



Requisitioned Land and War Works Act 1948

1948 CHAPTER 17

Compensation for taking possession of land

7 Amount of rental compensation for requisitioned land

- (1) In relation to rental compensation in respect of the taking possession of land, that is to say compensation calculated in accordance with paragraph (a) of subsection (1) of section two of the Act of 1939 by reference to the rent which might reasonably be expected to be payable by a tenant in occupation of the land, the said section two shall have effect, as respects any period after the commencement of this Act, subject to the provisions of this section.
- (2) So much of proviso (i) to subsection (1) of the said section two as provides, in relation to rental compensation, for disregarding any appreciation of values due to the emergency shall not have effect, but—
 - (a) rental compensation shall not in any case exceed the maximum applicable in that case under the next following section;
 - (b) where the taking possession of land which gives rise to rental compensation has occurred before the appointed day for the purposes of the Town and Country Planning Act, 1947, the rental compensation shall be assessed on the assumption that at all material times the land was subject to such a permanent restriction of development as is specified in subsection (3) of section fifty-five of the said Act of 1947.
- (3) Where possession of any land is or has been retained in exercise of the right conferred by subsection (2) of section twenty-eight of the Act of 1945 on the determination of some other right not conferred by emergency powers, this and the three next following sections shall apply as if possession had been taken on the determination of that other right.

8 Maxima for rental compensation

- (1) Where the requisitioned land consists only of rent-restricted land, the rental compensation shall not exceed the permissible rent.
- (2) Where the requisitioned land includes no rent-restricted land, the rental compensation shall not exceed one hundred and sixty per cent. of what would be the amount thereof, calculated by reference to the level of rental values obtaining in respect of comparable land at the thirty-first day of March, nineteen hundred and thirty-nine, instead of by reference to the level obtaining immediately before possession of the land was taken, but otherwise in accordance with the Act of 1939 as originally enacted.
- (3) Where the requisitioned land consists partly of rent-restricted land and as to the remainder of other land, there shall be ascertained—
 - (a) the amount which under subsection (1) of this section would be the limit of rental compensation if the requisitioned land consisted only of the rent-restricted land, and
 - (b) the amount which would be the limit of rental compensation for the whole of the requisitioned land if none of it were rent-restricted land,
 and the rental compensation shall not exceed the aggregate of the amount ascertained under paragraph (a) of this subsection and so much of the amount ascertained under paragraph (b) thereof as is properly apportionable to that part of the requisitioned land which is not rent-restricted land.
- (4) In this section the following expressions have the meanings hereby respectively assigned to them, that is to say:—
 - " requisitioned land " means the-aggregate of the land in respect of which, in any case, rental compensation falls to be assessed;
 - " rent-restricted land " means land consisting of one or more rent-restricted properties or parts thereof and of no other land;
 - " rent-restricted property " means a property (whether or not the subject of a tenancy) in the case of which the following conditions are fulfilled, that is to say—
 - (a) that immediately before the time when possession was taken of the property or part thereof in question the property or part was being used for residential purposes, or if it was not then being used that it had been used for residential purposes when last used before that time, and
 - (b) that if an unfurnished tenancy of the property had been granted immediately before the said time the amount of the rent recoverable under the tenancy would have been restricted by the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939;
 - " permissible rent " means—
 - (a) in relation to a rent-restricted property, the maximum rent which would in accordance with the last-mentioned Acts' have been recoverable under the tenancy referred to in paragraph (b) of the last foregoing definition, on the assumption that the tenant undertook to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses if any, necessary to maintain the property in a state to command that rent,
 - (b) in relation to part of a rent-restricted property, so much of the said maximum rent as is properly apportionable thereto;

- (c) " unfurnished tenancy " means a tenancy under which a property is let for residential purposes, not being a tenancy where the application of the said Acts of 1920 to 1939 is excluded by reason of the property being let at a rent including payments in respect of board, attendance or use of furniture.

9 Application of provisions as to rental compensation where land requisitioned before commencement of Act

- (1) Where the taking possession of land which gives rise to rental compensation occurred before the commencement of this Act, the Act of 1939 and section seven of this Act shall have effect subject to the provisions of this section.

