



# Civil Defence Act 1939

## 1939 CHAPTER 31

### PART II

#### PUBLIC SHELTERS, &C.

#### **2 Designation of premises.**

- (1) Where it appears to the local authority that the whole or any part of a building is or can be made suitable—
  - (a) for use as a public air-raid shelter; or
  - (b) for use, in the event of hostile attack, by the local authority in carrying out any of their civil defence functions,the local authority may post in the building or part a notice declaring that that building or part may be required for use for public purposes of civil defence.
- (2) Where the local authority post such a notice, they shall notify the Minister and take such steps as appear reasonably practicable to bring the contents of the notice to the knowledge of the persons having estates or interests in the building or part of a building, and section fifteen of the Land Charges Act, 1925, (which relates to the registration of local land charges) shall apply in relation to such a notice as if the notice were a local land charge and the notice shall be registered by the proper officer as a local land charge accordingly.
- (3) The local authority may at any time withdraw any such notice as aforesaid by posting a notice to that effect in the building or part of a building, and causing the registration of the notice as a local land charge to be cancelled.
- (4) A building or part of a building where a notice under subsection (1) of this section has been posted and has not been withdrawn is in this Act referred to as "designated premises" and references in this Act to the designation of premises shall be construed accordingly.
- (5) Notwithstanding anything in this section, the local authority shall not, without the prior consent of the appropriate department, designate any premises which either—

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- (a) are occupied by any public utility undertakers for the purposes of their undertaking, or
  - (b) are situate on land over which any public utility undertakers exercise any control under any enactment or order relating to their undertaking.
- (6) Where the occupier of any designated premises holds any part of the premises on lease, he shall, immediately he becomes aware of the designation of the premises, serve upon his immediate landlord or, where he holds different parts of the premises under different landlords, on each of his immediate landlords, notice that the premises have been designated under this section and each person upon whom such a notice is served in satisfaction of an obligation imposed by this subsection shall forthwith himself serve a copy of the notice upon his immediate landlord or landlords, if any.

### **3 Appeal from designation of premises.**

- (1) Within fourteen days from the designation of any premises, any person having any estate or interest therein may appeal to the Minister against the designation thereof on the ground—
- (a) that the whole or any part of the premises is required for use for purposes of public importance and that accordingly it is inexpedient that they should be designated as aforesaid; or
  - (b) that the whole or any part of the premises is required for use as a private air-raid shelter for the persons in the premises or in the building of which they form part.
- (2) If on any such appeal the Minister is satisfied as to the truth of the grounds of the appeal, he may, if he thinks fit, order that the designation of the premises shall cease to have effect, or that it shall cease to have effect as respects a specified part of the premises originally designated.
- (3) Where a designation so ceases to have effect as respects the whole or any part of any premises, the premises or part shall not again be designated without the leave of the Minister.
- (4) Nothing in this section applies to the premises mentioned in subsection (5) of the last preceding section.

### **4 Execution of works.**

Where it appears to the local authority expedient for the purpose of making designated premises suitable or more suitable for any of the purposes mentioned in subsection (1) of section two of this Act, or of keeping them suitable for any of those purposes, that works should be executed in those premises, or in the building of which they form part, or in or on any adjacent building or land, they may, if they are unable to secure the execution of those works by agreement, themselves execute those works :

Provided that—

- (a) the local authority shall not, except with the agreement of all persons concerned, begin any such works as aforesaid until the period has expired for appealing to the Minister against the designation of the premises in question or, if an appeal is brought within that period, until the determination or abandonment of that appeal;

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- (b) before entering (otherwise than with the consent of the occupier) on any premises, building or land for the purpose of executing any works, the local authority shall give to the occupier at least fourteen days' notice in writing of their intention so to do, but any such notice may be given at any time after the designation of the premises.

## **5 Designated premises to remain unaltered.**

- (1) Subject to the provisions of this section, no person shall, without the consent of the local authority,—
  - (a) make any structural alteration in any designated premises; or
  - (b) remove or alter any works executed by, or by arrangement with, the local authority in or on any designated premises, any building of which designated premises form part, or any building or land adjacent to any designated premises :

Provided that, if the local authority refuse their consent or do not give their consent within six weeks from the date on which application is made therefor, the applicant may appeal to a court of quarter sessions, and the court on the hearing of the appeal may authorise any alteration or removal desired by the applicant.

