



Defence of the Realm (Acquisition of Land) Act 1920

1920 CHAPTER 79

An Act to amend the Defence of the Realm (Acquisition of Land) Act, 1916, and to continue certain byelaws. [23rd December 1920]

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 Power to dispose of land free from restrictive covenant.

- (1) Where land which, or an interest in which, has been or is hereafter acquired under the Defence of the Realm (Acquisition of Land) Act, 1916 (hereinafter referred to as the principal Act), was immediately before its acquisition subject to a restrictive covenant which before the fourth day of November, nineteen hundred and twenty, had lawfully been contravened, and the land or interest therein is disposed of in pursuance of the powers conferred by section five of that Act, it may be disposed of free from the restriction imposed by the covenant, and shall be deemed to have been so disposed of, if expressed to be disposed of in pursuance of the powers conferred by the principal Act and this Act but not otherwise :

Provided that, where the covenant is one entered into for the protection and maintenance of any building scheme, or for the preservation of the amenities of any dwelling-house in the occupation of a person entitled to enforce the covenant, this section shall not apply unless the Railway and Canal Commission, on the application of the occupying department, and having regard to all the circumstances of the case, direct that it shall apply.

- (2) Where any such land or interest is disposed of free from such restriction, no person shall have the right of enforcing the covenant against the person to whom the land or interest is disposed of or his successors in title, but if at any time after such disposition any person who, but for this section, would have had a right to enforce the covenant,

establishes such right, there shall be paid to him compensation to be determined in manner provided by the Lands Clauses Act as modified by the principal Act and the Acquisition of Land (Assessment of Compensation) Act, 1919, with respect to interests in lands which have been omitted to be purchased, and upon payment of such compensation the right shall, as against him and all persons deriving title through him, be absolutely discharged :

Provided that, in assessing the compensation, the official arbitrator shall take into consideration any compensation which may have been paid or be payable in respect of the covenant under section four of the principal Act. Any compensation payable under the foregoing provisions shall be paid out of moneys provided by Parliament, but the sum to be expended in respect thereof shall not exceed fifty thousand pounds.

- (3) In the application of this section to Scotland " restrictive covenant " shall mean any obligation imposed by way of real burden or reservation or condition running with or affecting the land, whereby any restriction on the alienation or transfer of possession of the land, or on the use or enjoyment thereof, is effected.

2 Provisions as to rights of pre-emption.

- (1) The right of pre-emption conferred by section five of the principal Act on any person other than a person entitled to the lands from which the land proposed to be sold was originally severed shall cease to have effect, and accordingly in subsection (3) of that section the words from " or if such person refuse " to the end of that subsection shall be repealed.
- (2) Where the land from which land acquired under the principal Act was severed is settled land within the meaning of the Settled Land Acts, 1882 to 1890, the tenant for life, or person having the powers of a tenant for life under those Acts with respect to that land, shall, for the purposes of section five of the principal Act and this section, be deemed to be, and always to have been, the person entitled to the settled land.
- (3) The person by whom the right of pre-emption conferred by the said section five as amended by this section is or would for the time being be exercisable in respect of any land if a Government department were offering that land for sale shall have power at any time to release that right so as to discharge in perpetuity the land or any part thereof to which the release relates, from all such right of pre-emption.

3 Provision as to acquisition and possession of land under the principal Act.

- (1) It is hereby declared that—
- (a) the power of acquiring land or interest in land conferred by section three of the principal Act authorises, and shall be deemed always to have authorised, such acquisition for the purposes of resale, in cases when such resale is required with a view to the realisation to the best possible advantage of the value of buildings and works erected, executed, or constructed wholly or partly at the expense of the State, or of any State which acted in alliance or in naval or military co-operation with His Majesty during the war, or when for any other reason it appears expedient in the financial interests of the State or of such State that the acquisition for such purposes should be authorised: Provided that nothing in this subsection shall interfere with the right of pre-emption conferred by section five of the principal Act as amended by , section two of this Act:

