

CHAPTER 2:07

PRIVATE BILL PROCEDURE ACT

Acts 11/1924, 2/1925, 24/1962 (s. 2), 11/1991 (s. 3); R.G.N 387/1971; S.I. 418/80.

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AN ACT to provide for the care, custody and inspection of documents deposited with Parliament for the purpose of private bills to be introduced therein; and to provide further for the taxation of costs incurred in the promotion of, or opposition to, such private Bills.

[Date of commencement: 11th July, 1924]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Private Bill Procedure Act [*Chapter 2:07*].

2 Interpretation

In this Act—

“depository” means any person to whom is assigned, in terms of section *three*, the duty of receiving documents;

“depositor” means any person whose duty it is, in accordance with the Standing Orders, to deposit any documents in Parliament in relation to any private Bills to be introduced therein, and includes the duly authorized agent of any such person;

“document” means any map, diagram, plan, section, book or writing or any copy thereof or extract therefrom;

“petitioner” means any person who may present a petition against a private Bill or against any provision or statement therein;

“private Bill” means a private Bill as defined in the Standing Orders;

“promoter” means any person whose name appears on any petition or private Bill as promoting the same;

“Standing Orders” means the Standing Orders governing private Bills;

“taxing officer” means the taxing officer appointed in terms of section *six*.

PART II

CARE, CUSTODY AND INSPECTION OF DOCUMENTS DEPOSITED FOR PRIVATE BILLS

3 Designation of depositaries

The Speaker may, by notice published in the *Gazette* under the hand of the Secretary to Parliament, assign to any person the duty of receiving all documents which, in pursuance of the Standing Orders, are required to be deposited in relation to any private Bill of the intended introduction of which due public notice has been given.

4 Duties of depositaries

(1) When any depositor presents any document to a depositary, the depositary shall take charge of the same and give to the depositor a receipt therefor in the form prescribed by the Standing Orders.

(2) The depositary shall make due provision for the care and custody of any document presented in terms of subsection (1) and shall, during office hours, permit any interested person to inspect the same or to make copies of the whole or any part thereof.

5 Penalty

Any neglect or refusal by a depositary to carry out any provision of section *four* shall be deemed to be a contempt of Parliament, and shall render the offender liable to be dealt with in the same manner as a person who has committed a contempt under the Privileges, Immunities and Powers of Parliament Act [*Chapter 2:08*] or under the Standing Orders.

PART III

TAXATION OF COSTS IN RESPECT OF PROMOTION OF, OR OPPOSITION TO, PRIVATE BILLS

6 Appointment of taxing officers by Speaker

(1) The Speaker shall appoint a fit person to be the taxing officer, who shall hold his office during the pleasure of the Speaker and execute the duties thereof in accordance with such directions as he may receive from the Speaker.

(2) The tariff of costs shall be as laid down by the Standing Orders.

7 Preparation of scale of charges

The Standing Orders may provide and alter scales of charges for fixing the amount of the costs which may be allowed to parliamentary agents and others upon taxation under this Act of bills of costs for or in connection with the promotion of or opposition to a private Bill, and the taxing officer shall, in taxing any such bill of costs, be guided, as to the maximum amount to be allowed, by the scale of charges so provided.

8 When opponents entitled to recover costs

(1) When the committee on a private Bill—

(a) decides that the preamble is not proved, or

(b) after the preamble is proved, decides that—

(i) there be inserted in any such Bill a provision for the protection of a petitioner; or

(ii) in order to protect a petitioner, any provision of the Bill be omitted or amended;

and the committee further, by a majority of two-thirds of its members, reports with respect to any petitioner against the Bill that such petitioner has been unreasonably or vexatiously subjected to expense in defending any right belonging to him and proposed to be interfered with by the Bill, such petitioner shall be entitled to recover from the promoters of that Bill all costs incurred by him in the defence of such right, and such costs shall be taxed by the taxing officer, or the committee may, with the consent of the parties affected, award such a sum for costs as it may fix.

(2) In its report to Parliament, the committee shall state what sum, if any, it has awarded for costs, together with the name of any party liable to pay, and the name of the party entitled to receive, the costs awarded.

