



CHAPTER 12.

An Act to amend subsection (1) of section four of the War Damage Act, 1941, and to make consequential amendments; and to supply certain omissions from the provisions enacted by that Act and the War Damage (Amendment) Act, 1942, as to rentcharges.

[25th March 1943.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) Where the question whether a payment in respect of any war damage under Part I of the War Damage Act, 1941 (in this Act referred to as "the principal Act") is to be a payment of cost of works or a value payment falls to be determined under subsection (1) of section four of, or under paragraph 2 of the Third Schedule to, that Act, the question shall be determined by reference to prices current at the thirty-first day of March, nineteen hundred and thirty-nine, and accordingly the provisions of that Act and of the War Damage (Amendment) Act, 1942 (in this Act referred to as "the amending Act") specified in the Schedule to this Act shall be amended as therein provided.

(2) The preceding subsection and the Schedule to this Act shall have effect wherever the said question falls to be determined as aforesaid after the passing of this Act, whether the war damage in question occurred before or after the passing of this Act, and, in a case in which the said question has been determined before the passing of this Act, the Commission may review their determination and, if satisfied that it would have been different if it had been taken after the passing of this Act, they may if they think fit, after consultation with the persons appearing to them to be interested, alter their determination.

(3) Any increase attributable to the provisions of this section or of the Schedule to this Act in the sums payable out of moneys provided by Parliament under section fifty-four of the principal Act shall be defrayed out of moneys so provided.

Minor
amendments
as to
rentcharges.

2.—(1) At the end of sub-paragraph (11) of paragraph 5 of the First Schedule to the amending Act (which requires that, in ascertaining the annual value of land available for meeting a rentcharge, the amount of any prior rentcharge should be deducted) the following proviso shall be inserted, that is to say—

“ Provided that, in ascertaining the available annual value of the charged land in a hereditament, no deduction shall be made from the annual value thereof in respect of any such amount as aforesaid, in so far as the owner of the rentcharge in question is liable for the payment of that amount as between himself and the owner of the proprietary interest out of which that rentcharge was created in that land.”

(2) In paragraph (a) of subsection (4) of section thirty-nine of the principal Act (which relates to a value payment or a share of such a payment which apart from that paragraph would be payable to the owner of, or to any other person in right of, a proprietary interest held for charitable or ecclesiastical purposes), after the words “ or to any other person in right of that interest ” there shall be inserted the words “ including any person entitled in respect of a rentcharge, feuduty or ground annual created out of, or payable by the owner of, that interest.”

(3) In subsection (24) of section ninety-six of the principal Act, for the words “ a proprietary interest that was subject immediately before the occurrence of the war damage to a trust ”, there shall be substituted the words “ a proprietary interest, or a feuduty or ground annual payable by the owner of such an interest, and such interest, feuduty or ground annual was, at the date by reference to which the disposal of the value payment is to be regulated, subject to a trust ”, and at the end of the subsection there shall be inserted the words “ or for the discharge of the feuduty or ground annual, as the case may be.”

(4) The principal Act shall have effect as if it had been originally enacted with the amendments made therein by this section, and it and the amending Act shall have effect as if the latter Act had been originally enacted with the amendment made therein by this section.

Short title
and citation.

3.—(1) This Act may be cited as the War Damage (Amendment) Act, 1943.

(2) The principal Act, the amending Act and this Act shall be construed as one and may be cited together as the War Damage Acts, 1941 to 1943.

SCHEDULE.

Amendments consequential on section one of this Act.

1. The following subsection shall be substituted for subsection (1) of section four of the principal Act and paragraph 4 of the First Schedule to the amending Act:—

“(1) Subject as provided by subsection (2) of this section, the question whether a payment under this Part of this Act is to be a payment of cost of works or a value payment shall be determined as follows, that is to say—

(a) In the case of a developed hereditament, the payment shall be a payment of cost of works unless the damage involves total loss, that is to say, is such that the proper cost (as defined in subsection (3) of section three of this Act, with the substitution for the reference therein to the time when works are executed of a reference to the thirty-first day of March, nineteen hundred and thirty-nine) of such works as would be required for reinstating the hereditament in the form in which it existed immediately before the occurrence of the damage would be likely to be more than the difference between the amounts respectively which the fee simple in the hereditament might have been expected to realise—

(i) on a sale thereof in the state in which it would be after the execution of those works, and

(ii) on a sale thereof as a site and with the damage not made good,

being in each case a sale made on the said thirty-first day of March, and being in each case a sale in the open market with vacant possession, subject to any right or restriction such as is mentioned in subsection (5) of section three of this Act to which the hereditament was subject at the time immediately after the occurrence of the damage, but free from any other incumbrance (or, in the case of a hereditament in Scotland, from any ground annual or other incumbrance and any liability to pay feuduty) and without regard to any liability of the hereditament to become subject after that time to any restriction by virtue of any enactment:

Provided that, in the case of hereditaments consisting of or comprising premises of a kind not normally the subject of sales in the open market, provision may be made by regulations made by the Treasury for substituting in this paragraph, for the references to the amounts respectively therein mentioned, references to values ascertained by reference to such matters as may be specified in the regulations.

(b) In the case of a hereditament not being a developed hereditament, the payment shall be a payment of cost of works in a case only in which the permissible amount of that payment (ascertained by reference to proper cost as defined in subsection (3) of section three of this Act with the substitution aforesaid) would be likely to be less than the amount of a value payment in respect of the damage."

2. In paragraph (b) of subsection (2) of section six of the principal Act (which confers a right of appeal to a referee), the following words shall be substituted for the words from the beginning of the paragraph to the word "Act", namely, "as to the amount which the fee simple in a hereditament might have been expected to realise in the circumstances specified in paragraph (a) of subsection (1) of section four of this Act or as to the value of a hereditament the value of which is to be ascertained under the regulations therein mentioned".

3. Paragraph 2 of the Third Schedule to the principal Act shall be amended by substituting the following words for the words from the beginning of that paragraph to the beginning of the proviso thereto and for the sub-paragraph inserted at the end of that paragraph by the Fourth Schedule to the amending Act, that is to say—

"Where a developed hereditament, being or including a developed hereditament which has already sustained (whether on a single occasion or on two or more occasions) war damage not being such that a value payment is to be made in respect thereof, sustains on a subsequent occasion war damage such that, on a determination taken in relation to all the war damage under paragraph (a) of subsection (1) of section four of this Act (with the substitution for the reference therein to the time immediately before the occurrence of the damage of a reference to the time immediately before the earliest occasion, and for the references therein to the time immediately after the occurrence of the damage of references to the time immediately after the said subsequent occasion) a value payment would fall to be made, the Commission may determine that a single value payment shall be made in respect of all the war damage as if it had all occurred on the earliest occasion, to the exclusion of any other payment in respect of any of it."

4. In sub-paragraph (1) of paragraph 2 of the First Schedule to the amending Act (which relates to the valuation of licensed premises) after the words "the value of the premises or of any interest therein" there shall be inserted the words "or the amount which the premises or any interest therein might have been expected to realise".

Printed by NORMAN GIBB SCORGIE, C.V.O., C.B.E.,
Controller of His Majesty's Stationery Office
and
King's Printer of Acts of Parliament

To be purchased directly from H.M. STATIONERY OFFICE at the following addresses:
York House, Kingsway, London, W.C.2; 120 George Street, Edinburgh 2;
39-41 King Street, Manchester 2; 1 St. Andrew's Crescent, Cardiff;
80 Chichester Street, Belfast;
or through any bookseller