



Civil Defence Act 1939

1939 CHAPTER 31

PART IX

SUPPLEMENTAL.

74 Determination of claims to compensation and increases of rent.

- (1) Any question whether any, and if so what, compensation is payable under any of the provisions of this Act providing for payment of compensation, or what is the net ascertained cost of works for the purposes of the provisions of Part III of this Act relating to factory premises occupied on short leases or whether any and if so what increases or decreases of rent are to be made under the provisions of Part III or Part IV of this Act relating to increases and decreases of rents, shall be referred to and determined by such one or more of the official arbitrators appointed for the purposes of the Acquisition of Land (Assessment of Compensation) Act, 1919, as may be selected by the Reference Committee under that Act.
- (2) The said Reference Committee may make rules with respect to the references of questions under this section and, with the consent of the Treasury, may prescribe the fees to be paid in connection with any proceedings for the determination of any such question.
- (3) Subject to any such rules, the arbitrator shall before deciding any question as to any of the matters aforesaid direct such inquiries, if any, to be made and such notices, if any, whether by way of advertisement or otherwise, to be given to such of the persons who appear to be affected by the decision of the question, as he may think fit, and his decision upon any such question shall be binding on all persons whether or not those persons are parties to the proceedings or have been served with notices.
- (4) Subject to the preceding provisions of this section, the official arbitrator by whom any question which may be referred under this section is determined, shall have the like powers with respect to procedure (including the hearing of claims and objections together) costs and the statement of special cases, as he has under the Acquisition of Land (Assessment of Compensation) Act, 1919.

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- (5) Additional members of the panel of official arbitrators for England and Wales may, with the assent of the Treasury, be appointed to deal only with cases arising under this Act, and in relation to persons so appointed subsection (3) of section one of the Acquisition of Land (Assessment of Compensation) Act, 1919, (which provides that official arbitrators shall hold office for a term certain and shall not engage in private practice) shall not apply.
- (6) This section shall not apply to any compensation payable in respect of the compulsory acquisition or compulsory hiring of any land or in respect of personal injuries.

75 Supplementary provisions as to appeals to Minister.

- (1) The Minister may make rules as respects the appeals to him for which provision is made by this Act—
 - (a) specifying the manner in which the appeals are to be brought;
 - (b) authorising persons to be appointed, in all or any specified, class of cases, to inquire into the matters raised by any such appeal and to report thereon to the Minister;
 - (c) authorising any person so appointed to take evidence on oath and for that purpose to administer oaths, and to require the attendance of witnesses and the production of documents, and authorising the punishment on summary conviction of persons who fail to comply with any such requirement;
 - (d) making provision as to the costs incurred on any such appeal;
 - (e) otherwise regulating the procedure to be followed in connection with the investigation and determination of such appeals.
- (2) If in any particular case the Minister considers it just so to do, he may by order extend the time limited by any provision of this Act for the bringing of an appeal to such extent, and on such terms, if any, as he thinks fit.

76 Rules as to form of reports.

The Minister may by rules require that reports under this Act of such classes as may be specified in the rules shall be made in such form and include such particulars and information as may be so specified and, in relation to any report of a class to which rules so made apply, any obligation imposed by this Act to make a report shall be construed as an obligation to make a report in that form and including those particulars and that information.

77 Penalty for false statements.

Any person who in any report made by him under this Act, or in reply to any notice served on him under the provisions of this Act relating to the evacuation of civil population, or with a view to securing that he or any other person is included in any plan for the transference under the said provisions of members of the civil population, makes any statement which he knows to be false shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

78 Criminal liability of directors, officers, and c.

Where an offence punishable under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of any director, manager, secretary or other officer of the body corporate or, if the body corporate is a local authority, any member or officer of that authority, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

79 Power of factory inspectors and local authorities to enter premises and penalty for obstruction.

- (1) Any factory inspector or mines inspector and any person duly authorised in that behalf by the Minister, the appropriate department, or a local authority having any civil defence functions shall, on producing some duly authenticated document showing his authority, have a right to enter any premises at all reasonable hours for the purpose of—
 - (a) ascertaining whether there is or has been, on or in connection with the premises, any contravention of or failure to comply with the provisions of this Act or of any notice given or regulation made thereunder which it is the duty of the inspector, Minister, appropriate department or authority, as the case may be, to enforce;
 - (b) ascertaining whether or not circumstances exist which would authorise or require any action to be taken under this Act;
 - (c) otherwise facilitating the performance by the inspector, Minister, appropriate department or authority, as the case may be, of his or their civil defence functions.
- (2) The provisions of subsections (2), (3), (4) and (5) of section two hundred and eighty-seven of the Public Health Act, 1936, shall apply for the purposes of this section as they apply for the purposes of that Act as if for the words in the said subsection (2) " authorise the council by any authorised officer " there were substituted the words " authorise the Minister, appropriate department, or local authority by any authorised officer or, " as the case may be, authorise the factory inspector " or mines inspector" and as if after the words " authorised officer " in the said subsection (3) there were inserted the words " or inspector. "
- (3) Any person who wilfully obstructs any inspector or any person duly authorised by the Minister, the appropriate department, or a local authority in the exercise of any right conferred by or by virtue of this section shall be liable on summary conviction to a fine not exceeding five pounds.