- (2) The rental compensation shall be assessed by reference to the level of rental values obtaining in respect of comparable land at the commencement of this Act, instead of by reference to the level obtaining immediately before possession of the land was taken:

Provided that section seven of this Act and this subsection shall not have effect in relation to the rental compensation payable in respect of any land to any person, unless he or a person previously entitled to the rental compensation in respect of that land has made application in that behalf in such form and manner and to such authority as may be provided by rules made by the Treasury under the Act of 1939 and not later than the expiration of six months from the commencement of this Act or such longer period as that authority may in special circumstances allow.

- (3) No application for an increase of rental compensation under section forty-five of the Act of 1945 (which provides for increasing rental compensation which has been determined by reference to a level of rental values lower both than the level obtaining on the thirty-first day of March, nineteen hundred and thirty-nine, and than that obtaining on the appointed day for the purposes of the said section forty-five) shall be of any effect if made after the expiration of six months from the commencement of this Act or such longer period as the authority to which under that section applications thereunder are required to be made may in special circumstances allow.
- (4) Nothing in section seven of this Act shall operate, in a case falling within this section, so as to reduce the amount of rental compensation below the amount which would be payable apart from that section, whether by virtue of the Act of 1939 as originally enacted or, by virtue of any increase under the said section forty-five.
- (5) Any increase of rental compensation payable by virtue of section seven of this Act in a case falling within this section shall be payable as from the commencement of this Act or the date when the person making application for the increase became entitled to the rental compensation, whichever is the-later.

10 Amount of compensation in respect of making good requisitioned land

- (1) Proviso (ii) to subsection (1) of section two of the Act of 1939 (which provides that the compensation payable under paragraph (b) of that subsection in respect of damage to land occurring during the period of requisition shall not exceed the value of the land at the time when possession thereof was taken, no account being taken of any appreciation in the value thereof due to the emergency) shall not have effect as respects compensation under the said paragraph (b) accruing due after "the commencement of this Act, but subject to the provisions of subsection (4) of this section such compensation shall not exceed the amount by which the compulsory

purchase price of the land in the state in which it was when the compensation accrued due falls short of what would have been the compulsory purchase price of the land if it had then been in the state in which it was when possession of the land was taken.

- (2) In this section the expression " compulsory purchase price," in relation to any land, means the amount of the compensation (excluding any compensation for disturbance or for severance or injurious affection) which would be payable on the compulsory acquisition by a Government department or other public or local authority, in pursuance of a notice to treat served immediately before the compensation under the said paragraph (b) accrued due, of a freehold interest in the land free from encumbrances but subject to any easement or other restriction affecting the land at the date of the 'notice to treat.

- (3) For the purposes of this section, the compulsory purchase price of land in the state in which it was when compensation under the said paragraph (b) accrued due shall be calculated without regard—

- (a) to war damage occurring during the period for which possession of the land was retained; or
- (b) to any work done during that period in respect of which on such a compulsory acquisition as aforesaid subsection (2) or (3) of section forty-one of the Act of 1945 (which provide for taking into account increases of value paid for in whole or in part by persons interested in the land) would apply;

but notwithstanding anything in the said section forty-one regard shall be had in calculating the said price to all other damage occurring or work done on the land during that period.

- (4) Where during the period for which possession of the land was retained damage (other than war damage) occurred to any such work as is mentioned in paragraph (b) of the last foregoing subsection, the amount to which the compensation is limited by virtue of subsection (1) of this section shall be increased so as to take account of that damage to such extent as may be just having regard to any such expense, agreement or payment as is mentioned in subsection (2) or (3) of the said section forty-one.
- (5) Section fifty-four of the Act of 1945 (which provides for certain purposes that where a payment in respect of the value of works has been made under Part II of that Act the provisions as to compensation of section two of the Act of 1939 shall have effect as if a new period of requisition had begun on the date of the payment) shall not have effect as respects compensation under paragraph (b) of subsection (1) of the said section two.

11 Minor amendments as to compensation for taking possession of land

- (1) There is hereby repealed so much of proviso (i) to subsection (1) of section two of the Act of 1939 as provides for disregarding any appreciation of values due to the emergency in computing for the purpose of compensation the amount which an incoming tenant of agricultural land might have been expected to pay in addition to rent.
- (2) Nothing in section three of the Act of 1939 (which provides for compensation in respect of the doing of work on land) shall apply, or be deemed ever to have applied, to damage to land occurring while possession of the land is retained.