CHAPTER 35.

An Act to make provision for the reconstitution of the Forestry Commission and as to the exercise of the functions of the Forestry Commissioners, the acquisition of land for forestry purposes and the management, use and disposal of land so acquired; and in connection with the matters aforesaid to amend the Forestry Acts, 1919 to 1927, and certain other enactments relating to the Forestry Commissioners. [15th June 1945.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Reconstitution of Forestry Commission.

1.—(1) The Forestry Commission shall consist of a chairman and not more than nine other Commissioners appointed by His Majesty by warrant under the sign manual, and every Commissioner shall hold and vacate office in accordance with the terms of the instrument under which he is appointed, and a Commissioner who vacates office shall be eligible for reappointment.

(2) At least three of the said Commissioners (hereafter in this Act referred to as "the Commissioners") shall be persons who have special knowledge and experience of forestry and at least one of the Commissioners shall be a person who has scientific attainments and a technical knowledge of forestry.

(3) A person shall be disqualified for being appointed or being a Commissioner so long as he is a member of the Commons House of Parliament.

(4) The foregoing provisions of this section shall not affect any Commissioner holding office at the date of the passing of this Act, not being a person disqualified by the last foregoing subsection, and any such Commissioner shall continue to hold office for the remainder of the term for which he was appointed.

(5) There shall be paid to such of the Commissioners as may be determined by the Ministers with the approval of the Treasury such salaries or other emoluments as may be so determined.

(6) The Commissioners may, subject to such limit as to number as the Treasury may determine, appoint and employ such officers and servants for the purposes of the Forestry Acts, 1919 to 1945, as the Commissioners think necessary, and the Commissioners may remove any officer or servant so appointed or employed, and there shall be paid to such officers

and servants such salaries or remuneration as the Ministers may, with the approval of the Treasury, determine.

Exercise of functions of Commissioners to be subject to direction of Ministers.

2. The Commissioners shall, in exercising their functions under the Forestry Acts, 1919 to 1945, comply with such directions as may be given to them by the Ministers:

Provided that this section shall not affect any functions exercisable by virtue of any Regulation in force under the Emergency Powers (Defence) Acts, 1939 and 1940, by the Minister of Supply instead of by the Commissioners, so long as those functions remain so exercisable.

Appointment of committees for England, Scotland and Wales and delegation of functions thereto.

3.—(1) The Commissioners shall by order appoint committees for England, Scotland and Wales, respectively, which shall consist partly of members who are Commissioners or officers of the Commissioners and partly of members, not exceeding three in number, who are not Commissioners or such officers, and the Commissioners may delegate, subject to such restrictions or conditions as they think fit, any of their functions to a committee so appointed.

(2) An order under this section appointing a committee shall make provision as to the constitution (including the terms of office of the members), quorum and procedure of that committee, and there shall be paid to the members of any such committee who are not Commissioners or officers of the Commissioners such travelling and other allowances as the Ministers may, with the approval of the Treasury, determine, and all such allowances shall be defrayed out of the Forestry Fund.

9 & 10 Geo. 5 c. 58.

(3) Section five of the Forestry Act, 1919 (which provides for the delegation of functions by the Commissioners to assistant commissioners appointed for England and Wales and for Scotland respectively), and section six of the said Act (which provides for the establishment of consultative committees for England, Scotland and Wales respectively) shall cease to have effect.

Transfer to Minister of Commissioners' power to acquire land.

4.—(1) The provisions of the Forestry Act, 1919, relating to the acquisition of land for forestry purposes shall cease to have effect, and the following provisions of this section shall have effect in lieu thereof.

(2) The appropriate Minister may by agreement acquire, whether by way of purchase, lease or exchange, or may purchase compulsorily, any land which in his opinion is suitable for afforestation or for purposes connected with forestry or must necessarily be acquired together with any such land as aforesaid, and for the purposes of such acquisition the enactments referred to in Part I of the First Schedule to this Act shall be incorporated with this section to such extent and subject to such modifications and adaptations as are specified in the said Part I.