- (2) Any person who contravenes the provisions of the preceding subsection shall be liable on summary conviction to a fine not exceeding fifty pounds :

Provided that no person shall be convicted of an offence under this section in relation to any designated premises if he proves that he did not know, and had no reasonable grounds for suspecting, that the premises were designated premises.

- (3) Where the court by which a person is convicted of an offence under this section is satisfied that the contravention constituting the offence has rendered the designated premises in question unsuitable, or less suitable, for the public purposes for which they may be required, it may order that the local authority shall be at liberty to charge to the person convicted their reasonable expenses of again rendering the premises as suitable for those purposes as they would have been if the contravention had not taken place, and where such an order is made any such expenses of the local authority shall be recoverable by them from the person convicted as a debt.

## **6 Compensation where works are executed.**

- (1) Where works are executed under the preceding provisions of this Part of this Act in or on any premises, building or land by a local authority, the occupier of the premises, building or land shall be entitled to recover from the local authority compensation for any damage he has sustained by reason of any interference with his use of the premises, building or land during the execution of the works.
- (2) Where by reason of the execution aforesaid of any works, the usefulness of any premises, building or land is impaired, the local authority shall by way of compensation pay to the person who from time to time is the occupier of the premises, building or land, periodical sums, payable quarterly in arrear, calculated by reference to the diminution of the annual value of the premises, building or land, as the case may be, ascribable to the said impairment of the usefulness thereof.

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- (3) Where the designated premises in or in connection with which works were executed as aforesaid cease to be designated premises, the payments provided for by subsection (2) of this section shall cease to be payable, but it shall be the duty of the local authority—
- (a) to restore, as far as they think practicable, the premises, building or land to the condition in which they would be but for the execution of the works; and
  - (b) if, after the restoration is completed, the premises, building, or land are less in value than they would be if the works had not been executed, to pay to each of the persons having any estate or interest in the premises, building, or land such compensation, if any, in respect of the difference in value as may be reasonable :

Provided that the local authority may include in their notice withdrawing the designation of the premises a statement that to such extent as may be specified in the notice they do not intend to carry out any such restoration as aforesaid, and if such a statement is so included, their obligation to restore shall be correspondingly diminished and their obligations as to compensation shall, as respects the matters specified in the statement, be determined by reference to the state of affairs existing at the date of the withdrawing of the designation.

- (4) Where a local authority restore any premises, building or land in accordance with the last foregoing subsection, the occupier of the premises, building or land shall be entitled to recover from the local authority compensation for any damage he has sustained by reason of any interference with his use of the premises, building or land during the execution of the work.

## **7 Powers of local authorities to construct underground shelters and other premises required for civil defence purposes.**

- (1) Subject to the provisions of this section, the local authority may enter on any land, after giving not less than twenty-eight days' notice in writing to the occupier and, if and in so far as it is reasonably practicable so to do, to the persons having the fee simple or a lease of the land or any part thereof, and there construct—
- (a) an underground air-raid shelter or other underground premises required by the authority for use in the event of hostile attack in carrying out any of their civil defence functions;
  - (b) entrances to, and shafts and other necessary works for ventilating, draining, lighting and heating the shelter or premises.
- (2) Where the local authority propose to construct any such underground shelter or premises by virtue of this section in any protected square or in any allotment, common or open space, or in any land held inalienably by the National Trust, the following provisions shall apply—
- (a) the authority shall, in addition to giving any notice required by the preceding subsection, publish by advertisement in a newspaper circulating in the area of the authority a notice describing the nature of their proposals and specifying the land to which they relate, and naming the place where plans illustrative of their proposals may be inspected at all reasonable hours by any person free of charge;
  - (b) if, within twenty-eight days after the publication of the notice, any notice of objection to the proposals is served on the local authority by any person affected thereby, the authority shall refer the notice of objection to the Minister for his consideration and shall not proceed with the proposals unless the

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Minister, after holding, if he thinks fit, an inquiry, has approved them, either with or without modification.

- (3) The local authority may, in the exercise of their powers under this section, construct a shelter or other premises under any highway :

Provided that, in the case of a highway for the maintenance of which a highway authority is responsible, the local authority shall not exercise those powers without the consent of the highway authority (if it is a different authority) and shall not be required to serve any notices on persons having an estate or interest in the subsoil of the highway.

