

National Assembly for Wales
Presiding Officer's Guidance

**Standing Order 28: Special
Assembly Procedures - Presentation
of Petitions**

April 2016

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



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Introduction

- 01.** The Special Assembly Procedure, as set out in Standing Order 28, applies to the exercise by the Welsh Ministers (or, in exceptional cases, by the First Minister or the Counsel General) of any power to make or confirm subordinate legislation (referred to as a Special Procedure Order) which has to comply with the Special Assembly Procedure.
- 02.** Standing Order 28 includes provision for petitions to be presented to the Assembly's Presiding Officer against the draft Special Procedure Order. This guidance explains the rules for presenting such a petition and the associated actions taken by the Assembly.
- 03.** This guidance relates only to petitions which can be presented under the Special Assembly Procedure. This is entirely separate to the system which allows members of the public to submit petitions generally on any subject for consideration by the Petitions Committee (Standing Order 23). A petition submitted under Special Assembly Procedure is a means of objecting to a particular kind of delegated legislation (a "Special Procedure Order") and is treated quite differently. The situations in which the right to present a petition against a Special Procedure Order arises are described in this guidance.

What is a special procedure order?

- 04.** A Special Procedure Order is a piece of "delegated legislation". That means that it is made by virtue of a power in "primary legislation" – i.e. an Act of the Assembly or the UK Parliament.¹ The relevant primary legislation will have laid down a requirement for Special Assembly Procedure to apply to the Order in question. Special Procedure Orders are normally specific to a certain area of land. Examples are orders authorising the compulsory purchase of certain protected categories of land and certain orders relating to trunk roads which are opposed by the local highway authority.
- 05.** Because of the specific impact of these types of orders, they can only become law after people who could be affected by the decision have been given the opportunity to petition against them under the Special Assembly Procedure. This is set out in Standing Order 28 of the Assembly.

How do I make my views known about a Special Procedure Order?

- 06.** An opportunity to petition the Presiding Officer of the Assembly against the draft Special Procedure Order is part of the Special Assembly Procedure.
- 07.** Once a Special Procedure Order is laid before the Assembly, the Welsh Ministers must notify the public that any person can present a petition to the Presiding Officer of the Assembly within 20 working days. This is done via a public notice in a newspaper circulating in the affected area, which includes the time limits.
- 08.** The Welsh Ministers may also have been required to publish other notices of the proposal, and/or hold a public consultation and/or public inquiry to consider objections, before laying a draft Special Procedure Order.

¹ Or an Assembly Measure, if still in force.

What is a petition?

- 09.** A petition is a summary of objections against a Special Procedure Order. It is a formal request to the Presiding Officer that either:
- a. particular amendments be made to the Special Procedure Order; or that
 - b. the Special Procedure Order should not be made or confirmed at all; or
 - c. both.

Who may petition?

- 10.** Any individual, group of individuals, company, local authority, public body, organisation, club, amenity society² or similar body, who is affected by the Special Procedure Order, may petition the Presiding Officer and have their objections formally considered by the Assembly provided they have, in the view of the Presiding Officer, a “substantial ground of objection” i.e. if their property or interests would be affected by the Special Procedure Order.

How much time do I have to present the petition?

- 11.** Petitions against the Special Procedure Order must be made to the Presiding Officer within a period of 20 working days,³ beginning with the day on which the Welsh Ministers first publish notice of the Special Procedure Order in a newspaper⁴ - the time limit will be included in the notice. Petitions presented after the 20 working days have elapsed cannot be considered.

What should I put in the petition?

- 12.** The petition must be clearly headed with:
- a. the title of the Special Procedure Order;
 - b. your full name and postal address or, if the petition is being presented by a group of individuals, each of your names and addresses.
- 13.** The petition must explain who you are and how your property or interest would be affected by the draft Special Procedure Order. You must clearly identify any of your land which you say is affected by the order, preferably by a plan.
- 14.** Finally, the petition must set out what action you want to have taken, i.e. whether you want the Assembly to prevent the making of the Special Procedure Order altogether or, alternatively, would

² A voluntary sector society established with the purpose of preserving historic art or architecture (eg The Ancient Monuments Society).

