5TH SCH. —*cont.*

Session and Chapter.	Short Title.	Extent of Repeal.
26 Geo. 5. & 1 Edw. 8. c. 49.	The Public Health Act, 1936 - -	Subsections (4) and (6) of section one hundred and sixteen; sections one hundred and twenty-one, one hundred and thirty, one hundred and thirty-two, one hundred and thirty-three, one hundred and thirty-five, one hundred and thirty-nine, two hundred and eighty and two hundred and eighty-one.
7 & 8 Geo. 6. c. 16.	The Rural Water Supplies and Sewerage Act, 1944.	Section three, in section four the words " with the supply of water in or "and section five.

CHAPTER 43.

Requisitioned Land and War Works Act, 1945.

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SCHEDULE.—Enactments applied to certain Ministers.

An Act to authorise the acquisition of certain land used or dealt with for war purposes and to make other provision as to such land; to remove doubts as to the powers of certain Ministers to acquire land under the Defence Act, 1842; to amend certain of the enactments relating to compensation in respect of land; and for purposes connected with the matters aforesaid.

[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:—

PART I.

THE WAR WORKS COMMISSION.

The War Works Commission.

1.—(1) For the purpose of reporting on the matters and deciding the questions mentioned in the subsequent provisions of this Act, there shall be a Commission, to be called the War Works Commission, (in this Act referred to as "the Commission") consisting of a chairman and such number of other members as His Majesty may think expedient, to be appointed by His Majesty.

(2) The appointment of a member of the Commission shall be for such term as may be determined by His Majesty before his appointment and shall be subject to such conditions as may be so determined.

(3) A member of the Commission who ceases to hold office shall be eligible for re-appointment.

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

(5) The Commission shall appoint a secretary to the Commission, and may appoint such other officers and such servants of the Commission as the Commission may, with the consent of the Treasury, determine.

(6) There shall be paid out of moneys provided by the Parliament of the United Kingdom—

(*a*) to the members, officers and servants of the Commission such remuneration (whether by way of salaries or by way of fees), and such allowances, as the Treasury may determine; and

(*b*) any expenses incurred by the Commission with the approval of the Treasury.

Procedure of Commission.

2.—(1) The Commission shall have power to act notwithstanding a vacancy among the members thereof.

(2) At any meeting of the Commission three or such greater number as the Commission may determine shall be the quorum.

(3) In considering any matters referred to them under the subsequent provisions of this Act, the Commission shall, subject to the provisions of this Act, cause such inquiries to be made, and give to such persons such opportunities of making oral or written representations, as the Commission think fit, and may, if they think fit, cause a local inquiry to be held.

PART I. —*cont*

(4) The provisions of subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933 (which relate to the summoning of witnesses, the production of documents, and costs), shall apply to any such local inquiry as they apply to a local inquiry held under that section, but as if for references to a department there were substituted references to the Commission: 23 & 24 Geo. 5. c. 51.

Provided that—

(*a*) no local authority shall be ordered to pay costs under subsection (4) of that section in the case of any inquiry unless it is a party to that inquiry; and

(*b*) for the purposes of subsection (5) of that section, the Minister making the proposals with respect to which the inquiry is being held shall be deemed to be a party to the inquiry and costs may be ordered to be paid to or by him accordingly.

Dissolution of Commission.

3. If it appears to His Majesty that the Commission have dealt with all the matters which have been referred to them under this Act and that no further matters are likely to be referred to them thereunder, His Majesty may by Order in Council dissolve the Commission.

PART II.

NEW TEMPORARY POWERS OF ACQUISITION OF LAND BY MINISTERS.

Land affected by government war work or damaged by government war use.

4.—(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.

Works.

5.—(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

PART II. —*cont.*

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 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.

Depreciated land.

6.—(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.

Easements and other rights.

7.—(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

PART II. —*cont.*

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. 9 & 10 Geo. 5. c. 57.

Reference to Commission of proposals to acquire land or rights.

8.—(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

PART II. —*cont.*

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

2 & 3 Geo. 6. c. 75.

15 & 16 Geo. 5. c. 21.

(*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

(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

PART II. —*cont.*

(*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 certify—

(*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

PART II. —*cont.*

(*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 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.

Powers of Minister on receipt of report of Commission.

9.—(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.

PART II. —*cont.*

(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 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.

PART II. —*cont.*

(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.

Conditional recommendations by Commission.

10.—(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:

PART II. —*cont.*

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.

Principles on which Commission are to act.

11.—(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.

PART II. —*cont.*

(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

(*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

PART II. —*cont.*

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.

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

12. 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.

Agricultural land.

13. 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

3 & 4 Geo. 6. c. 14.

PART II. —*cont.*

or work done wholly or mainly for the improvement of that land for agricultural purposes, shall not be treated as government war work.

Duration of powers under Part II.

14.—(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.

PART III.

HIGHWAYS.

Stopping up or diversion of highways.

15.—(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;

PART III. —*cont.*

(*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; 1 Edw. 8 & 1 Geo. 6. c. 5.

(*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. 25 & 26 Geo. 5. c. 47.

PART III. —*cont.*

(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.

Retention of railway, tramway, &c., on highway where highway not stopped up or diverted.

16.—(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.

Publication of proposed orders and reference to Commission.

17.—(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

PART III. —*cont.*

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.

