



Requisitioned Land and War Works Act 1945

1945 CHAPTER 43

PART II

NEW TEMPORARY POWERS OF ACQUISITION OF LAND BY MINISTERS.

- 4 Land affected by government war work or damaged by government war use.**
- (1) Subject to the provisions of this Part of this Act, any of the Ministers specified in subsection (2) of this section may, in the circumstances specified in the two next succeeding sections, acquire under the Defence Acts any land on which government war work has been done or which has been damaged by government war use.
 - (2) The said Ministers are the Ministers who apart from this Part of this Act have power to acquire land under the Defence Acts, and the Minister of War Transport, the Postmaster General and the Minister of Works.
- 5 Works.**
- (1) Where there are government war works on the land, the power of acquisition shall be exercisable if those works were constructed wholly or partly at the expense of the Crown or some other person having no interest or a limited interest in the land and, in the opinion of the Minister, either—
 - (a) the value of the works ought, by the acquisition of the land, to be preserved either for the Crown or for the said other person, his legal personal representatives or his successor in the carrying on of a trade or business in connection with the carrying on of which he incurred the expense in question; or
 - (b) the right to use the works (whether then or thereafter) ought, by the acquisition of the land, to be preserved or secured either for the Crown or for some other person having no interest or a limited interest in the land, and the case is not

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one where the land can be acquired under the Defence Acts apart from this Part of this Act; or

- (c) the right to determine the use to which the works are put (whether then or thereafter) ought, by the acquisition of the land, to be secured for the Crown, and the case is not one where the land can be acquired under the Defence Acts apart from this Part of this Act.
- (2) In any such case as aforesaid the power of acquisition shall extend not merely to the site of the works but also to any contiguous or adjacent land which, in the opinion of the Minister, must be held with the site of the works if the works are to be properly utilized and maintained.

6 Depreciated land.

- (1) Whether there are government war works on the land or not, the power of acquisition shall be exercisable where the value of the land has been diminished by government war work done thereon or by damage caused by government war use thereof if, in the opinion of the Minister, it is desirable in the public interest that the land should be dealt with in a particular manner with a view to the total or partial rehabilitation thereof and the land is only likely to be dealt with in that manner if it is acquired by virtue of this Part of this Act.
- (2) In any such case as aforesaid, the power of acquisition shall extend not merely to the land the value of which has been diminished but also to any contiguous or adjacent land which, in the opinion of the Minister, must be held with the first-mentioned land if the first-mentioned land is to be properly dealt with.

7 Easements and other rights.

- (1) Where a Minister has acquired or has power to acquire any land by virtue of this Part of this Act or would have power so to acquire any land if he did not already own it, he—
- (a) may, under the Defence Acts, acquire any easement over or right restrictive of the user of any other land, being an easement or right which in his opinion is essential to the full enjoyment of the first-mentioned land; and
 - (b) may, if there are government war works anywhere on the first-mentioned land, by order discharge wholly or partly or modify any restriction as to the user of that land or as to building thereon arising by virtue of any contract if, in his opinion, the continued existence of the restriction, or, as the case may be, the continued existence thereof without modification, would prevent the retention of the works on the land or would prevent or impede the reasonable user of the works for public or private purposes.
- (2) Where—
- (a) there are government war works on any land constructed at the expense of the person who is the owner of that land and
 - (b) a Minister would have had power to acquire that land under paragraph (b) of subsection (1) of section five of this Act if that person had had no interest or only a limited interest in the land,

the Minister shall have the like power to acquire any easement over or right restrictive of the user of any other land, being an easement or right which in his opinion is essential to the full enjoyment of the first-mentioned land, as he would have had under this section if he had had power as aforesaid to acquire the first-mentioned land, and,

on the transfer by the Minister of the easement or right acquired to any person having an interest in that land, the like consequences shall ensue as would have ensued if it had been conveyed to him direct by the persons from whom it was acquired by the Minister.