³ A working day means any day unless it is:

(i) a Saturday or a Sunday;

(ii) Christmas Eve, Christmas Day, Maundy Thursday or Good Friday;

(iii) a day which is a bank holiday in Wales;

(iv) a day appointed for public thanksgiving or mourning.

⁴ The notice must be published in at least one newspaper circulating in the area to which the Special Procedures Order relates, but it may be published on more than one date. NB that the time-limit of 20 working days will run from the date that the notice was first published. For confirmation of this date, please contact the National Assembly for Wales Commission Scrutiny and Co-ordination Unit, tel 0300 200 6565.

like to see it amended in some way. You must also set out your reasons. There is no need to go into your reasons in detail: you can outline them briefly.

15. If you are asking for an amendment to be made to the Special Procedure Order, your petition must clearly set out how it should be amended (i.e. your petition must set out the wording of the amendment and your reasons for it).
16. If your petition is considered by an Assembly Committee (see paragraph 30-31), you should bear in mind that the only matters it can consider will be those you have referred to in your petition – you cannot add new objections at a later date.
17. A specimen petition is attached at **Appendix A**, which you can follow (but you do not have to).
18. Petitioners should be aware that the information contained in the petition, including the name(s) on the petition, may be made public by, for example, being published on the Assembly website. The information supplied in support of the petition will normally also be provided to those who need to be given the opportunity to counter-petition.

We want to present a petition on behalf of more than one person, is a joint petition possible?

19. Yes, you can do it by putting the full names and addresses of each petitioner on a single petition (see paragraph 12.b above).

How do I present a petition?

20. Petitions against the draft Special Procedure Order to the Presiding Officer of the National Assembly for Wales can be presented in English or in Welsh.
21. You can deliver your petition:
 - a. by e-mailing it to **contact@assembly.wales**
 - b. by delivering it to the Scrutiny and Co-ordination Unit, National Assembly for Wales, Pierhead Street, Cardiff Bay, Cardiff CF99 1NA; or
 - c. by posting it to that address (making sure that it is received within the time limit specified in the press notice).
22. You can deliver a petition in person on any working day but please let us know in advance by writing, phoning or e-mailing the contacts at the address below. This will ensure that staff are available to receive the petition when you arrive. It will also avoid any uncertainty as to the date on which it was received and ensure that it comes to the attention of the correct person as soon as possible. It would also be helpful if you could let us know how many petitioners will be present on the day.

How can I find out what other petitions have been presented?

23. The Presiding Officer must inform the Assembly of all petitions received, and the information will be made public on the Assembly website.

What happens after the petition has been presented?

- 24.** The Presiding Officer will consider all petitions received. If the Presiding Officer considers that your petition does not disclose a substantial ground of objection to the Special Procedure Order, the Presiding Officer must notify you and give you the opportunity to make further written representations to him or her about that matter. If the Presiding Officer still concludes that you do not have a substantial ground of objection, you will be informed that your petition will not be considered further and that it will not prevent the Minister making (or confirming) the Special Procedure Order.
- 25.** If, following consideration of your petition and any further representations, the Presiding Officer concludes that your petition does disclose a substantial ground of objection, the Presiding Officer will inform you, and report his or her decision to the Assembly.

Some petitions have been presented calling for amendments which would affect me, how can I make my views heard on this now?

- 26.** If a petition discloses a substantial ground of objection, and requests amendments to be made to the Special Procedure Order, the Presiding Officer will consider whether these amendments would affect the interests of other persons. For example, a proposed amendment in a petition might lessen the impact of the order on the property of the person who is proposing it but might increase the impact on your property.
- 27.** In this situation, the Presiding Officer must:
- a. report this to the Assembly;
 - b. inform the petitioner of that decision; and
 - c. give the opportunity for any persons whose interests would be affected by the amendments to present petitions against these amendments – these are referred to as counter-petitions.

