



# Requisitioned Land and War Works Act 1945

1945 CHAPTER 43 8 and 9 Geo 6

## PART III

### HIGHWAYS

#### Modifications etc. (not altering text)

- C1** [Pt. III](#) applied with modifications (N.I.) by [Northern Ireland Act 1947 \(c. 37\)](#), s. 12, [Sch. 2](#)
- C2** Commission (War Works Commission) dissolved on 1st October 1964: [S.I. 1964/1578](#)
- C3** Ministry of War Transport dissolved on 1st April 1946 and functions of Minister under Pt. III now exercisable by Secretary of State; S.R. & O. 1946/395 (Rev. XV, p. 229: 1946 I, p. 1009), [S.I. 1953/1204](#) (1953 I, p. 1225), 1955/1955 (1955 I, p. 1205), 1959/1768 (1959 I, p. 1793) and 1970/1681

#### 15 Stopping up or diversion of highways.

- (1) Subject to the provisions of this Part of this Act and in particular to the provisions thereof relating to the publication of proposals and reference thereof to the Commission, where any highway has been stopped up or diverted in the exercise of emergency powers, the Minister of War Transport may, if he is satisfied that in the public interest it is necessary or expedient so to do, by order authorise the permanent stopping up or diversion of the highway.
- (2) An order under this section may provide for all or any of the following matters, that is to say,—
  - (a) for requiring, as a substitute for any highway stopped up under the order, the provision or improvement of another highway or other highways;
  - (b) for directing that any highway to be provided or improved, or any highway provided or improved before the making of the order, as a substitute for any highway stopped up under the order, shall be repairable by the inhabitants at large, and for specifying the authority which is to be the highway authority therefor;

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- (c) for directing that any highway to be provided or improved, or any highway provided or improved before the making of the order, as a substitute for a trunk road stopped up under the order shall itself be a trunk road for all or any of the purposes of the [<sup>F1</sup>Trunk Roads Act, 1936][<sup>F1</sup>provisions of the Roads (Scotland) Act 1984 relating to trunk roads];
  - (d) for the retention or removal of any cables, wires, mains or pipes placed along, across, over or under the stopped up or diverted highway, and for the extinction, modification or preservation of any rights as to the use or maintenance of those cables, wires, mains or pipes;
  - (e) if any highway other than the original highway is to be or has been provided or improved, or if the original highway is to be permanently diverted, for authorising or requiring the provision of cables, wires, mains or pipes laid along, across, over or under the said other highway, or, as the case may be, the highway as diverted, in lieu of any cables, wires, mains or pipes removed from the original highway, and for conferring rights as to the use or maintenance of cables, wires, mains or pipes so provided;
  - (f) for requiring, out of moneys provided by Parliament or by specified authorities or persons—
    - (i) the payment of, or the making of contributions in respect of, the cost of doing any work required to be done by the order or any increased expenditure to be incurred which is ascribable to the doing of any such work or to the provision or improvement, before the making of the order, of any highway as a substitute for any highway stopped up under the order; or
    - (ii) the repayment of, or the making of contributions in respect of, any compensation paid by the highway authority in respect of restrictions imposed under section one or section two of the <sup>M2</sup>Restriction of Ribbon Development Act, 1935, as respects any highway stopped up or diverted under the order.
- (3) An order under this section may contain such consequential, incidental and supplemental provisions as appear to the Minister to be necessary or expedient for the purposes of the order, including provisions authorising the compulsory acquisition of land.

#### Textual Amendments

- F1** Words provisions of the Roads (Scotland) Act 1984 relating to trunk roads substituted (S.) for Trunk Roads Act, 1936 by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), [Sch. 9 para. 33\(2\)](#)

#### Modifications etc. (not altering text)

- C4** [S. 15](#) applied by [Requisitioned Land and War Works Act 1948 \(c. 17\)](#), [s. 3\(1\)](#); amended by [Requisitioned Land and War Works Act 1948 \(c. 17\)](#), [Sch. para. 6\(1\)](#); extended by [Land Powers \(Defence\) Act 1958 \(c. 30\)](#), [s. 9\(1\)\(a\)\(3\)\(4\)](#), [Sch. 4](#)
- C5** [S. 15\(2\)\(a\)](#) amended by [Land Powers \(Defence\) Act 1958 \(c. 30\)](#), [s. 9\(2\)](#)

#### Marginal Citations

- M1** [1936 c. 5.](#)
- M2** [1935 c. 47.](#)

## 16 Retention of railway, tramway, etc., on highway where highway not stopped up or diverted.

- (1) Subject to the provisions of this Part of this Act, where, in the exercise of emergency powers or, for war purposes, by agreement or otherwise, any railway or tramway or any cable, wire, main or pipe has been placed along, across, over or under any highway, the Minister of War Transport may, if he is satisfied that in the public interest it is necessary or expedient so to do, by order authorise the railway, tramway, cable, wire, main or pipe to be used and maintained along, across, over or under the highway, unless and until other provision in that behalf is made by or under any Act (whether public general or local), subject, however to such conditions and limitations, if any, as may be specified in the order.
- (2) Any such order may contain such consequential, incidental and supplemental provisions as appear to the Minister to be necessary or expedient for the purposes of the order.

