



Civil Defence Act 1939

1939 CHAPTER 31

PART IV

OTHER PROVISIONS AS TO SHELTER.

26 Erection of shelters provided by the Crown.

- (1) Where the occupier of any premises has been provided on behalf of His Majesty with materials for an air-raid shelter to be erected on the premises, the local authority shall give him advice as to the position in which the shelter should be erected :

Provided that, where the materials are sold to the occupier, the local authority shall not be under any duty to give such advice until requested by the occupier.

- (2) Any occupier to whom advice has been given as aforesaid may erect the shelter in accordance therewith, and may for that purpose break up the surface of any land in his occupation whether paved or not, but shall take due care not to damage any drains, sewers, pipes, cables or other works; and the right conferred by this subsection on any occupier may be exercised notwithstanding any agreement or restrictive covenant to the contrary, and notwithstanding any limitation on his interest in the premises, and he shall not be liable to pay damages in respect of any act which is reasonably necessary for the due exercise of the right conferred on him, or, if he has exercised due care, for any damage done by him to drains, sewers, pipes, cables or other works.
- (3) The local authority shall in giving any advice under this section exercise such care as is reasonable in the circumstances of the case, but unless they fail to exercise such care, they shall not be under any liability in respect of any damage caused by or in consequence of the erection of a shelter in accordance with advice given by them.
- (4) Where any such materials for an air-raid shelter have been provided on behalf of His Majesty without charge, the local authority may, with the consent of the occupier of the premises, themselves erect the shelter, and the provisions of subsection (2) of this section shall apply in relation to the local authority as they apply in relation to an occupier erecting a shelter in accordance with advice given by the local authority.

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- (5) For the purposes of this Part of this Act, references to the erection of an air-raid shelter include references to the affixing of the shelter to, or the embedding of the shelter in, an)- part of the premises and the carrying out of any other works necessary for the proper erection of the shelter.
- (6) Public utility undertakers who carry on a gas, water or electricity undertaking shall not, unless they have been guilty of negligence, be liable to pay damages for or in respect of any loss of life or injury or damage to persons or property resulting from damage done by any occupier to any pipe, cable, or other work in the exercise of the powers conferred by subsection (2) of this section :
- Provided that nothing in this subsection shall be in derogation of any provision in the Workmen's Compensation Act, 1925.
- (7) This section shall be deemed to have had effect as from the commencement of the Act of 1937.

27 Affixing of appliances provided by the Crown for strengthening basements.

- (1) Where the occupier of any basement has been provided free of charge on behalf of His Majesty with appliances for strengthening it with a view to its use as an air-raid shelter, then, unless the occupier of the basement refuses his consent, it shall be the duty of the local authority—
- (a) to affix these appliances, and
 - (b) to take such steps as appear desirable in order to provide additional exits from the basement or in order to enable additional exits therefrom to be readily provided;

and for any of the purposes aforesaid they shall have power to execute such works as may be necessary in the basement or elsewhere in the building, including works in any party wall, and for the purpose of providing additional exits or enabling additional exits to be readily provided they shall also have power to execute such works as may be necessary in or under any part of the highway adjacent to the building, and in or under any land occupied or used in connection with the building, or in connection with the building and other buildings; and they shall not be liable to pay damages in respect of any act which is reasonably necessary for the due exercise of the rights conferred on them by this subsection:

Provided that, if the local authority in executing works in or under any part of the highway cause any damage to any mains, pipes, apparatus or works belonging to public utility undertakers or persons carrying on any hydraulic power undertaking, they shall repay to the undertakers or persons the amount of the expenses reasonably incurred by them in making good the damage.

- (2) This section shall be deemed to have had effect as from the commencement of the Act of 1937.

28 Restriction of removal of shelters and appliances.

- (1) Any materials for an air-raid shelter or appliances for strengthening a basement provided free of charge on behalf of His Majesty and with the consent of the recipients shall not be removed from the premises for which they were provided without the consent in writing of the local authority.