(3) The powers of the appropriate Minister under the last foregoing subsection to acquire land compulsorily shall be exercised by means of an order made in accordance with Part II of the First Schedule to this Act, and Part III of the said Schedule shall apply with respect to the validity and date of operation of any such order:

Provided that, if an objection to any such order is duly made in accordance with the said Part II and is not withdrawn before the order is made, the order shall be provisional only and shall not have effect until it is confirmed by Parliament, and the said Part III shall not apply to the order.

(4) An order made under the last foregoing subsection may authorise the compulsory purchase of any land belonging to the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act, 1907, notwithstanding that such land is held inalienably by that Trust under section twenty-one of the said Act or section eight of the National Trust Act, 1939. 7 Edw. 7. c. cxxxvi. 2 & 3 Geo. 6. c. lxxxvi.

(5) All land vested in the Commissioners at the date of the passing of this Act is hereby vested in the appropriate Minister by virtue of this section and shall be held by him subject to the same terms and conditions as it was held by the Commissioners, and any references to the Commissioners in any conveyance, lease or other instrument affecting such land shall be construed as references to the appropriate Minister:

Provided that all such land shall, until the appropriate Minister otherwise directs, be deemed for the purposes of the following provisions of this section and of section six of this Act to have been placed at the disposal of the Commissioners.

(6) The Commissioners may manage, plant and otherwise use for the purpose of the exercise of their functions under the Forestry Acts, 1919 to 1945, any land vested in or acquired by the appropriate Minister by or under this section and for the time being placed at their disposal by him, and any timber (within the meaning of section three of the Forestry Act, 1919) produced on any such land shall belong to the Commissioners.

(7) The appropriate Minister may—

(*a*) manage and use for such purposes as he thinks fit any land vested in or acquired by him by or under this section which is not for the time being placed at the disposal of the Commissioners for the purpose of the exercise of their functions aforesaid;

(*b*) let any land vested in or acquired by him as aforesaid or grant any interest or right in or over such land;

(*c*) sell any land vested in or acquired by him as aforesaid which in his opinion is not needed or ought not to be used for the purpose of afforestation or any purpose connected with forestry, or exchange any such land for other land more suitable for any such purpose, and pay and receive money for equality of exchange.

(8) Any power to manage and use land conferred by this section shall, without prejudice to the generality of that power, include power to erect buildings or execute works on the land.

(9) Subsection (4) of section seven of the Forestry Act, 1919 (which empowers the Commissioners to require the grant of haulage facilities subject to a right of appeal to the Development Commissioners) shall have effect as if for the references to the Development Commissioners there were substituted references to the appropriate Minister.

(10) In consequence of the foregoing provisions of this section the enactments hereinafter mentioned shall have effect subject to the following amendments:—

13 & 14 Geo. 5. c. 21.

(*a*) the references to the Forestry Commissioners in section one of the Forestry (Transfer of Woods) Act, 1923 (which provides for the transfer of property to the Forestry Commissioners) shall be construed as references to the appropriate Minister, except that the first reference in paragraph (*d*) of subsection (1) of that section shall be construed as including a reference both to the Forestry Commissioners and to the appropriate Minister, and the reference in the said paragraph (*d*) to property acquired by the Commissioners under the Forestry Act, 1919, shall be construed as a reference to property acquired by the appropriate Minister under this section; and

15 & 16 Geo. 5. c. 18.

(*b*) the references to the Forestry Commissioners in section forty-eight of the Settled Land Act, 1925 (which contains regulations respecting forestry leases) and in the definition of " forestry lease " in section one hundred and seventeen of the said Act shall be construed as references to the appropriate Minister, and the reference in the said definition to the Forestry Act, 1919, shall be construed as a reference to this section.

Restrictions on compulsory acquisition of certain land.

5. (1)—Nothing in the last foregoing section shall authorise the compulsory acquisition of—

(*a*) any land which is the site of an ancient monument or other object of archaeological interest;

(*b*) any land which forms part of any park, garden or pleasure ground, or which forms part of the home farm attached to and usually occupied with a mansion house or is otherwise required for the amenity or convenience of any dwelling house;

(*c*) any land which is the property of a local authority, or which has been acquired by statutory undertakers for the purposes of their undertaking.

(2) In this section the expression—

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

" statutory undertakers " means any persons authorised by an enactment or by any order or scheme made under any enactment to construct, work or carry on any railway, canal, inland navigation, dock, harbour, tramway, gas, electricity, water, or other public undertaking.

