



# Requisitioned Land and War Works Act 1945

## 1945 CHAPTER 43

### PART X

#### MISCELLANEOUS AND GENERAL.

#### 51 Saving for agreements.

- (1) Where, whether before or after the commencement of this Act and—
  - (a) after the construction of any government war works on any land or with a view to the construction of any government war works on any land, a lease of that land has been granted to a Minister; or
  - (b) in connection with the construction of any government war works on any land, an agreement in writing has, whether during, before or after the time of the construction thereof, been made by or on behalf of any Minister providing for the grant to the Minister of the freehold of, or a leasehold interest in, that land, no Minister shall, by reason only of the construction of the works, be entitled, as against, or as against any successor in title to, the lessor or person who is to be the grantor, as the case may be, to acquire that land or any interest in or rights over that land compulsorily under Part II of this Act.
- (2) Where, whether before or after the commencement of this Act and in connection with the construction of any government war works on any land, an agreement in writing has, whether during, before or after the time of the construction thereof, been made by or on behalf of any Minister with any person then having an interest in that land, which contains either—
  - (a) a specific provision that, on payment of a sum or fulfilment of any other condition by that person, the works should belong to that person permanently; or
  - (b) a provision specifically requiring the removal of the works or the restoration of the land,

no Minister, local authority or combination of local authorities shall, by reason only of the construction of the works, be entitled as against that person, or as against any successor in title of his to any interest in that land to which he was entitled when the agreement was made, to acquire the land or any interest in or rights over that land compulsorily under Part II or Part V of this Act, if the acquisition thereof would defeat that provision of that agreement.

- (3) Where, whether before or after the commencement of this Act and in connection with the construction of any government war works on any land, an undertaking in writing that the works shall be removed or the land restored has, whether during, before or after the time of the construction thereof, been given by or on behalf of any Minister to any society or body concerned with the preservation of amenities enjoyed by the public or to any local authority, no Minister, local authority or combination of local authorities shall, by reason only of the construction of the works, be entitled to acquire the land or any interest in or rights over that land under Part II or Part V of this Act without the consent of that society or body or authority.
- (4) In determining whether a Minister has power under Part II of this Act to acquire an easement over or right restrictive of the use of any land other than the land referred to in the preceding provisions of this section, the provisions of this section shall be left out of account.

## **52 Power of Ministers to defray cost of rehabilitation of land in certain circumstances.**

- (1) Where land has been damaged by government war work done thereon or by government war use thereof and either—
  - (a) a person has, in connection with proposals for the acquisition of the land by virtue of Part II of this Act, given an undertaking in pursuance of a report of the Commission to deal with the land in a particular manner with a view to the total or partial rehabilitation thereof; or
  - (b) in the opinion of a Minister it is expedient 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,

the Minister may undertake, either absolutely or subject to such conditions as he may specify, to make good to any person interested in the land the whole or any part of any expenses incurred by that person in dealing with the land in that manner, in so far, in a case to which section two of the Compensation, (Defence) Act, 1939, applies, as those expenses exceed any sum paid or payable under paragraph (b) of subsection (1) of that section in respect of the damage.

- (2) For the purposes of section three of the Compensation (Defence) Act, 1939, any work the expenses of which are made good under this section shall be deemed to have been done by a person acting on behalf of His Majesty.

## **53 Provision of land in lieu of land acquired under Defence Acts.**

- (1) Where a Minister proposes to acquire any land under the Defence Acts, he may acquire under those Acts by agreement any land with a view to the exchange thereof for all or any of the first-mentioned land:

Provided that, where the first-mentioned land consists of or includes the whole or any part of any common to which the public have rights of access or of any open space, the

power conferred by this subsection shall be extended so as to authorise the purchase of land with a view to its being substituted for the first-mentioned land otherwise than by way of exchange.

