PROVISIONAL ORDERS, SCOTLAND

1952 No. 656 (S. 25)

The Private Legislation Procedure (Scotland) General Order, 1952

Made - - - -	22*nd March*, 1952
Laid before Parliament	26*th March*, 1952
Coming into Operation	26*th May*, 1952

We, the Chairman of Committees of the House of Lords and the Chairman of Ways and Means in the House of Commons, acting jointly with the Secretary of State, in exercise of the powers vested in us by section 15 of the Private Legislation Procedure (Scotland) Act, 1936(a), hereby make the following Order:—

1. The Private Legislation Procedure (Scotland) General Orders, 1946(b) as amended(c) shall be amended in terms of the Schedule hereto.

2. This Order may be cited as the Private Legislation Procedure (Scotland) General Order, 1952, and shall come into force on the 26th day of May, 1952.

Drogheda,
Chairman of Committees of the House of Lords.

19th March, 1952.

Charles MacAndrew,
Chairman of Ways and Means in the House of Commons.

19th March, 1952.

James Stuart,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

22nd March, 1952.

SCHEDULE

Note:

The references are to the General Orders under the Private Legislation Procedure (Scotland) Act, 1936, dated 5th December, 1946, issued as a Stationery Office Publication by authority of the Secretary of State for Scotland as amended by S.R. & O. 1947 (No. 2347), S.I. 1949 (No. 331) and S.I. 1950 (No. 1748). The lines are to be reckoned from the first line of the Order referred to.

1, lines 17-18: leave out the reference "19 & 20 Geo. 5 c. 25" and insert the reference "10 & 11 Geo. 6 c. 43".
line 18: leave out "1929" and insert "1947".

3, leave out the whole Order.

(a) 26 Geo. 5 & 1 Edw. 8. c. 52.
(b) S.R. & O. 1946/2157; Rev. XVIII, p. 719; 1946 I, p. 1415.
(c) S.R. & O. 1947/2347; Rev. XVIII, p. 719; 1947 I, p. 1891; S.I. 1949/331; 1950/1748: 1949 I, p. 3541; 1950 II, p. 439.

4, line 25: leave out " paragraph " and insert " sub-paragraph ".

line 37: at end add:—

" (4) The notice shall also state that petitions against Provisional Orders praying to be heard must be deposited at the Scottish Office, London, not later than six weeks after the *eleventh* day of *April* or the *eleventh* day of *December* as the case may be, in the manner and subject to conditions prescribed in General Orders 75 to 77, copies of which may be inspected at the offices referred to in paragraph (2) of this Order."

13, line 8: leave out first " the ".

line 8: leave out "marked ".

22, line 18: leave out from " of " to end of Order and insert " General Orders 75 to 77."

26, at the end of paragraph (2) add " Provided that a deposit shall not be deemed valid if made after one o'clock on the afternoon of any Saturday."

32, line 3: after " of " insert " so much of ".

line 4: after " any) " insert " as relates to the said tidal land."

38, leave out paragraph (2).

39, leave out whole Order and insert:

" Deposit of Provisional Orders at Treasury and Other Public Departments, etc. (39) [39] <38>

39. On or before the *Fourth* day of *April*, or the *Fourth* day of *December*, as the case may be, a printed copy shall be deposited—

(1) of every draft Provisional Order at the Treasury, the Board of Trade, the General Post Office, the Air Ministry, the Ministry of Civil Aviation, the Ministry of Works, the Ministry of Labour and National Service, the Ministry of Transport, the Ministry of Supply, the Ministry of Food, the Ministry of Fuel and Power, the Ministry of National Insurance and the Office of Commissioners of Crown Lands;

(2) of every draft Provisional Order affecting tidal waters below the line of high water at ordinary spring tides or navigation thereon, or affecting lands below that line at the Admiralty;

(3) of every draft Provisional Order relating to any company, body or person carrying on business in any part of Her Majesty's Dominions outside the United Kingdom—

(*a*) if the business is carried on in a Dominion as defined in the Statute of Westminster, 1931, Ceylon, India, Pakistan or Southern Rhodesia, at the Commonwealth Relations Office;