- (3) Any person having an interest in any land entitled to the benefit of a restriction discharged or modified under paragraph (b) of Subsection (1) of this section shall, if the value of his interest is diminished by the discharge or modification of the restriction, be entitled to receive from the Minister compensation in respect of the diminution.
- (4) The Acquisition of Land (Assessment of Compensation) Act, 1919, as amended by any subsequent enactment, shall with any necessary modifications, apply in relation to compensation under subsection (3) of this section as it applies in relation to compensation for the acquisition of a right over land. '

8 Reference to Commission of proposals to acquire land or rights.

- (1) Subject to the provisions of this section, before proceeding to acquire compulsorily by virtue of this Part, of this Act any land or any easement over or right restrictive of the user of any land or to discharge or modify under this Part of this Act any restriction as to the user of any land or as to building thereon, the Minister shall publish, in the manner hereinafter specified, a notice of his proposals, specifying the grounds thereof and a time, not being less than three months from the date of the publication, within which written notice of objection to the carrying out of the proposals may be sent to the Minister.

The said notice shall be published as follows, that is to say, the Minister shall—

- (a) serve a copy thereof on any person to whom compensation under paragraph (a) of subsection (1) of section two or subsection (2) of section three of the Compensation (Defence) Act, 1939, is in course of payment in respect of the land and, where the land is registered land within the meaning of the Land Registration Act, 1925, on every person appearing from the register to be an owner or a lessee of the land; and
- (b) serve a copy thereof on the local planning authority within whose area the land is situated; and
- (c) cause to be published a copy thereof in such newspapers, if any, and in such other manner, if any, as appear to him to be appropriate,

and the Minister shall also cause to be deposited with the said local planning authority a map identifying the land, and the authority shall permit that map to be inspected at all reasonable hours without payment.

Any notice required to be served under this subsection may be served either—

- (i) by delivering it to the person on whom it is to be served; or
- (ii) by leaving it at the usual or last known place of abode of that person; or
- (iii) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode; or:
- (iv) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office or sending it in a prepaid registered letter addressed to the secretary or clerk of the company or body at that office; or

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- (v) if it is not practicable after reasonable inquiry to ascertain the address of the person on whom it should be served, by addressing it to him and delivering it to some person on the land, or, if there is no person on the land to whom it can be delivered, by displaying it in a prominent position on the land.
- (2) If within the time so specified the Minister receives any objection in writing to the proposals or any of them, being an objection either—
- (a) by a person who appears to him to have an interest in the land; or
 - (b) in a case where it appears to him that the proposals will or may affect amenities enjoyed by the public, by the local planning authority, by any local authority or by a society or body having as its object or one, of its objects the preservation of such amenities, being a society or body the character and membership of which is such that it is, in his opinion, proper that their views should be considered; or
 - (c) in a case where it appears to him that the proposals will or may affect the progress of scientific research, by a society or body having, as its object or one of its objects the furtherance of scientific research, being a society or body the character and membership of which is such that it is, in his opinion, proper that their views should be considered,

then, unless he decides not to proceed with the proposals, he shall, not later than two months from the time so specified, refer the whole matter of the proposals to the Commission for a report, and shall not proceed to carry out the proposals until the Commission have reported to him thereon.

- (3) Before reporting to the Minister, the Commission shall, in the course of their inquiries, afford to any person who made any such objection as is referred to in the last preceding subsection and has not been afforded an opportunity of appearing before and being heard by them, an opportunity of appearing before and being heard by a person appointed for the purpose by them, whether at a public local inquiry or otherwise.
- (4) Where objection to the proposals or any of them is made to the Commission on the ground that the proposals or any of them are not in accordance with national or local interests or requirements as to planning or amenities and the Commission, though not satisfied that the objection should be upheld, are of opinion that it is substantial, the Commission shall notify the Minister of Town and Country Planning accordingly and shall, before reporting to the Minister who made the proposals, consider any information or representations put before them by or on behalf of the Minister of Town and Country Planning.
- (5) Where the Board of Trade certifies—
- (a) that the land which is to be acquired or for the benefit of which the easement or right is to be acquired or which is subject to the restriction to be discharged, or modified, as the case may be, is or is part of industrial premises; and
 - (b) that those premises in substance owe their existing character, so far as the buildings and structures thereon are concerned, to government war work; and
 - (c) that in the interests of an orderly transition from war conditions to peace conditions it is expedient that the ability of the Crown to dispose of the premises, together with all necessary easements and other rights over and in relation to other land, should be established without delay,

and the Minister of Town and Country Planning certifies that the proposals are, in his opinion, consistent in all the circumstances with the proper use and development of land, the preceding provisions of this section shall have effect subject to the following

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modifications, That is to say, for the reference in subsection (1) thereof to a period of three months there shall be substituted a reference to a period of fourteen days, and subsection (4) thereof shall not apply:

Provided that this subsection shall not apply where the proposals are for the acquisition of land which includes the whole or any part of a. common, open space or fuel or field garden allotment or is the property of any local authority.

