



# Compensation (Defence) Act 1939

1939 CHAPTER 75 2 and 3 Geo 6

An Act to provide for compensation in respect of action taken on behalf of His Majesty in the exercise of certain emergency powers; and for the purposes connected with the matter aforesaid. [1st September 1939]

## Modifications etc. (not altering text)

- C1 Act applied by [War Damaged Sites Act 1949 \(c. 84\), s. 5](#); applied (E.W.) by [Requisitioned Houses and Housing \(Amendment\) Act 1955 \(c. 24\), s. 7\(4\)\(b\)](#); excluded by [Post Office Works Act 1959 \(c. 43\), s. 2\(2\)](#)
- C2 Words of enactment omitted under authority of [Statute Law Revision Act 1948 \(c. 62\), s. 3](#)

## *Right to, and measure of, compensation*

### **1 Compensation for action taken in the exercise of emergency powers.**

- (1) Where, in the exercise of emergency powers during the period beginning with the twenty-fourth day of August, nineteen hundred and thirty-nine, and ending with such day as His Majesty may by Order in Council declare to be the day on which the emergency came to an end,—
- possession of any land has been taken on behalf of His Majesty, or
  - any property other than land has been requisitioned or acquired on behalf of His Majesty, or
  - any work has been done on any land on behalf of His Majesty, otherwise than by way of measures taken to avoid the spreading of the consequences of damage caused by war operations,

then, subject to the following provisions of this Act, compensation assessed in accordance with those provisions shall be paid, out of moneys provided by Parliament, in respect of the taking possession of the land, the requisition or acquisition of the property, or the doing of the work, as the case may be.

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- (2) For the purposes of this section, a requirement that any space or accommodation in a ship or an aircraft be placed at the disposal of any authority shall be deemed to be a requisition of property.

**2 Compensation in respect of taking possession of land.**

- (1) The compensation payable under this Act in respect of the taking possession of any land shall be the aggregate of the following sums, that is to say,—
  - (a) a sum equal to the rent which might reasonably be expected to be payable by a tenant in occupation of the land, during the period for which possession of the land is retained in the exercise of emergency powers, under a lease granted immediately before the beginning of that period, whereby the tenant undertook to pay all usual tenant’s rates and taxes and to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain the land in a state to command that rent, and
  - (b) a sum equal to the cost of making good any damage to the land which may have occurred during the period for which possession thereof is so retained (except in so far as the damage has been made good during that period by a person acting on behalf of His Majesty), no account being taken of fair wear and tear or of damage caused by war operations, and
  - (c) in a case where the land is agricultural land, a sum equal to the amount (if any) which might reasonably have been expected to be payable in addition to rent by an incoming tenant, in respect of things previously done for the purpose of the cultivation of the land, and in respect of seeds, tillages, growing crops and other similar matters, under a lease of the land granted immediately before possession thereof was taken in the exercise of emergency powers, and
  - (d) a sum equal to the amount of any expenses reasonably incurred, otherwise than on behalf of His Majesty, for the purpose of compliance with any directions given on behalf of His Majesty in connection with the taking possession of the land:

..... F1

- (2) Any compensation under paragraph (a) of the preceding subsection shall be considered as accruing due from day to day during the period for which the possession of the land is taken in the exercise of emergency powers, and be apportionable in respect of time accordingly, and shall be paid to the person who for the time being would be entitled to occupy the land but for the fact that possession thereof is retained in the exercise of such powers; but this subsection shall not operate so as to require the making of payments at intervals of less than three months.

For the purposes of the enactments relating to income tax . . . F2 any compensation under the said paragraph (a) shall be deemed to be rent payable for the land, the Crown shall be deemed to pay it as tenant occupier, and the person receiving it shall be deemed to receive it as landlord.

- (3) Any compensation under paragraph (b) of subsection (1) of this section shall accrue due at the end of the period for which possession of the land is retained in the exercise of emergency powers, and shall be paid to the person who is then the owner of the land.
- (4) Any compensation under paragraph (c) of subsection (1) of this section shall accrue due at the time when possession of the land is taken in the exercise of emergency

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powers, and shall be paid to the person who, immediately before that time, was the occupier of the land.

