



Defence of the Realm (Acquisition of Land) Act 1916

1916 CHAPTER 63

An Act to make provision with respect to the possession and acquisition of land occupied or used for the Defence of the Realm in connection with the present War and for other purposes connected therewith. [22nd December 1916]

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 Continuation of possession of land occupied for the purposes of the defence of the realm

- (1) Where, during the course or within the week immediately preceding the commencement of the present war, possession has been taken of any land by or on behalf of any Government department for purposes connected with the present war, whether in exercise or purported exercise of any prerogative right of His Majesty, or of any powers conferred by or under any enactment relating to the defence of the realm, or by agreement, or otherwise, it shall be lawful, subject to the provisions of this Act, for the Government department in possession (hereinafter referred to as the occupying department), after the termination of the present war, to continue in possession of the land for such period, not exceeding two years from such termination, as the occupying department may consider necessary or expedient, and, if on application being made to the Railway and Canal Commission (hereinafter referred to as the Commission) not less than six months before the expiration of such two years the Commission consent thereto, for such further period, not exceeding three years from the expiration of such two years, as the Commission may consider necessary or expedient in the national interest.
- (2) Whilst any land so continues in the possession of any occupying department, the department may for the purposes of the public service exercise in relation thereto all such powers as were during the continuance of the war exercisable in relation thereto

for the purposes of the defence of the realm, subject, however, as respects the power to close public highways, to the provisions of subsection (3) of section six, and, as respects the power of removal of buildings and works, to the provisions of section two :

Provided that—

- (a) If the exercise of any such powers causes the pollution, abstraction, or diversion of water or the emission of noxious fumes to such an extent that if exercise of such powers had not been authorised by this Act persons interested in adjoining or neighbouring land would have been entitled to restrain the exercise thereof, any person who would have been so entitled shall be entitled to such compensation in respect of any loss occasioned by such pollution, abstraction, diversion, or emission during the period of occupation under this section as, failing agreement, may be determined in manner provided by this Act; and
 - (b) nothing in this section shall be construed as depriving any person of any right to recover damages in respect of any injury to property caused by accident due to the exercise of any such powers as aforesaid.
- (3) The occupying department shall pay such rent in respect of any land which continues in their possession, and such continuance shall be upon and subject to such terms and conditions, as to compensation or otherwise (including compensation for any depreciation attributable to works and buildings not removed), as, failing agreement, shall be determined in manner provided by this Act, and in determining the rent payable under this provision regard shall be had to the like considerations as are set out in paragraph 6 of the schedule to this Act with respect to the determination of compensation payable for land acquired under this Act.
- (4) The occupying department may transfer possession of any land to the Admiralty or Army Council or the Minister of Munitions, and upon such a transfer being made the department to whom possession is transferred shall be deemed to be the occupying department.

2 Power to remove buildings and works

- (1) Whilst any land of which possession has been so taken is in the possession of an occupying department after the termination of the present war, any building or other work which for purposes connected with the present war has been erected or constructed on over or under the land wholly or partly at the expense of the State, or, with the consent of the occupying department, at the expense of some person not being a person interested in the land, may be removed, without the consent of any person interested in the land, by the occupying department, or, with the consent of the occupying department, by the person at whose expense it was erected or constructed, any law or custom to the contrary notwithstanding:

Provided that—

- (a) where the building or work was erected or constructed partly at the expense of a person interested in the land ; or
- (b) where in pursuance of an agreement with a Government department any person interested in the land is entitled to the benefit of or to prohibit the removal of the building or work ;

this provision shall not authorise the removal of that building or work during the continuance of such interest in the land without the consent of that person or the persons deriving title under him :

Provided also that where under any agreement a Government department is entitled to remove any such building or work nothing in this section shall prejudice the rights of the department or any other person under the agreement.