Proceedings after reference to Commission.

18.—(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.

PART III. —*cont.*

(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

PART III. —*cont.*

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.

Validity and date of operation of orders under Part III.

19.—(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.

Duration of power to make orders.

20.—(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

PART III. —*cont.*

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.

Temporary continuance of stopping up, &c.

21.—(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. PART III. —*cont.*

22.—(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. Savings.

(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.

PART IV.

TELEGRAPHIC LINES.

23. Where in the exercise of emergency powers the Postmaster General has constructed any telegraphic line, then, subject to the provisions of this Part of this Act, the line shall, as from the end of the war period or such earlier date as may be fixed in relation thereto by the Postmaster General, be treated as having been constructed, with all necessary consents, under and in accordance with the Telegraph Acts, 1863 to 1943, and those Acts shall apply in relation thereto accordingly: General provision as to telegraphic lines.

Provided that—

(*a*) the line shall not, for the purposes of any agreement made before the passing of this Act for regulating the exercise by the Postmaster General of his rights under those Acts, be treated as having been so constructed; and

(*b*) nothing in this section shall affect the application in relation to the line of the Compensation (Defence) Act, 1939.

24. Subject to the provisions of the next succeeding section, at any time after the Telegraph Acts, 1863 to 1943, have become applicable to a telegraphic line in pursuance of the last preceding section, any person whose consent would, if the line were then to be constructed, be required under the said Acts to the construction thereof, may, by notice in writing, require the Postmaster General to remove the line not later than three months from the date of the service of the notice and, unless that person consents to the withdrawal of the notice, the Postmaster General shall remove the line accordingly: Power of owners, &c., to require removal of telegraphic lines.

PART IV. —*cont.*

Provided that if, within the said three months, the Postmaster General serves a notice on that person requiring him so to consent—

(*a*) a difference shall be deemed to have arisen between the Postmaster General and that person; and

41 & 42 Vict. c. 76. 6 & 7 Geo. 5. c. 40.

(*b*) the provisions of sections three, four and five of the Telegraph Act, 1878, and of section one of the Telegraph (Construction) Act, 1916 (which provide for the determination of differences as to the placing of telegraphs, posts and telegraphic lines), shall, with any necessary adaptations, apply as if it were a difference arising under the first-mentioned Act, and as if the references in the said provisions to consent to the placing of telegraphs or posts or a telegraphic line were references to consent to the withdrawal of the notice; and

(*c*) the Postmaster General shall not be bound to remove the line until three months from the final determination of any proceedings taken under or by virtue of the said provisions,

and for the purposes of this proviso, proceedings shall not be deemed to be finally determined until the time allowed for appealing has expired or, where an appeal is brought, until the appeal is itself finally determined.

Deep lines.

25.—(1) Where any line constructed by the Postmaster General in the exercise of emergency powers is a deep line, then, subject to the provisions of this section, no compensation shall be payable to any person, whether under the Compensation (Defence) Act, 1939, or otherwise, by reason of the construction, maintenance or use thereof.

This subsection shall be deemed to have had effect as from the beginning of the war period.

(2) No obligation imposed on the Postmaster General or power conferred on any other person to remove or alter a telegraphic line (whether the obligation is imposed or the power is conferred by or under any Act, including this Act or a local or personal Act, or by or under any agreement or otherwise) shall apply to a deep line constructed in the exercise of emergency powers, but where, after the end of the war period, any person proves that he would, but for the provisions of this subsection, have power to remove or alter, or require the removal or alteration of, any deep line or any part of a deep line, being a line or part in respect of which no compensation has previously been paid under this subsection, the Postmaster General shall pay to him and to every other person then having an estate or interest in the land through or under

PART IV. —*cont.*

which that line or part passes a sum equal to the amount by which the values of their respective estates and interests in that land are diminished by the operation of this subsection in relation to that line or part.

(3) If any government war works constructed below the surface of any land in connection with the construction of, but not forming part of, a deep line, remain in the land after the completion of the line, and any person having an estate or interest in the land, proves that the presence of those works in the land interferes or is likely to interfere with any existing or proposed works of his on the land, then, unless compensation has already been paid in respect of the said government war works, the Postmaster General shall pay to him and to every other person then having an estate or interest in the land a sum equal to the amount by which the values of their respective estates and interests in the land are diminished by the presence of the said government war works in that land.

(4) The amount and application of any compensation payable under this section shall be determined in accordance with section seven of the Telegraph Act, 1863, as amended by or under any subsequent enactment. 26 & 27 Vict. c. 112.

(5) In this section, the expression " deep line " means a telegraphic line which for the greater part of its course consists of a tunnel containing wires used for the purpose of telegraphic communication and running at a depth of more than thirty feet below ground level, that is to say, below the level of the ground in its natural state or, where the ground is covered with water, below the level of the surface of that water, taken, where the water is tidal, at high tide on an ordinary spring tide.

PART V.

NEW TEMPORARY PROCEDURE FOR ACQUISITION OF LAND BY LOCAL AUTHORITIES.

Acquisition by local authorities.

