SUPPLIED FOR THE PUBLIC SERVICE

CHAPTER 34.

An Act to authorise the making of arrangements during the present war period for enabling development which is expedient in the public interest to be carried out and maintained for the time being notwithstanding the refusal of consent under the Restriction of Ribbon Development Act, 1935, to permanent development; to regulate the effect of temporary arrangements already made for the purposes of that Act during the said period; and to amend section eleven of that Act.

[5th August 1943.]

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:—

Postponement of enforcement of restrictions under 25 & 26 Geo. 5. c. 47 in certain cases.

1.—(1) Where an application made to a highway authority for any consent which they have power to give under section one or section two of the Restriction of Ribbon Development Act, 1935 (hereinafter referred to as "the principal Act") is refused by that authority at any time during the present war period, but it appears to that authority to be inexpedient in the public interest to prevent the building, excavation, means of access or works in respect of which the application was made from being erected, made, constructed, formed or laid out and maintained during the remainder of that period, they may serve on the person by whom the application was made a notice stating that if, notwithstanding the refusal of the application, the building or excavation is erected or made, or the means of access or works constructed, formed or laid out, in contravention of restrictions in force under the said section one or the said section two, no action will be taken under section eleven of the principal Act in respect of the contravention until after the expiration of that period.

(2) If, at any time during the present war period, it appears to a highway authority that any building or excavation has been erected or made, or any means of access or works constructed, formed or laid out, in contravention of such restrictions as aforesaid, but that it is inexpedient in the public interest to prevent the building, excavation, means of access or works from being maintained during the remainder of that period, they may serve on the person by whom the contravention was committed a notice specifying the contravention, and stating that no action will be taken under the said section eleven in respect thereof until after the expiration of that period.

(3) Where a notice is served under either of the foregoing subsections with respect to any building, excavation, means of access, or works—

(*a*) no criminal proceedings shall, whether before or after the expiration of the present war period, be taken under the said section eleven in respect of the erection, making, construction, formation or laying out of the building, excavation, means of access or works; and

(*b*) the highway authority shall not, in the exercise of their powers under that section demolish the building, fill up the excavation, close up the means of access or remove the works, as the case may be, until after the expiration of that period.

(4) If upon an application made to a highway authority for any such consent as is mentioned in subsection (1) of this section the highway authority, at any time since the third day of September, nineteen hundred and thirty-nine and before the commencement of this Act, have purported to give any consent which they have power to give under the said section one or section two of the principal Act conditionally upon the subsequent removal of any building, excavation, means of access, or works, erected, made, formed, laid out or constructed in accordance therewith, or have otherwise entered into any agreement or undertaking for postponing the exercise of their powers under the said section eleven of the principal Act or otherwise for securing the removal or closing up of the building, excavation, means of access, or works to which the application related, the highway authority shall not be deemed to have given their consent under the said sections one or two but the provisions of the last foregoing subsection shall apply in relation to the building, excavation, means of access, or works in like manner as if a notice under subsection (1) or subsection (2) of this section had been served by that authority with respect to the building, excavation, means of access, or works in respect of which the application was made:

Provided that where any such consent as aforesaid was given subject to conditions other than conditions with respect to the subsequent removal of the building, excavation, means of access or works, those conditions may be enforced under the said section eleven notwithstanding anything in the foregoing provisions of this subsection.

(5) If, after the expiration of the present war period, the Minister is satisfied that there has been unreasonable delay in the exercise by any highway authority of their powers under the said section eleven in relation to any building, excavation, means of access or works in respect of which a notice has been served under subsection (1) or subsection (2) of this section, or to which the provisions of subsection (3) of this section apply as if such a notice had been served, and that the exercise of those powers is required in the interests of the amenities of the locality or of well planned development, he may give directions requiring them to exercise those powers, and any such directions may be enforced by mandamus.

(6) In this section, references to a highway authority shall, in relation to trunk roads, be construed as references to the authority by whom functions are exercisable under section four of the Trunk Roads Act, 1936; the expression "the present war period" means the period beginning with the third day of September nineteen hundred and thirty-nine and ending with such date as His Majesty may by Order in Council appoint; and other expressions have the same meaning as in the principal Act as amended by any subsequent enactment. 1 Edw. 8 and 1 Geo. 6. c. 5.

2. In the proviso to subsection (1) of section eleven of the principal Act (which relates to the procedure to be followed for the enforcement of restrictions without criminal proceedings) for the words from "if that person" to "the appellant" there shall be substituted the words "at any time before the expiration of that period that person may apply to a court of summary jurisdiction for the petty sessional division in which the building, excavation, means of access, or works are situated, for an order determining whether the building, excavation, means of access, or works were erected, made, constructed, or laid out in contravention of such restrictions as aforesaid, and the applicant". Amendment of s. 11 of principal Act.

3. This Act may be cited as the Restriction of Ribbon Development (Temporary Development) Act, 1943, and this Act and the principal Act may be cited together as the Restriction of Ribbon Development Acts, 1935 and 1943. Short title and citation.

Printed by NORMAN GIBB SCORGIE, C.V.O., C.B.E.,
Controller of His Majesty's Stationery Office
and
King's Printer of Acts of Parliament