- (2) Where any building or work has been removed under the powers conferred by this section the occupying department shall cause the land to be restored to the condition in which it was before the building or work was erected or constructed or shall, if the persons interested in the land agree or the Commission consent, instead of so restoring the land, pay such compensation in respect of the depreciation (if any) in the value of the land attributable to the disturbance of the soil as in default of agreement may be determined in manner provided by this Act.
- (3) Where any such buildings or works have been erected or constructed upon any common, open space, or allotment the building or work shall be removed and the land restored as aforesaid, except in such cases and to such extent as the Board of Agriculture and Fisheries on the application of the occupying department may by order declare that such removal and restoration is not required in the interests of the persons interested in the land or the public :

Provided that before any such order is made the Board of Agriculture and Fisheries shall give the local authority or board of conservators (if any) in which is vested the management of the common, open space, or allotment, and any other local authority interested, an opportunity of being heard, and that before any such order comes into effect a draft thereof shall be laid before each House of Parliament for a period of thirty days on which that House has sat, and if either of those Houses before the expiration of that period presents an address to His Majesty against the draft or any part thereof, no further proceedings shall be taken thereon, without prejudice to the making of a new draft order,

- (4) Where any building or any machinery or plant fixed or attached to any land has, for purposes connected with the present war, been erected wholly or partly at the expense of the State in accordance with an agreement with any person interested in the land, any power to remove the building, machinery, and plant so erected conferred on any Government department under the agreement may be exercised, notwithstanding any rights in the building, machinery, or plant to which any other person interested in the land, whether as mortgagee or otherwise, may be entitled.

3 Power to acquire land permanently

- (1) Subject to the provisions of this Act it shall be lawful to acquire by agreement or compulsorily on behalf of His Majesty—
 - (a) any land in the possession of an occupying department or any interest in such land ;
 - (b) any land on over or under which any buildings works or improvements have, for purposes connected with the present war, been erected constructed or made wholly or partly at the expense of the State, or any interest in such land ;
- (2) Where any land or any interest in land is or has been so acquired any adjoining or neighbouring land (whether belonging to the same owner or not), or any right of access, or other easement or right which appears to the Commission to be required for the proper enjoyment of the land or interest so acquired, or any interest therein, may, with the consent of the Commission, also be acquired.

Status: This is the original version (as it was originally enacted).

- (3) The power to acquire land, or an interest therein, under this section shall include power to acquire the land or interest either with or without all or any of the mines or minerals lying thereunder as the purchasing department may determine, and if the surface is acquired apart from the mines and minerals either without any right of support or with such right of support as the department may require.
- (4) The power of acquisition conferred by this section shall be exercisable—
- (a) in the case of land in the possession of an occupying department or of land and rights required for the proper enjoyment thereof, by the occupying department at any time whilst the department is in possession, but not later than three years after the termination of the present war;
 - (b) in the case of other land or rights, by the Admiralty or Army Council or the Minister of Munitions at any time during the present war or within twelve months after the termination thereof.
- (5) For the purposes of the acquisition of land and interests therein under this section, the provisions of the Lands Clauses Acts, subject to the modifications set out in the Schedule to this Act, shall be incorporated with this Act.
- (6) Where any buildings, works, or improvements have, for purposes connected with the present war, been erected, constructed, or made wholly or partly at the expense of the State, on, over, or under any land, no person shall without the consent of a Government department remove, destroy, alter, or dispose of the buildings, works, or improvements whilst the right of acquiring the land conferred by this section remains in force.
- (7) Any person having power (whether subject to any consent or conditions or not) to sell land authorised to be acquired by any Government department may, subject to the like consent and conditions, grant or demise the land in perpetuity or for any term of years to the Government department at such fee farm or other rent, secured by such condition of re-entry or otherwise as may be agreed Upon, and with or without a right of renewal, or grant to the Government department an option to acquire the land:

Provided that, where the power to sell arises under the Settled Lands Acts, 1882 to 1890, the powers conferred by this section shall be exercised only with the consent of the trustees of the settlement for the purposes of those Acts, or with the sanction of the court.

