



Compensation (Defence) Act 1939

1939 CHAPTER 75

Right to, and measure of, compensation

1 Compensation for action taken in the exercise of emergency powers

- (1) Where, in the exercise of emergency powers during the period beginning with the twenty-fourth day of August, nineteen hundred and thirty-nine, and ending with such day as His Majesty may by Order in Council declare to be the day on which the emergency came to an end,—
- (a) possession of any land has been taken on behalf of His Majesty, or
 - (b) any property other than land has been requisitioned or acquired on behalf of His Majesty, or
 - (c) any work has been done on any land on behalf of His Majesty, otherwise than by way of measures taken to avoid the spreading of the consequences of damage caused by war operations,

then, subject to the following provisions of this Act, compensation assessed in accordance with those provisions shall be paid, out of moneys provided by Parliament, in respect of the taking possession of the land, the requisition or acquisition of the property, or the doing of the work, as the case may be.

- (2) For the purposes of this section, a requirement that any space or accommodation in a ship or an aircraft be placed at the disposal of any authority shall be deemed to be a requisition of property.

2 Compensation in respect of taking possession of land

- (1) The compensation payable under this Act in respect of the taking possession of any land shall be the aggregate of the following sums, that is to say,—
- (a) a sum equal to the rent which might reasonably be expected to be payable by a tenant in occupation of the land, during the period for which possession of the land is retained in the exercise of emergency powers, under a lease granted immediately before the beginning of that period, whereby the tenant undertook to pay all usual tenant's rates and taxes and to bear the cost of the

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repairs and insurance and the other expenses, if any, necessary to maintain the land in a state to command that rent, and

- (b) a sum equal to the cost of making good any damage to the land which may have occurred during the period for which possession thereof is so retained (except in so far as the damage has been made good during that period by a person acting on behalf of His Majesty), no account being taken of fair wear and tear or of damage caused by war operations, and
- (c) in a case where the land is agricultural land, a sum equal to the amount (if any) which might reasonably have been expected to be payable in addition to rent by an incoming tenant, in respect of things previously done for the purpose of the cultivation of the land, and in respect of seeds, tillages, growing crops and other similar matters, under a lease of the land granted immediately before possession thereof was taken in the exercise of emergency powers, and
- (d) a sum equal to the amount of any expenses reasonably incurred, otherwise than on behalf of His Majesty, for the purpose of compliance with any directions given on behalf of His Majesty in connection with the taking possession of the land:

Provided that—

- (i) in computing for the purposes of paragraph (a) of this subsection the rent which might reasonably be expected to be payable in respect of any land, and in computing for the purposes of paragraph (c) of this subsection any amount which might reasonably have been expected to be payable in addition to rent by an incoming tenant, no account shall be taken of any appreciation of values due to the emergency; and
 - (ii) there shall not, by virtue of paragraph (b) of this subsection, be payable in respect of damage to any land a sum greater than the value of the land at the time when possession thereof was taken in the exercise of emergency powers, no account being taken of any appreciation in the value thereof due to the emergency.
- (2) Any compensation under paragraph (a) of the preceding subsection shall be considered as accruing due from day to day during the period for which the possession of the land is taken in the exercise of emergency powers, and be apportionable in respect of time accordingly, and shall be paid to the person who for the time being would be entitled to occupy the land but for the fact that possession thereof is retained in the exercise of such powers; but this subsection shall not operate so as to require the making of payments at intervals of less than three months.

For the purposes of the enactments relating to income tax and the enactments relating to land tax, and in particular for the purposes of such of those enactments as relate to the deduction of tax from rent, any compensation under the said paragraph (a) shall be deemed to be rent payable for the land, the Crown shall be deemed to pay it as tenant occupier, and the person receiving it shall be deemed to receive it as landlord.

- (3) Any compensation under paragraph (b) of subsection (1) of this section shall accrue due at the end of the period for which possession of the land is retained in the exercise of emergency powers, and shall be paid to the person who is then the owner of the land.
- (4) Any compensation under paragraph (c) of subsection (1) of this section shall accrue due at the time when possession of the land is taken in the exercise of emergency powers, and shall be paid to the person who, immediately before that time, was the occupier of the land.

- (5) Any compensation under paragraph (d) of subsection (1) of this section shall accrue due at the time when the expenses in respect of which the compensation is payable are incurred, and shall be paid to the person by whom or on whose behalf those expenses were incurred.