- (5) Any compensation under paragraph (d) of subsection (1) of this section shall accrue due at the time when the expenses in respect of which the compensation is payable are incurred, and shall be paid to the person by whom or on whose behalf those expenses were incurred.

#### Textual Amendments

- F1** Words repealed by [Statute Law \(Repeals\) Act 1973 \(c. 39\), s. 1\(1\), Sch. 1 Pt. IX](#)  
**F2** Words repealed by [Finance Act 1963 \(c. 25\), s. 73\(7\)\(b\), \(8\)\(b\), Schs. 13 Pt. I 14 Pt. IV](#)

#### Modifications etc. (not altering text)

- C3** S. 2 applied with modifications by [Public Works \(Festival of Britain\) Act 1949 \(c. 26\), s. 5\(8\)\(b\)](#) and [War Damaged Sites Act 1949 \(c. 84\), s. 5\(1\)\(2\)](#)  
**C4** S. 2(1)(a) amended by [Landlord and Tenant \(Requisitioned Land\) Act 1942 \(c. 13\), ss. 6–8](#)  
**C5** S. 2(1)(b) amended by [Landlord and Tenant \(Requisitioned Land\) Act 1942 \(c. 13\), s. 7](#), [Town and Country Planning Act 1954 \(c. 72\), s. 53](#) and [Town and Country Planning \(Scotland\) Act 1954 \(c. 73\), s.55](#); modified by [Requisitioned Land and War Works Act 1945 \(c. 43\), s. 52\(1\)](#) and excluded by [Requisitioned Land and War Works Act 1945, \(c. 43\) s.47](#)

### 3 Compensation in respect of the doing of work on land.

- (1) Compensation under this Act in respect of the doing of any work on any land shall be payable only if the annual value of the land is diminished by reason of the doing of the work.
- (2) The compensation payable under this Act in respect of the doing of any work on any land shall, in the first instance, be a sum calculated by reference to the diminution of the annual value of the land ascribable to the doing of the work; and shall be paid in instalments, quarterly in arrear, to the person who for the time being is entitled to occupy the land.

Any compensation under this subsection shall be considered as accruing due from day to day, and shall be apportionable in respect of time accordingly.

- (3) If, at any time after compensation under the preceding subsection has become payable by reason of the doing of any work on any land, a person acting on behalf of His Majesty—
- causes the land to be restored, so far as practicable, to the condition in which it would be but for the doing of the work, or
  - serves on the person for the time being entitled to occupy the land a written notice of intention to discharge the liability for the compensation by making, not earlier than a date specified in the notice, payment of a lump sum in accordance with the following provisions of this section,

the period in respect of which compensation is payable under the preceding subsection by reason of the doing of the work shall end with the date immediately preceding the date on which the restoration is completed or, as the case may be, the date specified in the notice.

- (4) Where, by virtue of the operation of the last preceding subsection in relation to any work done on any land, the period in respect of which compensation under

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subsection (1) of this section is payable by reason of the doing of the work comes to an end, then if, at the expiration of that period, the value of any estate or interest which a person then has in the land is less than it would be but for the doing of the work, there shall be paid to him, by way of compensation under this Act, a sum equal to the amount of the said depreciation in the value of the estate or interest; and that compensation shall be taken to accrue due at the expiration of the said period.