4 User of land acquired

Any land which, or an interest- in which, has been acquired under this Act may be used by any Government department for the purpose for which it was used during the war or for any other purpose for which it could have been used had the land been acquired under the Defence Acts, 1842 to 1873, or the Military Lands Acts, 1892 to 1903, notwithstanding that such user could, but for this Act, have been restrained as being in contravention of any covenant or for any other reason, and no person interested in any adjoining or neighbouring land or entitled to any riparian rights shall be entitled to restrain such user; but if, apart from this Act, any such person would have been entitled to restrain such user, then, if application for the purpose is made within three years after the date of the acquisition of the land under this Act or after the commencement of the user causing the depreciation, whichever may be the later, he shall,—

- (i) if the land is used for a purpose for which it could have been used had the land been acquired under the Defence Acts, 1842 to 1873, or the Military Lands Acts, 1892 to 1903, be entitled to such compensation in respect of any

breach of a restrictive covenant or damage caused by the pollution, abstraction, or diversion of water, or by the emission of noxious fumes, as in default of agreement may be determined in manner provided by this Act; and

- (ii) if the land is used for any other purpose, be entitled to such compensation in respect of any damage occasioned by such user as in default of agreement may be determined in manner provided by this Act:

Provided that—

- (a) where such compensation is claimed in respect of any land, the department may, at any time before such claim is determined, and on payment of all costs properly incurred by the claimant in respect of his claim, require the claimant to sell the land or his interest therein at such price as would have been proper if the value of the land had not been so depreciated, such price in default of agreement to be determined in like manner as if the land had been acquired under section three of this Act; and
- (b) nothing in this section shall be construed as depriving any person of any right to recover damages in respect of any injury to property caused by accident due to such user as aforesaid ; and
- (c) in the user of land or an interest in land acquired under this Act the provisions of the Alkali, &c. Works Regulation Act, 1906, and the Rivers Pollution Prevention Acts, 1876 and 1893, and of any local Act dealing with the like matters, shall be complied with, and those Acts shall apply accordingly, and nothing in this section shall affect the powers conferred by any Act, whether public general or local, on any local authority, board of conservancy, or other public authority, with respect to the prevention of the pollution of rivers, or the abatement of nuisances caused by the emission of smoke or other noxious fumes.

5 Power to sell land acquired under Act

- (1) Where any land or any interest therein has by virtue of this Act been acquired by any Government department, the department may at any time thereafter sell, lease, or otherwise dispose of the land or interest.
- (2) Where any such land is disposed of, then on the execution and delivery to the purchaser by the Government department concerned of the necessary or proper assurance of the land disposed of, the purchaser shall notwithstanding any defect in the title of such Government department thereto stand possessed thereof for such estate or interest as may be expressed or intended to be assured to him, freed and absolutely discharged (save as in the assurance may be expressed) from all prior estates, interests, rights, and claims therein or thereto :

Provided that if at any time after such disposition any such prior estate, interest, right, or claim as aforesaid is established by the person entitled thereto, there shall be paid to such person compensation to be determined in manner provided by the Lands Clauses Acts, as modified by this Act, with respect to interests in lands which by mistake have been omitted to be purchased.

- (3) Before any Government department sell any land so acquired or interest therein they shall, unless such land is land upon which buildings of a permanent nature have been erected wholly or partly at the expense of the State or at the request of, or by arrangement with, any Government department, or is land used in connection with such buildings, first offer to sell the same to the person then entitled to the lands (if any)

from which the same were originally severed ; or if such person refused to purchase the same, or cannot .after diligent inquiry be found, then the like offer shall be made to the person or to the several persons whose lands shall immediately adjoin the lands so proposed to be sold.