In this subsection the expression " industrial premises " includes industrial premises in an incomplete state, and the expression " buildings and structures " shall be construed accordingly.

- (6) On receiving the report of the Commission, the Minister who made the proposals shall forthwith send a copy thereof to any person from whom he received any such objection as is specified in subsection (2) of this section and publish it in such other manner as appears to him appropriate.

9 Powers of Minister on receipt of report of Commission.

- (1) Subject to the provisions of subsections (5) and (6) of this section, where proposals involving the acquisition of land are referred to the Commission and the Commission report that the land or any part of it ought not to be acquired, the Minister may, if—

- (a) the ground, or one of the grounds, of the proposed acquisition was that the right to use or determine the use of works ought to be preserved or secured by the acquisition of the land; and
- (b) the land consists either of the site of the works or of land contiguous or adjacent thereto which was occupied with the site of the works for the whole or any part of the period after the construction thereof and, in the opinion of the Minister, must be held therewith if the works are to be properly utilised and maintained,

nevertheless proceed with the acquisition on that ground if he thinks fit to do so, but, save as aforesaid, the Minister shall not proceed with the acquisition of any land which the Commission report ought, not to be acquired.

- (2) Subject to the provisions of subsections (5) and (6) of this section, where proposals involving the acquisition of any easement or right restrictive of the user of any land which, in the opinion of the Minister, is essential to the full enjoyment of other land are referred to the Commission, and the Commission report that the easement or right ought not to be acquired, the Minister, may—

- (a) if the last-mentioned land is land which the Minister proposes to acquire on the ground that the right to use or determine the use of works thereon ought to be preserved or secured, or on that and other grounds, or is land which the Minister would have power to acquire on -that ground but for the fact that he already owns it; or
- (b) if the easement or right is proposed to be acquired under subsection (2) of section seven of this Act,

nevertheless proceed with the acquisition of the easement or right on that ground, if he thinks fit to do so, but, save as aforesaid, the Minister shall not proceed with the acquisition of an easement or right which the Commission report ought not to be acquired.

- (3) Subject to the provisions of subsections (5) and (6) of this section, where proposals involving the discharge or modification of a restriction as to the user of land or as to

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building thereon are referred to the Commission and the Commission report that the restriction ought not to be discharged or modified, or ought not to be discharged or modified to the extent specified in the proposals, the Minister may, if in his opinion the discharge or modification of the restriction otherwise than in accordance with the report of the Commission, is necessary if government war works on the land are to be, or to be capable of being, put to the use to which in his opinion they ought to be, or to be capable of being, put, nevertheless proceed with the discharge or modification of the restriction if he thinks fit to do so, but, save as aforesaid, the Minister shall not proceed with the discharge or modification of any restriction except in accordance with the report of the Commission.

- (4) Where proposals involving the acquisition of land are referred to the Commission and the Commission' report that the land or any part of it ought not to be acquired but that, in lieu of the acquisition of that land or that part of the land, an easement over or right restrictive of the user of that land or that part of that land can properly be acquired, the Minister may, if he thinks fit, acquire that easement or right as if the acquisition thereof had formed part of the proposals referred to the Commission.
- (5) Where the Commission report either—
- (a) that land consists of a dwelling-house; or
 - (b) that land consists of the whole or part of a building occupied with, or garden or park of, a dwelling-house, and that it could not be severed from the dwelling-house without seriously affecting the amenity or convenience of the dwelling-house; or
 - (c) that land which would be adversely affected by the acquisition of an easement or other right or by the discharge or modification of a restriction is a dwelling-house or the whole or part of a building occupied with, or garden or park of, a dwelling-house, and that the acquisition of the easement or right, or, as the case may be, the discharge or modification of the restriction, would seriously affect the amenity or convenience of the dwelling-house,

and further report that the land ought not to be acquired or, as the case may be, the easement or other right ought not to be acquired or the restriction discharged or modified, the Minister shall not proceed with the acquisition of the land, easement or right, or, as the case may be, with the discharge or modification of the restriction:

Provided that this subsection shall not apply in relation to any dwelling-house the construction of which was government war work.

