
STATUTORY INSTRUMENTS

1999 No. 1593

**CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND**

**The Scotland Act 1998 (Transitory and Transitional Provisions)
(Orders subject to Special Parliamentary Procedure) Order 1999**

Made - - - - 4th June 1999

Laid before Parliament 9th June 1999

Coming into force in accordance with article 1(1)

In exercise of the powers conferred on me by sections 112(1), 113, 114(1), 124(2) and 129(1) of the Scotland Act 1998(1) and of all other powers enabling me in that behalf, I hereby make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Scotland Act 1998 (Transitory and Transitional Provisions) (Orders subject to Special Parliamentary Procedure) Order 1999 and shall come into force when section 94 of the 1998 Act comes into force(2).

(2) In this Order—

“the 1998 Act” means the Scotland Act 1998;

“empowering enactment”, in relation to a special procedure order, includes any enactment other than this Order which has the effect of requiring the service of notices in connection with the order; and

“special procedure order” means an order to which this Order applies in accordance with article 2(1).

(3) Any reference in this Order to a numbered article is a reference to an article bearing that number in this Order and any reference in an article in this Order to a numbered paragraph is to a paragraph bearing that number in that article.

(1) 1998 c. 46.

(2) In terms of article 2(1) of the Scotland Act 1998 (Commencement) Order 1998 (S.I.1998/3178), section 94 of the 1998 Act comes into force on 1st July 1999.

Application of this Order

2.—(1) This Order applies in relation to any order (within the meaning of the Statutory Orders (Special Procedure) Act 1945(3)) in relation to which section 94(2)(b) of the 1998 Act applies.

(2) This Order shall cease to have effect on the day appointed by or under an Act of the Scottish Parliament providing, or making provision for, the special procedure referred to in section 94(2) of the 1998 Act.

Section 94(2)(b) of the 1998 Act

3. For the purposes of section 94(2)(b) of the 1998 Act the provisions of this Order shall be treated as special procedure provided by or under an Act of the Scottish Parliament.

Effect of special procedure orders

4. A special procedure order shall be of no effect until it has been laid before the Scottish Parliament by the Scottish Ministers and has been brought into operation in accordance with the provisions of this Order.

Notice of special procedure orders

5.—(1) Before a special procedure order is made or confirmed by the Scottish Ministers, 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 a special procedure order relating to a particular area, in at least one newspaper circulating in that area, that is to say—

- (a) in the case of a special procedure order to be made by the Scottish Ministers on the application of any person, notice by the applicant of the purport of the application;
- (b) in the case of a special procedure order to be confirmed by the Scottish Ministers, notice by the applicant of the order as submitted by him for confirmation;
- (c) in the case of a special procedure order to be made by the Scottish Ministers otherwise than on the application of any person, notice by the Scottish Ministers of the order as proposed to be made.

(2) The 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.

(3) For the purposes of this article, a notice shall be sufficient notice of a special procedure 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.

Orders to which objections are made

6.—(1) If any objection (other than an objection which in the opinion of the Scottish Ministers 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 specified in a notice under article 5 or in accordance with the provisions of the empowering enactment and is not withdrawn, the special procedure order shall not take effect unless it is confirmed, whether with or without amendments, by an Act of the Scottish Parliament.

(2) The Bill for such an Act shall set out the special procedure order and may be introduced by the applicant for the order or by the Scottish Ministers.

(3) The Bill shall, in the absence of any special provision in the standing orders of the Parliament concerning the procedure for such a Bill, be treated after introduction as a Private Bill for the purposes of the standing orders of the Parliament⁽⁴⁾.

Orders to which no objections are made

7.—(1) If there are no objections (other than an objection which in the opinion of the Scottish Ministers is frivolous or which relates to a matter which can be dealt with by an arbiter by whom compensation is to be assessed) the Scottish Ministers may lay the special procedure order before the Parliament.

(2) If, within the period of 40 days beginning with the date on which a copy of the special procedure order is laid before it, the Scottish Parliament 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 the Parliament of a new special procedure order.

(3) If, at the expiration of the period mentioned in paragraph (2) the Parliament has not resolved that the special procedure order be annulled, 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.

Supplementary

8.—(1) Where any special procedure order is laid before the Parliament, or a Bill for an Act of the Scottish Parliament confirming such an order is introduced, there shall, together with it, be laid before the Parliament a statement by the Scottish Ministers specifying any objections made to the order and not withdrawn and specifying what objections, if any, were—

- (a) in the opinion of the Scottish Ministers frivolous; or
- (b) related to matters which could be dealt with by an arbiter assessing compensation.

(2) In calculating the period of 40 days for the purposes of this Order, no account shall be taken of any time during which the Parliament is dissolved or is in recess for more than 4 days.

St Andrew's House,
Edinburgh
4th June 1999

John Reid
Secretary of State for Scotland

(4) The current standing orders of the Parliament are contained in the rules set out in the Schedule to the Scotland Act 1998 (Transitory and Transitional Provisions) (Standing Orders and Parliamentary Publications) Order 1999 (S.I.1999/1095).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for transitory and transitional purposes in connection with the coming into force, on 1st July 1999, of section 94 (private legislation) of the Scotland Act 1998 (c. 46) (“the 1998 Act”), in so far as that section relates to orders subject to special parliamentary procedure (“special procedure orders”).

Section 94 of the 1998 Act provides, *inter alia*, that where a pre-commencement enactment makes provision which has the effect of requiring any order (within the meaning of the Statutory Orders (Special Procedure) Act 1945 (c. 18)) to be subject to special parliamentary procedure, then the provision shall have effect so far as it relates to the exercise of the power to make, confirm or approve the order by virtue of section 53 of the 1998 Act by Scottish Ministers, as if it required the order to be subject to such special procedure as may be provided by or under an Act of the Scottish Parliament. This Order provides the special procedure which will apply in relation to such orders until provision has been made in an Act of the Scottish Parliament for such special procedure.

Article 4 of the Order provides that a special procedure order shall be of no effect until it has been laid before the Scottish Parliament by the Scottish Ministers and has been brought into operation in accordance with the provisions of the Order.

Article 5 requires notice by advertisement to be given before a special procedure order is made or confirmed by the Scottish Ministers.

Article 6 provides that if any objections (other than an objection which in the opinion of Ministers is frivolous or which relates to a matter that can be dealt with by an arbiter compensation is to be assessed) are made to the special procedure order, then the order shall not take effect unless it is confirmed, whether with or without amendments, by an Act of Scottish Parliament.

Article 7 provides that if there are no objections to the special procedure order, then the Scottish Ministers may lay the order before the Scottish Parliament and if the Parliament does not resolve within 40 days of the order being laid that it be annulled, then 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.

The remaining provisions of the Order are supplementary and incidental.