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- (2) Any air-raid shelter erected or appliances affixed by the local authority under the preceding provisions of this Part of this Act shall not be removed from its position without the consent in writing of the local authority.
- (3) The consent of the local authority under this section may be given absolutely or subject to conditions.
- (4) Any person who removes any shelter, materials or appliances in contravention of this section, or contravenes any condition subject to which the consent of the local authority was given to the removal thereof, shall be liable on summary conviction to a fine not exceeding twenty pounds:

Provided that no person shall be convicted under this subsection if he proves that he did not know and had no reasonable grounds for suspecting that the materials or appliances were provided on behalf of His Majesty free of charge or, as the case may be, that the shelter was erected or the appliances were affixed by the local authority.

29 Loans by local authorities to owners of dwelling-houses.

- (1) The local authority may advance money to the owner of any premises comprising a dwelling-house by in specified by the Minister in an order made to under Part III of this Act (not being premises the occupier of which has been provided free of charge, on behalf of His Majesty, with materials for an air-raid shelter) for the purpose of enabling the owner to provide in the premises an air-raid shelter of a permanent character.
- (2) Every such advance shall be repaid with interest within such period not exceeding ten years from the date of the advance as may be agreed, and the rate of interest - shall be such a rate as may be agreed, not being a rate less than one-quarter per cent. in excess of the rate of interest which, one month before the date on which the terms of the advance are settled, was the rate fixed by the Treasury under section one of the Public Works Loans Act, 1897, in respect of loans to local authorities advanced out of the Local Loans Fund for the purposes of Part V of the Housing Act, 1936.
- (3) Any amount due to a local authority by way of repayment of an advance made by them under this section may be recovered summarily as a civil debt, and shall be a charge on the premises in respect of which the advance was made, and the local authority shall, for the purpose of enforcing any such charge, have the same powers and remedies under the Law of Property Act, 1925, and otherwise as they would have if they were mortgagees by deed having powers of sale and lease and of appointing a receiver.
- (4) The Public Works Loans Commissioners may, if they think fit, make loans in the manner provided by the Public Works Loans Act, 1875, to any local authority for purpose of enabling the authority to make advances under this section, and the enactments relating to loans made by the said Commissioners shall apply (so far as applicable) to loans made by virtue of this subsection as they apply to loans made under section nine of the said Act.
- (5) In this section the expression " owner" in relation to any premises, means the person in whom the fee simple is vested, and includes also a lessee of the premises under a lease the unexpired term of which exceeds three years.

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30 Provision of air-raid shelter in certain buildings.

- (1) The owner of any building or block of buildings to which this section applies shall, if so required by more than one-half in number of the occupiers of the separate parts of the building or block, and in any other case may, prepare a scheme for providing air-raid shelter in or near the building or block for the persons living and working in the building or block.
- (2) In this section the expression " building or block of buildings to which this section applies," means a building or block of buildings which is situated in an area specified in an order made by the Minister under Part III of this Act, is wholly or mainly used for residential purposes and is let out in separate parts :

Provided that—

- (a) so much of any building or block of buildings as consists of, or is comprised in, any factory premises or commercial building shall be disregarded;
- (b) the said expression does not include any building or block of buildings owned by any local authority;
- (c) if and so long as arrangements are in existence under which particular classes of persons are provided free of charge on behalf of His Majesty with materials for air-raid shelter, the said expression does not include a building or block of buildings in the case of which the majority of the occupiers of the residential parts fall within those classes,

and any question whether any building or block of buildings is or is not excluded from the operation of this section by virtue of paragraph (c) of this proviso shall be referred to the Minister whose decision shall be final.

- (3) Any such scheme shall—
 - (a) state the situation and the general nature of the shelter to be provided under the scheme and the number of persons which the shelter is to be constructed to accommodate;
 - (b) state the estimated cost of the provision of the shelter exclusive of compensation;
 - (c) state whether any and if so what compensation is proposed to be paid by the owner to persons having an estate or interest in the premises in which the shelter is to be provided and whether, and if so what, compensation is proposed to be allowed to the owner in respect of his interest in the premises in which the shelter is to be provided.;
 - (d) contain a statement of the effect of the subsequent provisions of this section as to increases of rent;

and may contain such other information as appears to the owner to be relevant in connection with the scheme.