- (2) Where a Minister provides land in substitution for land acquired by him under the Defence Acts which is or forms part of a common, open space or fuel or field garden allotment, he may by order provide for vesting the first-mentioned land in the persons in whom the second-mentioned land was vested, subject to the same rights, trusts and incidents as attached to the second-mentioned land:

Provided that where the land is provided otherwise than by way of exchange, the persons in whom the land is to be vested shall be such as may be specified in the order and the rights, trusts and incidents to which the land is to be subject shall be such as may be so specified, being rights, trusts and incidents which in the opinion of the Minister are as nearly as may be the same, so far as regards the rights of the public, as those which attached to the land acquired.

- (3) Any reference in this Act to the power to acquire land by virtue of Part II thereof shall be deemed to include a reference to any power to acquire land by virtue of this section.

#### **54 Consequences of undertakings to pay money under Part II.**

Where a payment in respect of the value of works has been made to a Minister under Part II of this Act in pursuance of a report of the Commission and possession of the land in question is nevertheless retained under emergency powers after the date of the payment, section two of the Compensation (Defence) Act, 1939 (which relates to compensation for the requisition of land), and section seventeen of the War Damage Act, 1943 (which provides that value payments in the case, of requisitioned land are to be computed by reference to the state of the land before the requisition), shall, notwithstanding anything in the provisions of this Act, have effect as if a new period of requisition had begun on the date of the payment.

#### **55 Amendment of procedure where land is purchased by a drainage board.**

Where a drainage board proposes to purchase under the Land Drainage Act, 1930, land which is in their possession by virtue of an exercise of emergency powers or is, by virtue of an exercise of emergency powers, being used by them for the purposes of that Act, the Minister of Agriculture and Fisheries, if he thinks fit, may—

- (a) direct that paragraph 4 of the Fourth Schedule to that Act (which relates to the publication and service of notices of orders authorising the compulsory acquisition of land) either shall not apply or shall apply subject to such modifications as may be specified in the direction;
- (b) confirm the order authorising the acquisition of the land without causing a public inquiry to be held, notwithstanding that the case is not one where the objectors agree that the questions raised relate exclusively to matters which could be dealt with by the arbitrator to whom questions of disputed compensation are to be referred under the order.

#### **56 Provisions as to Board of Trade.**

Anything authorised by this Act to be done by the Board of Trade may be done by 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.

**57 Expenses.**

- (1) There shall be defrayed out of moneys provided by the Parliament of the United Kingdom—
- (a) any expenses incurred under or by virtue of this Act by any Minister (except so far as they are payable out of the Road Fund under any other Act);
  - (b) any compensation payable under or by virtue of this Act by any Minister;
  - (c) any increase attributable to this Act in any compensation payable by the Crown under any other Act; and
  - (d) any such increase in the sums payable into the Road Fund out of moneys provided by Parliament as is attributable to the passing of this Act.
- (2) Any sum paid under this Act to any Minister shall be paid into the Exchequer of the United Kingdom.

**58 Evidence.**

- (1) For the purposes of this Act, a certificate by any Minister as to what government war work has been done on any land, as to what government war use has been made of any land, as to what damage has occurred on any land owing to government war use thereof, as to the periods for which any land was in his possession or in that of any other Minister or in the possession of any person occupying or using it under his authority or that of any other Minister, and as to whether any specified works were constructed on, over or below the surface of any land wholly or partly at the expense of the Crown or by arrangement with any Minister, shall be evidence of the facts therein stated.
- (2) Every document purporting to be a certificate authorised or required by this Act and to be signed by or on behalf of a Minister or other person shall be received in evidence and shall, until the contrary is proved, be deemed to be such a certificate of that Minister or person, and in any legal proceedings (including arbitrations) the production of a document purporting to be certified by or on behalf of the Minister or person having power to give any such certificate as aforesaid to be a true copy of such a certificate shall, unless the contrary is proved, be sufficient evidence of the certificate.

