

THE LAW COMMISSION
and
THE SCOTTISH LAW COMMISSION
(LAW COM No 298)
(SCOT LAW COM No 202)

PARLIAMENTARY COSTS BILL

REPORT ON THE CONSOLIDATION OF LEGISLATION
RELATING TO PARLIAMENTARY COSTS

*Presented to the Parliament of the United Kingdom
by the Lord High Chancellor and the Secretary of State for Scotland
by Command of Her Majesty
June 2006*

The Law Commission and the Scottish Law Commission were set up by the Law Commissions Act 1965 for the purpose of promoting the reform of the law.

The Law Commissioners are:

The Honourable Mr Justice Toulson, *Chairman*
Professor Hugh Beale QC, FBA
Stuart Bridge
Dr Jeremy Horder
Kenneth Parker QC

The Chief Executive of the Law Commission is Mr Steve Humphreys and its offices are at Conquest House, 37-38 John Street, Theobalds Road, London, WC1N 2BQ.

The Scottish Law Commissioners are:

The Honourable Lord Eassie, *Chairman*
Professor Gerry Maher QC
Professor Joseph Thomson
Mr Colin Tyre QC
Professor George Gretton

The Chief Executive of the Scottish Law Commission is Mr Michael Lugton and its offices are at 140 Causewayside, Edinburgh, EH9 1PR.

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*To the Right Honourable the Lord Falconer of Thoroton,
Lord High Chancellor of Great Britain,
and the Right Honourable Douglas Alexander M.P.,
Secretary of State for Scotland.*

The Bill which is the subject of this Report consolidates the legislation about the costs relating to Parliamentary proceedings on private Bills. The Bill extends to England and Wales, Scotland and Northern Ireland. In order to produce a satisfactory consolidation it is necessary to make the recommendations which are set out in Appendix 1 to this Report.

All three recommendations affect the law of Scotland (as well as that of England and Wales and of Northern Ireland) and are therefore recommendations of both the Law Commission and the Scottish Law Commission.

The bodies and persons listed in Appendix 2 to this Report have been consulted in connection with the recommendations and do not object to any of them.

ROGER TOULSON
Chairman, Law Commission

RONALD D. MACKAY
Chairman, Scottish Law Commission

June 2006

APPENDIX 1

RECOMMENDATIONS

Section 1 of the Parliamentary Costs Act 1865: meaning of “unanimous”

1. Sections 1 and 2 of the Parliamentary Costs Act 1865 apply where the committee on a private Bill unanimously reports that a petitioner or promoter has been “vexatiously subjected to expense” in pursuing his cause. The Act does not say what “unanimously” means.

But Erskine May (23rd edition, pp.1039-40) says that the Act is complied with if “all the members of the committee present at the hearing of the case, provided that they form a quorum, have unanimously reported in the manner prescribed for entitling parties to recover costs.”

It cites as authority for that proposition the minutes of the Police and Sanitary Committee (consisting of nine members, with a quorum of five) on the Lancaster Corporation Bill 1888 (see footnote 1 on page 1040).

We recommend that, in reproducing sections 1 and 2 of the 1865 Act, the Bill should make express provision to the effect that “unanimously” has the same meaning in the consolidation as it has been taken to have in practice.

Effect is given to this recommendation in clause 9(5) of the Bill.

Section 1 of the Parliamentary Costs Act 1865: committee’s report

2. Section 2 of the 1865 Act (recovery of costs by promoter) provides for the committee’s report to mention any award of costs it makes. Section 1 (recovery of costs by petitioner) does not make provision to that effect, yet Erskine May (23rd edition, p.1040) implies that it does. And there would seem to be no good reason why the consolidated provision should not.

We recommend that, in reproducing section 1 of the 1865 Act, the Bill should make express provision to the effect that, on reporting a private Bill to the House, the committee must specify what costs are recoverable, who must pay them and who may recover them.

Effect is given to this recommendation in clause 10(3) of the Bill.

Section 1 of the House of Commons Costs Taxation Act 1879: public and general Bills

3. Section 1 of the House of Commons Costs Taxation Act 1879 provides for the House of Commons Costs Taxation Act 1847 to apply in relation to the opposition to any public and general Bill.

The authorities of the House of Commons advise that there are no procedures for matters relating to a public Bill, other than a hybrid Bill, to which an assessment by the taxing officer of that House could be relevant. And, on that basis, they advise that the reference to a public and general Bill should be to a hybrid Bill only.

We recommend that, in giving effect to section 1 of the 1879 Act, the reference to any public and general Bill should be limited to any hybrid Bill.

Effect is given to that recommendation in clause 15(1)(b) of the Bill.

APPENDIX 2

CONSULTEES

Parliamentary agents

Berwin Leighton Paisner
Bircham Dyson Bell
Lee Bolton & Lee
Rees & Freres
Sharpe Pritchard
Vizards Tweedie
Winckworth Sherwood

Government departments

Department for Culture, Media and Sport
Ministry of Defence
Office of the Deputy Prime Minister
Department of Health
Department of Trade and Industry
Department for Transport
HM Treasury
Wales Office
Department for Work and Pensions
Treasury Solicitor
The Scottish Executive
National Assembly for Wales
Northern Ireland Courts Service

Organisations

The British Ports Association
Civil Aviation Authority
Confederation of British Industry
The Energy Institute
Institute of Directors
The Law Society
Local Government Association
Strategic Rail Authority
Trades Union Congress
Universities UK
Welsh Local Government Association

Individuals

Simon Cramp
Master Winegarten