- (4) If any such persons be desirous of purchasing such lands, then within six weeks after such offer they shall signify their desire in that behalf to the Government department concerned, or if they decline such offer, or if for six weeks they neglect to signify their desire to purchase such lands, the right of pre-emption of every such person so declining or neglecting in respect of the lands included in such offer shall cease.
- (5) If any person entitled to such pre-emption be desirous of purchasing any such lands and such person and the Government department concerned do not agree as to the price thereof, or other consideration therefor, then such price or other consideration shall be determined in manner provided by this Act.
- (6) The provisions of the last three foregoing subsections shall apply in the case of a lease of land for a term exceeding twenty-one years in like manner as they apply to a sale of land, except where the land is leased for the purpose of the development thereof in connection with any factory, building, camp, or other premises erected or established on land retained by the Government.

6 Provisions as to highways

- (1) Where, in the exercise or purported exercise of any prerogative right of His Majesty or any powers conferred by or under any enactment relating to the defence of the realm, or by agreement, or otherwise, for purposes connected with the present war, any railway or tramway or any cable line or pipes have been laid along, across, over, or under any public highway, it shall be lawful after the termination of the war for the railway or tramway or the cable line or pipes to continue to be used and maintained along, across, over, or under the highway, subject to such conditions as the Board of Trade, in the case of railways and tramways, and in other cases as the Commission after giving the local authority and the authority or person responsible for the maintenance of the highway or of any other railway or tramway laid thereon an opportunity of being heard, may by order prescribe, and any such authority or person may apply to the Board or Commission to make such an order:

Provided that where any such railway or tramway crosses the roadway on the level it shall not be lawful to use the crossing after the expiration of two years from the termination of the present war without the consent of the local authority.

- (2) In the event of the use of any such railway or tramway being discontinued, the Government department by whom it was laid down or used shall take up and remove the rails and restore the highway on which they are laid to the satisfaction of the authority or person responsible for the maintenance of such highway.
- (3) Where in exercise of any such right or powers as aforesaid any public highway has been closed, it may be kept closed after the termination of the present war, but not, by virtue of this section, beyond the expiration of twelve months after such termination unless the consent of the Commission is obtained, and the Commission before giving such consent shall give to the local authority and the authority or person responsible for the maintenance of the highway an opportunity of being heard, and the Commission may require as a condition of their consent the provision of another highway in the place of the highway so closed, and any person interested in any land adjoining any highway so closed who suffers loss or damage in consequence of the closing thereof

shall be entitled to such compensation as, in default of agreement, may be determined in manner provided by this Act to be the amount of such loss or damage.

- (4) For the purposes of this section the expression "local authority" means, in the case of a borough or urban district, the council of the borough or urban district, and elsewhere the county council.
- (5) Where any such railway, tramway, cable line, or pipes have been laid along, across, over, or under any public highway, or a public highway has been closed, in pursuance of an agreement with, or subject to any undertaking given to, the authority or person responsible for the maintenance of the highway, nothing in this section shall authorise the continuance of the user of the railway, tramway, cable line, or pipes, or the continuance of the closing of the highway beyond the time Specified in the agreement or undertaking without the consent of the authority or person so responsible.

7 Provisions as to water, light, heat, and power companies and authorities

Where any company or authority authorised to supply water, light, heat, or power, has, on the requisition or at the request of am' Government department for purposes connected with the present war, supplied water, light, heat, or power to any factory, building, camp, or other premises and such supply is not authorised by law, whether by reason of the premises not being within the area of supply of the company or authority or otherwise, or is in contravention of any agreement made by the company or authority, the company or authority after the termination of the war, shall, if and so long as required by any Government department to do so, continue the supply, but not beyond the expiration of twelve months after such termination unless the consent of the Commission is obtained, and before giving such consent the Commission shall give to the company or authority in whose area of supply the premises are situated, and any other person who appears to them to be interested in the continuance or discontinuance of such supply, an opportunity of being heard, and, if the premises are not within the area of supply of the company or authority, the company or authority shall have the like power with respect to the supply of water, light, heat, or power to the premises as if the premises were within its area of supply, and as if any roads or bridges along, across, over, on or under which any pipes or lines or other works have been laid for the purpose of supplying the premises were roads which the company or authority were authorised to break up for the purpose of their undertaking : Provided that no supply of water, light, heat, or power shall be given or shall continue to be given under this section .by any company or authority if and so long as such supply would prejudice the supply within the area of supply of such company or authority.