When and how can I present a counter-petition?

- 28.** The Presiding Officer must notify the public that any person can present a counter-petition to the Presiding Officer. This will be done via a public notice in a newspaper. A counter-petition must be made within a period of 20 working days,⁵ beginning with the day on which the Presiding Officer first publishes the notice in a newspaper - the time limit will be included in the notice.⁶ Counter-petitions presented after the 20 working days cannot be considered.

⁵ A working day means any day unless it is:

- (i) a Saturday or a Sunday;
- (ii) Christmas Eve, Christmas Day, Maundy Thursday or Good Friday;
- (iii) a day which is a bank holiday in Wales;
- (iv) a day appointed for public thanksgiving or mourning.

⁶ The notice must be published in at least one newspaper circulating in the area to which the special procedures Order relates, but this may not necessarily be the date that the notice was first published. For confirmation please contact the Scrutiny and Co-ordination Unit, tel 0300 200 6565

29. Counter-petitions must then be presented and considered in the same way as petitions (see paragraphs 11 – 25 above). A specimen counter-petition is attached at **Appendix B**, which you can follow (but you do not have to).

What happens after the Presiding Officer has considered all petitions?

30. Any petitions (and counter-petitions) which in the view of the Presiding Officer contain a substantial ground of objection must be considered by an Assembly Committee which will be established to consider the petitions. The Committee will report its conclusions to the Assembly.

I presented a petition, can I make my views known to the Committee?

31. If the Presiding Officer decided that your petition contains a substantial ground of objection you will be informed about your entitlement to make representations to the Committee either in person or by representative, along with other petitioners (including counter-petitioners), and the person who is applying for the Special Procedure Order (this will normally be a Welsh Minister or local authority). The relevant Welsh Minister is also entitled to participate in the proceedings of the Committee (personally or by representative) but may not vote.

What will the Committee do?

32. After hearing all viewpoints, the Committee will report its recommendations to the Assembly. It will report that the draft Special Procedure Order should either:

- a. not be made or confirmed;
- b. be made or confirmed without amendment; or
- c. be made or confirmed with any amendments which the committee considers would give effect, in whole or in part, to any petition (or counter-petition).

What happens following the Committee's decision?

33. If the Committee reports that the draft Special Procedure Order should not be made or confirmed, it will not become law.

34. If the Committee reports that the draft Special Procedure Order should be made or confirmed without amendment, the Welsh Ministers may go ahead and make or confirm it.

35. If the Committee reports that the draft Special Procedure Order should be made or confirmed with amendments, it may be made or confirmed with those amendments.

36. If the Welsh Ministers would rather not make or confirm the order at all, given the amendments which the Committee has recommended, it must be withdrawn. Alternatively the Welsh Ministers may propose that the Assembly as a whole should agree that it be made or confirmed without the amendments recommended by the Committee. It will then be up to the Assembly to decide.

37. If the Order is not made or confirmed (as could happen per paragraph 33 or 36), this does not prevent a Welsh Minister laying a further draft Special Procedure Order before the Assembly

having the same or similar effect. In that case, the Ministers would have to go through all the applicable Assembly procedures again.

I do not wish to proceed with my petition, how can I withdraw it?

- 38.** You can withdraw your petition at any time. A request for withdrawal may be made in writing to the Presiding Officer:
- a. by e-mail, to **contact@assembly.wales**; or
 - b. by letter, to the Scrutiny and Co-ordination Unit, National Assembly for Wales, Pierhead Street, Cardiff Bay, Cardiff CF99 1NA.
- 39.** If your petition has been presented in the name of more than one person, any of these people may withdraw from the petition. If all persons named on the petition decide to withdraw from the petition, this has the effect of withdrawing the petition. However, if only some of the persons named on the petition withdraw, the petition will continue to be considered. You can withdraw from a petition by e-mail or by post as above.