3 Compensation in respect of the doing of work on land

- (1) Compensation under this Act in respect of the doing of any work on any land shall be payable only if the annual value of the land is diminished by reason of the doing of the work.
- (2) The compensation payable under this Act in respect of the doing of any work on any land shall, in the first instance, be a sum calculated by reference to the diminution of the annual value of the land ascribable to the doing of the work, and shall be paid in instalments, quarterly in arrear, to the person who for the time being is entitled to occupy the land.

Any compensation under this subsection shall be considered as accruing due from day to day, and shall be apportionable in respect of time accordingly.

- (3) If, at any time after compensation under the preceding subsection has become payable by reason of the doing of any work on any land, a person acting on behalf of His Majesty—
- (a) causes the land to be restored, so far as practicable, to the condition in which it would be but for the doing of the work, or
 - (b) serves on the person for the time being entitled to occupy the land a written notice of intention to discharge the liability for the compensation by making, not earlier than a date specified in the notice, payment of a lump sum in accordance with the following provisions of this section,

the period in respect of which compensation is payable under the preceding subsection by reason of the doing of the work shall end with the date immediately preceding the date on which the restoration is completed or, as the case may be, the date specified in the notice.

- (4) Where, by virtue of the operation of the last preceding subsection in relation to any work done on any land, the period in respect of which compensation under subsection (1) of this section is payable by reason of the doing of the work comes to an end, then if, at the expiration of that period, the value of any estate or interest which a person then has in the land is less than it would be but for the doing of the work, there shall be paid to him, by way of compensation under this Act, a sum equal to the amount of the said depreciation in the value of the estate or interest; and that compensation shall be taken to accrue due at the expiration of the said period.
- (5) As soon as may be after effecting any restoration or serving any notice in pursuance of subsection (3) of this section, the person by whom the restoration was effected or the notice was served shall cause the fact of the restoration or the contents of the notice, as the case may be, to be published in such manner as he thinks best adapted for informing persons affected.
- (6) In determining for the purposes of this section whether the annual value of any land is diminished by reason of the doing of any work thereon, and in assessing any compensation under this section in respect of the doing of any work on any land, it

shall be assumed that the land cannot be restored to the condition in which it would be but for the doing of the work.

- (7) For the purposes of this section, no account shall be taken of any diminution or depreciation in value ascribable only to loss of pleasure or amenity.
- (8) No compensation under this section shall, in relation to any land, be payable in respect of any period for which possession of that land is taken on behalf of His Majesty in the exercise of emergency powers.
- (9) In this section—
 - (a) the expression "annual value" means, in relation to any land, the rent at which the land might reasonably be expected to let from year to year, if the tenant undertook to pay all usual tenant's rates and taxes and to bear the costs of the repairs and insurance and the other expenses, if any, necessary to maintain the land in a state to command that rent; and
 - (b) the expression "diminution of the annual value" means, in relation to the doing of any work on any land, the amount by which the annual value of the land is less than it would be if the work had not been done.

4 Compensation in respect of requisition or acquisition of vessels, vehicles and aircraft

- (1) The compensation payable under this Act in respect of the requisition of any vessel, vehicle or aircraft shall be the aggregate of the following sums, that is to say,—
 - (a) a sum equal to the amount which might reasonably be expected to be payable by a person for the use of the vessel, vehicle or aircraft during the period of the requisition, under a charter or contract of hiring whereby he undertook to bear the cost of insuring, maintaining and running the vessel, vehicle or aircraft, and
 - (b) if an agreement is made on behalf of His Majesty for the running of the vessel, vehicle or aircraft during the said period by the person who, but for the requisition, would be entitled to possession of the vessel, vehicle or aircraft, or who is the owner thereof, a sum equal to the amount of any expenses reasonably incurred by that person in connection with the maintenance and running of the vessel, vehicle or aircraft during that period, not being expenses taken into account for the purposes of paragraph (a) of this subsection, and
 - (c) a sum equal to the cost of making good any damage to the vessel, vehicle or aircraft not resulting in a total loss thereof which may have occurred during the said period (except in so far as the damage has been made good during that period by a person acting on behalf of His Majesty), no account being taken of fair wear and tear, and
 - (d) in a case where, during the period of the requisition, a total loss of the vessel, vehicle or aircraft occurs, a sum equal to the value of the vessel, vehicle or aircraft immediately before the occurrence of the damage which caused the loss and
 - (e) a sum equal to the amount of any expenses reasonably incurred, otherwise than on behalf of His Majesty, for the purpose of compliance with any directions given on behalf of His Majesty in connection with the requisition :