**59 Interpretation, and &c.**

- (1) In this Act, except in so far as the contrary is expressly provided or the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

" common " includes any land subject to be enclosed under the Inclosure Acts, 1845 to 1882, and any town or village green;

" the Defence Acts " means any of the provisions of the Defence Acts, 1842 to 1935, as amended, extended or applied by or under any enactment, including this Act, and includes the provisions of section seven of the Lands Clauses Consolidation Acts Amendment Act, 1860, and of section seven of the Militia (Lands and Buildings) Act, 1873, and, in the case of the Admiralty, the provisions of sections nine to nineteen of the Admiralty Lands and Works Act, 1864;

" Defence Regulation " means a Regulation made under the Emergency Powers (Defence) Act, 1939, or the Emergency Powers (Defence) Acts, 1939 and 1940;

" drainage board " means a drainage board constituted, or to be treated as having been constituted, under the Land Drainage Act, 1930;

" dwelling-house " means any such permanent building or part of a permanent building as is used as a dwelling, not being the whole or any part of a hotel or boarding-house or the whole or any part of any premises in respect of which a justices' licence for the sale of any intoxicating liquor has been granted in accordance with the Licensing (Consolidation) Act, 1910, and is in force or is, by virtue of section ten of the Finance Act, 1942, in suspense by reason of war circumstances;

" emergency powers " means emergency powers for the purposes of the Compensation (Defence) Act, 1939, exercised during the war period or, in the case of powers conferred by this Act, during any period during which those powers are exercisable;

" fuel or field garden allotment " means any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act;

" government war use " means, in relation to land, any use to which that land is put during the war period by or by arrangement with a Minister, or under emergency powers;

" government war work " means work done during the war period for war purposes by or by arrangement with a Minister or under emergency powers;

" government war works " means works constructed in the course of government war work;

" local authority " means the council of a county, county borough, metropolitan borough or county district, or the Common Council of the City of London;

" local planning authority " means in relation to any land with respect to, which a planning scheme is in force, the responsible authority under the scheme, and, in relation to other land, the interim development authority within the meaning of the Town and Country Planning (Interim Development) Act, 1943;

" Minister " means a Minister of the Crown and includes the Admiralty, the Commissioners of Works, the Board of Trade and the Board of Education, but does not include a Minister of Northern Ireland;

" open space " means any land laid out as a public garden or used for the purposes of public recreation, or land being a disused burial ground;

" telegraphic line " has the same meaning as in the Telegraph Act, 1878;

" war period " means the period during which the Emergency Powers (Defence) Act, 1939, is in force;

" war purposes " means any purposes connected with any war in which His Majesty is engaged during the war period, whether or not at the relevant time that war had begun;

" works " includes buildings, structures and improvements (and, in particular, underground works and telegraphic lines), and references to the construction of works shall be construed accordingly.

- (2) For the purposes of this Act, the doing of work on land means the doing of any work on, over or below the surface of the land, and, in particular, includes the making of any erection or excavation, the placing of any thing, and the maintenance, removal, demolition, pulling down, destruction or rendering useless of any thing on, over or below that surface.

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*Status: This is the original version (as it was originally enacted).*

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- (3) Any reference in this Act to an easement includes a reference to a right to support for any land or for any buildings or works and a right to withdraw support from any land or from any buildings or works, and any such right obtained under the Defence Acts shall be deemed for all purposes to be an easement.
- (4) Where a Minister has acquired or has power to acquire any land under the Defence Acts or would have power so to acquire any land if he did not already own it, and that land contains part of a continuous main or pipe or the whole or part of works used in connection therewith, any rights necessary for or incidental to the maintenance or use of any part of the main or pipe which is in, over or under land not owned or acquired by the Minister may, subject to and in accordance with the provisions of this Act relating to the acquisition of easements, be acquired by him as, and, if so acquired by him, shall be deemed for all purposes to be, easements for the benefit of such of the first-mentioned land as he owns or acquires:

Provided that in relation to the acquisition of any such rights, the reference in paragraph (a) of subsection (1) of section seven of this Act to easements which are in the opinion of the Minister essential to the full enjoyment of the land therein mentioned shall be construed as a reference to easements which in the opinion of the Minister are essential to the full enjoyment of the main or pipe.