26.—(1) Where, under Defence Regulations, a local authority or combination of local authorities have been directed to do work on, or authorised to use, any land for a purpose for which they are or can be authorised under any Act to acquire land compulsorily, they may be authorised under this Part of this Act to purchase all or any part of the land compulsorily for that purpose by means of an order made by them and confirmed by the appropriate Minister, that is to say,—

(*a*) where the purpose was the construction or improvement of a highway, the Minister of War Transport;

(*b*) where the purpose was the performance of any of their functions under the Civil Defence Acts, 1937

PART V. —*cont.*

and 1939, the Secretary of State or the Minister of Health, according as the Minister of Home Security or the Minister of Health gave the direction or authority;

(*c*) where the purpose was the performance of their functions as a local education authority, the Minister of Education;

(*d*) in any other case, the Minister of Health:

Provided that no land shall be purchased under this section except in pursuance of a notice to treat given before the expiration of two years from the end of the war period.

(2) Where, under Defence Regulations, an authority which are not a local authority or combination of local authorities have done work on or used any land for the purpose of a police force, and a local authority or combination of local authorities are or can be authorised under any Act to acquire land compulsorily for that purpose of that force, the work done or, as the case may be, the use made of, that land by the first-mentioned authority shall, for the purposes of this section, be deemed to be work done on or use made of that land, by the second-mentioned authority or combination of authorities.

Provisions as to compulsory purchase orders.

27.—(1) The provisions of Part VII of the Local Government Act, 1933, relating to compulsory purchase orders as defined in subsection (1) of section one hundred and sixty-one of that Act shall (notwithstanding anything in paragraph (*g*) of section one hundred and seventy-nine of that Act) apply in relation to a purchase of land authorised under this Part of this Act subject to the following modifications, that is to say—

(*a*) for the references to the Minister of Health there shall be substituted references to the appropriate Minister;

(*b*) references to a local authority shall include references to a combination of local authorities;

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

(i) direct that subsection (3) of the said section one hundred and sixty-one (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

PART V. —*cont.*

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.

(2) The references in the preceding subsection to Part VII of the Local Government Act, 1933, and to section one hundred and sixty-one and paragraph (*g*) of section one hundred and seventy-nine of that Act shall, in relation to the Administrative County of London, be construed as references respectively to Part V of the London Government Act, 1939, and to section one hundred and two and subsection (2) of section one hundred and fourteen of that Act. 2 & 3 Geo. 6. c. 40.

PART VI.

TEMPORARY POWERS AS TO MAINTENANCE, USE AND REMOVAL OF WORKS, &C.

Maintenance and use of works and continuance in possession.

28.—(1) Where government war works have been constructed on any land, any Minister may maintain and use, or authorise the maintenance and use of, those works for the purposes of the public service or for any purpose for which they were maintained or used in the exercise of emergency powers.

(2) Any Minister may retain or authorise the retention of possession of any land which (whether by virtue of an exercise of emergency powers or otherwise) is in his possession or in that of any person who is occupying or using it under his authority, notwithstanding the determination of any other right thereto, and, where possession of any land is retained under this subsection, any Minister may use it or authorise its use for the purposes of the public service or in any manner in which it was being used immediately before possession was so retained:

Provided that where notice to treat has been given, the Minister may authorise the use of the land by any person, in any manner and for any purpose, but, where he gives an authority by virtue of this proviso, the power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919, to withdraw a notice to treat shall not be exercisable.

(3) In connection with the use of any works or land under this section—

(*a*) any person having the use of the works or land may continue to exercise and enjoy all such rights and advantages as, immediately before the use under this section began, were, by agreement or otherwise, being exercised or enjoyed in connection with the

PART VI. —*cont.*

use of the works or land for war purposes by the person then having the use thereof (including, but without prejudice to the generality of the preceding words, rights and advantages as to the taking of water, whether for the purposes of a water undertaking or for other purposes); and

(*b*) any orders made under Defence Regulations in connection with the use of the works or land for war purposes and in force immediately before the use under this section began (including, but without prejudice to the generality of the preceding words, any order authorising the taking of water, whether for the purposes of a water undertaking or for other purposes) shall continue in force in relation to the works or land except in so far as revoked in relation thereto by order of the Minister using, or, as the case may be, authorising the use of, the works or land.

Removal of works and restoration of land.

29.—(1) Where government war work has been done on any land, or where the value of any land has been diminished by damage caused by government war use thereof, any Minister, or any person acting under the authority of any Minister, shall have power and be deemed always to have had power, as against all persons interested in the land—

(*a*) to remove any works constructed or other thing placed on, over or below the surface of the land in the course of the work; and

(*b*) for the purpose of restoring the land wholly or partly to the condition in which it was before the work was done or the damage was caused, to do such work on the land as he thinks fit; and

(*c*) for the purpose of exercising those powers, to enter upon any land of which he is not in possession:

Provided that—

(i) the powers conferred by this subsection shall not be exercisable in relation to any works in respect of the value of which an amount has been paid under Part II of this Act to a Minister in pursuance of a report of the Commission; and

(ii) after the passing of this Act, entry upon any land shall not be demanded as a right under paragraph (*c*) of this subsection unless reasonable notice of the intended entry has been given to the occupier of the land; and

(iii) where in connection with any works an agreement in writing has, whether at, before or after the time of the construction thereof been made by or on behalf

PART VI. —*cont.*

of any Minister with any person then having an interest in the land on which the work is constructed, which contains a specific provision that the works should belong to that person permanently, the said powers shall not be exercisable in relation to those works so as to defeat that provision of that agreement.