(*b*) if the business is carried on in any other part of Her Majesty's Dominions, at the Colonial Office;

(4) of every draft Provisional Order which relates to the erection, improvement, repair, maintenance or regulation of any market or market place at which cattle are exposed for sale, or which proposes to alter the boundary or status of any county, burgh, parish, or any other administrative area in Scotland, at the Office of the Ministry of Agriculture and Fisheries;

(5) of every draft Provisional Order affecting property vested in, or under the management of, the Forestry Commissioners or containing references to the said Commissioners, at the office of the Forestry Commission;

(6) of every draft Provisional Order in respect of which any plans, sections, and books of reference, or parts thereof, are required to be deposited, at the Office or other place where such deposit is required to be made."

43, line 9: leave out " the ".
line 9: leave out " marked ".
line 24: leave out first " the ".
line 24: leave out " marked ".

57, line 5: leave out " at least " and insert " not less than ".
line 18: leave out " that ".
line 28: leave out first " the ".
line 28: leave out " marked ".

58, lines 3-4: leave out " as to compliance or non-compliance with the following requirements: " and insert " whether or not there has been compliance with this Order ".

59, line 3: leave out " 1929 " and insert " 1948 ".
lines 5-6: leave out " as to compliance or non-compliance with the following requirements: " and insert " whether or not there has been compliance with this Order ".
lines 7-8: leave out the reference " 19 & 20 Geo. 5 c. 23 " and insert reference " 11 & 12 Geo. 6 c. 38 ".
line 8: leave out " 1929 " and insert " 1948 ".

60, leave out lines 12-15.
line 16: leave out " also ".

61, lines 13-14: leave out " as to compliance or non-compliance with the following requirements: " and insert " whether or not there has been compliance with this Order ".

62, line 4: leave out " 1929 " and insert " 1948 ".
lines 12-13: leave out " as to compliance or non-compliance with the following requirements: " and insert " whether or not there has been compliance with this Order ".
line 15: leave out " 1929 " and insert " 1948 ".

63, leave out lines 19-22.
line 23: leave out " also ".

67, line 3: leave out " certify by endorsement on each draft Provisional Order " and insert "enquire whether General Orders 4 to 56 and 58 to 60, so far as applicable, have been complied with ".

68, line 4: leave out third " the " and insert " such ".
line 4: after " Orders " insert " as have not previously been inquired into ".
leave out lines 8-10.

69, line 1: at beginning insert " (1) Subject to the provisions of paragraph (2) of this Order ".
line 2: leave out " and to tender evidence ".
line 7: at end add:

" (2) A party shall not be heard by the Examiners unless his Memorial has been deposited in the Office of the Examiners at Westminster—

(*a*) in the case of a Petition for a Provisional Order deposited in the Scottish Office, London, on or before the *Twenty-seventh* day of *March* or the *Twenty-seventh* day of *November*, as the case may be, on or before the *Seventeenth* day of *April* or the *Seventeenth* day of *December*, as the case may be:

(*b*) in the case of a Petition for a Provisional Order so deposited after the *Twenty-seventh* day of *March* or the *Twenty-seventh* day of *November*, as the case may be, not later than the *Fourth* day before the day appointed for the examination of the Petition.

(3) With each Memorial there shall be deposited two copies thereof for the use of the Examiners."

70, line 5: leave out " and to tender evidence."

After 70 insert 70A as follows:—

"Withdrawal of Memorials (75A) [79] <155>

70A. Any Memorialist may withdraw his Memorial by declaration of withdrawal made by himself or his Agent in the course of a hearing before the Examiner or on a requisition to that effect being deposited in the Office of the Examiners at Westminster signed by him or by the Agent who deposited such Memorial; and where any such Memorial is signed by more than one person, any person signing the Memorial may withdraw from the Memorial by declaration as aforesaid or by a similar requisition, signed and deposited as aforesaid."

71, leave out whole Order.

After 78 insert 78A as follows:—

"Withdrawal of Petitions (173) [103] <155>

78A. Any Petitioner may withdraw his Petition by declaration of withdrawal made by himself or his Agent in the course of a hearing before Commissioners, or on a requisition to that effect being deposited in the Scottish Office, London, signed by him or by the Agent who deposited the Petition; and where any such Petition is signed by more than one person, any person signing the Petition may withdraw from the Petition by declaration as aforesaid or by a similar requisition, signed and deposited as aforesaid.