Financial provisions.

6.—(1) Any capital payments made by the appropriate Minister in acquiring land under this Act shall be defrayed out of the Forestry Fund, and any capital sums received by the appropriate Minister from the sale, lease or exchange of any land vested in or acquired by him by or under this Act shall be paid into the said Fund.

(2) Where any land vested in or acquired by the appropriate Minister by or under this Act is not for the time being placed at the disposal of the Commissioners, the expenses of the Minister in managing and using the land, including any rent or other outgoings payable by him in respect of the land, shall be defrayed out of moneys provided by Parliament, and any sums received by him from the letting or use of the land, or the grant of any interest or right in or over the land shall be paid into the Exchequer, and the Minister shall pay into the Forestry Fund out of moneys provided by Parliament such periodical sums (if any) in respect of the land as may be determined by the Treasury.

(3) Where any such land is for the time being placed at the disposal of the Commissioners, any rent or other outgoings payable in respect of the land by the appropriate Minister shall be defrayed out of the Forestry Fund and any sums received by the appropriate Minister from the letting of the land or the grant of any interest or right in or over the land shall be paid into the said Fund.

(4) There shall be paid into the Forestry Fund out of moneys provided by Parliament in respect of the financial year beginning with the first day of April, nineteen hundred and forty-five, and subsequent financial years such annual amounts as Parliament may determine.

(5) Any administrative expenses incurred by either of the Ministers in consequence of the passing of this Act (other than expenses referred to in the foregoing provisions of this section) shall be defrayed out of moneys provided by Parliament.

Annual accounts and report of Commissioners.

7.—(1) The Commissioners shall prepare accounts in respect of the financial year beginning with the first day of April, nineteen hundred and forty-five, and each subsequent financial year, showing the sums paid into and the sums issued out of the Forestry Fund in that year, and the accounts shall be in such form and manner as the Ministers, with the approval of the Treasury, may direct, and the Commissioners shall transmit the accounts to the Ministers at such time as the Ministers, with the approval of the Treasury, may direct.

(2) The Ministers shall, on or before the thirtieth day of November in the year nineteen hundred and forty-six and in each subsequent year, transmit to the Comptroller and Auditor General the accounts prepared by the Commissioners under the last foregoing subsection for the financial year last ended, and the Comptroller and Auditor General shall examine and certify them and lay copies thereof, together with his report thereon, before both Houses of Parliament.

(3) The Commissioners shall, on such day and in such form as the Ministers may direct, make to the Ministers an annual report as to their proceedings under the Forestry Acts, 1919 to 1945, and the Ministers shall lay every such report before Parliament.

Pensions of Commissioners and their officers.

8.—(1) The Ministers may, with the approval of the Treasury, make schemes providing for the grant of superannuation and other allowances and gratuities to or for the benefit of the Commissioners and such officers employed by them as may be from time to time determined by the Ministers with the approval of the Treasury, and there shall be paid out of the Forestry Fund to such Commissioners or officers on retirement, or to their legal representatives on death, such superannuation and other allowances and gratuities under the schemes as the Ministers may, with the approval of the Treasury, sanction in each case; and the Treasury may determine the Forestry Fund to be a public Fund for the purposes of the Superannuation Act, 1892.

55 & 56 Vict. c. 40.

(2) Any scheme made by the Forestry Commission under subsection (2) of section ten of the Forestry Act, 1919, or under that subsection as extended by section six of the Forestry (Transfer of Woods) Act, 1923, being a scheme in force immediately before the passing of this Act, shall continue in force and have effect, with any necessary modifications, as if it had been made under this section; and the references in subsection (2) of the said section six to any such scheme shall be construed as references to a scheme made, or having effect as if made, under this section.

(3) For the reference in the first column of the Schedule to the Superannuation (Various Services) Act, 1938, to subsection (2) of section ten of the Forestry Act, 1919, as amended by subsection (1) of section six of the Forestry (Transfer of Woods) Act, 1923, there shall be substituted a reference to this section, and for both references in the second column of that Schedule to the Forestry Commissioners there shall be substituted references to the Ministers. 1 & 2 Geo. 6. c. 13.