- (6) Before proceeding with any proposals otherwise than in accordance with the report of the Commission, the Minister shall lay before both Houses of Parliament a copy of the report and a statement of the reasons why he intends to proceed to carry out the proposals notwithstanding the report, and if either House of Parliament within the period of forty days beginning with the date on which a copy -of the report and the statement are laid before it resolves that the proposals shall not be proceeded with otherwise than in accordance with the report, the Minister shall not proceed with the proposals otherwise than in accordance with the report.

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.

10 Conditional recommendations by Commission.

- (1) Where land is proposed to be acquired on the ground that the value of works ought to be preserved, the Commission may, if they think fit, report that all or any part of the land ought not to be acquired if, within a time specified in the report, any person interested in the land pays to the Minister in respect of the value of the works a sum specified in the report or, if the report so provides, a sum determined by arbitration under terms of reference so specified:

Provided that the right of any person interested in the land to pay a sum determined by arbitration as aforesaid shall not be exercisable unless, within such time as may be specified in the report, he gives notice in writing to the Minister that he requires that amount to be determined by arbitration.

The arbitrator in any such arbitration shall be such one of the official arbitrators under the Acquisition of Land (Assessment of Compensation) Act, 1919, as may be selected by the Reference Committee under that Act on the written application either of the Minister or of the person who applied for the arbitration, and there shall be payable in respect of the application to the Reference Committee and in respect of any such hearing such fees as the Treasury may prescribe, but, subject as aforesaid, the Arbitration Acts, 1889 to 1934, shall apply to the arbitration.

- (2) Where land is proposed to be acquired on the ground that it is desirable in the public interest that the whole or some part thereof should be dealt with in a particular manner with a view to the total or partial rehabilitation thereof, the Commission may, if they think fit, report that the land ought not to be acquired if such person as may be specified in the report undertakes in writing to the Minister within a time so specified that he will take steps so specified within times so specified for the total or partial rehabilitation of the land or that part of the land, as the case may be:

Provided that the Commission shall not specify a person under this subsection as a person to give an undertaking unless they are satisfied that he has sufficient rights in the land and in any other relevant land to enable him to carry out his undertaking.

- (3) Where any such report as aforesaid is made and the condition specified in the report is satisfied, the report shall be treated for the purposes of the last preceding section as if it were a report that the land ought not to be acquired, but in any other case the report shall be treated as a report that the land can properly be acquired:

Provided that where such an undertaking as is mentioned in the last preceding subsection is given but is not carried out, the Minister may then proceed with the acquisition of the land.

11 Principles on which Commission are to act.

- (1) The Commission, in considering any proposals referred to them, shall have regard to all relevant considerations and shall recommend what in their opinion in view of the national and local interests and requirements (whether as to planning or amenities or otherwise) and the private interests affected is in all the circumstances reasonable.
- (2) In considering proposals for the acquisition of land on the ground that the value of works ought to be preserved, the Commission shall have particular regard to—
- (a) the cost of the works;
 - (b) the financial advantage, if any, which would accrue to any objector if the land were not acquired; and