80 Service of documents.

Any document which is required or authorised by or under this Act to be given to or served on any person may be given or served either—

- (a) by delivering it to that person ; or
- (b) by leaving it or sending it in a prepaid letter addressed to him at his last known residence or his last known place of business; or
- (c) in the case of a document to be given to or served on the occupier of any premises, by addressing it to the person concerned by the description of " occupier " of the premises to which it relates and delivering it to some person on the premises or, if there is no person on the premises to whom it can

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be delivered, by affixing it or a copy of it to some conspicuous part of the premises.

81 Exemption of certain works from building byelaws, and c.

- (1) No requirements or restrictions imposed by or under any enactment, as to the erection, placing or making of buildings, erections or excavations or the reconstruction of or alterations to buildings or the construction, formation or laying out of means of access to or from any road, or as to the submission of plans and specifications, or the giving of notices, to a local authority shall apply in relation to any works executed—
 - (a) by a local authority under any of the powers conferred by this Act;
 - (b) by any person on advice given by the local authority in accordance with any provision of this Act specifically requiring such advice to be given;
 - (c) by any person on advice given specifically to him by a Government department, whether given before or after the passing of this Act, for the purpose of providing air-raid shelter or rendering any building less vulnerable to hostile attack; or
 - (d) by any person in pursuance of any notice under Part VI of this Act given to him by the Minister or the appropriate department.
- (2) The Minister may make regulations exempting from any such requirements or restrictions as aforesaid such classes of works, executed for the purpose of providing air-raid shelter, as may be specified in the regulations, not being works to which subsection (1) of this section applies.
- (3) For the purposes of any enactment regulating the erection of new buildings or the extension of buildings by reference to the position of other buildings, no account shall be taken of any building, erection or excavation exempted by or under this section from the operation of that enactment.

82 Covenants to repair and reinstate not to apply to works executed under this Act.

Nothing in any covenant or agreement requiring any person to keep specified premises in, or to restore specified premises to, a particular condition shall authorise or compel any person to interfere with any works executed on those premises under this Act, or subject him to any liability if he does not do so.

83 Financial provisions.

- (1) Any administrative expenses of any Government department under or attributable to this Act shall be defrayed out of moneys provided by Parliament.
- (2) For the purposes of section one of the Defence Loans Act, 1937, the expression "defence services" shall include any service certified by the Treasury to be a service the whole or part of the expenses of which are authorised by this Act or the Act of 1937 to be defrayed out of moneys provided by Parliament.
- (3) All grants payable under this Act out of moneys provided by Parliament shall be paid at such times and in such manner and subject to such conditions as to accounts, certificates and audit as the Minister, or in the case of grants made under Part VII of this Act, the Minister of Health, may, with the approval of the Treasury, determine.

- (4) Any such grant as aforesaid may be made subject to any other conditions so determined, and in particular subject to conditions as to the ownership of any property purchased out of the grant and as to the maintenance and disposal of any such property :
- Provided that nothing in this subsection shall affect the provisions of Part II of the First Schedule to this Act,
- (5) Without prejudice to the special provisions of Part VII of this Act prohibiting the approval under the Act of 1937 of certain expenditure of local authorities, approval shall not be given under that Act to any expenditure of a local authority if a grant out of moneys provided by Parliament is given or might have been given to that authority under any provision of this Act in respect of that expenditure.

84 Special provisions as to London.

Any reference in this Act to a local authority or fire authority shall, in relation to any part of the administrative county of London, be construed as a reference to such one or more of the following authorities, that is to say, the London County Council, the common council of the City, the council of any metropolitan borough, the district surveyor, and the respective overseers of the Inner Temple and the Middle Temple, as may be specified in that behalf by an order of the Minister; and any such order may provide, in relation to any such authority or authorities, that they shall act, in relation to particular matters, in consultation with any other such authority or authorities.

85 Consultation with joint committees under Act of 1937.

Where, by virtue of an order made under subsection (2) of section four of the Act of 1937 the functions of a council in preparing and submitting air-raid precautions schemes or under any air-raid precautions scheme for the time being in force are, as respects the area specified in the order, exercised by a joint committee, the council shall, before exercising in that area any function under Parts II, III, IV or VIII of this Act, consult with the joint committee.

86 Exercise of powers of Board of Trade.

Anything required or authorised by or under this Act to be done by, to or before the Board of Trade, may be done by, to or before the President of the Board, any secretary, under-secretary or assistant secretary of the Board, or any person authorised in that behalf by the President.

87 Saving for telegraphic lines.

Section six of the Telegraph Act, 1878 (which empowers the Postmaster-General to establish telegraphic lines on certain undertakings) shall apply to underground air-raid shelters, premises and parking places, and works connected therewith, constructed by a local authority under Part II of this Act, as it applies to the undertakings mentioned in the said section six, and section seven of the said Act (which makes provision as to work done in the execution of certain undertakings which involves alteration in telegraphic lines) shall apply to any work authorised or required to be done under this Act as it applies to work done in the execution of such an undertaking as is mentioned in the said section seven.

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88 Provisions as to orders, regulations, and c.

- (1) Any Order in Council or order made under this Act may be revoked or varied by a subsequent Order in Council or order and any notice served under Part III, Part IV or Part VI of this Act, may be withdrawn by a subsequent notice served on the same person and in the same manner.
- (2) Any Order in Council or regulation made under this Act, any order made under Part III of this Act (except an order relating to specified factory premises, a specified mine or a specified commercial building) or under the provisions of this Act providing for the requisition of premises and vehicles or relating to local authorities in London and any scheme made by the Treasury under this Act shall, as soon as may be after it is made, be laid before Parliament.
- (3) If either House of Parliament, within the period of forty days beginning with the day on which any such Order in Council, regulation, order, or scheme as aforesaid is laid before it, resolves that the Order in Council, regulation, order, or scheme be annulled, it shall thereupon become void, without prejudice, however, to the validity of anything previously done thereunder or to the making of a new Order in Council, regulation, order, or scheme.