- (5) A covenant to limit the growth of trees or other vegetation on any land shall be deemed for the purposes of this Act to confer a right restrictive of the user of that land, and any reference in this Act to a right restrictive of the user of land shall be construed accordingly, and any such covenant as aforesaid obtained under the Defence Acts shall be deemed for all purposes to be a restrictive covenant.
- (6) Any reference in this Act to a value payment falling to be made under the War Damage Act, 1943, in respect of any damage does not include a reference to a case where such a payment would fall to be made but for the fact that the value of the hereditament in the state in which it was immediately after the occurrence of the damage is no less than its value in the state in which it was immediately before the occurrence of the damage, or, in a case where section seventeen of the War Damage Act, 1943, applies, in the state in which it was immediately before the beginning of the period of requisition.
- (7) Words, in this Act importing a reference to service of a notice to treat shall be construed as including a reference to the constructive service of such a notice which by virtue of the Sixth Schedule to the Town and Country Planning Act, 1944, or any other enactment, is deemed to be so served.
- (8) The powers conferred by this Act shall be in addition to, and not in derogation of, any powers exercisable by virtue of any other Act or at common law.

## **60 Application to Scotland.**

- (1) This Act shall apply to Scotland subject to the modifications set out in this section.
- (2) For any reference to the Minister of Health, to the Minister of Agriculture and Fisheries, to the Minister of Town and Country Planning, or to the Minister of Education there shall be substituted a reference to the Secretary of State; and for any reference to the High Court there shall be substituted a reference to the Court of Session.
- (3) For any reference to the War Agricultural Executive Committee as defined by section thirty of the Agriculture (Miscellaneous War Provisions) Act, 1940, there shall be

substituted a reference to the Agricultural Executive Committee referred to in section thirty-one of that Act; for any reference to the Town and Country Planning (Interim Development) Act, 1943 there shall be substituted a reference to the Town and Country Planning (Interim Development) (Scotland) Act, 1943; for any reference to the London Gazette there shall be substituted a reference to the Edinburgh Gazette; for any reference to a local education authority there shall be substituted a reference to an education authority; for any reference to a parish council there shall be substituted a reference to a district council; for any reference to a justices' licence for the sale of intoxicating liquor there shall be substituted a reference to a certificate as defined in Part VII of the Licensing (Scotland) Act, 1903, for the sale of excisable liquor; and for any reference to the Licensing (Consolidation) Act, 1910, there shall be substituted a reference to the Licensing (Scotland) Acts, 1903 to 1934.

- (4) For references to the freehold of or to a leasehold interest in land there "shall be respectively substituted references to the dominium utile or, in the case of land other than feudal land, the ownership of land, and to a lease of land; references to land subject to be enclosed under the Inclosure Acts, 1845 to 1882, and to fuel or field garden allotments shall be omitted; any reference to an interest reversionary on a lease or tenancy shall be construed as a reference to the interest of the landlord in land subject to a lease; any reference to land includes a reference to salmon fishings; " arbitrator " means " arbiter "; and " easement " includes servitude and any right to lay down, continue or maintain any pipe, sewer, drain, wire or cable on, under or over any land.
- (5) In section two, subsection (4) shall have effect as if subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933, applied to Scotland, subject, however, to the following modifications:—
  - (a) for any reference to a summons there shall be substituted a reference to an order;
  - (b) the word " summarily " in subsection (4) shall be omitted; and
  - (c) for the words in subsection (5) from " made a rule " to the end of the subsection, there shall be substituted the words " enforced as if it were a recorded decree arbitral ".
- (6) An order under section seven discharging or modifying a restriction as to the user of land or as to building thereon shall be recorded in the appropriate register of sasines.
- (7) In section eight, paragraph (a) of subsection (1) shall have effect as if—
  - (i) the words " where the land is registered land within the meaning of the Land Registration Act, 1925, " were omitted; and
  - (ii) for the word " register " there were substituted the words " valuation roll. "
- (8) In section ten, subsection (1) shall have effect as if the reference to the Arbitration Acts, 1889 to 1934, were omitted.
- (9) In section fifteen, subsection (2) shall have effect as if for paragraph (b) there were substituted the following paragraph—
  - “(b) for directing that any highway to be provided or improved, or any highway provided or improved before the making of the order, 3.s a, substitute for any highway stopped up under the order, shall be maintained and managed by a county or town council and for specifying which council, shall be responsible for such maintenance and management”.