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- (c) the degree of loss or hardship which any objector would sustain if the land were acquired.
- (3) In considering proposals for the acquisition of land on the ground that it is desirable in the public interest that the whole or some part thereof should be dealt with in a particular manner with a view to the total or partial rehabilitation thereof, the Commission shall have particular regard to—
- (a) the practicability or otherwise of restoring the land to the condition in which it was before the government war work thereon was done or, as the case may be, the damage caused by the government war use thereof was caused, and the cost of the restoration, if it is practicable;
 - (b) the desirability or otherwise of dealing with the land or, as the case may be, the part of the land, otherwise than by restoring it, and in particular any question which arises as to amenities enjoyed or to be enjoyed by members of the public; and
 - (c) the degree of loss or hardship which any- objector would sustain if the land were acquired.
- (4) In considering proposals involving the acquisition of a dwelling-house, or the whole or part of a building occupied with, or park or garden of, a dwelling-house, or any easement over or right restrictive of the user of a dwelling-house or a building occupied therewith or the garden or park thereof, or involving the discharge or modification of any restriction enuring for the benefit of land which includes a dwelling-house, the Commission shall consider the nature and extent of the interest which any objector has in the dwelling-house and (notwithstanding anything in the preceding provisions of this section) if they are of opinion that his interest in the dwelling-house is, in all the circumstances, to be considered as a substantial one, shall report that the carrying out of the proposals (so far as they relate to the said matters) ought not to be proceeded with unless, in their opinion, either—
- (a) the carrying out of the proposals (so far as they relate to the said matters) is necessary in order to preserve something which is of substantial value to the community; or
 - (b) in the case of the acquisition of the whole or a part of a building occupied with a dwelling-house or of a garden or park, or an easement over or right restrictive of the user of a dwelling-house, building occupied with a dwelling-house, garden or park, or of the discharge or modification of a restriction, the proposals can be carried out without seriously affecting the amenity or convenience of the dwelling-house:

Provided that this subsection shall not apply in relation to any dwelling-house the construction of which was government war work.

- (5) Where the proposals are for the acquisition of any land under section five of this Act and—
- (a) the land to be acquired consists of or includes the whole or any part of a common, open space or fuel or field garden allotment; and
 - (b) the Commission are of opinion that the works in question are not both substantial and permanent in their nature,

the Commission shall, notwithstanding anything in the preceding provisions of this section, report that the proposals, so far as they relate to land consisting of or forming part of the common, open space or fuel or field garden allotment, shall not be proceeded with.

12 Overriding provision as to purchase of certain commons and open spaces.

Where proposals for the acquisition of land under this Part of this Act include proposals for the acquisition of land which consists of or includes the whole or any part of a common or open space, the Minister shall not, in pursuance of those proposals, acquire, or serve notice to treat for the acquisition of, any part of that common or open space unless each House of Parliament resolves that the proposals, so far as they relate to that common or open space, ought to be proceeded with:

Provided that this section shall not apply where the Minister of Agriculture and Fisheries, in the case of a common, or the Minister of Town and Country Planning, in the case of an open space not being a common, certifies that other land, not being less in area and being equally advantageous to the public, is to be provided in lieu of the common or open space or part of a common or open space which is proposed to be acquired.

13 Agricultural land.

In considering whether the conditions necessary for the exercise of any powers exercisable by virtue of this Part of this Act are fulfilled, any work done on any land possession of which has been taken for agricultural purposes by the Minister of Agriculture and Fisheries or by the War Agricultural Executive Committee as defined by section thirty of the Agriculture (Miscellaneous War Provisions) Act, 1940, being work done in the course of the cultivation of that land or work done wholly or mainly for the improvement of that land for agricultural purposes, shall not be treated as government war work.

14 Duration of powers under Part II.

- (1) The powers conferred by this Part of this Act shall only be exercisable if the relevant agreement to buy, notice to treat or order has been made or served before the expiration of two years from the end of the war period, or if notice of proposals for the exercise of those powers has been published in accordance with the provisions of this Part of this Act before the expiration of two years from the end of the war period.
- (2) Without prejudice to the provisions of subsection (1) of this section, any right to acquire land by virtue of this Part of this Act which arises by reason of anything done on land while in the possession of a Minister or of a person who is occupying or using it under the authority of a Minister shall not be available when the land on which the thing was done is no longer in the possession of any Minister or any such person:

Provided that this subsection shall not apply where an undertaking given under this Part of this Act to take steps for the rehabilitation of land is not carried out.

- (3) Notwithstanding anything in the preceding provisions of this section, the power to discharge or modify any restriction as to the user of land or as to building thereon may, where the land is being acquired by virtue of this Part of this Act, be exercised at any time so long as notice of proposals in that behalf is published in accordance with the provisions of this Part of this Act, or the order is made, before the completion of the acquisition of the land.