In reckoning any such period of forty days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days.

- (4) Section one of the Rules Publication Act, 1893, shall not apply to any Order in Council, order, or scheme made under this Act.

89 Definitions of "factory", "factory premises", " mine " and " commercial building " and interpretation of references to persons working and persons employed.

- (1) In this Act the expression " factory " means a factory within the meaning of section one hundred and fifty-one of the Factories Act, 1937 :

Provided that—

- (a) the said expression does not include any premises in the occupation of the Crown;
 - (b) the said expression does not include any factory entirely situate in a building not wholly occupied by the occupier of the factory ;
 - (c) where part of a factory is situate in a building not wholly occupied by the occupier of the factory, that part shall be deemed for the purposes of this Act not to form part of the factory.
- (2) Where there is a factory in which more than fifty persons work—
 - (a) the factory; and
 - (b) the remainder of any building in which the factory or any part thereof is situate; and
 - (c) any land contiguous to the factory which is in the occupation of the occupier of the factory and any buildings on that land,

shall together be deemed to constitute factory premises for the purposes of this Act:

Provided that—

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- (a) no building wholly or mainly occupied as a hotel or restaurant (other than a restaurant carried on for the use of persons working in the factory) shall be deemed to form part of any factory premises;
 - (b) no mine shall be included in any factory premises except in accordance with the provisions of subsection (4) of this section;
 - (c) no premises which are wholly occupied by public utility undertakers for the purposes of their undertaking shall be deemed to be factory premises for the purposes of this Act.
- (3) In this Act the expression " mine " means—
- (a) a mine within the meaning of the Coal Mines Act, 1911; or
 - (b) a mine within the meaning of the Metalliferous Mines Regulation Act, 1872 (as amended by section nineteen of the Mining Industry Act, 1920); or
 - (c) a quarry within the meaning of the Quarries Act, 1894, as amended by section one hundred and fifty-eight of the Factories Act, 1937,
- being in any case a mine or quarry in or about which more than fifty persons work, and not being a mine or quarry which by virtue of the next following subsection, forms part of factory premises.
- (4) Where any factory premises are contiguous to a mine and are occupied by the owner of the mine, then—
- (a) if the number of persons working in or about the mine exceeds the number of persons working in the factory comprised in the factory premises, the factory premises shall be deemed to form part of the mine for the purposes of this Act;
 - (b) if the number of persons working in the factory exceeds the number of persons working in or about the mine, the mine shall be deemed to form part of the factory premises for the purposes of this Act.
- (5) In this Act the expression " commercial building " means a building in which more than fifty persons work, not being—
- (a) a building wholly or mainly occupied as a school, college, university, hotel, restaurant, club, place of public entertainment or amusement, hospital or nursing home; or
 - (b) a building wholly occupied by public utility undertakers for the purposes of their undertaking :
- Provided that—
- (i) no building which forms part of any factory premises or mine shall be deemed to be a commercial building; and
 - (ii) any residential part of a building (that is to say, any part which is used, or, so far as unoccupied, intended for use, for residential purposes) shall, if it is provided with a means of normal egress from the building which is not available to occupants of the nonresidential part of the building, be disregarded for all the purposes of the provisions of this Act relating to commercial buildings.
- (6) In relation to the provisions of Part III of this Act relating to the training of employed persons, this section shall have effect as if for the words " fifty persons," wherever they occur therein, there were substituted the words " thirty persons. "
- (7) For the purposes of this Act the number of persons who work in a factory, factory premises, or commercial building shall be taken to be the greatest number of persons who are present in the factory, factory premises or building, as the case may be, at any

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one time in a normal day, being persons who carry on business in the factory, factory premises or building or are employed by persons carrying on business therein :

Provided that—

- (a) regard shall not be had to any temporary increase occasioned by a change of shifts;
- (b) in the case of any factory, factory premises or commercial building where there are outdoor workers, regard shall not be had to more than twenty-five per cent. of their total number.

In this subsection, the expression " outdoor workers " means persons who, on a normal day, work in the factory, factory premises or commercial building, as the case may be, for not more than one hour.

- (8) For the purposes of this Act, the number of persons who work in or about a mine shall be deemed to be a number ascertained as follows, that is to say—
 - (a) by having regard to all the people employed in or about the mine and ascertaining how many of them are from time to time simultaneously present in or about the mine otherwise than below the surface, and
 - (b) if the numbers so ascertained fluctuate, by-ascertaining the highest figure below which throughout any consecutive period of fifteen minutes the numbers do not fall.
- (9) References in this Act to persons employed do not include references to persons employed as domestic servants or to persons otherwise employed in or for the purposes of so much of a building as is used for residential purposes :

Provided that this subsection shall not be construed as affecting the meaning of the word " employer " in the provisions of this Act relating to compensation for personal injuries.