(10) For section twenty-seven the following section shall be substituted:—

“(1) The following provisions of the Town and Country Planning (Scotland) Act, 1932, that is to say, Part III of the First Schedule, Part I of the Third Schedule (except paragraph 2 and sub-paragraph (iii) of paragraph 3) and paragraph 4 (except head (b) of sub-paragraph (i) ) of Part II of that Schedule shall apply in relation to a purchase of land authorised under this Part of this Act subject to the following modifications:—

(a) for references to the Department' of Health for Scotland and to the responsible authority there shall be substituted respectively references to the appropriate Minister and to a local authority or combination of local authorities, and anything which has to be prescribed shall be prescribed by the appropriate Minister;

(b) where work has been done on the land by the acquiring authority or combination of authorities, the appropriate Minister may, if he thinks fit—

(i) direct that paragraph 4 of Part I of the said Third Schedule (which relates to the publication and service of notices) either shall not apply or shall apply subject to such modifications as may be specified in the direction;

(ii) confirm the order without causing a local inquiry to be held notwithstanding that objections (being objections not relating to matters which can be dealt with by the tribunal by whom the compensation is to be assessed) have been duly made and have not been withdrawn; and

(c) where any local inquiry requires to be held, the provisions of subsection (4) of section two of this Act as that subsection applies to Scotland shall apply to the inquiry in lieu of the provisions of the said Act of 1932, with the substitution of a reference to the appropriate Minister for the reference to the Commission.

(2) Nothing in the last preceding subsection shall authorise the compulsory acquisition of any land which is the site of an ancient monument or other object of archaeological interest, or which belongs to any local authority or to any public undertakers within the meaning of the Housing (Scotland) Act, 1935; and where any land proposed to be acquired by means of a compulsory purchase order made in pursuance of that section is situate within such distance as may be prescribed by the Secretary of State from any of the royal palaces or parks, the acquiring authority or combination of authorities shall, before submitting the order to the appropriate "Minister for confirmation, send a copy of it to the Minister of Works”.

(11) For section thirty-seven the following section shall be substituted:—

“(1) If, in the opinion of the Minister, he will be unable, or unable without undue delay, to acquire any servitude or right by agreement, he may, at any time after fourteen days from the service of the notice to treat, execute and record in the appropriate register-of sasines a deed conferring on himself, and, except so far as otherwise expressed, his successors in title, the servitude or right in question.



- (2) A deed so executed and recorded shall be enforceable against any persons having any interest in the land affected by the servitude or right, and against any persons deriving title from them.
  - (3) A statement in a deed executed under this section that the requirements of subsection (3) of the last preceding section have been complied with shall be conclusive evidence that those requirements have been complied with.
  - (4) Where the Minister executes a deed under this section, he shall give notice of the effect thereof in such manner as is, in his opinion, best adapted for informing persons affected”.
- (12) In subsection (1) of section fifty-nine, for the definition of local authority there shall be substituted the following definition—  
“ local authority ' means a county or town council”;  
and in subsection (5) of that section the words from " and any such covenant " to the end of the subsection shall be omitted.
- (13) A Ideal authority shall have power to borrow for the purpose of acquiring land under Part V of this Act, and the provisions of section twenty-three of the Local Government (Scotland) Act, 1929, shall apply to the power hereby
- Any sums so borrowed shall be repaid within such period as the Secretary of State may fix:

## **61 Application to Northern Ireland.**

- (1) This Act shall apply to Northern Ireland subject to the modifications set out in this section.
- (2) Parts III and V shall not apply.
- (3) In section two, for subsection (4) the following subsection shall be substituted:—
  - “(4) The provisions of sections two hundred and nine, two hundred and ten, two hundred and twelve and two hundred and thirteen of the Public Health (Ireland) Act, 1878; shall apply to any such local inquiry as they apply to a local inquiry held under the said section two hundred and nine, but as if for references to the Ministry of Health and Local Government for Northern Ireland there were substituted references to the Commission.