8 Determination of questions by Railway and Canal Commission

- (1) All questions as to compensation or as to the purchase price of land or any interest therein to be paid under this Act shall,—
 - (a) if both parties agree within such time as may be allowed by the Commission, be determined by a single arbitrator agreed by the parties ;
 - (b) if either party so requires within such time as may be allowed by the Commission, be referred to such one of a panel of referees to be appointed in like manner as the panel appointed under Part I. of the Finance (1909-10) Act, 1910, as may be selected by the Reference Committee as defined by section thirty-three of that Act, whose decision shall, subject to an appeal to the Commission on any question of law, be final;
 - (c) in any other case, be determined by the Commission.

- (2) The provisions of the Railway and Canal Traffic Act, 1888, as amended by any subsequent enactment, relating to the procedure for the determination of questions by the Commission under that Act, including the provisions relating to appeals, shall apply to the determination of questions, including appeals from referees, referred to the Commission under this Act, as if they were herein re-enacted and in terms made applicable to this Act:

Provided that—

- (a) the Commission may in any case in which they think it expedient to do so call in the aid of one or more assessors specially qualified, and hear the case wholly or partially with the assistance of such assessors ;
- (b) the Commission may hold a local enquiry for the purposes of this Act by any one of their members, or by any officer of the Commission or other person whom they may direct to hold the same, and the said provisions of the Railway and Canal Traffic Act, 1888, except the provisions relating to appeals shall, so far as applicable, apply to such enquiries, and any officer or person directed to hold an enquiry shall have power to administer an oath and shall report the result of the enquiry to the Commission ;
- (c) the Commission may act by two of their members, one of whom shall be the judge ;
- (d) the discretion of the Commission with respect to costs shall be subject to the provisions of the Lands Clauses Acts as modified by this Act as to costs, in cases where those Acts as so modified apply, but shall not be limited in the manner provided by section two of the Railway and Canal Traffic Act, 1894.

9 Payment of compensation and purchase money

Until Parliament otherwise determines, all compensation and purchase money payable by a Government department under this Act, and all other expenses incurred by any Government department thereunder, shall be defrayed out of money provided by Parliament.

10 Evidence of certificate by Government department

For the purposes of this Act a certificate by any Government department—

- (a) that possession has been taken of any land for purposes connected with the present war ; or
- (b) that the department is in possession of such land or is the occupying department within the meaning of this Act; or
- (c) that any sums therein specified have been expended by the State in erecting, constructing, or making buildings, works, or improvements for purposes connected with the present war on, over, or under any land ; or
- (d) that any such buildings, works, or improvements have been erected, constructed, or made with the consent of the occupying department at the expense of a person not being a person interested in the land ; or
- (e) that a railway or tramway has been laid along, across, over, or under a public highway, or that a public highway has been closed, in the exercise of any prerogative right of His Majesty, or any powers conferred by or under any enactment relating to the defence of the realm for purposes connected with the present war ; or

- (f) that water, light, heat, or power has been supplied to any premises on the requisition or at the request of a Government department for purposes connected with the present war ;

shall be prima facie evidence of the facts therein stated.