- (5) As soon as may be after effecting any restoration or serving any notice in pursuance of subsection (3) of this section, the person by whom the restoration was effected or the notice was served shall cause the fact of the restoration or the contents of the notice, as the case may be, to be published in such manner as he thinks best adapted for informing persons affected.
- (6) In determining for the purposes of this section whether the annual value of any land is diminished by reason of the doing of any work thereon, and in assessing any compensation under this section in respect of the doing of any work on any land, 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.
- (7) For the purposes of this section, no account shall be taken of any diminution or depreciation in value ascribable only to loss of pleasure or amenity.
- (8) No compensation under this section shall, in relation to any land, be payable in respect of any period for which possession of that land is taken on behalf of His Majesty in the exercise of emergency powers.
- (9) In this section—
  - (a) the expression “annual value” means, in relation to any land, the rent at which the land might reasonably be expected to let from year to year, if the tenant undertook to pay all usual tenant’s rates and taxes and to bear the costs of the repairs and insurance and the other expenses, if any, necessary to maintain the land in a state to command that rent; and
  - (b) the expression “diminution of the annual value” means, in relation to the doing of any work on any land, the amount by which the annual value of the land is less than it would be if the work had not been done.

**Modifications etc. (not altering text)**

- C6** S. 3 amended by Requisitioned Land and War Works Act 1945 (c. 43), ss. 48, 52(2); excluded retrospectively by Requisitioned Land and War Works Act 1948 (c. 17), s. 11(2)
- C7** S. 3(2) excluded by Requisitioned Land and War Works Act 1948 (c. 17), s. 13(2)(4)
- C8** S. 3(4) excluded by Requisitioned Land and War Works Act 1948 (c. 17), s. 13(5)
- C9** S. 3(6) restricted by Requisitioned Land and War Works Act 1945 (c. 43), s. 49

**4 Compensation in respect of requisition or acquisition of vessels, vehicles and aircraft.**

- (1) The compensation payable under this Act in respect of the requisition of any vessel, vehicle or aircraft shall be the aggregate of the following sums, that is to say,—
  - (a) a sum equal to the amount which might reasonably be expected to be payable by a person for the use of the vessel, vehicle or aircraft during the period of the requisition, under a charter or contract of hiring whereby he undertook

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to bear the cost of insuring, maintaining and running the vessel, vehicle or aircraft, and

- (b) if an agreement is made on behalf of His Majesty for the running of the vessel, vehicle or aircraft during the said period by the person who, but for the requisition, would be entitled to possession of the vessel, vehicle or aircraft, or who is the owner thereof, a sum equal to the amount of any expenses reasonably incurred by that person in connection with the maintenance and running of the vessel, vehicle or aircraft during that period, not being expenses taken into account for the purposes of paragraph (a) of this subsection, and
- (c) a sum equal to the cost of making good any damage to the vessel, vehicle or aircraft not resulting in a total loss thereof, which may have occurred during the said period (except in so far as the damage has been made good during that period by a person acting on behalf of His Majesty), no account being taken of fair wear and tear, and
- (d) in a case where, during the period of the requisition, a total loss of the vessel, vehicle or aircraft occurs, a sum equal to the value of the vessel, vehicle or aircraft immediately before the occurrence of the damage which caused the loss, and
- (e) a sum equal to the amount of any expenses reasonably incurred, otherwise than on behalf of His Majesty, for the purpose of compliance with any directions given on behalf of His Majesty in connection with the requisition:

Provided that—

- (i) in computing for the purposes of paragraph (a) of this subsection the amount which might reasonably be expected to be payable for the use of any vessel, vehicle or aircraft, no account shall be taken of any appreciation in the value thereof due to the emergency; and
  - (ii) no compensation shall by virtue of this subsection be payable in respect of any loss of, or damage to, any vehicle or aircraft arising in consequence of war operations, unless it is shown that, at the time when the loss or damage occurred, the risk of the vehicle or aircraft being lost or damaged in consequence of war operations was materially increased by reason of the requisition thereof in the exercise of emergency powers; and
  - (iii) no compensation shall by virtue of paragraph (c) of this subsection be payable in respect of any damage, if compensation in respect of expenses incurred for the purpose of making good that damage has accrued due by virtue of paragraph (b) of this subsection.
- (2) Any compensation under paragraph (a) of the preceding subsection shall be considered as accruing due from day to day during the period for which the vessel, vehicle or aircraft is requisitioned in the exercise of emergency powers, and be apportionable in respect of time accordingly, and shall be paid to the person who, at the time when the compensation accrues due, is the owner of the vessel, vehicle or aircraft; but this subsection shall not operate so as to require the making of payments at intervals of less than one month.
- (3) Where, on the day on which any compensation accrues due by virtue of paragraph (a) of subsection (1) of this section, a person other than the owner of the vessel, vehicle or aircraft is, by virtue of a subsisting charter or contract of hiring, the person who would be entitled to possession of, or to use, the vessel, vehicle or aircraft but for the requisition, the person to whom the compensation is paid shall be deemed to receive it as a trustee for the first mentioned person.