The costs in relation to such inquiry, including the " salary of any officer engaged in such inquiry, not exceeding five guineas a day, shall be paid by the parties concerned in such inquiry, or by such of them and in such proportions as the Commission may direct, and the Commission may certify the amount of the costs incurred, and any sum so certified and directed by the Commission to be paid by any such party shall be a debt to the Crown from such party”.
- (4) For any reference to registered land within the meaning of the Land Registration Act, 1925, there shall be substituted a reference to registered land to which the Local Registration of Title (Ireland) Act, 1891, applies, and for any reference to the Acquisition of Land (Assessment of Compensation) Act, 1919, there shall be substituted a reference to that Act as amended by any Act of the Parliament of Northern Ireland.

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*Status: This is the original version (as it was originally enacted).*

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- (5) In subsection (1) of section ten, for the reference to the Reference Committee there shall be substituted a reference to the Reference Committee for Northern Ireland, and for the reference to the Arbitration Acts, 1889 to 1934, there shall be substituted a reference to the Arbitration Act (Northern Ireland), 1937.
- (6) In subsection (3) of section thirty-six, for the reference to the London Gazette there shall be substituted a reference to the Belfast Gazette.
- (7) For section thirty-seven the following section shall be substituted—
- “(1) If, in the opinion of the Minister, he will be unable, or unable without undue delay, to acquire any such easement or right as aforesaid by agreement, he may, at any time after two months from the service of the notice to treat, execute a deed poll conferring on himself, and, except so far as otherwise expressed, his successors in title, the easement or right in question.
- (2) A deed poll so executed shall have the like effect as a deed of grant or covenant entered into with the Minister by all necessary parties.
- (3) Where any of the land adversely affected by the easement or right, is registered land to which the Local Registration of Title (Ireland) Act, 1891, applies, the easement or right may, notwithstanding anything in the said Act or rules made thereunder, be registered as a burden affecting the land and created after the first registration thereof, and may be so registered without the concurrence of the registered owner of the land or the production of the land certificate, without prejudice, however, to the power of the registering authority to order the production of the land certificate under subsection (2) of section eighty-one of the said Act.
- (4) A statement in a deed poll executed under this section that the requirements of subsection (3) of the last preceding section have been complied with shall, except for the purposes of proceedings commenced not later than two years after the execution thereof, be conclusive evidence that those requirements have been complied with.
- (5) Where the Minister executes a deed poll under this section, he shall give notice of the effect thereof in such manner as is, in his opinion, best adapted for informing persons affected”.
- (8) For any reference to the Minister of Agriculture and Fisheries or to the Minister of Town and Country Planning there shall be substituted a reference to the Secretary of State.
- (9) For any reference to a justices' licence for the sale of intoxicating liquor granted in accordance with the Licensing (Consolidation) Act, 1910, there shall be substituted a reference to a licence for the sale of intoxicating liquor taken out under Part II of the Finance (1909-1910) Act, 1910, and for any reference to section ten of the Finance Act, 1942, there shall be substituted a reference to section three of the Finance Act (Northern Ireland), 1936, as extended by section two of the Finance Act (Northern Ireland), 1942.
- (10) References to land subject to be enclosed under the Inclosure Acts, 1845 to 1882, to fuel or field garden allotments and to drainage boards shall be omitted.

- (11) For any reference to the Town and Country Planning (Interim Development) Act, 1943, there shall be substituted a reference to the Planning (Interim Development) Act (Northern Ireland), 1944.

**62 Short title.**

This Act may be cited as the Requisitioned Land and War Works Act, 1945.