90 Other provisions as to interpretation.

- (1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

" Air-raid shelter " means protection, otherwise than by war-like means or by any article of apparel, from hostile attack from the air, and " an air-raid shelter " means any premises, structure or excavation used or intended to be used to provide air-raid shelter;

" Annual value " means, in relation to any premises, the rent at which it is estimated that the premises might reasonably be expected to let from year to year if the tenant undertook to pay the usual tenant's rates and taxes and if the landlord undertook to bear the costs of the repairs and insurance and the other expenses, if any, necessary to maintain the premises in a state to command that rent, such adjustments being made as appear necessary to eliminate any appreciation due to the fact that the premises are or can be made suitable for use in the event of hostile attack and any depreciation due to the fact that the premises are likely to be required for use in that event:

Provided that, in the case of a building (including a commercial building) or block of buildings let out in parts each of which is separately valued for rating purposes or consists of two or more parts so valued, the annual value of every part so valued (except any part which has depreciated in value by reason of the execution therein under this Act of works for the provision of

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air-raid shelter) shall be taken for the purposes of the provisions of this Act relating to increases of rent, to be—

- (a) where the rateable value and the net annual value of that part are the same, the rateable value appearing at the material date in the valuation list;
- (b) where they are different, the net annual value of that part appearing at the material date in the valuation list,

and the annual value of the whole building or of any part thereof comprising a number of parts which are separately valued for rating purposes, shall be taken for the purposes of the said provisions to be the sum of all the annual values of all the parts or, as the case may be, the parts so comprised:

" Appropriate department " means—

- (a) in relation to any railway, canal, inland navigation, dock or harbour undertaking, the Minister of Transport;
- (b) in relation to any gas undertaking, the Board of Trade;
- (c) in relation to any electricity undertaking, the Electricity Commissioners; and
- (d) in relation to any water undertaking, the Minister of Health;

" Civil defence functions " means any functions conferred or imposed by or under the Act of 1937 or this Act;

" Diminution in the annual value " means, in relation to the impairment of the usefulness of any premises by reason of the execution of works, the amount by which the annual value of the premises is less than it would be if the works had not been executed;

" Electricity undertakers " means undertakers within the meaning of the Electricity (Supply) Acts, 1882 to 1936;

" Factory inspector " means any inspector appointed under the Factories Act, 1937;

" Fire authority " means, subject to the special provisions of this Act with respect to the administrative county of London, the council of a county borough or county district ;

" Land, " in any provision of this Act relating to the acquisition of land, includes any interest in land and any easement or right in, to, or over land ;

" Lease " includes an agreement for a lease, if the term to be covered by the lease has begun, and any tenancy, but does not include a mortgage, and the expression " lessee " shall be construed accordingly;

" Mines inspector " means an inspector appointed under the Coal Mines Act, 1911;

" Occupier, " in relation to any unoccupied land, premises, building or part of a building, means the person entitled to the possession thereof;

" Owner, " in relation to factory premises or a commercial building, means—

- (a) where there is no lease of the whole of the premises or building the unexpired term of which is ten years or more, the person in whom the fee simple of the premises or building is vested; or
- (b) where there is such a lease, the person in whom the term created by that lease is vested or, if there are two or more such leases, the person in whom is vested that one of those leases on which all the others are reversionary,

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and, in relation to a mine, has the same meaning as in the Coal Mines Act, 1911, the Metalliferous Mines Regulation Act, 1872, or the Quarries Act, 1894, as the case may be :

Provided that, where the estate or interest of any person who under the preceding provisions of this definition would be the owner of any commercial building is the subject of a mortgage, and either the mortgagee is in possession or the rents and profits are being received by a receiver appointed by or on the application of the mortgagee, that estate or interest shall be deemed for the purposes of this definition to be vested in the mortgagee;

" Public air-raid shelter " includes a shelter provided by a local authority, in pursuance of an agreement made under Part II of this Act with the occupier of factory premises or the owner of a commercial building, for the use, in whole or in part, of persons living or working in the factory premises or commercial building;

" Public utility undertakers " means any persons authorised by any enactment or order to construct, work or carry on any railway, canal, inland navigation, dock, harbour, gas, electricity or water undertaking, and also includes persons who, though not authorised by any enactment or order (other than the Public Health Act, 1875, or the Public Health Act, 1936) to do so, are engaged in supplying gas or water to the public, and for that purpose make use of pipes or mains laid in any highway; and " public utility undertaking " shall be construed accordingly.

- (2) Any premises occupied, or persons employed, by public utility undertakers who carry on a railway undertaking, shall be deemed, for the purposes of this Act, to be occupied or employed for the purposes of their railway undertaking, unless the occupation or employment is wholly or mainly for the purposes of some harbour, dock or canal undertaking carried on by those undertakers.

91 Application to Scotland.

- (1) The provisions of this section shall have effect for the purpose of the application of this Act to Scotland.

- (2) (a) For section eleven there shall be substituted the following section:—

(1) In this Part of this Act the expression 'local authority' means county or town council.

(2) The town council of a small burgh shall before exercising any function under this Part of this Act consult with the council of the county within which such burgh is situated”.

- (b) For section twenty-five there shall be substituted the following section :—

In this Part of this Act the expression ' local authority' means the council of a county or the town council of a large burgh, and for the purposes of this Part of this Act a small burgh shall be included in the county in which it is situated :

Provided that in the last preceding section the said expression includes any local authority within the meaning of the Local Authorities Loans (Scotland) Act, 1891.”

- (c) For section thirty-five there shall be substituted the following section:—

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In this Part of this Act the expression ' local authority ' means county or town council”.

- (d) In Part VII of this Act for any reference to a " county borough " there shall be substituted a reference to a large burgh and for the purposes of any provision of Part VII whereby powers are conferred and duties imposed on the councils of counties and of certain burghs only a small burgh shall be included in the county in which it is situated.
- (e) In section fifty-six for subsection (6) there shall be substituted the following subsection:—
 - “(6) In this section the expression ' local authority ' means county or town council”.
- (f) In Part III and Part VII of this Act, any reference to a county or the council thereof shall in the case of the counties of—
 - (i) Perth and Kinross; and
 - (ii) Moray and Nairn,

be construed as a reference to the combined county and the joint county council.