(2) Where any land is damaged in the exercise of the powers conferred by paragraph (*c*) of subsection (1) of this section, the Minister shall pay such compensation to the persons interested in the land as may be just, and any dispute as to the compensation payable shall be decided by the General Claims Tribunal constituted under the Compensation (Defence) Act, 1939.

(3) Without prejudice to the operation, as respects the war period, of any Defence Regulation, no person (other than a constable or servant of His Majesty acting in the course of his duty as such) shall, except with permission granted by or on behalf of a Minister, remove, alter or tamper with anything which a Minister has power to remove under this section.

Duration of powers under Part VI.

30.—(1) Subject to the provisions of subsection (4) of this section, the right to exercise the powers conferred by this Part of this Act shall cease on the expiration of two years from the end of the war period.

(2) Without prejudice to the provisions of subsection (1) of this section but subject to the provisions of subsection (4) of this section, any right to exercise the said powers 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 is no longer in the possession of a Minister or any such person:

Provided that where any land is in the possession of a Minister or of a person who is occupying or using it under the authority of a Minister, that Minister may, by a notice served on the person for the time being entitled to receive any rent or compensation in the nature of rent in respect of possession of the land by the Minister or the person so occupying or using it, and published in such manner as the Minister thinks best adapted for informing any other persons affected, reserve the rights conferred by the last preceding section in relation to that land, and where such a notice is given this subsection shall not apply to the said rights.

(3) Without prejudice to the preceding provisions of this section but subject to the provisions of subsection (4) of this section, where work has been done on any land while that

PART VI. —*cont.*

land was not in the possession of a Minister or of a person who was occupying or using it under the authority of a Minister, any right to exercise the powers conferred by the last preceding section which arises by reason of the doing of the work shall not be available after any person has, by virtue of a notice given under paragraph (*b*) of subsection (3) of section three of the Compensation (Defence) Act, 1939, or by virtue of any agreement, become entitled to receive from the Crown a lump sum by way of compensation in respect of the doing of the work.

(4) Notwithstanding anything in the preceding provisions of this section, where proceedings commenced before the expiration of two years from the end of the war period for the acquisition of any land by a Minister or a local authority or combination of local authorities are abandoned, the right to exercise the powers conferred by the last preceding section shall remain available until the expiration of six months from the abandonment:

Provided that this subsection shall not apply where the abandonment is by virtue of the giving of an undertaking under Part II of this Act in pursuance of a report of the Commission.

For the purposes of this subsection, proceedings for the acquisition of land shall be deemed to have been commenced if notice to treat for the acquisition thereof has been given or if proposals for the acquisition thereof have been published under Part II of this Act.

Compensation and adaptation of enactment.

31.—(1) The powers conferred by this Part of this Act shall be deemed for the purposes of the following enactments, that is to say—

(*a*) the Compensation (Defence) Act, 1939; and

(*b*) the Landlord and Tenant (Requisitioned Land) Acts, 1942 and 1944; and

6 & 7 Geo. 6. c. 21.

(*c*) any provisions of the War Damage Act, 1943, referring to requisitioned land or to work done on land in the exercise of emergency powers,

to be powers exercisable by virtue of Defence Regulations.

(2) In relation to the exercise of the powers so conferred, the period mentioned in subsection (1) of section one of the Compensation (Defence) Act, 1939, shall extend to the end of the period for which the powers so conferred are exercisable and, where possession of any land is retained in pursuance of the powers so conferred, the retention of possession by virtue of those powers and the original taking and retention of the land apart from those powers shall be treated for the purposes of

PART VI. —*cont.*

section two of that Act as being one transaction, and the references in the said section two to the period for which the possession of the land is retained shall be construed accordingly.

(3) Where, if the powers so conferred had been exercised under Defence Regulations, either—

(*a*) compensation would, by virtue of any Defence Regulation, be payable in respect of the exercise thereof otherwise than under the Compensation (Defence) Act, 1939; or

(*b*) compensation in respect of the exercise thereof would have been payable under that Act, but subject to modifications,

the like compensation shall be payable in respect of the exercise thereof, and, so far as respects the exercise thereof, any Defence Regulation providing for the payment of the compensation or for the modifications, as the case may be, shall continue in force notwithstanding that it has expired for all other purposes, whether by virtue of the expiration of the Emergency Powers (Defence) Act, 1939, or otherwise. 2 & 3 Geo. 6. c. 62.

(4) This section shall be deemed always to have had effect.

PART VII.

APPLICATION AND AMENDMENTS OF DEFENCE ACTS, &C.

Application of Defence Acts to acquisitions by virtue of Part II.

32.—(1) Subject to the provisions of this and the next succeeding section, the provisions of the Defence Acts specified in the Schedule to this Act shall have effect as if references in whatever terms to the principal officers of Her Majesty's ordnance or to the Secretary of State for the War Department or to the ordnance department included references to the Minister of War Transport, the Postmaster General and the Minister of Works and to their respective departments, so as to confer on those Ministers any powers, rights or privileges in relation to the acquisition of land by virtue of Part II of this Act and in relation to the holding, management, use and disposal in any manner of land so acquired, which under the said provisions are vested in the Secretary of State for War as respects land which, apart from the said Part II, he has power to acquire under the Defence Acts.