(2) Petitioners applying for a Provisional Order may withdraw their application by declaration as aforesaid, or by requisition signed and deposited as aforesaid.

(3) In any case where all petitions duly presented to the Secretary of State in terms of General Orders against a Provisional Order which has been referred to Commissioners for an inquiry have been withdrawn by requisition as aforesaid before Commissioners have opened the inquiry into such Draft Provisional Order, the Draft Provisional Order shall be deemed to be withdrawn from inquiry before Commissioners unless the Secretary of State in terms of the Principal Act thinks inquiry necessary, although there is no opposition, and directs such inquiry to proceed."

87, lines 2-3: leave out from "with" to end of line 3 and insert "General Orders 4 to 64."

89, line 2: leave out "upon" and insert "on".

90, line 2: leave out "for local enquiry".

line 3: leave out "120" and insert "78A".

91, line 4: leave out "that" and insert "whether".

line 5: leave out "remitted to them have been examined and whether the same".

line 6: at end add:—

"(2) Where any alteration has been made in the Preamble of the proposed Provisional Order, Commissioners shall report such alteration, together with the grounds of making it, and shall report whether the allegations in the Preamble of the Provisional Order, as amended, have been found to be true.

(3) Where the Petitioners applying for the Provisional Order have withdrawn their application by declaration, or the Provisional Order has been referred back to the Secretary of State under General Order 90, Commissioners shall make a report to that effect.

(4) Commissioners shall report specially whether they have determined to sustain the *locus standi* of any person who has not in the manner and within the time prescribed by General Orders objected to the proposed Order, and shall state the special grounds on which and the conditions subject to which they have so determined.

(5) Commissioners shall also where they think it expedient report any other determinations regarding *locus standi.*

92, leave out whole Order.

93, line 2: leave out "any Public Department" and insert "or under the authority of any Minister of the Crown".
line 6: after "department" insert "in charge of the Minister".
line 6: leave out "any".
line 9: leave out "a public department" and insert "or under the authority of any Minister of the Crown".
line 13: at end insert "(3) In this General Order the expression "Minister of the Crown" means the holder of an office in Her Majesty's Government in the United Kingdom and includes the Treasury, the Admiralty and the Board of Trade".

After 96 insert 96A as follows:—

"Printing of Minutes (131A)

96A. Whenever copies of the Minutes of Evidence taken before Commissioners are required, they shall be printed at the expense of the parties unless Commissioners consider such printing unnecessary."

97, line 8: leave out "the offices of all public departments where" and insert "every department or office at which".
line 9: leave out "originally".
line 9: after first "deposited" insert "under General Order 39".
lines 16-17: leave out "the public departments" and insert "every department or office".
line 17: leave out "in" and insert "at".
line 17: leave out "originally".
line 17: after "deposited" insert "under General Order 39".
line 21: leave out from "Chairmen" to end of Order and insert "and of the Ministers in charge of such departments or offices".

98, line 4: leave out "Ministry" and insert "Minister".
line 6: after "Ministry" insert "of Transport".

99, line 6: leave out "Ministry" and insert "Minister".
line 8: after "Ministry" insert "of Transport".

106, line 9: leave out "Ministry" and insert "Minister".
line 19: leave out "Ministry" and insert "Minister".

107, line 4: leave out "the Ministry" and insert "or the Minister".
line 4: leave out "or the Electricity Commissioners".
line 7: leave out "Ministry or Commissioners" and insert "Minister".

108, line 27: leave out "Public Department" and insert "Minister of the Crown".

120, leave out whole Order.

Appendix A, line 22: after "deposited" insert "for public inspection".

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

The Order amends the General Orders made under section 15 of the Private Legislation Procedure (Scotland) Act, 1936, which regulate the procedure for obtaining Parliamentary powers by way of Provisional Order in matters affecting Scotland.

The majority of the amendments correspond with amendments which have been made to Standing Orders of the House of Commons relative to Private Business and are drafting amendments or amendments caused by a re-arrangement of General Orders.