- (3) " Fee simple " means the estate or interest of the proprietor of the *dominium utile*; " covenant " means agreement or stipulation and " restrictive covenant " shall be construed accordingly and shall include a real burden *ad factum praestandum* ; " large burgh " and " small burgh " have the like meanings as in the Local Government (Scotland) Act, 1929; " arbitrator " means arbiter; "easement" means servitude; "sell" includes feu; " leasehold interest" means the interest of the lessee in premises subject to a lease; references to an estate or interest in reversion expectant on a lease shall be construed as references to the interest of the landlord in property subject to a lease; references to every lease derived from the estate or interest of an owner shall be construed as references to every lease granted by an owner and every sub-lease of the whole or any part of the premises subject to such lease; " mortgage " means a heritable security and " mortgagee " means the creditor in a heritable security; and " defendant " means person accused.
- (4) Section two shall have effect as if—
 - (a) in subsection (2) for the words from " and section fifteen " to the end of the subsection there were substituted the words— " and a certificate in the prescribed form of the posting of a notice designating premises under this section shall be registered by the local authority in the appropriate register of sasines, and upon such registration shall be binding on any person subsequently acquiring the premises or any estate or interest therein. A certificate in the prescribed form of the posting of a notice with drawing such notice as aforesaid shall be similarly registered. In this subsection the expression ' prescribed' means prescribed by the Secretary of State " ; and
 - (b) in subsection (3) the words " and causing the " registration of the notice as a local land " charge to be cancelled " were omitted.
- (5) In section five for any reference to a court of quarter sessions there shall be substituted a reference to the sheriff having jurisdiction in the place where the premises are situated.
- (6) In section eight for any reference to section sixty-eight of the Public Health Act, 1925, there shall be substituted a reference to section one hundred and twenty of the Road Traffic Act, 1930.

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(7) In subsection (1) of section seventeen for the words " become the subject of a charge" there shall be substituted the words " be charged and burdened by means of a charging order or in respect of which he " may become liable to pay an increase of rent."

(8) In section eighteen—

(a) for subsection (2) there shall be substituted the following subsection:—

“(2) On the termination, within the period of ten years immediately following the date of the completion of the works, of any tenancy of the whole or any part of the premises, being a tenancy in existence at that date, the outgoing tenant shall, unless it is otherwise agreed in connection with the works or after the completion thereof, be entitled to recover from the proprietor of the premises a sum which bears to the net ascertained cost of the works the proportion which so much of the said period as is unexpired at the termination of the tenancy bears to the whole of the period.

Where under this section any sum has been paid by the proprietor of the premises to an outgoing tenant, the rent payable under every lease of the premises granted by the proprietor and every sub-lease of the whole or any part of the premises subject to such lease, being a lease or sub-lease in existence at the date of the completion of the works, shall, unless it is otherwise agreed in connection with or after the making of such payment, be increased at the annual rate of one-tenth of the net ascertained cost of the works. Such increase shall operate on all rent payable under the lease or sub-lease in question during so much only of the period of ten years aforesaid as is unexpired at the date on which the said payment to the outgoing tenant becomes due.

In this subsection the expression 'proprietor' includes any person who under the Lands Clauses Acts would be enabled to sell and convey the premises to the promoters of an undertaking”;

(b) in subsection (3), for the words " entitled to " interests which may become subject to such " a charge as aforesaid," there shall be substituted the words " who may by virtue of " the foregoing provisions of this section " become liable to make payment of any sum " or of an increase of rent "; and

(c) for subsection (4) there shall be substituted the following subsection:—

“(4) It shall be competent for the Minister to make, on the application of the outgoing tenant, a charging order in his favour charging and burdening the premises with an annuity to repay the sum due to him under subsection (2) of this section in like manner as a local authority may make a charging order in favour of an owner under section twenty-one of the Housing (Scotland) Act, 1925, and the provisions of sections twenty-one and twenty-two of that Act shall apply accordingly subject to the following and any other necessary modifications—

(i) the annuity charged shall be such sum and payable for such number of years as the Minister may fix; and

(ii) for any reference to the Department of Health for Scotland there shall be substituted a reference to the Minister.”

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- (9) In subsection (1) of section nineteen the words from " Any such compensation" to the end of the subsection shall be omitted.
- (10) In subsection (3) of section twenty the words from " and if they take," to the end of the subsection shall be omitted.
- (11) Part III of this Act shall have effect as if, after section twenty-four there were inserted the following section:—

“24A Special provisions as to buildings in divided ownership.

- (1) For the purposes of section ten and of this Part of this Act, any reference to a building shall, in the case of a building in which separate storeys or parts belong to different owners, be construed as a reference to the whole building so far as it is under the same roof and is enclosed within the same gables and walls and any reference to the owner of a building shall, in the case of such a building as aforesaid, be construed as a reference to the owners of the several storeys or parts of such building jointly and severally.
- (2) Where works have been executed by virtue of this Part of this Act in a part of such a building as aforesaid, of which part the owner is himself the occupier, the owners of the building shall, unless it is otherwise agreed in connection with the works or after the completion thereof, pay to the owner of that part annually for ten years a sum equal to the diminution of the annual value of that part of the building ascribable to the impairment of the usefulness thereof by reason of the execution of the works ascertained as at the date of the completion of the works. Such sums shall be payable on the day six months after the completion of the works and annually thereafter.