- (4) Any shelter or premises constructed by the local authority under this section, together with the entrances to the shelter or premises and any shafts or other works executed in connection with the shelter or premises, shall, on completion, vest in the authority, and the authority shall be entitled to do anything reasonably necessary for the maintenance of any such shelter, premises, entrances, shafts or works and shall have such powers of entry as are necessary for that purpose.
- (5) The local authority shall pay to any person having an estate or interest in any land in which works are constructed under this section such compensation, if any, as may be just in respect of any damage caused to him by reason of the construction of the works or of anything done by the authority for the maintenance thereof.
- (6) The powers conferred on local authorities by this section shall be exercisable notwithstanding anything in any Act (including a local or private Act) but shall not be exercisable with respect to any land occupied by public utility undertakers or persons carrying on any hydraulic power undertaking for the purposes of their undertaking and, as respects any other land, shall be exercisable subject to the following conditions :—
- (a) that the local authority shall not interfere with any mains, pipes, apparatus, or works belonging to such undertakers or persons unless they have given to those undertakers or persons not less than fourteen days' notice of their intention so to do nor in any case in which those undertakers or persons intimate in writing to the local authority within fourteen days after the receipt of such notice their intention themselves to carry out any reasonably necessary removal, diversion, or alteration of their mains, pipes, apparatus, or works, and proceed with reasonable dispatch to complete the removal, diversion or alteration;
  - (b) that the local authority shall repay to the under takers or persons the amount of any expenses reasonably incurred by them in connection with any such removal, diversion, or alteration; and
  - (c) that if the local authority cause any damage to any such mains, pipes, apparatus, or works, they shall repay to the undertakers or persons the amount of the expenses reasonably incurred by them in making good the damage.
- (7) In this section the expression " protected square " has the meaning assigned to it by section two of the London Squares Preservation Act, 1931, and the expressions " allotment," " common," and " open space," have the same meanings as in Part II of the Third Schedule to the Town and Country Planning Act, 1932, and the expression " the National Trust," has the same meaning as in section forty of the Finance Act, 1931, as amended by section twenty-seven of the Finance Act, 1936.

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## **8 Powers of local authorities to construct underground car-parks suitable for use as air-raid shelters.**

- (1) A local authority who have power under section sixty-eight of the Public Health Act, 1925, or under section twenty of the Restriction of Ribbon Development Act, 1935, to provide parking places may, for the purpose of providing underground parking places suitable also for use as air-raid shelters, exercise the like powers as are exercisable by local authorities under the last preceding section for the purposes therein mentioned, and the last preceding section shall have effect accordingly, subject, however, to the following provisions of this section:

Provided that in exercising their powers under this section the local authority shall, so far as is reasonably consistent with the interests of civil defence, have regard to the amenities of any protected square or land held inalienably by the National Trust.

- (2) Any such local authority as aforesaid who are not the local authority for the purposes of this Part of this Act and are not exercising functions under this Part of this Act by virtue of a delegation shall not make any proposal for the exercise of the said powers for the purpose of providing such an underground parking place as aforesaid, without the approval of the local authority for the purposes of this Part of this Act.
- (3) Where a local authority propose to exercise the said powers for the purpose of constructing such an underground parking place, they shall, in addition to giving notice to the persons to whom they are required to give notice by subsection (1) of the last preceding section,—
- (a) give notice in writing to the Minister and the Minister of Transport;
  - (b) publish by advertisement in a newspaper circulating in the area of the authority a notice describing the nature of their proposals and specifying the land to which they relate and naming the place where plans illustrative of their proposals may be inspected at all reasonable hours by any person free of charge.
- (4) If, within twenty-eight days after the publication of the notice, any notice of objection to the proposals is served on the local authority by any person affected thereby, the authority shall refer the notice of objection to the Minister of Transport for his consideration, and shall not proceed with the proposals unless the Minister of Transport, after holding, if he thinks fit, an inquiry, has approved the proposals either with or without modification.
- (5) The local authority shall not, whether or not any such objection or modification as aforesaid has been made, proceed with any proposals under this section unless the Minister, after satisfying himself that the underground parking place proposed to be provided will be suitable for use as an air-raid shelter, and after considering the needs of the locality, the situation and the capacity of the shelter and any other matters appearing to him to be relevant, has approved the proposals.
- (6) Subsection (2) of the last preceding section shall not apply in any case where the powers conferred by that section are exercised by virtue of and in accordance with this section.
- (7) So much of the expenses of a local authority providing a parking place by virtue of this section as is solely attributable to the rendering of the parking place suitable for use as an air-raid shelter, being expenses incurred with the approval of the Minister, shall be deemed to be expenditure for the purpose of making provision for the protection of persons and property from injury or damage in the event of hostile attack from

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the air for the purposes of the provisions of the Act of 1937 relating to the approval of expenditure of councils and the payment of grants out of moneys provided by Parliament in respect thereof.