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- (4) Any compensation under paragraph (b) or paragraph (e) of subsection (1) of this section shall accrue due at the time when the expenses in respect of which the compensation is payable are incurred, and shall be paid to the person by whom or on whose behalf those expenses were incurred; but this subsection shall not operate so as to require the making of payments at intervals of less than one month.
- (5) Any compensation under paragraph (c) or paragraph (d) of subsection (1) of this section shall accrue due at the end of the period of the requisition, and shall, subject to the following provisions of this Act, be paid to the person who is then the owner of the vessel, vehicle or aircraft.
- (6) For the purposes of subsection (1) of this section, the expression “total loss” shall have the same meaning as it has for the purposes of the law relating to insurance, and accordingly shall be construed as including constructive total loss; and upon the payment to any person of any compensation which has become payable by virtue of paragraph (d) of that subsection in respect of any loss, the Crown shall have the same right to take over an interest in whatever remains of the vessel, vehicle or aircraft, and the same rights and remedies in and in respect of the vessel, vehicle or aircraft, as it would have if the payment had been made by the Crown as the insurer under a contract insuring that person against the loss.
- (7) The compensation payable under this Act in respect of the acquisition of any vessel, vehicle or aircraft shall be a sum equal to the value of the vessel, vehicle or aircraft immediately before the acquisition, no account being taken of any appreciation due to the emergency, and shall, subject to the following provisions of this Act, be paid to the person who is then the owner of the vessel, vehicle or aircraft.

For the purpose of assessing any compensation under this subsection in respect of the acquisition of any vessel, vehicle or aircraft, no account shall be taken of any compensation under paragraph (a) or paragraph (c) of subsection (1) of this section which may have become payable in respect of the requisition of that vessel, vehicle or aircraft.

- (8) Where, at any time during the period for which a vessel, vehicle or aircraft is requisitioned on behalf of His Majesty in the exercise of emergency powers,—
  - (a) a written notice stating that the vessel, vehicle or aircraft is to be treated as acquired on behalf of His Majesty is served on the owner thereof by a person acting on behalf of His Majesty, or
  - (b) the vessel, vehicle or aircraft is sold on behalf of His Majesty,then, for the purposes of this section, the vessel, vehicle or aircraft shall be deemed to have been acquired on behalf of His Majesty in the exercise of emergency powers immediately before the day on which the said notice was served or, as the case may be, the day on which the vessel, vehicle or aircraft was so sold, and the period of requisition shall be deemed to have ended at the time when the acquisition of the vessel, vehicle or aircraft as aforesaid is deemed by virtue of this subsection to have been effected.
- (9) Where there is effected such a sale of any vessel, vehicle or aircraft as is referred to in paragraph (b) of the last preceding subsection, the person by whom the sale was effected shall, as soon as may be thereafter, serve a written notice of the sale on the person who for the time being would be the owner of the vessel, vehicle or aircraft but for the sale thereof as aforesaid.