11 Application of building laws

- (1) Any street, building, or work which has been formed, erected, or constructed otherwise than in accordance with the provisions of any general or local Acts relating to streets or buildings, and with any byelaws or regulations made thereunder on any land to which section one of this Act applies, or which has been acquired under section three thereof, shall, unless the authority by whom such provisions, byelaws, or regulations are enforced consent to the continuance thereof, either be so altered as to comply with such provisions, byelaws, or regulations, or be discontinued or removed within such reasonable time, not being less than two years, after such land or building has ceased to be occupied by a Government department as such authority may order, and the owner (as defined by such Acts, byelaws, or regulations) shall have power to enter upon and carry out any works without the consent of any other person, and if he fails to comply with such order such authority as aforesaid may remove any such building or work and recover the expense incurred in such removal from the owner in a summary manner as a civil debt.
- (2) If any person feels aggrieved by the neglect or refusal of such authority to give its consent, or by the conditions on which such consent is given, or as to the time within which such discontinuance or removal is ordered, he may appeal to the Local Government Board, whose decision shall be final and shall have effect as if it were a decision of the authority: Provided that the Board 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 them.

12 Interpretation

- (1) For the purposes of this Act, and of the provisions of the Lands Clauses Acts incorporated with this Act, land includes any building or part of a building, any pier, jetty, or other structure on the shore or bed of the sea or any river, and any easement or right over or in relation to land.
- (2) Where consideration has been given or an advance made by the State for the erection, construction, or making of any building, work, or improvement on over or under any land for purposes connected with the present war, or where any money which would otherwise have been payable to the State has with the consent of a Government department been applied towards the erection, construction, or making of any such building, work, or improvement, the building, work, or improvement shall for the purposes of this Act be deemed to have been erected, constructed, or made wholly or partly, as the case may be, at the expense of the State.
- (3) For the purposes of this Act, except where the context otherwise requires, the expression "building" includes machinery and plant fixed - or attached to the building, the expression "common" shall include any land subject to be enclosed under the Inclosure Acts, 1845 to 1882, and any town or village green, and any other land subject to any right of common; the expression "open space" shall mean any land laid out as a public garden or public park or used for the purposes of public recreation ; and

the expression " allotment" shall mean any allotment set out for any public purpose under an Inclosure Act or award.

- (4) For the purposes of this Act references to the Defence Acts, 1842 to 1873, and the Military Lands Acts, 1892 to 1903, shall include references to those Acts as applied by the Naval Works Act, 1895.
- (5) For the purposes of this Act a competent naval or military authority acting under the Acts relating to the Defence of the Realm shall be deemed to be a Government department.

13 Savings

- (1) Nothing in this Act shall authorise the acquisition, of any interest in any common, open space, or allotment, or the acquisition otherwise than by agreement of any land which forms part of any park, garden, or pleasure ground, or of the home farm attached to and usually occupied with the mansion house, or is the site of any ancient monument or other object of archaeological interest, or of any interest in such land or grounds:

Provided that—

- (a) nothing in this subsection shall prevent the acquisition, whether by agreement or compulsorily, of a right to use and maintain any cables, lines, or pipes which have been laid under any such land as aforesaid ; and
- (b) where before the passing of this Act there have been erected on any park, garden, pleasure ground, or farm as above mentioned, any buildings for the manufacture of munitions of war, the Commission may by order authorise the compulsory acquisition of the park, garden, pleasure ground, or farm, or any part thereof, where they are satisfied that it is of national importance that it should be acquired, so, however, that if the owner so requires the whole of such property, including the mansion house, if any, shall be acquired, and that before the order made by the Commission comes into effect, a draft thereof shall be laid before each House of Parliament for a period of thirty days on which that House has sat, and if either of those Houses before the expiration of that period presents an address to His Majesty against the draft or any part thereof, no further proceedings shall be taken thereon.
- (2) Nothing in this Act shall authorise the retention of the possession for more than three months after the termination of the war of—
- (a) land belonging to any local authority within the meaning of the Local Government (Emergency Provisions) Act, 1916; or
- (b) land belonging to any company or corporation carrying on a railway, dock, canal, water, or other public undertaking other than 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 ; or
- (c) land held by or on behalf of any governing body constituted for charitable purposes which at the commencement of the war was occupied and used by that body for the purposes of that body;