Where such sums are payable, subsection (5) of section nineteen shall have effect as if the word 'two' were omitted, and the following paragraph added—

“(c) any annual sum payable under subsection (2) of section twenty-four A of this Act.”

- (3) The owner of each part of such a building as aforesaid shall contribute towards the expenses of the owners under the notice (as defined in subsection (8) of section nineteen of this Act, with the addition of the sums (if any) payable under the last foregoing subsection), a sum bearing to the total expenditure the same proportion as the annual value of his part of the building at the date of the completion of the works bears to the annual value of the whole building at that date.
- (4) Where the owner of a part of such a building as aforesaid, who has become liable under the foregoing provisions of this section to contribute towards the expenses of the owners of the building is not the occupier of the whole of that part, the rent payable under every lease granted by the owner and every sub-lease of the whole or any part of the premises subject to such lease (being a lease or sub-lease in existence at the date of the completion of the works) shall be increased or decreased in like manner and subject to the like conditions as rents are increased or decreased under section nineteen of this Act.
- (5) Where a notice has been served in pursuance of section sixteen of this Act on the owners of such a building as aforesaid, any one of such owners may, in default of agreement among them as to the execution of the works in

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pursuance of the notice, himself execute the works, and for the purpose of so doing shall have the like powers and immunities as are conferred by this Part of this Act on the owners jointly and severally, and the expenditure incurred by him in so doing shall for the purpose of this section be deemed to be expenses of the owners.

(6) Any question arising between the owners of such a building as aforesaid as to their respective rights or liabilities arising out of this section shall, in default of agreement, be determined in like manner as any question as to the payment of compensation to which section seventy-four of this Act applies is determined.”

(12) In section twenty-nine for subsection (3) there shall be substituted the following subsection :—

“(3) Any amount due to a local authority by way of repayment of an advance made by them under this section may be recovered as a civil debt; and it shall be competent for the local authority to make in favour of themselves a charging order charging and burdening the premises in respect of which the advance was made with an annuity to repay the advance in like manner as they may make a charging order in favour of themselves in respect of expenses incurred in the execution of works under section fifteen of the Housing (Scotland) Act, 1930; and the provisions of subsection (1) of section eleven of the Housing (Agricultural Population) (Scotland) Act, 1938, shall apply to a charging order made in pursuance of this subsection subject to the following and any other necessary modifications, that is to say—

The annuity charged shall be such sum as the Department of Health for Scotland having regard to the rate of interest agreed under subsection (2) of this section in respect of the advance may fix, and shall be payable over such term of years as will enable the amount due to be repaid within ten years from the date on which the advance was made.”

(13) In section thirty-one any reference to a building or block of buildings let out in separate parts shall include a reference to a building or block of buildings in which separate parts belong to different owners.

(14) In section thirty-three—

- (a) subsection (2) shall have effect as if for the words " by the local authority under the " Public Health Act, 1936, or any corresponding enactment in any local Act before " that date" there were substituted the words " before that date by the county council " or the dean of guild court or the body " performing the functions of a dean of guild " court to whom the plans were submitted " in pursuance of any enactment or byelaw " or of the common law ";
- (b) for subsection (4) there shall be substituted the following subsection—

“(4) (a) Where in pursuance of any enactment or byelaw requiring plans to be submitted to a county council, application is made to such a council for the approval of plans for the erection, alteration or extension of a building to which regulations made under this section apply, then, unless the council are satisfied that the erection, alteration or extension, as the case may be, of such building and the materials used therein will comply with such regulations, they shall refuse their approval to such plans.

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If any person shall erect, alter or extend any such building without the approval of the county council, or shall erect, alter or extend any such building or use therein any material otherwise than in conformity with such regulations, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twenty pounds, and in the case of a continuing offence to a further fine not exceeding five pounds for each day during which the offence continues after conviction therefor; and where any person is convicted of such an offence, the court may order that he shall within such time as the court may specify either pull down or remove the building or part thereof in respect of which the offence has been committed, or, if he so elects, effect such alterations thereto as may be necessary to make it comply with the regulations, or may order that the building shall not be occupied or used until such alterations have been effected thereto as may be necessary to make it comply with the regulations.

If a person fails to comply within the specified time with an order of a court under this paragraph requiring him to pull down or remove a building or part thereof or to effect alterations thereto, the county council may themselves execute the work in question and may recover from him the expenses reasonably incurred by them in so doing.

- (b) A dean of guild court or any body performing the functions of a dean of guild court shall require as a condition of their approval of the plans for the erection, alteration or extension of a building to which regulations made under this section apply, that such erection, alteration or extension, as the case may be, and the material used therein shall comply with such regulations”;
- (c) in subsection (5) for the reference to the local authority there shall be substituted a reference to the county council or to the dean of guild court or the body performing the functions of a dean of guild court; and
- (d) for subsection (7) there shall be substituted the following subsection :—
 - “(7) In this section, the expression ' building byelaws' means any statutory enactments, byelaws, rules and regulations or other provisions under whatever authority made relating to the erection, alteration or extension of buildings or to the obtaining of the authority of the county council, or of the dean of guild court, or of any body performing the functions of a dean of guild court, for the erection, alteration or extension of buildings, and subsection (2) of section ninety of the Public Health Act, 1936 (which relates to the question of 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, notwithstanding that that Act does not apply to Scotland.”

