be unable to appoint Commissioners as in the immediately preceding subsection mentioned, three, or if need be, all of the Commissioners, may be members of the same parliamentary panel.
- (5) Subject to Standing Orders as aforesaid, if the Chairmen shall be unable to appoint Commissioners as in either of the two immediately preceding subsections mentioned, so many persons as are required to make up the number of Commissioners shall be taken by the Secretary of State from the extra-parliamentary panel herein-before mentioned.
- (6) Any casual vacancy among the Commissioners, or in the office of Chairman of Commissioners caused by death or resignation, or inability to give attendance, such resignation or inability to attend being certified by a writing under the Commissioner's hand, may be filled by the Secretary of State by appointing a member of any of the panels.
- (7) Notwithstanding a dissolution of Parliament, any member of either House of Parliament may continue to act as Commissioner in any inquiry for the purpose of which he has been appointed to act.
- (8) The persons appointed as Commissioners shall have no personal or local interest in the matter of the proposed Order or Orders, and shall as a condition of such appointment make a declaration to that effect, provided that Scottish Members of either House of Parliament shall not, on that account, be either disqualified from acting or preferred as Commissioners to deal with proposed orders in which they have no personal or local interest.

6 Sittings of Commissioners

- (1) The Commissioners shall hold their inquiry at such place in Scotland as they may determine, with due regard to the subject-matter of the proposed Order and to the locality to which its provisions relate. The sittings shall be held in public.

- (2) The Commissioners shall hear and determine any question of locus standi, but they shall not sustain the locus standi of any person who has not in the prescribed manner and within the prescribed time objected to the proposed Order, unless on special grounds established to the satisfaction of the Commissioners, and subject to such conditions as to payment of costs or otherwise as the Commissioners may determine.
- (3) Subject to general orders, any person shall be allowed to appear before the Commissioners in opposition to the Order by himself, his counsel, agent, and witnesses, and counsel, agents, and witnesses may be heard in support of the Order.
- (4) Subject to general orders, whenever a recommendation shall have been made by the Chairmen or by any public department, it shall be referred to the Commissioners who shall notice such recommendation in their report, and shall state their reasons for dissenting, should such recommendation not be agreed to.
- (5) Commissioners shall, as far as possible, sit from day to day until they finish the inquiry and submit their report to the Secretary of State, with the evidence taken and the recommendations made by them, and they may recommend that the Order should be issued as prayed for, or should be issued with modifications, or should be refused and if they recommend that the Order should be issued with modifications they shall submit a copy of the Order showing the modifications they recommend.
- (6) The provisions of sections one, two, three, five, six and seven, of the Parliamentary Costs Act, 1865, shall, so far as applicable, apply to costs incurred in or in relation to any inquiry by the Commissioners in like manner as they apply to costs in proceedings before a committee on a Private Bill, subject to the following and any other necessary modifications :—
 - (a) The costs, which shall be according to such scale as may be prescribed by the Secretary of State, shall be taxed by the Auditor of the Court of Session in lieu of the taxing officer of the House, and for the purpose of such taxation the Auditor shall have power to examine on oath any party to such taxation and any witnesses who may be examined in relation thereto, and to call for the production of any books or writings in the hands of any party to such taxation relating to the matters thereof;
 - (b) The Auditor shall be entitled, for any such taxation, to such fee as may be authorised by general orders, and shall have power to award the costs of such taxation (including such fee as aforesaid) against either party thereto or in such proportion against either party as he may think fit;
 - (c) For any reference to the committee's report to the House there shall be substituted a reference to the Commissioners' report to the Secretary of State.