- (4) The owner shall serve a copy of any such scheme on the occupier of every separate part of the building or block not occupied by the owner thereof.
- (5) Unless the occupiers of more than one-half in number of the separate parts of the building or block dissent from the scheme, then the owner shall carry the scheme into effect and, on completion by the owner of the shelter specified by the scheme in accordance with the provisions thereof, the rent payable under every lease derived from the estate or interest of the owner (being a lease in existence at the date of the completion of the shelter) shall, unless it is otherwise agreed in connection with or

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after the provision of the shelter, be increased to the extent and for the period specified in the subsequent provisions of this section.

- (6) The said increase shall be calculated as follows :—
- (a) there shall first be taken the expenses of the owner in providing the shelter (exclusive of compensation) or the amounts specified in the scheme as the estimate of those expenses, whichever is the less;
 - (b) there shall then be added to the sum ascertained under paragraph (a) of this subsection
 - (i) the amount, if any, proposed by the scheme to be paid by the owner as compensation to persons having an estate or interest in the premises in which the shelter is to be provided or the amount, if any, properly paid by the owner in respect of such compensation, whichever is the less; and
 - (ii) the amount, if any, proposed by the scheme to be allowed as compensation to the owner in respect of his interest in the premises in which the shelter is to be provided or the amount reasonably allowed to the owner in respect of such compensation, whichever is the less;
 - (c) there shall then be ascertained the proportion which the annual value of the part of the building or block to which the lease in question relates at the date of the completion of the works bears to the annual value of the whole building or block at that date;
 - (d) the proportion so arrived at shall be applied to the sum ascertained under paragraphs (a) and (b) of this subsection; and
 - (e) the increase in rent shall be at the annual rate of one-eighth of the sum arrived at under paragraph (d).
- (7) The rent on which the said increase operates is all rent payable under the lease in question in respect of any rent period beginning after the date of the completion of the shelter:
- Provided that no increase shall operate for more than ten years.
- (8) A surety for the payment of any rent which is increased under this section shall not be discharged by reason of the increase, but shall not be liable in respect of the increase.
- (9) Nothing in this section shall be construed as authorising the owner of any building or block of buildings to enter upon any premises or land, or to do any work thereon, if he would, not have been entitled to enter or to do that work apart from the provisions of this section.
- (10) In this section—
- (a) the expression " owner " in relation to a building or block of buildings to which this section applies has the same meaning as that expression has in relation to a commercial building; and
 - (b) the expression " separate part " means, in relation to a building or block of buildings, a part thereof which, is in separate occupation, or, if unoccupied, is intended for separate occupation; and
 - (c) the expression " rent period " means, in relation to a lease, the quarter or other period in respect of which an instalment of rent becomes payable thereunder;
- and where a part of a building or block of buildings is occupied under a lease of which the unexpired term is less than six months, -that person shall be deemed for

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the purposes of this section to be the occupier of that part who would be the occupier thereof if every such lease thereof had been surrendered.

- (11) The provisions of the last preceding section shall apply in relation to the owner of a building or block of buildings who is providing an air-raid shelter of a permanent character under a scheme under this section, as it applies in relation to the owner of any such premises as are mentioned in subsection (1) of that section.

31 Special provisions as to land used in common by tenants of certain buildings.

- (1) If, in the case of any building or block of buildings to which this section applies, there is adjacent thereto any land used in common by the occupiers of the building or block, a request in writing, signed by more than one-half in number of the occupiers of the separate parts of the building or block, that the local authority should utilise that land for the construction or erection of an air-raid shelter shall confer upon the local authority the like rights as respects entry upon the land and the execution of works thereon as they would possess if the request had been and continued to be concurred in by all persons in any way interested in the land.
- (2) In this section the expression " building or block of buildings to which this section applies" means a building or block of buildings which is situated in an area specified in an order made by the Minister under Part III of this Act, is wholly or mainly used for residential purposes and is let out in separate parts :

Provided that—

- (a) so much of any building or block of buildings as consists of, or is comprised in, any factory premises or commercial building shall be disregarded;
- (b) the said expression does not include any building or block of buildings the owner of which may be required to provide air-raid shelter in accordance with a scheme prepared under the last preceding section.