### Modifications etc. (not altering text)

- C6 Power to exclude s. 16(E.W.)(S.) given by [Requisitioned Land and War Works Act 1948 \(c. 17\)](#), s. 15(4)(c)
- C7 S. 16 extended by [Land Powers \(Defence\) Act 1958 \(c. 30\)](#), s. 9(1)(b)(4)

## 17 Publication of proposed orders and reference to Commission.

- (1) Before making any order under this Part of this Act, the Minister shall publish his proposals by causing notice thereof—
  - (a) to be advertised in two or more newspapers circulating in the locality in which the highways to which the proposals relate are or will be situated; and
  - (b) to be sent to every local authority in whose area any such highway as aforesaid is or will be situated and to any water, <sup>[F2]</sup>sewerage]gas or electricity undertakers having any cables, wires, mains or pipes laid along, across, over or under any such highway as aforesaid; and
  - <sup>[F3]</sup>(bb) to be sent to the National Rivers Authority where the National Rivers Authority has any mains or pipes laid along, across, over or under any such highways as aforesaid; and]
  - (c) to be displayed in a prominent position at the ends of so much of any highway as is proposed to be stopped up or diverted under the order; and
  - (d) <sup>[F4]</sup>in the case of an order authorising the compulsory acquisition of land, to be served on every person—
    - (i) who is an owner, lessee, tenant (whatever the tenancy period) or occupier of any of the land proposed to be compulsorily acquired;
    - (ii) to whom the Minister would, if proceeding under section 5(1) of the Compulsory Purchase Act 1965, be required to give a notice to treat; or
    - (iii) who the Minister thinks is likely to be entitled to make a claim for compensation under section 10 of that Act if the order is confirmed and the compulsory acquisition takes place, so far as he is known to the Minister after making diligent inquiry.]

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In this subsection the expression local authority includes a parish council and the parish meeting of a rural parish not having a separate parish council.

- (2) Any such notice shall specify the place where copies of a draft of the proposed order may be obtained, and shall state that the order will be made unless, within such period (not being less than three months from the date of the publication) as may be specified in the notice, written notice of objection to the order is given by any person to the Minister.
- (3) Any notice required to be served under paragraph (d) of subsection (1) of this section may be served either—
- (a) by delivering it to the person on whom it is to be served; or
  - (b) by leaving it at the usual or last known place of abode of that person; or
  - (c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode; or
  - (d) 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
  - (e) if it is not practicable after reasonable inquiry to ascertain the name or address of the person on whom it should be served, by addressing it to him by the description of owner or lessee<sup>F5</sup> or “tenant” or occupier of <sup>F6</sup>, or “person interested” in, the land (describing it) to which it relates and by 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.
- (4) . . . <sup>F7</sup>

#### Textual Amendments

- F2** Word sewerage inserted (E.W.) by [Water Act 1989](#) (c. 15, SIF 130), s. 190, **Sch. 25 para. 8(a)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\), 58](#))
- F3** S. 17(1)(bb) inserted (E.W.) by [Water Act 1989](#) (c. 15, SIF 130), s. 190, **Sch. 25 para. 8(b)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\), 58](#))
- F4** S. 17(1)(d) substituted (E.W.) (24.5.2007) by [Planning and Compulsory Purchase Act 2004](#) ([Corresponding Amendments](#)) Order 2007 (S.I. 2007/1519), art. 1(1), **Sch. para. 2(a)** (with art. 1(3))
- F5** Words in s. 17(3)(e) inserted (E.W.) (24.5.2007) by [Planning and Compulsory Purchase Act 2004](#) ([Corresponding Amendments](#)) Order 2007 (S.I. 2007/1519), art. 1(1), **Sch. para. 2(b)(i)** (with art. 1(3))
- F6** Words in s. 17(3)(e) inserted (E.W.) (24.5.2007) by [Planning and Compulsory Purchase Act 2004](#) ([Corresponding Amendments](#)) Order 2007 (S.I. 2007/1519), art. 1(1), **Sch. para. 2(b)(ii)** (with art. 1(3))
- F7** S. 17(4) repealed by [Statute Law \(Repeals\) Act 1989](#) (c. 43), s. 1(1), **Sch. 1 Pt. VII**