(2) Subject to the provisions of this and the next succeeding section, the Defence Acts shall, in relation to the said Ministers and to any Minister who, apart from the said Part II, has power to acquire land under the Defence Acts, have effect as if any acquisition by virtue of the said Part II were an acquisition under those Acts for the purposes of the department of the Minister in question or the defence of the realm.

PART VII. —*cont.*

(3) Notwithstanding anything in the preceding provisions of this section, nothing in section fourteen of the Defence Act, 1842 (which provides for the resale, free of incumbrances, of land acquired under that Act) or in the corresponding provisions of the Admiralty Lands and Works Act, 1864, shall enable any land acquired by virtue of Part II of this Act to be disposed of free from any restriction as to user of that land or as to building thereon.

5 & 6 Vict. c. 94.

27 & 28 Vict. c. 57.

Modifications of Defence Acts in relation to acquisitions not by virtue of Part II.

33.—(1) The power of any Minister to acquire land under the Defence Acts for any purpose otherwise than by virtue of Part II of this Act shall, where the notice to treat is given before the expiration of two years from the end of the war period, include power to acquire for the same purpose, in accordance with the provisions in that behalf contained in this Part of this Act, any easement over or right restrictive of the user of any land, being an easement or right which he requires for that purpose.

(2) It is hereby declared that any power of any Minister to acquire under the Defence Acts, otherwise than by virtue of Part II of this Act, land for any purpose is not affected by the fact that his office is a temporary one or that, after the expiration of a certain period, some other Minister may be the Minister concerned, or that he can obtain or has obtained possession apart from those Acts.

Power to acquire particular levels only and reversionary interests.

34.—(1) Where the notice to treat is given before the expiration of two years from the end of the war period or the acquisition is by virtue of Part II of this Act, the surface of any land may be acquired under the Defence Acts without the minerals or subjacent strata or any part thereof and (subject to the provisions of subsection (1) of section seventeen of the Coal Act, 1938) the minerals or subjacent strata or any part thereof may be acquired under those Acts without the surface.

1 & 2 Geo. 6. c. 52.

(2) Without prejudice to any power in that behalf exercisable under the Defence Acts apart from this section, where a Minister or any person on behalf of a Minister is in possession of any land under a lease or tenancy and either the notice to treat is given before the expiration of two years from the end of the war period or the acquisition is by virtue of Part II of this Act, any interest reversionary thereon may be acquired under the Defence Acts.

Amendments as to procedure.

35.—(1) Where the notice to treat is given before the expiration of two years from the end of the war period or the acquisition is by virtue of Part II of this Act, land may be compulsorily acquired under the Defence Acts notwithstanding that it has not been surveyed and marked out in

PART VII. —*cont.*

accordance with section sixteen of the Defence Act, 1842, and references in the Defence Acts to land surveyed and marked out under that section shall be construed as including references to land described in a notice to treat for the acquisition thereof.

(2) Where the notice to treat is given before the expiration of two years from the end of the war period or the acquisition is by virtue of Part II of this Act, section twenty-three of the Defence Act, 1842 (which requires the consent of the Lord Lieutenant and a warrant from the Treasury before the exercise of compulsory powers under that Act), and so much of the proviso to section seven of the Lands Clauses Consolidation Acts Amendment Act, 1860, as requires compliance with the said section twenty-three, shall not have effect. 23 & 24 Vict. c. 106.

Notice to treat to acquire easements or other rights.

36.—(1) Where, under the Defence Acts, a Minister has power to acquire an easement over or right restrictive of the user of any land, he may, with a view to the creation by grant to him, or covenant with him, of the easement or right, serve a notice to treat for the acquisition of the easement or right on the persons who would, under the said Acts or otherwise, be entitled to sell the land to be adversely affected by the easement or right, or otherwise have any interest in the land.

(2) Any power of any persons under the Defence Acts to sell or convey land shall be deemed to include power to create by grant to, or covenant with, a Minister any easement or right which that Minister has power to acquire under those Acts.

(3) A notice to treat for the acquisition under the Defence Acts of an easement relating to water may be addressed generally to all persons interested in any land which will be adversely affected by the easement, and, if so addressed, shall, without prejudice to any other mode for the service thereof, be deemed to be duly served on all the persons to whom it is addressed if it is published in the London Gazette and in such other manner (whether in newspapers or otherwise) as is, in the opinion of the Minister, best adapted for informing persons affected.

Method of compulsory acquisition of easements and rights.

37.—(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.

PART VII. —*cont.*

(2) A deed poll so executed shall have the like effect as, and shall for the purposes of the Land Registration Act, 1925, and the Land Charges Act, 1925, be deemed to be, a deed of grant or covenant entered into with the Minister by all necessary parties.

15 & 16 Geo. 5. c. 22.

(3) Where any of the land adversely affected by an easement or right conferred as aforesaid is registered land, then, notwithstanding anything in section sixty-four of the Land Registration Act, 1925, the grant of the easement may be registered and notice thereof entered in the register, or, as the case may be, notice of the right may be so entered, without the production of any land certificate outstanding in respect of that land, without prejudice, however, to the power of the registrar to compel the production of the certificate for the purposes mentioned in that section.

(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.

Miscellaneous provisions as to easements and rights acquired under Defence Acts.