32 Execution of works by owner of dwelling-house.

- (1) The owner of any dwelling-house may execute any works for the purpose of providing air-raid shelter in the dwelling-house or in or on any land belonging to or occupied with the dwelling-house, notwithstanding any limitation on his interest in the dwelling-house or the said land or any agreement or restrictive covenant to the contrary.
- (2) In this section the expression " owner, " in relation to any dwelling-house, means the person in whom the fee simple is vested, and includes also a lessee of the dwelling-house under a lease the unexpired term of which exceeds three years.
- (3) This section shall be deemed to have come into operation on the commencement of the Act of 1937.

33 Power to make regulations as to construction, alteration or extension of buildings.

- (1) The Minister may, after consultation with such persons having professional or other special qualifications as he thinks fit, make regulations, imposing, in relation to buildings of such classes as may be specified in the regulations—
- (a) such requirements as to materials and construction as he considers necessary for the purpose of rendering the buildings less vulnerable to air-raids;

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- (b) such requirements as he considers necessary as to the provision of air-raid shelter for the persons using or resorting to the buildings.
- (2) Regulations made under this section shall apply to buildings erected after the coming into operation of the regulations and, to such extent as may be specified therein, to buildings in which structural alterations are made, or which are extended, after that date:
- Provided that no regulations shall apply to any building on the ground that it is erected, altered or extended after the said date, if plans for the erection, alteration or extension in question were passed by the local authority under the Public Health Act, 1936, or any corresponding enactment in any local Act, before that date.
- (3) Regulations made under this section may apply generally or in such areas as may be specified in the regulations, and different requirements may be prescribed for different areas and different classes of buildings.
- (4) It shall be the duty of the local authority to enforce regulations made under this section, and for that purpose—
- (a) sections sixty-four to sixty-seven of the Public Health Act, 1936, shall apply to such regulations so far as they relate to areas where building byelaws are in force, as if the regulations were building byelaws and as if the references in the said section sixty-seven to the Minister of Health were references to the Minister;
- (b) the regulations may, so far as they relate to areas in which a local Act dealing with the construction of buildings is in force, incorporate any of the provisions of any such Act with such modifications as may be necessary;
- (c) the regulations may include provisions as to the giving of notices and the deposit of plans, sections, specifications and written particulars, and the inspection of work, and the taking of samples of materials to be used in the construction of buildings or in the execution of other works;
- (d) the regulations may provide for imposing on persons offending against the regulations fines, recoverable on summary conviction, not exceeding twenty pounds and in the case of a continuing offence further fines not exceeding five pounds for each day during which the offence continues after conviction therefor.
- (5) Where the local authority consider that the operation of any regulation under this section in force in their area would be unreasonable in relation to any particular case, they may, with the consent of the Minister, relax the requirements of the regulation or dispense with compliance therewith.
- (6) Any building byelaws, or any provisions of any such local Act as aforesaid, which are inconsistent with any regulations made under this section shall, while the regulations are in force, be void to the extent of the inconsistency.
- (7) In this section the expression " building byelaws " has the meaning assigned to it by section three hundred and forty-three of the Public Health Act, 1936, and subsection (2) of section ninety of that Act (which relates to the question what constitutes the erection of a building) shall apply for the purposes of this section as it applies for the purposes of Part II of that Act.
- (8) This section shall have effect in relation to any electricity generating station as if the references therein to the Minister were references to the Electricity Commissioners, acting with the concurrence of the Minister.

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34 Increase of housing subsidy as respects certain flats.

- (1) In the case of flats to which this section applies, the annual contribution payable under section one of the Housing (Financial Provisions) Act, 1938, by the Minister of Health shall be increased by two pounds in respect of each flat, and the annual contribution payable by the local authority under section six of that Act shall be increased accordingly.
- (2) This section applies to flats provided in blocks of flats within the meaning of the Housing (Financial Provisions) Act, 1938, in which air-raid shelter—
 - (a) is provided in order to comply with regulations made under the last preceding section; or
 - (b) is provided (whether before or after the commencement of this Act) with the approval of the Minister of Health.

35 Provisions as to local authorities for purposes of Part IV.

- (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 " local authority " means the council of a county borough or county district.
- (2) The council of any county may reimburse to the council of any county district within that county the whole or any part of any expenses incurred by them under the first three sections of this Part of this Act.