Provided that—

- (i) in computing for the purposes of paragraph (a) of this subsection the amount which might reasonably be expected to be payable for the use of any vessel,

- vehicle or aircraft, no account shall be taken of any appreciation in the value thereof due to the emergency; and
- (ii) no compensation shall by virtue of this subsection be payable in respect of any loss of, or damage to, any vehicle or aircraft arising in consequence of war operations, unless it is shown that, at the time when the loss or damage occurred, the risk of the vehicle or aircraft being lost or damaged in consequence of war operations was materially increased by reason of the requisition thereof in the exercise of emergency powers; and
- (iii) no compensation shall by virtue of paragraph (c) of this subsection be payable in respect of any damage, if compensation in respect of expenses incurred for the purpose of making good that damage has accrued due by virtue of paragraph (b) of this subsection.
- (2) Any compensation under paragraph (a) of the preceding subsection shall be considered as accruing due from day to day during the period for which the vessel, vehicle or aircraft is requisitioned in the exercise of emergency powers, and be apportionable in respect of time accordingly, and shall be paid to the person who, at the time when the compensation accrues due, is the owner of the vessel, vehicle or aircraft; but this subsection shall not operate, so as to require the making of payments at intervals of less than one month.
- (3) Where, on the day on which any compensation accrues due by virtue of paragraph (a) of subsection (1) of this section, a person other than the owner of the vessel, vehicle or aircraft is, by virtue of a subsisting charter or contract of hiring, the person who would be entitled to possession of, or to use, the vessel, vehicle or aircraft but for the requisition, the person to whom the compensation is paid shall be deemed to receive it as a trustee for the first mentioned person.
- (4) Any compensation under paragraph (b) or paragraph (e) of subsection (1) of this section shall accrue due at the time when the expenses in respect of which the compensation is payable are incurred, and shall be paid to the person by whom or on whose behalf those expenses were incurred; but this subsection shall not operate so as to require the making of payments at intervals of less than one month.
- (5) Any compensation under paragraph (c) or paragraph (d) of subsection (1) of this section shall accrue due at the end of the period of the requisition, and shall, subject to the following provisions of this Act, be paid to the person who is then the owner of the vessel, vehicle or aircraft.
- (6) For the purposes of subsection (1) of this section, the expression "total loss" shall have the same meaning as it has for the purposes of the law relating to insurance, and accordingly shall be construed as including constructive total loss; and upon the payment to any person of any compensation which has become payable by virtue of paragraph (d) of that subsection in respect of any loss, the Crown shall have the same right to take over an interest in whatever remains of the vessel, vehicle or aircraft, and the same rights and remedies in and in respect of the vessel, vehicle or aircraft, as it would have if the payment had been made by the Crown as the insurer under a contract insuring that person against the loss.
- (7) The compensation payable under this Act in respect of the acquisition of any vessel, vehicle or aircraft shall be a sum equal to the value of the vessel, vehicle or aircraft immediately before the acquisition, no account being taken of any appreciation due to the emergency, and shall, subject to the following provisions of this Act, be paid to the person who is then the owner of the vessel, vehicle or aircraft.

For the purpose of assessing any compensation under this subsection in respect of the acquisition of any vessel, vehicle or aircraft, no account shall be taken of any compensation under paragraph (a) or paragraph (c) of subsection (1) of this section which may have become payable in respect of the requisition of that vessel, vehicle or aircraft.

- (8) Where, at any time during the period for which a vessel, vehicle or aircraft is requisitioned on behalf of His Majesty in the exercise of emergency powers,—
- (a) a written notice stating that the vessel, vehicle or aircraft is to be treated as acquired on behalf of His Majesty is served on the owner thereof by a person acting on behalf of His Majesty, or
 - (b) the vessel, vehicle or aircraft is sold on behalf of His Majesty,

then, for the purposes of this section, the vessel, vehicle or aircraft shall be deemed to have been acquired on behalf of His Majesty in the exercise of emergency powers immediately before the day on which the said notice was served or, as the case may be, the day on which the vessel, vehicle or aircraft was so sold, and the period of requisition shall be deemed to have ended at the time when the acquisition of the vessel, vehicle or aircraft as aforesaid is deemed by virtue of this subsection to have been effected.

- (9) Where there is effected such a sale of any vessel, vehicle or aircraft as is referred to in paragraph (b) of the last preceding subsection, the person by whom the sale was effected shall, as soon as may be thereafter, serve a written notice of the sale on the person who for the time being would be the owner of the vessel, vehicle or aircraft but for the sale thereof as aforesaid.