(15) For section thirty-four there shall be substituted the following section:—

- (1) In the case of houses to which this section applies, section one of the Housing (Financial Provisions) (Scotland) Act, 1938, shall have effect as if for the sums

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of ten pounds ten shillings, eleven pounds fifteen shillings and thirteen pounds referred to in subsection (2) there were substituted respectively the sums of twelve pounds thirteen shillings, thirteen pounds eighteen shillings and fifteen pounds three shillings, and section five of the said Act shall have effect as if for the sums of four pounds ten shillings, four pounds fifteen shillings and five pounds referred to in subsection (3) there were substituted respectively the sums of five pounds seven shillings, five pounds twelve shillings and five pounds seventeen shillings.

- (2) This section applies to houses provided in tenements within the meaning of the Housing (Financial Provisions) (Scotland) 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 Department of Health for Scotland.”
- (16) For references to the Minister of Health there shall be substituted references to the Department of Health for Scotland.
- (17) For any reference to the Local Government Superannuation Act, 1937, there shall be substituted a reference to the Local Government Superannuation (Scotland) Act, 1937, and for any reference to the Town and Country Planning Act, 1932, there shall be substituted a reference to the Town and Country Planning (Scotland) Act, 1932.
- (18) In section fifty-three—
- (a) for references to the thirty-first day of March there shall be substituted references to the fifteenth day of May. In the case of a council whose financial year ends on a day other than the fifteenth day of May, this subsection shall have effect with the substitution of that other day for the fifteenth day of May; and
 - (b) for references to the produce of a rate of one penny in the pound and to paragraph 3 of the Schedule to the Act of 1937 there shall be substituted respectively references to the produce of a rate of four-fifths of one penny in the pound and to the paragraph directed by subsection (8) of section thirteen of the Act of 1937 to be substituted for sub-paragraph (b) of paragraph 3 of the said Schedule.
- (19) In section fifty-five subsection (2) shall be omitted.
- (20) In subsection (4) of section twenty-eight, in section fifty-six, in subsection (3) of section sixty-seven, in section sixty-eight and in subsection (3) of section seventy-nine, for the words " on summary conviction " there shall be substituted the words " on conviction by a court of summary jurisdiction. "
- (21) In section fifty-eight for references to the Public Health Act, 1936, and to section five of the Act of 1937 there shall be substituted respectively references to the Public Health (Scotland) Act, 1897, the Burgh Police (Scotland) Acts, 1892 to 1903, or the corresponding provisions of any local Act, and to subsection (9) of section thirteen of the Act of 1937.
- (22) In section sixty-three for references to section five of the Act of 1937 and to the Local Government Act, 1933, there shall be substituted respectively references to subsection (9) of section thirteen of the Act of 1937 and to the enactments therein referred to, and for the reference to sections eighty-four to ninety of the Lands Clauses

Consolidation Act, 1845, there shall be substituted a reference to sections eighty-three to eighty-eight of the Lands Clauses Consolidation (Scotland) Act, 1845.

- (23) In section sixty-four for any reference to a county borough, there shall be substituted a reference to a burgh.
- (24) In section sixty-six for subsection (3) there shall be substituted the following subsection :—

“(3) Where a heritable creditor in possession is for the purposes of this Act the owner of any commercial building or any such building or block of buildings as aforesaid, it shall be competent for the local authority to make, on his application, a charging order in his favour charging and burdening the building or block of buildings with an annuity to repay to him any money reasonably expended by him for the purpose of providing air-raid shelter in connection with the building or block or complying with any obligation imposed on him by or under this Act as owner of the building or block in like manner as they may make a charging order in favour of an owner under section twenty-one of the Housing (Scotland) Act, 1925, and the provisions of sections twenty-one and twenty-two of that Act shall apply accordingly subject to the following and any other necessary modifications :—

An annuity constituted a charge by a charging order made under this subsection shall rank *pari passu* with the heritable security in virtue of which the heritable creditor is in possession of the building or block.”

- (25) For section sixty-nine there shall be substituted the following section :—

Section one of the Rating and Valuation (Air-Raid Works) (Scotland) Act, 1938, (which provides for relief from rates in respect of air-raid protection works in Scotland) shall, in relation to any lands and heritages forming part of a building, have effect as if any structural alterations or improvements made in the building or on land occupied or used with the building for the purpose of providing air-raid shelter were structural alterations or improvements to the lands and heritages, and in estimating the yearly rent or value of any lands and heritages for the purposes of valuation and rating no regard shall be had to any increase in the rent thereof (whether made by virtue of this Act or not) which is attributable to the provision of air-raid shelter for persons living or working in the lands and heritages.”

- (26) In section seventy-two for references to a county district there shall be substituted references to a small burgh, and for any reference to any amount raised by the county council in the district there shall be substituted a reference to any sum paid over by the council of the small burgh to the county council in pursuance of a requisition.
- (27) In section seventy-three for references to a county district and to " mandamus " there shall be substituted respectively references to a small burgh and to proceedings under section ninety-one of the Court of Session Act, 1868, and for subsections (2), (3), (6) and (7) there shall be substituted respectively the following subsections :—

“(2) (a) Where any functions of the council of a small burgh are transferred by an order under this section to a county council, the expenses incurred by the county council in discharging those functions shall be a debt due from the council of the small burgh to the county council and shall be defrayed as part of the expenses of the council of the small burgh in the execution of this Act or the Act of 1937, and that council

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shall have the like power of raising the money required as they have of raising money for defraying expenses incurred directly by them. The county council shall keep separate accounts of all receipts and expenditure in respect of the transferred functions.