Application to Scotland.

9. In the application of this Act to Scotland—

(*a*) the reference in subsection (2) of section four to purchase shall include a reference to taking in feu;

(*b*) section five shall have effect as if for the definition of "local authority" there were substituted the following definition—

"'local authority' means a county, town or district council";

(*c*) the First Schedule shall have effect as if—

(i) for references to the sections of the Lands Clauses Consolidation Act, 1845, mentioned in paragraph 1 of Part I of the said Schedule there were substituted references to sections one hundred and twenty to one hundred and twenty-five, section one hundred and twenty-seven, and sections one hundred and forty-two and one hundred and forty-three of the Lands Clauses Consolidation (Scotland) Act, 1845; 8 & 9 Vict. c. 18. 8 & 9 Vict. c. 19.

(ii) for the reference to section one hundred and twenty-three of the Lands Clauses Consolidation Act, 1845, there were substituted a reference to section one hundred and sixteen of the Lands Clauses Consolidation (Scotland) Act, 1845;

(iii) for references to section seventy-seven and sections seventy-eight to eighty-five of the Railways Clauses Consolidation Act, 1845, there were 8 & 9 Vict. c. 20.

8 & 9 Vict. c. 33.

substituted references to section seventy and sections seventy-one to seventy-eight of the Railways Clauses Consolidation (Scotland) Act, 1845;

(iv) for references to the High Court or the Court of Appeal there were substituted references to the Court of Session;

(v) paragraph 4 of Part I of the said Schedule were omitted.

Short title, construction, interpretation, extent and repeals.

10.—(1) This Act may be cited as the Forestry Act, 1945, and shall be construed as one with the Forestry Acts, 1919 to 1927, and this Act and those Acts may be cited together as the Forestry Acts, 1919 to 1945.

(2) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say:—

" the Ministers " means the Minister of Agriculture and Fisheries and the Secretary of State concerned with agriculture in Scotland, and, except where the context otherwise requires, means those Ministers acting jointly:

Provided that the said Ministers may make arrangements for the exercise of any of their functions under this Act, as respects transactions affecting England and Wales only or affecting Scotland only, by the appropriate Minister and the said expression shall, as respects those transactions, be construed as referring to the appropriate Minister;

" the appropriate Minister " means, as respects England and Wales, the Minister of Agriculture and Fisheries and, as respects Scotland, the Secretary of State as aforesaid.

(3) This Act shall not extend to Northern Ireland.

(4) The enactments mentioned in the second column of the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule:

Provided that the repeal of subsection (4) of section eight of the Forestry Act, 1919, shall not affect the operation of the said subsection as respects the financial year ending on the thirty-first day of March, nineteen hundred and forty-five.

SCHEDULES.

FIRST SCHEDULE.

Section 4.

PART I.

Incorporation of the Lands Clauses Act and Railway Clauses Consolidation Act, 1845.

1. The Lands Clauses Acts, except sections one hundred and twenty-seven to one hundred and thirty-three of the Lands Clauses Consolidation Act, 1845, (which relate to the sale of superfluous land and deficiencies of land tax and rates) and sections one hundred and fifty and one hundred and fifty-one of the said Act (which relate to access to the special Act), are hereby incorporated with section four of this Act, subject to the modifications and adaptations hereafter specified in this Schedule.

2. In construing the Lands Clauses Acts as incorporated with section four of this Act, the said section four or, in relation to a compulsory purchase, the said section four and the order by which the purchase is authorised, shall be deemed to be the special Act, and references to the promoters of the undertaking shall be construed as references to the appropriate Minister.

3. For the purposes of section one hundred and twenty-three of the Lands Clauses Consolidation Act, 1845 (which provides that powers of compulsory purchase shall not be exercised after the expiration of the prescribed period) the prescribed period shall, in relation to any compulsory purchase, be three years from the coming into operation of the order authorising it.

4. Where land compulsorily purchased is glebe land or other land belonging to an ecclesiastical benefice, sums agreed upon or awarded by way of compensation shall not be paid as directed by the Lands Clauses Acts but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale under the provisions of the Ecclesiastical Leasing Acts of land belonging to a benefice.