#### Modifications etc. (not altering text)

- C8** S. 17(1)(b) amended by [Gas Act 1986](#) (c. 44, SIF 44:2), s. 67(1)(3), **Sch. 7 para. 2(2)(a)**, [Sch. 8 para. 33](#)
- C9** S. 17(1)(b) amended by [Electricity Act 1989](#) (c. 29, SIF 44:1), s. 112(1)(3), **Sch. 16 para. 2(4)(b)(9)**, [Sch. 17 paras. 33, 35\(1\)](#) S. 17(1)(b) amended (E.W.S.) (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(2)(a)**; S.I. 1996/218, **art. 2**

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**C10** S. 17(3)(c)(d) amended by [Recorded Delivery Service Act 1962 \(c. 27\)](#), s. 1(1), [Sch.](#)

**18** ..... **F8**

#### Textual Amendments

**F8** S. 18 repealed by [Statute Law \(Repeals\) Act 1989 \(c. 43\)](#), s. 1(1), [Sch. 1 Pt. VII](#)

### **19 Validity and date of operation of orders under Part III.**

- (1) As soon as may be after making an order under this Part of this Act, the Minister shall publish in the manner specified in subsection (1) of section seventeen of this Act a notice that the order has been made and that copies thereof may be obtained from a place specified in the notice on payment of such sum (not exceeding one shilling) as may be so specified.
- (2) If any person aggrieved by any such order desires to question the validity thereof, or of any provision contained therein, on the ground that it is not within the powers of this Part of this Act or that any requirement of this Part of this Act has not been complied with in relation to the order, he may, within six weeks from the date on which the notice aforesaid is last published in a newspaper in accordance with subsection (1) of this section, make an application to the High Court, and on any such application the Court—
  - (a) may by an interim order suspend the operation of the order or any provision contained therein, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and
  - (b) if satisfied that the order or any provision contained therein is not within the powers of this Part of this Act or that the interests of the applicant have been substantially prejudiced by any requirement of this Part of this Act not having been complied with, may quash the order or any provision contained therein, either generally or in so far as it affects any property of the applicant.
- (3) Subject to the provisions of the last preceding subsection, an order under this Part of this Act shall not, either before or after it has been made, be questioned in any legal proceedings whatsoever and shall become operative on the date on which such notice is last published as aforesaid.

### **20 Duration of power to make orders.**

- (1) No order shall be made under this Part of this Act except in pursuance of proposals 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) No order authorising the permanent stopping up or diversion of a highway shall be made under this Part of this Act after the highway has ceased to be temporarily stopped up or diverted (whether under emergency powers or by virtue of the next succeeding section) and no order authorising the permanent use and maintenance along, across, over or under a highway of a railway, tramway, cable, wire, main or pipe shall be made under this Part of this Act after the railway, tramway, cable, wire, main or pipe, as the case may be, has been abandoned.

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**Changes to legislation:** There are currently no known outstanding effects for the Requisitioned Land and War Works Act 1945, Part III. (See end of Document for details)

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**Modifications etc. (not altering text)**

**C11** [S. 20\(1\)](#) excluded by [Land Powers \(Defence\) Act 1958 \(c. 30\), s. 9\(1\)](#)

**21** ..... <sup>F9</sup>

**Textual Amendments**

**F9** [S. 21](#) repealed by [Statute Law \(Repeals\) Act 1973 \(c. 39\), s. 1\(1\), Sch. 1 Pt. IX](#)

**22 Savings.**

(1) Nothing in this Part of this Act shall apply to any telegraphic line placed or maintained by virtue of any of the provisions of the Telegraph Acts, 1863 to 1943.

(2) . . . <sup>F10</sup>

**Textual Amendments**

**F10** [S. 22\(2\)](#) repealed by [Statute Law \(Repeals\) Act 1989 \(c. 43\), s. 1\(1\), Sch. 1 Pt. VII](#)

**Modifications etc. (not altering text)**

**C12** Style and title of Minister of Agriculture and Fisheries now changed to Minister of Agriculture, Fisheries and Food by [S.I. 1955/554](#) (1955 I, p. 1200)

**Changes to legislation:**

There are currently no known outstanding effects for the Requisitioned Land and War Works Act 1945, Part III .