- (b) Where by an order under this section the Minister has transferred to himself any functions of a defaulting authority, any expenses incurred by him in discharging those functions shall be paid in the first instance out of moneys provided by Parliament, but the amount of those expenses as certified by the Minister shall on demand be paid by the authority to the Minister, and shall be recoverable by him as a debt due to the Crown; and that authority shall have the like power of raising the money required as they have of raising money for defraying expenses incurred directly by them.
- (c) Any order made by the Minister under this section may be varied or revoked by a subsequent order made by the Minister, but without prejudice to the validity of anything previously done under the order, and when any order is so revoked, the Minister may either by the revoking order or by a supplementary order make such provision as appears to him desirable with respect to the transfer, vesting, and discharge of any property, debts, or liabilities acquired or incurred by the county council or by him in discharging any of the functions to which the order so revoked related.”

“(3) Where in pursuance of this section a local inquiry is held in Scotland, subsections (2), (3), (4) and (5) of section two hundred and ninety of the Local Government Act, 1933, shall apply to such inquiry in like manner as if that Act applied to Scotland, subject however, to the following modifications—

- (a) for references to the department and to a summons there shall be substituted references to the Minister and to an order; and
- (b) in subsection (4) the word ' summarily', and in subsection (5) the words from ' and every such order ' to the end of the subsection shall be omitted. ””

“(6) Any expenses paid by or recovered from a defaulting authority by virtue of subsection (2) of this section shall not be approved under the Act of 1937 so as to be approved expenditure incurred by that authority for the purposes of that Act.”

“(7) In relation to the functions of a local authority under Part VII of this Act, the references in this section to the Minister shall be construed as references to the Department of Health for Scotland.”

- (28) Subsection (2) of section seventy-nine shall apply in like manner as if section two hundred and eighty-seven of the Public Health Act, 1936, applied to Scotland.
- (29) In section eighty-one any reference to requirements or restrictions imposed by or under any enactment as to the matters specified in that section shall include a reference to any requirement imposed by or under any enactment or by virtue of the common law as to the presentation of a petition to a dean of guild court or any body exercising the functions of a dean of guild court.
- (30) In section ninety—
 - (a) in the definition of " annual value" any reference to a building or block of buildings let out in parts shall include a reference to a building or block of

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- buildings in which separate parts belong to different owners, and " valuation list " means valuation roll;
- (b) for the definition of " fire authority " there shall be substituted the following definition—
- “ Fire authority ' means county or town council ”; and
- (c) in the definition of " owner " for paragraph (b) there shall be substituted the following paragraph :—
- “(b) where there is such a lease, the tenant thereunder or, if there are two or more such leases, the tenant under the latest in date thereof.”
- (31) Any grants payable under the Act of 1937 towards approved expenditure incurred under this Act by the council of a small burgh shall, notwithstanding anything in subsection (2) of section thirteen of the Act of 1937, be payable direct to that council.
- (32) Any expenditure incurred by a county or town council for the purposes of this Act shall be defrayed out of such rate payable by owners and occupiers in equal proportions as the council may determine.
- (33) A county or town council shall have power to borrow for any purpose of this Act to which capital is properly applicable, and the provisions of section twenty-three of the Local Government (Scotland) Act, 1929, shall apply to the power hereby conferred. Any sums borrowed in pursuance of this subsection shall be repaid within such period as in the case of sums borrowed by them as electricity undertakers, the Electricity Commissioners, and in any other case the Secretary of State, may fix.
- (34) Where by virtue of the Rating Exemptions (Scotland) Act, 1874, or of the corresponding provisions of any local Act, any exemption from payment of local rates is enjoyed in respect of any lands and heritages, such exemption shall not cease by reason only of their being used for any of the purposes of the Act of 1937 or of this Act, if such use is granted gratuitously or subject only to a reasonable payment in respect of cleaning, heating, lighting, or other services, and no profit is derived from such payment.
- (35) In the Second Schedule—
- (a) for paragraph 1 the following paragraph shall be substituted:—
- “1 The following sections of the Lands Clauses Consolidation (Scotland) Act, 1845, shall not be incorporated in this Act, namely, sections fifteen, sixteen, one hundred and sixteen, one hundred and twenty to one hundred and twenty-seven, one hundred and forty-two, and one hundred and forty-three”;
- (b) for references to sections eighty-four to ninety, and to section ninety-two of the Lands Clauses Consolidation Act, 1845, there shall be substituted respectively references to sections eighty-three to eighty-eight, and to section ninety of the Lands Clauses Consolidation (Scotland) Act, 1845; and
- (c) paragraph 5 shall not apply.

92 Provisions as to Northern Ireland.

- (1) The provisions of this Act, other than the provisions of this section, shall not extend to Northern Ireland.

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- (2) It is hereby declared that the Parliament of Northern Ireland has power to make laws for purposes similar to the purposes of the provisions of this Act which do not extend to Northern Ireland.
- (3) There may be paid out of moneys provided by Parliament to the Government of Northern Ireland, grants towards the expenses incurred by that Government for the purposes of civil defence, of such amounts as the Treasury may determine, so, however, that not more than seven hundred and fifty thousand pounds in all shall be paid under this subsection during the four financial years ending with the thirty-first day of March nineteen hundred and forty-three, and not more than fifty thousand pounds shall be paid under this subsection in any subsequent financial year.

93 Short title and citation.

This Act may be cited as the Civil Defence Act, 1939, and the Act of 1937 and this Act may be cited together as the Civil Defence Acts, 1937 and 1939.