38.—(1) Where—

(*a*) a right restrictive of the user of any land has been acquired by a Minister under the Defence Acts, whether by the execution of a deed poll or otherwise; and

(*b*) between the date of the notice to treat and the acquisition of that right, any works have been constructed on, over or below the surface of the land adversely affected by the right; and

(*c*) the construction of the works would have been an infringement of the right if it had taken place after the acquisition thereof,

the Minister shall be entitled to remove the works and to recover the costs reasonably incurred by him in so doing from the person by whom the works were constructed.

(2) A Minister may, with or without consideration, release either wholly or partly an easement or restrictive right acquired under the Defence Acts.

15 & 16 Geo. 5. c. 20.

(3) Section eighty-four of the Law of Property Act, 1925 (which relates to the discharge or modification of restrictive

covenants) shall not apply to any covenant obtained under the Defence Acts so long as the covenant is enforceable by a Minister against the persons for the time being entitled to the land adversely affected thereby; but nothing in this subsection shall affect the operation of subsection (11) of the said section eighty-four (which excepts from the operation of that section, inter alia, restrictions created for naval, military or air force purposes). PART VII. —*cont.*

Compensation for acquisition of easements and rights.

39. Where an easement over or right restrictive of the user of any land is acquired under the Defence Acts, any person having an interest in that land shall, if the value of his interest is diminished by the acquisition of the easement or right, be entitled to receive from the Minister acquiring the easement or right compensation in respect of the diminution.

PART VIII.

ADJUSTMENT OF COMPENSATION ON ACQUISITION OF LAND.

Application of Part VIII.

40. The provisions of this Part of this Act shall have effect where, in pursuance of a notice to treat given between the passing of this Act and the expiration of two years from the end of the war period, or by virtue of section nine of the Agriculture (Miscellaneous Provisions) Act, 1941, or of Part II of this Act, either— 4 & 5 Geo. 6. c. 50.

(*a*) land is compulsorily acquired by a Minister; or

(*b*) land is compulsorily acquired under the provisions of Part V of this Act by a local authority or combination of local authorities; or

(*c*) land, which, at the date of the notice to treat, is, by virtue of an exercise of emergency powers, in the possession of a Minister or a person acting under the authority of a Minister, is compulsorily acquired otherwise than by virtue of the said Part V by a local authority or combination of local authorities; or

(*d*) land, which, at the date of the notice to treat, is, by virtue of an exercise of emergency powers, in the possession of or in use for the purposes of a drainage board, is compulsorily acquired by that board,

and, subject to the adaptations specified in this Part of this Act, shall also have effect where compensation is payable on the discharge or modification of a restriction under Part II of this Act or on the acquisition under the Defence Acts of an easement over or right restrictive of the user of land.

PART VIII. —*cont.*
Elimination of value due to government war work, &c.

41.—(1) Subject to the provisions of this section, in assessing the compensation such adjustment shall be made therein (so far as it depends on the value or changes in the value of any land) as is necessary to offset any increase or diminution of the compensation attributable directly or indirectly to, or to a combination of, any of the following factors, that is to say—

(*a*) any damage occurring to the land acquired or any contiguous or adjacent land while the land acquired was, during the war period, in the possession of a Minister or of a person occupying or using it under the authority of a Minister;

(*b*) any work done at any time since the beginning of the war period on the land acquired or any contiguous or adjacent land by or by arrangement with a Minister or the acquiring authority or combination of authorities or in the exercise of emergency powers;

(*c*) any prohibition or restriction imposed in the exercise of emergency powers on the doing of any work on the land acquired or on any contiguous or adjacent land:

Provided that, in assessing any compensation for injurious affection of land other than the land acquired, account may, notwithstanding anything in this subsection, be taken of the actual state and circumstances of the land acquired as existing at the date of the notice to treat in so far as they may be expected to persist after the purchase.

(2) Subject to the provisions of this section, where any such work as is mentioned in paragraph (*b*) of subsection (1) thereof was done wholly or partly at the expense of, or in pursuance of an agreement with, any person having an interest in the land acquired, any increase of value attributable to the expenditure incurred by, or consideration moving from, that person shall, notwithstanding anything in the said subsection (1), be taken into account in assessing the compensation payable in respect of that interest.

(3) Where, in connection with any previous proposal to acquire any of the land acquired, a payment in respect of the value of any works has been made to a Minister under Part II of this Act in pursuance of a report of the Commission, any increase of value attributable to the construction of the works shall, notwithstanding anything in subsection (1) of this section, be taken into account in assessing any compensation payable in respect of the land.

(4) Paragraph (*b*) of subsection (1) of this section shall not apply to work done, under such circumstances that a payment of cost of works falls to be made in respect thereof, for

PART VIII. —*cont.*

making good war damage, unless that war damage is such damage as is mentioned in paragraph (*a*) of that subsection:

Provided that where the work done included alterations or additions and the cost thereof was greater than the permissible amount in relation to a payment of cost of works, such deduction, if any, as may be just shall be made from the compensation in respect of the additional value, if any, of the land ascribable to the excess.

(5) Where the land acquired or any contiguous or adjacent land consists of or includes the whole or any part of a hereditament which has suffered war damage, and a payment falls to be made under the War Damage Act, 1943, in respect of that damage—

(*a*) paragraph (*a*) of subsection (1) of this section shall not apply to so much of that damage as has not been made good at the date of the notice to treat; and

(*b*) where 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) applies, subsection (1) of this section shall not apply to any change (whether for the better or the worse) occurring in the hereditament in question which, under the said section seventeen, affects the amount of the value payment.

