



Requisitioned Land and War Works Act 1945

1945 CHAPTER 43

PART III

HIGHWAYS.

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;
 - (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 Trunk Roads Act, 1936;
 - (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 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.

16 Retention of railway, tramway, and c, 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.

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, gas or electricity undertakers having

any Cables, wires, mains or pipes laid along, across, over or under any such highway 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) in the case of an order authorising the compulsory acquisition of land, to be served on every owner, lessee or occupier (except tenants for a month or a less period than a month) of any of the land proposed to be compulsorily acquired.

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 " or " occupier " of 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) If within the time limited by a notice under this section the Minister receives any written objection to the draft order, he shall, unless he decides not to proceed with his proposals, refer the draft order to the Commission for a report, and shall take no further proceedings thereon until the Commission have reported to him.

18 Proceedings after reference to Commission.

- (1) Where a draft order is referred as aforesaid to the Commission for a report, the Commission—
 - (a) shall afford to any person who made any such objection as is referred to in the last preceding section, 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; and
 - (b) may report that the order can be properly made either as proposed or subject to such modifications as may be specified in the report, or that no order ought to be made.

(2) Subject to the provisions of this section, where the Commission report that the order can properly be made subject to modifications or that no order ought to be made, the Minister may, if the making of the order without, or with some only of, the modifications, or, as the case may be, the making of the order, is in his opinion necessary—

- (a) for any purpose for which, apart from the provisions of Part II of this Act, any Minister has power to acquire land under the Defence Acts, or for the proper enjoyment of land which any Minister would have power to acquire under the Defence Acts apart from the provisions of Part II of this Act; or
- (b) for the proper utilization of government war works on any land, being works the right to use or determine the use of which (whether then or thereafter) ought, in the opinion of the Minister of War Transport, to be preserved or secured for the Crown or for some other person,

proceed to make the order with such of the modifications as he thinks fit to adopt or in the form of the draft referred to the Commission.

(3) The provisions of the last preceding subsection shall not apply to any modification of the draft order relating to the payment of money and if the Minister decides to make an order notwithstanding that the report recommends that no order ought to be made or to make an order without, or with some only of, the modifications recommended by the report as to matters other than the payment of money, he shall refer back to the Commission the question whether any money should or should not be paid, and shall either defer the making of any order until he receives the report or make his order as to other matters before he receives the report and, if the Commission report that money ought to be paid, make a supplemental order providing for the payment of money in accordance with the report.

(4) Save as aforesaid, the Minister shall not make any order otherwise than in accordance with the report of the Commission.

(5) Before proceeding to make an order 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 make the order 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.

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.

21 Temporary continuance of stopping up, and &c.

- (1) Any order made under any Defence Regulation for the stopping up or diversion of a highway shall, unless previously revoked by the Minister who made the order, or, if the order was made by the Minister of Transport, by the Minister of War Transport, continue in force by virtue of this section until the expiration of two years from the end of the war period notwithstanding the expiration or revocation of the Defence Regulation in question and notwithstanding that the stopping up or diversion of the highway is no longer required for war purposes:

Provided that where, before the expiration of the said two years, proposals for the permanent stopping up or diversion of the highway have been published in accordance with the provisions of this Part of this Act, the period for which the order is to continue in force, unless previously revoked as aforesaid by virtue of this section shall be extended—

- (a) until an order made under this Part of this Act in pursuance of the proposals becomes operative; or
- (b) where the proposals are abandoned (whether by reason of an adverse report of the Commission or otherwise) until six months after the abandonment.

- (2) A railway, tramway, cable, wire, main or pipe placed along, across, over or under a highway in the exercise of emergency powers or for war purposes may (notwithstanding that the use and maintenance thereof is no longer required for war purposes) continue to be used and maintained along, across, over or under the highway by virtue of this section until the expiration of two years from the end of the war period or such earlier date as may be specified by any Minister who authorised the placing thereof or, if that Minister was the Minister of Transport, by the Minister of War Transport:

Provided that where, before the expiration of the said two years, proposals for the permanent use and maintenance of the railway, tramway, cable, wire, main or pipe have been published in accordance with the provisions of this Part of this Act, the period for which the railway, tramway, cable, wire, main or pipe may be used and maintained by virtue of this section shall be extended—

- (a) until an order made under this Part of this Act in , pursuance of the proposals becomes operative; or
- (b) where the proposals are abandoned (whether by reason of an adverse report of the Commission or otherwise), until six months after the abandonment.

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) The references in this Part of this Act to the stopping up or diversion of a highway in the exercise of emergency powers or by an order under any Defence Regulation shall be deemed not to include references to the stopping up of a highway in pursuance of an authority in writing for the stopping up and ploughing thereof given under paragraph (5A) of Regulation sixty-two of the Defence (General) Regulations, 1939, by the Minister of Agriculture and Fisheries.