without the consent of the appropriate Government department, or, in the case of a university or a college at a university, without the consent of the governing body of the university or college, provided that such consent, if given, shall not authorise the retention of possession for a longer period than three years after the termination of the war, and if any question arises as to what department is the appropriate Government department, the question shall be determined by the Treasury, and nothing in this Act

shall authorise the acquisition of any such land as aforesaid or of any interest in or right of access or other easement or right over any such land, except by agreement with such authority, company, corporation, or body as aforesaid.

- (3) Where possession has been taken of any land under any agreement authorising the retention of the land for any period specified in the agreement, nothing in this Act shall authorise the retention of possession after the expiration of such period without the consent of the person with whom the agreement was made or the persons deriving title under him.
- (4) Nothing in this Act shall authorise the compulsory acquisition of land with respect to which an agreement has been made for the restoration thereof to the owner or the person previously in occupation thereof (other than an agreement to give up possession of land at the expiration of a tenancy), or, in the case of land subject to an agreement for sale to a Government department, shall authorise the acquisition of the land otherwise than in accordance with the terms of the agreement.
- (5) Nothing in this Act shall authorise the compulsory acquisition of land without the consent of the Commission where the purposes for which it is to be acquired are purposes other than those for which land can be acquired under the Defence Acts, 1842 to 1873, or the Military Lands Acts, 1892 to 1903.
- (6) For the purposes of this section the expression "governing body constituted for charitable purposes" includes any person or body of persons who have a right of holding or any power of government of or management over any property appropriated for charitable purposes, and includes any corporation sole, and the governing body of any university, college, school, or other institution for the promotion of literature, science, or art.

14 Saving of prerogative powers

The powers conferred by this Act shall be in addition to and not in derogation of any other right or power of His Majesty.

15 Application to Scotland

In the application of this Act to Scotland the following modifications shall be made:—

- (a) Subsection (7) of section three and subsection (2) of section five shall not apply.
- (b) "Borough or urban district" means "royal, parliamentary, or police burgh"; "easement" means "servitude"; "mortgagee" means "heritable creditor"; and "restrain" includes "interdict."
- (c) The Local Government Board for Scotland shall be substituted for the Local Government Board, and the Secretary for Scotland for the Board of Agriculture and Fisheries.

16 Application to Ireland

In the application of this Act to Ireland the expression "the Lands Clauses Acts" shall not include the Railways Act (Ireland), 1851, the Railways Act (Ireland), 1860, the Railways Act (Ireland), 1864, or the Railways Traverse Act, or any Act amending those Acts; and the expression "Local Government Board" means the "Local Government Board for Ireland."

Status: This is the original version (as it was originally enacted).

17 Short title

This Act may be cited as the Defence of the Realm (Acquisition of Land) Act, 1916.

SCHEDULE

Section 3(5).