5 Compensation in respect of taking space or accommodation in ships and aircraft

- (1) The compensation payable under this Act in respect of any requirement that any space or accommodation in a ship or an aircraft be placed at the disposal of any authority shall be the aggregate of the following sums, that is to say,—
- (a) a sum equal to the amount which might reasonably be expected to be payable for the use of that space or accommodation during the period for which it is at the disposal of the authority by virtue of that requirement, no account being taken of any appreciation of values due to the emergency, and
 - (b) a sum equal to the amount of any expenses reasonably incurred, otherwise than on behalf of His Majesty, for the purpose of compliance with any directions given on behalf of His Majesty in connection with the said requirement.
- (2) Any compensation under paragraph (a) of the preceding subsection shall be considered as accruing due from day to day during the period for which the space or accommodation remains at the disposal of the authority at whose disposal it was required to be placed, and be apportionable in respect of time accordingly, and shall be paid to the person who, at the time when the compensation accrues due, is the owner of the ship or aircraft; but this subsection shall not operate so as to require the making of any payment before the end of the said period.
- (3) Where, on the day on which any compensation accrues due by virtue of paragraph (a) of subsection (1) of this section, a person other than the owner of the ship or aircraft is, by virtue of a subsisting charter or contract of hiring, entitled to possession of, or to use, the ship or aircraft, or is, by virtue of a subsisting contract, the person who would be entitled to use the space or accommodation but for the requirement in respect of

which the compensation is payable, the person to whom the compensation is paid shall be deemed to receive it as a trustee for the first mentioned person.

- (4) Any compensation under paragraph (b) of subsection (1) of this section shall accrue due at the time when the expenses in respect of which the compensation is payable are incurred, and shall be paid to the person by whom or on whose behalf those expenses were incurred.

6 Compensation in respect of requisition or acquisition of goods other than vessels, vehicles and aircraft

- (1) Subject to the provisions of the next following subsection, the compensation payable under this Act in respect of the requisition or acquisition of any goods shall be a sum equal to the price which the person who, immediately before the requisition or acquisition, was the owner of the goods might reasonably have been expected to obtain upon a sale of the goods then effected by him, regard being had to the condition of the goods at the time and no account being taken of any appreciation in the value of the goods due to the emergency.
- (2) Any compensation under the preceding subsection shall not—
- (a) in a case where the owner of the goods immediately before the requisition or acquisition, was a person who had produced the goods with a view to the sale thereof, exceed the aggregate of—
 - (i) the cost reasonably incurred by that person in producing the goods, and
 - (ii) the profit which he might reasonably have been expected to make on a sale of the goods effected by him immediately before the requisition or acquisition, or
 - (b) in a case where the owner of the goods, immediately before the requisition or acquisition, was some person other than the producer of the goods, and the goods had been bought by that person with a view to the sale thereof, exceed the aggregate of—
 - (i) the price which it was reasonable for him to pay for the goods when they were so bought by him, and
 - (ii) the profit which he might reasonably have been expected to make on a sale of the goods effected by him immediately before the requisition or acquisition;

and, in assessing such compensation in any other case, no account shall be taken of any profit which might be expected to be made on a sale of the goods:

Provided that if, at the time when any goods are requisitioned or acquired on behalf of His Majesty in the exercise of emergency powers, the price or maximum price at which such goods may be sold is fixed by law, this subsection shall not be taken to authorise the assessment, by way of compensation under the preceding subsection in respect of the requisition or acquisition, a sum exceeding that price or maximum price, as the case may be.

In the preceding provisions of this subsection the reference to a person who had produced the goods with a view to the sale thereof, and the reference to the producer of the goods, shall be construed as including a reference to his personal representative or any person carrying on business in succession to him by virtue of any assignment or transmission by operation of law.

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- (3) The compensation payable under this Act in respect of the requisition or acquisition of any goods shall include a sum equal to the amount of any expenses reasonably incurred, otherwise than on behalf of His Majesty, for the purpose of compliance with any directions given on behalf of His Majesty in connection with the requisition or acquisition.
- (4) Any compensation under subsection (1) of this section shall accrue due at the time of the requisition or acquisition of the goods, and shall, subject to the following provisions of this Act, be paid to the person who is then the owner of the goods.
- (5) Any compensation under subsection (3) of this section shall accrue due at the time when the expenses in respect of which the compensation is payable are incurred and shall be paid to the person by whom or on whose behalf those expenses were incurred.