(6) In the last two preceding subsections, expressions have the same meanings as they have for the purposes of Part I of the War Damage Act, 1943.

(7) The preceding provisions of this section shall not apply in relation to any such supplement to compensation as is provided for in Part II of the Town and Country Planning Act, 1944, but, in considering whether, in the case of any interest in land, any such supplement can be made and, if so, what can and should be the amount thereof, any changes in the land attributable directly or indirectly to, or to a combination of, any of the factors mentioned in subsection (1) of this section shall, to such extent as is reasonable in the case of that interest, be left out of account. 7 & 8 Geo. 6. c. 47.

(8) The preceding provisions of this section shall apply to compensation for the acquisition of an easement or restrictive right or for the discharge or modification of a restriction subject to the following adaptations, that is to say—

(*a*) for the references to the land acquired there shall be substituted references to the land the value of which is diminished by the acquisition, discharge or modification; and

PART VIII. —*cont.*

(*b*) the proviso to subsection (1) shall not apply; and

(*c*) the last preceding subsection shall not apply, and for the purposes of Part II of the Town and Country Planning Act, 1944, the compensation shall be treated as if it were compensation for damage sustained, within the period of five years from the commencement of that Act, by reason of land being injuriously affected by the execution of works.

Adjustment where compensation paid or payable under Compensation (Defence) Act, 1939, or otherwise.

42.—(1) Such adjustment shall be made in any compensation to which this Part of this Act applies as may be just having regard to any payment of, or right to, compensation by reason of the exercise of emergency powers.

(2) Any such adjustment may, if the arbitrator thinks fit, take the form of a direction that the compensation to which this Part of this Act applies which is payable to any person shall be wholly or partly conditional on his relinquishing, to such extent as is specified in the direction, any right to compensation by reason of the exercise of emergency powers.

Forfeitures.

43. Where by reason of the exercise of emergency powers any interest in land has become or might become forfeited or liable to forfeiture, any compensation to which this Part of this Act applies shall be determined as if no such forfeiture or liability to forfeiture had arisen or might arise.

Repeal of certain provisions of Agriculture (Miscellaneous Provisions) Acts, 1941 and 1943. 6 & 7 Geo. 6. c. 16.

44. Subsections (3) and (4) of section nine of the Agriculture (Miscellaneous Provisions) Act, 1941, paragraph 3 of the Fourth Schedule to that Act, and paragraphs 3 and 4 of the Second Schedule to the Agriculture (Miscellaneous Provisions) Act, 1943 (being provisions applicable to compulsory purchases of land under those Acts which are rendered superfluous by the provisions of Part II of the Town and Country Planning Act, 1944, and this Part of this Act), are hereby repealed.

PART IX.

AMENDMENTS OF COMPENSATION (DEFENCE) ACT, 1939.

Increase in rental compensation under s. 2 of Compensation (Defence) Act, 1939.

45.—(1) Where, before the passing of this Act, possession has been taken of any land in the exercise of emergency powers and the compensation payable in respect thereof under paragraph (*a*) of subsection (1) of section two of the Compensation (Defence) Act, 1939, has (whether by agreement or otherwise) been determined by reference to a level of rental values which is both—

(*a*) less than that obtaining in respect of comparable land on the thirty-first day of March, nineteen hundred and thirty-nine; and

PART IX. —*cont.*

(*b*) less than the level of rental values obtaining in respect of comparable land on the appointed day,

any compensation payable under the said paragraph in respect of the taking of possession of the land which accrues on or after the appointed day shall be determined by reference to the level of rental values obtaining in respect of comparable land on the said thirty-first day of March or that obtaining in respect thereof on the appointed day, whichever is the lower, and the compensation shall be determined accordingly:

Provided that this section shall not apply in relation to any land unless, not later than six months after the appointed day or after the end of the period for which possession of the land is retained in the exercise of emergency powers, whichever is the later, a person who, as at some date not earlier than the appointed day, would be entitled to occupy the land but for the fact that possession thereof is or was so retained, gives notice in such form and manner and to such authority as may be prescribed by rules made by the Treasury under the said Act that he desires that this section should apply in relation to the land.

(2) In this section the expression "the appointed day" means such day (not later than the end of the war period) as the Treasury may appoint.

Effect on compensation of reservation of rights under Part VI.

46. Where any land is in the possession of a Minister or of a person occupying or using it under the authority of a Minister and the Minister by a notice served in accordance with the provisions of Part VI of this Act reserves his rights thereunder to remove works constructed or things placed on, over or below the surface of the land or to do other work for the purpose of restoring the land—

(*a*) on the land ceasing to be in the possession of a Minister or person occupying or using it under the authority of a Minister, compensation shall not be payable under paragraph (*b*) of subsection (1) of section two of the Compensation (Defence) Act, 1939, in respect of the damage, if any, done to the said land; but

(*b*) the provisions of section three of the said Act shall apply as if the damage had been damage to the land by work done thereon in the exercise of emergency powers while it was not in the possession of a Minister or person occupying or using it under the authority of a Minister.

PART IX. —*cont.*

Compensation under s. 2 of Compensation (Defence) Act, 1939, for removal of fixed machinery or plant.