5. In the case of compulsory purchase, the order authorising the purchase may provide that section seventy-seven of the Railways Clauses Consolidation Act, 1845, and sections seventy-eight to eighty-five of that Act as originally enacted and not as amended for certain purposes by section fifteen of the Mines (Working Facilities and Support) Act, 1923, shall be incorporated with section four of this Act, subject to such adaptations and modifications as may be specified in the order. 13 & 14 Geo. 5. c. 20.

PART II.

Procedure for making Compulsory Purchase Orders.

1. An order for the compulsory purchase of land under section four of this Act shall describe by reference to a map the land to which it applies, and before making any such order, the appropriate Minister shall—

(*a*) publish in one or more newspapers circulating in the locality in which the land to which the order relates is situated a notice stating that such an order is proposed to be made, describing

1ST SCH. —*cont.*

the land, and naming a place where a copy of a draft of the order and of the map referred to therein may be seen at all reasonable hours and specifying the time (not less than twenty-eight days from the date of the publication of the notice) within which and the manner in which objections to the order may be made;

(*b*) serve a copy of the notice in such manner as the appropriate Minister thinks fit on every owner, lessee and occupier (except tenants for a month or less period than a month) of any land to which the order relates.

2. If no objection is duly made by any of the persons on whom notices are required to be served or by any other person appearing to the appropriate Minister to be affected or if all objections so made are withdrawn, the appropriate Minister may, if he thinks fit, make the order, either with or without modifications, but in any other case he shall before making the order cause a local inquiry to be held and shall consider any objections not withdrawn and the report of the person who held the inquiry, and may then if he thinks fit make the order with or without modifications:

Provided that an order made by the Minister with modifications shall not, unless all persons interested consent, authorise him to purchase compulsorily any land which the order would not have authorised him so to purchase if it had been made without modifications.

PART III.

Validity and Operation of Compulsory Purchase Order.

1. So soon as may be after an order has been made by the appropriate Minister for the compulsory purchase of land under section four of this Act, he shall publish in a newspaper circulating in the locality in which the land to which the order relates is situated a notice stating that the order has been made and naming a place where a copy of the order and of the map referred to therein may be seen at all reasonable hours, and shall serve a like notice on every person who made an objection to the order.

2. If any person aggrieved by such an order as aforesaid desires to question the validity thereof on the ground that it is not within the powers of this Act or that any requirement of this Act has not been complied with, he may within six weeks after the publication of the notice of the order, make an application for the purpose to the High Court, and where any such application is duly made, the Court—

(i) may by interim order suspend the operation of the order, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and

(ii) if satisfied upon the hearing of the application that the order is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by any requirement of this Act not having been complied with, may quash the order, either generally or in so far as it affects any property of the applicant.

3. Subject to the provisions of the last preceding paragraph, the order shall not be questioned by prohibition or certiorari or in any legal

proceedings whatsoever either before or after the order is made, and shall become operative at the expiration of six weeks from the date on which notice of the order is published in accordance with the provisions of this Part of this Schedule.

4. Except by leave of the Court of Appeal, no appeal shall lie to the House of Lords from a decision of the Court of Appeal in proceedings under this Part of this Schedule.

SECOND SCHEDULE.

Section 10.

REPEAL OF ENACTMENTS.

Session and Chapter.	Short Title.	Extent of Repeal.
9 & 10 Geo. 5. c. 58.	The Forestry Act, 1919.	Section one. Subsection (2) of section two. In subsection (2) of section three the word "only" and the words from "but, so far as they relate" to the end of the subsection; and in subsection (3) the words "Subject to any directions which may be given by the Treasury", paragraphs (*a*) and (*b*) and the words from "Provided that" to the end of the subsection. Section five. Section six. Subsections (1) to (3) of section seven. In subsection (2) of section eight paragraph (*a*) and in paragraph (*b*) the words "any land or"; and subsection (4) of that section. Subsection (2) of section ten. Schedule.
13 & 14 Geo. 5. c. 21.	The Forestry (Transfer of Woods) Act, 1923.	In subsection (2) of section five the words "not being a Forestry Commissioner". Subsection (1) of section six.
17 & 18 Geo. 5. c. 6.	The Forestry Act, 1927.	Section one.