9 When promoters entitled to recover costs

(1) When the committee on a private Bill decides that the preamble is proved, and further, by a majority of two-thirds of its members, reports that any promoter of the Bill has been vexatiously subjected to expense in the promotion thereof by the opposition thereto of any petitioner, such promoter shall be entitled to recover from any such petitioner all costs incurred by him in consequence of such opposition, and such costs shall be taxed by the taxing officer, or the committee may, with the consent of the parties affected, award such a sum for costs as it may fix:

Provided that no owner of land or of any right or interest in or over land who *bona fide* and reasonably at his own sole risk and charge opposes a private Bill which proposes to take, for the purposes of the Bill, any portion of that land, right or interest, shall be liable to any costs in respect of his opposition to such Bill.

(2) In its report to Parliament, the committee shall state what sum, if any, it has awarded for costs, together with the name of any party liable to pay, and the name of any party entitled to receive, the costs awarded.

10 Taxing officer to tax Bills on application of party chargeable or others

(1) If—

- (a) any person on whom any demand is made by any parliamentary agent or other person for any costs, charges or expenses incurred in respect of any proceedings in Parliament relative to any private Bill or to its preparation, introduction into or passage through Parliament, or in opposing the same; or
- (b) any parliamentary agent or other person claiming payment of such costs, charges or expenses;

makes application to the taxing officer for the taxation of any of those costs, charges or expenses, the taxing officer, on receiving a true copy of the bill of costs, charges and expenses, duly delivered to the party charged therewith, shall proceed to tax and allow the same in accordance with this Act and any scale provided under section *seven*.

(2) If either party to the taxation, having due notice thereof, fails to attend the taxation, the taxing officer may proceed to tax and settle the bill of costs *ex parte*.

(3) If, pending the taxation, any legal proceedings are instituted for the recovery of the amount of the bill, the court before which such proceedings are brought shall stay the further prosecution thereof until the amount of such bill has been duly certified by the Speaker in terms of this Act.

11 Taxing officer to report to Speaker on taxation and objections

(1) In any taxation under this Act the taxing officer shall report his taxation to the Speaker and his report shall state the amount fairly chargeable in respect of the costs, charges and expenses to be taxed, together with the amount of the costs and fees payable in respect of taxation.

(2) If either party to the taxation, within twenty-one days after any report has been made in terms of subsection (1), deposits with the Speaker a petition complaining of such report or any part thereof, the Speaker may, if he thinks fit, refer the petition, together with such report, to the taxing officer, and may require a further report in relation thereto.

(3) On receiving such further report the Speaker may direct the taxing officer to amend his first report or may confirm either of his reports.

(4) If no petition is deposited against the report of a taxing officer, or as soon as any such report has been confirmed, the Speaker shall, upon application made to him, cause to be delivered to any party concerned therein a certificate of the amount chargeable, and that certificate shall be binding and conclusive for all purposes on the parties as to the matters comprised in the taxation, as to the amount of the costs and charges and as to the amount due upon the taxation and for the costs and fees payable for the taxation.

(5) Any amount certified in terms of subsection (4) shall be recoverable in any competent court upon the production of the certificate.

12 Taxing officer may examine parties and others on oath and call for books and papers

(1) For the purpose of any such taxation as is provided for in this Act, the taxing officer may examine upon oath any party to the taxation and any witnesses in relation thereto, and may himself take affidavits or declarations or receive affidavits or declarations taken before any justice of the peace or commissioner of oaths relative to the costs, charges or expenses.

(2) Any person who, when examined upon oath in terms of subsection (1), or in any affidavit or declaration referred to in that subsection, wilfully and corruptly gives false evidence or makes a false statement, knowing the same to be false, shall be guilty of an offence and liable to the penalties prescribed by law for perjury.

(3) The taxing officer may call for the production of any document in the custody or under the control of any party to the taxation relative to the matters to be dealt with thereon.

13 What fees to be taken by taxing officer

(1) The taxing officer may demand and receive for any taxation such fees as the Standing Orders may authorize or direct, and shall award the costs of taxation against either party to the taxation, or in such proportion against either such party as he may think fit.

(2) Any fee demanded by a taxing officer in terms of subsection (1) shall be paid by revenue stamps to be affixed on the bills of costs, and all such stamps shall be duly defaced by the taxing officer in the manner prescribed by law for the defacement of stamps on instruments liable to stamp duty.