- (b) the expressions " Government department in possession " and " occupying department," where used in the principal Act and this Act mean, and shall be deemed always to have meant, the Government department for the time being in possession of land, notwithstanding that the department so in possession is not the department by which or on whose behalf possession was originally taken, but is in possession by virtue of a transfer from the said department or from some other department to which possession has subsequently been transferred:
 - (c) where the occupying department has created or purported to create any tenancy or other interest in the land of which it is in possession in favour of some other person, or has allowed any other person " to use or occupy that land, the occupying department shall, for the purposes of the principal Act and this Act,' be deemed to have continued in possession of the land, notwithstanding the interest therein of, or the use or occupation thereof by, such other person :
 - (d) the possession by an occupying department shall be deemed not to have been affected or prejudiced by reason of the land or any part thereof at any time ceasing or having ceased to be used for the purpose for which possession thereof was originally taken, or otherwise being or having been used for any other purpose:
 - (e) subsection (4) of section one of the principal Act shall not be construed as limiting the power of one Government department to transfer possession of land to another Government department during the continuance of the present war.
- (2) A Government department in possession of land under a lease or tenancy granted or created prior to the commencement of the present war shall have the like power of removing any building or other work which, for purposes connected with the present war, has been erected or constructed on, over, or under that land wholly or partly at the expense of the State as is conferred by section two of the principal Act on an occupying department, and this power shall be exercisable notwithstanding any provision of the lease or tenancy under which the land is held, and paragraph (b) of the first proviso to subsection (1) of section two of the principal Act shall not apply to any such provision.

4 Consent under section six of the principal Act.

- (1) It is hereby declared that the consent—
- (a) of a local authority under the proviso to subsection (1) of section six of the principal Act to the use of a railway or tramway across a roadway on the level being continued after the expiration of two years from the termination of the present war; and
 - (b) of the commission under subsection (3) of that section as to keeping a public highway closed beyond the expiration of twelve months after the termination of the present war,
- may be given at any time before the expiration of those two years or those twelve months as the case may be.
- (2) If any person considers that the consent of a local authority under the said proviso to subsection (1) of section six has been unreasonably withheld, he may appeal to the Minister of Transport whose decision shall be final and shall have effect as if it were a decision of the authority :

Provided that the Minister may, before considering any such appeal, require the appellant to deposit such sum, not exceeding ten pounds, to cover the costs of appeal as may be fixed by rules to be made by him. .

5 Provisions as to retention of possession and acquisition of land belonging to railway companies, & c

(1) For paragraph (b) of subsection (2) of section thirteen of the principal Act, the following paragraph shall be substituted :—

“(b) land belonging to any company or corporation carrying on a railway, dock, canal, water, or other public undertaking, other than—

(i) land which having before the commencement of the present war been used for the purposes of the undertaking, had before that date ceased to be so used; and

(ii) land which had never been so used before that date, not being in either case land shown to the satisfaction of the Railway and Canal Commission to be required for the purposes of the undertaking.”

(2) Where under the said subsection the consent of the appropriate Government department to the retention of the possession of land mentioned in the said paragraph (b) is requested by the occupying department, the first-mentioned department, in determining whether consent shall be given, shall take into consideration all the circumstances of the case.

6 Easements.

For the purposes of sections one, two, three, ten, and thirteen of the principal Act and for the purposes of this Act, the exercise or enjoyment of any easement or right over or in relation to land shall be deemed to be possession of that easement or right.

7 Temporary continuation of existing byelaws as to ranges.

Any byelaws made under the Military Lands Acts, 1892 to 1903, as modified by regulation seventeen of the Defence of the Realm Regulations for regulating the use of any area for the purpose of a rifle, artillery, aerial or other range, or for securing the public against danger arising from that use, shall, unless previously revoked, continue in force until the expiration of two years from the passing of this Act.

8 Short title and construction.

This Act may be cited as the Defence of the Realm (Acquisition of Land) Act, 1920, and shall be construed as one with the principal Act, and that Act and this Act may be cited together as the Defence of the Realm (Acquisition of Land) Acts, 1916 and 1920.