MODIFICATION OF THE LANDS CLAUSES ACTS

- 1 The department acquiring the land or interest therein shall be deemed to be the promoters of the undertaking, and this Act shall be deemed to be the special Act.
- 2 The provisions as to the sale of superfluous land and as to access to the special Act shall not apply.
- 3 All questions of disputed compensation shall be settled by an arbitrator or referee or the Commission, as the case may require (hereinafter referred to as the arbitration tribunal).
- 4 No allowance shall be made on account of the acquisition being compulsory.
- 5 Where a portion only of any factory or other building is required the owners and other persons interested in such building may, notwithstanding anything in the Lands Clauses Acts, be required to sell and convey the portions only of the building so required, if the Commission are of opinion that such portions can be severed from the remainder of the properties without material detriment thereto, and in such case compensation shall be paid for the portions required, and for any damage suffered by the owners or other parties interested in the building by severance or otherwise.
- 6 In determining the amount of compensation, the value of the land acquired shall be taken to be the value which the land would have had at, the date of the notice to treat if it had remained in the condition in which it was at the commencement of the present war, without regard to any enhancement or depreciation in the value which may be attributable directly or indirectly to any buildings, works, or improvements, erected, constructed, or made on, 'over or under the land, or any adjoining or neighbouring land for purposes connected with the present war wholly or partly at the expense of the State, or, with the consent of the occupying department, at the expense of any person not being a person interested in the land :
Provided that—
 - (a) where any such building, work, or improvement was erected, constructed, or made in pursuance of an agreement with any person interested in the land, the consideration given by such person shall be taken into account in assessing the compensation payable in respect of such interest ;
 - (b) where by virtue of an agreement with any Government department any person interested in the land is entitled as between himself and that department to the benefit of any such building, work, or improvement, the value attributable to such building, work, or improvement shall be taken into account in assessing the compensation payable in respect of such interest ;
 - (c) where, since the commencement of the present war, any person interested in the land has himself erected, constructed, or made any building, work, or improvement, or has contributed to the expense thereof, or has committed any act depreciating the value of the land, the value attributable to his expenditure or the depreciation in value attributable to such act shall be taken into account in assessing the compensation payable in respect of such interest.
- 7 In determining the amount of compensation the arbitration tribunal shall also take into account the amount (if any) of any compensation paid or other payment received in respect of the previous occupation of the land so far as such

Status: This is the original version (as it was originally enacted).

compensation or payment was payable in respect of matters other than the mesne profits of the land.

8 Where the surface of the land is acquired without the mines and minerals lying thereunder, the provisions of sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845, shall apply subject to this modification, that for the purpose of section seventy-eight of that Act "prescribed" shall mean "prescribed by the arbitration tribunal."

9 Where by reason of the erection, construction, or making of any such buildings, works, or improvements as aforesaid or the maintenance thereof, or by reason of the user of the land, any interest in the land has become or might become forfeited or liable to forfeiture, the compensation shall be determined as if no such forfeiture or liability to forfeiture had arisen or might arise.

10 The Lord Chancellor may make rules fixing a scale of costs to be applicable on an arbitration under this Act, and the arbitration tribunal may, notwithstanding anything in the Lands Clauses Acts, determine the amount of costs, and shall have power to disallow as costs in the arbitration the costs of any witness whom they consider to have been called unnecessarily, and any other costs which they consider to have been caused or incurred unnecessarily, and, if they think the circumstances such as to justify them in so doing, to order that each of the parties shall bear their own costs.

11 There may be contained in the award of the arbitration tribunal a finding that the claimant, after having been requested in writing by the department by whom the land or interest therein is to be acquired so to do, has failed to deliver to such department within a reasonable time a statement in writing of the amount claimed, together with any information in his possession which may be reasonably required to enable such department to make a proper offer, and, where such a finding is contained in the award, the provisions of the Lands Clauses Acts as to costs of arbitrations shall apply as if such department had offered the same sum or a greater sum than that found to be due by the award :

Provided that this provision shall not apply unless the written request for information contained a notice of the effect of this provision.

12 The provisions of this Schedule shall apply to Scotland subject to the following modifications:—

- (a) For the reference to mesne profits there shall be substituted a reference to profits :
- (b) For the reference to sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845, there shall be substituted a reference to sections seventy to seventy-eight of the Railways Clauses Consolidation (Scotland) Act, 1845, and for the reference to section seventy-eight of the former Act there shall be substituted a reference to section seventy-one of the latter Act :
- (c) " The Court of Session " and " Act of Sederunt " shall be substituted for " the Lord Chancellor " and " rules " respectively.

13 The provisions of this Schedule shall apply to Ireland with the substitution of a reference to the Lord Chancellor of Ireland for the reference to the Lord Chancellor.