47. Where the damage in respect of which a sum falls, or would but for this section fall, to be paid under paragraph (*b*) of subsection (1) of section two of the Compensation (Defence) Act, 1939, consists wholly or in part of the removal of fixed machinery or plant, such reduction, if any, in that compensation shall be made as may appear to the General Claims Tribunal to be just having regard to the way in which the machinery or plant has in fact been dealt with, the likelihood of the machinery or plant being in fact replaced on the land and the reasonableness of replacing it thereon, and any other circumstances which may appear to the Tribunal to be relevant:

Provided that nothing in this section shall authorise the making of any reduction if the making thereof would be inconsistent with any provision of any such agreement as is mentioned in section fifteen of the said Act.

Successive works to be dealt with as one.

48.—(1) For the purposes of section three of the Compensation (Defence) Act, 1939, the doing on any land of work to which that section applies, or would apply if the annual value of the land were diminished by reason of the doing of the work, shall be treated as a single operation with the doing of any other such work (whether before or after) except—

(*a*) work done before in respect of which any person has, by virtue of subsection (3) of that section or by virtue of any agreement, become entitled to receive from the Crown a lump sum by way of compensation; and

(*b*) work done before consisting of the construction of works in respect of which an amount has been paid to the Minister under Part II of this Act in pursuance of a report of the Commission;

and, on the doing of the later work, any award by the General Claims Tribunal of compensation under that section in respect of the earlier work may, except as respects compensation accruing before the doing of the later work, be varied accordingly on the application of the Crown or of any other person interested:

Provided that the power to vary awards conferred by this subsection shall not apply to any award made before the passing of this Act in respect of any land, unless (whether before or after the passing of this Act) further work to which the said section three applies has been done on that land since the doing thereon of the latest work to which any such award relates.

(2) Where during the war period any works have been constructed or other thing placed in, on or over any land by or by arrangement with a Minister otherwise than in the exercise

of emergency powers, then, unless it has been expressly agreed that the Crown is to have no interest in the works or thing so constructed or placed, or the works or thing have or has been so constructed or placed in the exercise of powers conferred by any Act, the preceding subsection shall have effect as if the construction or placing were work done on the land in the exercise of emergency powers. PART IX. —*cont.*

Lump sum compensation under s. 3 of Compensation (Defence) Act, 1939.

49. Subsection (6) of section three of the Compensation (Defence) Act, 1939 (which directs that in assessing compensation under that section it shall be assumed that the land cannot be restored to the condition in which it would be but for the doing of the work) shall not apply, and shall be deemed never to have applied, to compensation under subsection (4) thereof (which provides for the payment of a lump sum where the land is not restored by the Crown).

Definition of work done on land.

50. The Compensation (Defence) Act, 1939, shall have effect and be deemed always to have had effect as if for subsection (2) of section seventeen thereof (which defines the expression "the doing of work on land") there were substituted the following subsection—

"(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".

PART X.

MISCELLANEOUS AND GENERAL.

Saving for agreements.

51.—(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

PART X. *cont.*

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.

Power of Ministers to defray cost of rehabilitation of land in certain circumstances

52.—(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

PART X. —*cont.*

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.

Provision of land in lieu of land acquired under Defence Acts.

53.—(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.

PART X. —*cont.*

(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.

Consequences of undertakings to pay money under Part II.

54. 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.

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

20 & 21 Geo. 5. c. 44.

55. 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.

Provisions as to Board of Trade.

56. 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.

Expenses.

57.—(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);

PART X. —*cont.*

(*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.

Evidence.

58.—(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.

Interpretation, &c.

59.—(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

PART X. —*cont.*

(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;

36 & 37 Vict. c. 68.

" 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;

10 Edw. 7 & 1 Geo. 5. c. 24.

5 & 6 Geo. 6. c. 21.

" 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;

6 & 7 Geo. 6. c. 29.

PART X. —*cont.*

" 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.

(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

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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.

Application to Scotland.

60.—(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

PART X. —*cont.*

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.

6 & 7 Geo. 6. c. 43.

3 Edw. 7. c. 25.

(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

PART X. —*cont.*

(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, as 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:—

22 & 23 Geo. 5. c. 49.

" (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 ". 25 & 26 Geo.5. c. 41.

(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 ".

PART X. —*cont.*

(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 local 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 conferred.

19 & 20 Geo. 5. c. 25.

Any sums so borrowed shall be repaid within such period as the Secretary of State may fix.

Application to Northern Ireland.

61.—(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.

41 & 42 Vict. c. 52.

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.

54 & 55 Vict. c. 66.

PART X. —*cont*

(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 ".

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(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 Edw. 7 & 1 Geo. 5. c. 8.

(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.

Short title.

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

Section 32.

SCHEDULE.

ENACTMENTS APPLIED TO CERTAIN MINISTERS.

The Defence Act, 1842, except sections five, six, eight, twenty-three, thirty-seven, thirty-nine and forty-one.

The Defence Act, 1854.

The Defence Act, 1859.

Section seven of the Lands Clauses Consolidation Acts Amendment Act, 1860, except so much of the proviso to that section as requires compliance with section twenty-three of the Defence Act, 1842.

Section forty-six of the Defence Act, 1860, and the provisions thereby applied.

Section seven of the Militia (Lands and Buildings) Act, 1873.

The Defence Acts Amendment Act, 1873.