## **9 Power of local authorities to construct air-raid shelters in streets.**

- (1) Subject to the provisions of this section, the local authority may provide a public air-raid shelter on any highway and may for that purpose construct works in or on the highway or land adjoining the highway and affix appliances to any building or wall adjoining the highway.
- (2) In the case of a highway for the maintenance of which a highway authority other than the local authority is responsible, the local authority shall not exercise their powers under this section without the consent of the highway authority.
- (3) At least fourteen days before exercising any powers under this section the local authority shall—
  - (a) serve upon the occupiers of any land or building adjoining the site of the proposed shelter a notice stating their intention to exercise the powers and specifying the general nature of the shelter;
  - (b) affix a similar notice in a prominent position upon or as near as possible to the site of the proposed shelter; and
  - (c) cause a similar notice to be published in a newspaper circulating in the area of the authority.
- (4) The local authority shall not, in the exercise of their powers under this section, interfere with any mains, pipes, apparatus or works belonging to public utility undertakers or persons carrying on any hydraulic power undertaking unless they have given to those undertakers or persons not less than fourteen days' notice of their intention so to do nor in any case in which those undertakers or persons intimate in writing to the local authority within fourteen days after the receipt of such notice their intention themselves to carry out any reasonably necessary removal, diversion or alteration of their mains, pipes, apparatus or works and proceed with reasonable dispatch to complete the removal, diversion or alteration, and the local authority shall repay to the undertakers or persons the amount of any expenses reasonably incurred by them in or in connection with any such removal, diversion or alteration; and if the local authority cause any damage to any such mains, pipes, apparatus or works, they shall repay to the undertakers or persons the amount of the expenses reasonably incurred by them in making good the damage.
- (5) The local authority shall pay to any persons having an estate or interest in any land or building adjoining the highway on which a shelter is constructed under this section such compensation, if any, as may be just in respect of any depreciation of their property caused by the construction of the shelter.

## **10 Agreements under Part II between local authority and occupiers of factory premises and owners of commercial buildings.**

- (1) The local authority may, if a representation is made to them by a factory inspector that air-raid shelter cannot reasonably be provided in factory premises for all or any of the persons working or living therein, agree with the occupier of the premises to provide, on such terms as to payments by the occupier to the local authority as may

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be specified in the agreement, a public air-raid shelter which will be available for use, in whole or in part, by those persons.

- (2) Subsection (1) of this section shall apply in relation to commercial buildings as it applies in relation to factory premises—
- (a) with the substitution for references to the occupier of references to the owner; and
  - (b) with the substitution for the reference to a factory inspector of a reference to a local authority for the purposes of Part III of this Act, or, if that local authority is identical with the authority providing the shelter, with the omission of the reference to the representation of a factory inspector.

## **11 Local authority for purposes of Part II.**

- (1) Subject to the special provisions of this Act with respect to the administrative county of London, in this Part of this Act the expression " the local authority " means, save as otherwise expressly provided, the council of a county or county borough :

Provided that—

- (a) in relation to any borough or urban district where a direction has been given under proviso (b) to subsection (2) of section one of the Act of 1937 that the council of the borough or district should prepare an air-raid general precautions scheme, the expression " the local authority " means that council;
  - (b) an air-raid general precautions scheme submitted by a county council may provide for the exercise by the council of a county district of any of the functions which would otherwise be functions of the county council under this Part of this Act;
  - (c) in relation to the designation of premises for use in carrying out functions which are or can be conferred or imposed by an air-raid fire precautions scheme, the expression " the local authority " means the fire authority.
- (2) So much of subsection (1) of section four of the Act of 1937 as requires the approval of the Secretary of State to the delegation of functions by a county council to the councils of county districts shall not apply in relation to any functions under this Part of this Act.