APPENDIX A

Special Procedure Order

Petition to the Presiding Officer of the National Assembly for Wales

[TITLE OF ORDER]

THIS IS THE PETITION OF: [NAME AND ADDRESS OF EACH INDIVIDUAL, COMPANY OR ASSOCIATION WHO IS PRESENTING THE PETITION]

- 01.** [Give details of who the petitioners are,⁷ together with a description of how your property or interests which would be affected by the order: if you say any of your land is affected by the draft Special Procedure Order, you must clearly identify it, preferably by a plan].
- 02.** [Give a brief, clear statement of the reasons why you object to the order. State whether you want the Assembly to prevent the making of the Special Procedure Order altogether or the amendment(s) you would like to see made to the order and the reasons why you want it / them made. If you are asking for an amendment to be made to the Special Procedure Order, your petition must clearly set out how it should be amended (i.e. your petition must set out the wording of the amendment and your reasons for it)]

THE PETITIONER(S) therefore petition the Presiding Officer of the National Assembly for Wales that the Order [not be approved] [or] [be amended as detailed in this petition]⁸

[Signature of Petitioner, or Agent for the Petitioner]⁹

[Date presented]

⁷ For example, "The first Petitioner is an owner of property in. ...The second Petitioner is...", " The Petitioners are the ... Society, an association of the residents of ... Road, established in ... to..."; "The Petitioner is an amenity society whose interests are..."

⁸ Choose one or more of the texts in brackets as appropriate – please note that a petition can ask for an Order to not be approved, but if it is approved, that it be approved with such amendments as detailed in the petition.

⁹ If the petition is presented by e-mail, the signature will be accepted as printed text.

APPENDIX B

Special Procedure Order

Counter-Petition to the Presiding Officer of the National Assembly for Wales [TITLE OF ORDER]

THIS IS THE COUNTER-PETITION OF: [NAME AND ADDRESS OF EACH INDIVIDUAL, COMPANY OR ASSOCIATION WHO IS PRESENTING THE COUNTER PETITION]

1.[Give details of who the counter-petitioners are,¹⁰ together with a description of how your property or interests which would be affected by the order: if you say any of your land is affected by the draft Special Procedure Order, you must clearly identify it, preferably by a plan].

2.[Give details of the amendments to which you object which have been proposed by another petitioner against the order].

3. [Give a brief, clear statement of the reasons why you object to these amendments to the order. State whether you want the Assembly to disregard the amendment to the Order altogether or any alternative amendment(s) you would like to see made to the order and the reasons why you want it / them made. If you are asking for an alternative amendment to be made to the Special Procedure Order, your petition must clearly set out how it should be amended (i.e. your petition must set out the wording of the amendment and your reasons for it).]

4.[If you also submitted a petition following the public notice issued by Welsh Ministers, i.e. the first call for petitions against the order, please attach your original petition for ease of reference.]

THE PETITIONER(S) therefore petition the Presiding Officer of the National Assembly for Wales that the Order [not be approved if it is amended in the way referred to in paragraph 2] [or] [be amended as detailed in this petition]¹¹

[Signature of Petitioner, or Agent for the Petitioner]¹²

[Date presented]

¹⁰ For example, "The first Petitioner is an owner of property in. ...The second Petitioner is...", " The Petitioners are the ... Society, an association of the residents of ... Road, established in ... to..."; "The Petitioner is an amenity society whose interests are..."

¹¹ Choose one or more of the texts in brackets as appropriate – please note that a petition can ask for an Order to not be approved, but if it is approved, that it be approved with such amendments as detailed in the petition.

¹² If the petition is presented by e-mail, the signature will be accepted as printed text.