## **5 Compensation in respect of taking space or accommodation in ships and aircraft.**

- (1) The compensation payable under this Act in respect of any requirement that any space or accommodation in a ship or an aircraft be placed at the disposal of any authority shall be the aggregate of the following sums, that is to say,—
  - (a) a sum equal to the amount which might reasonably be expected to be payable for the use of that space or accommodation during the period for which it is at the disposal of the authority by virtue of that requirement, no account being taken of any appreciation of values due to the emergency, and
  - (b) a sum equal to the amount of any expenses reasonably incurred, otherwise than on behalf of His Majesty, for the purpose of compliance with any directions given on behalf of His Majesty in connection with the said requirement.
- (2) Any compensation under paragraph (a) of the preceding subsection shall be considered as accruing due from day to day during the period for which the space or accommodation remains at the disposal of the authority at whose disposal it was required to be placed, and be apportionable in respect of time accordingly, and shall be paid to the person who, at the time when the compensation accrues due, is the owner of the ship or aircraft; but this subsection shall not operate so as to require the making of any payment before the end of the said period.
- (3) Where, on the day on which any compensation accrues due by virtue of paragraph (a) of subsection (1) of this section, a person other than the owner of the ship or aircraft is, by virtue of a subsisting charter or contract of hiring, entitled to possession of, or to use, the ship or aircraft, or is, by virtue of a subsisting contract, the person who would be entitled to use the space or accommodation but for the requirement in respect of which the compensation is payable, the person to whom the compensation is paid shall be deemed to receive it as a trustee for the first mentioned person.
- (4) Any compensation under paragraph (b) of subsection (1) of this section shall accrue due at the time when the expenses in respect of which the compensation is payable are incurred, and shall be paid to the person by whom or on whose behalf those expenses were incurred.

## **6 Compensation in respect of requisition or acquisition of goods other than vessels, vehicles and aircraft.**

- (1) Subject to the provisions of the next following subsection, the compensation payable under this Act in respect of the requisition or acquisition of any goods shall be a sum equal to the price which the person who, immediately before the requisition or acquisition, was the owner of the goods might reasonably have been expected to obtain upon a sale of the goods then effected by him, regard being had to the condition of the goods at the time and no account being taken of any appreciation in the value of the goods due to the emergency.
- (2) Any compensation under the preceding subsection shall not—
  - (a) in a case where the owner of the goods immediately before the requisition or acquisition, was a person who had produced the goods with a view to the sale thereof, exceed the aggregate of—
    - (i) the cost reasonably incurred by that person in producing the goods, and

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- (ii) the profit which he might reasonably have been expected to make on a sale of the goods effected by him immediately before the requisition or acquisition, or
- (b) in a case where the owner of the goods, immediately before the requisition or acquisition, was some person other than the producer of the goods, and the goods had been bought by that person with a view to the sale thereof, exceed the aggregate of—
  - (i) the price which it was reasonable for him to pay for the goods when they were so bought by him, and
  - (ii) the profit which he might reasonably have been expected to make on a sale of the goods effected by him immediately before the requisition or acquisition;

and, in assessing such compensation in any other case, no account shall be taken of any profit which might be expected to be made on a sale of the goods:

Provided that if, at the time when any goods are requisitioned or acquired on behalf of His Majesty in the exercise of emergency powers, the price or maximum price at which such goods may be sold is fixed by law, this subsection shall not be taken to authorise the assessment, by way of compensation under the preceding subsection in respect of the requisition or acquisition, a sum exceeding that price or maximum price, as the case may be.

In the preceding provisions of this subsection the reference to a person who had produced the goods with a view to the sale thereof, and the reference to the producer of the goods, shall be construed as including a reference to his personal representative or any person carrying on business in succession to him by virtue of any assignment or transmission by operation of law.

- (3) The compensation payable under this Act in respect of the requisition or acquisition of any goods shall include a sum equal to the amount of any expenses reasonably incurred, otherwise than on behalf of His Majesty, for the purpose of compliance with any directions given on behalf of His Majesty in connection with the requisition or acquisition.
- (4) Any compensation under subsection (1) of this section shall accrue due at the time of the requisition or acquisition of the goods, and shall, subject to the following provisions of this Act, be paid to the person who is then the owner of the goods.
- (5) Any compensation under subsection (3) of this section shall accrue due at the time when the expenses in respect of which the compensation is payable are incurred and shall be paid to the person by whom or on whose behalf those expenses were incurred.

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**Modifications etc. (not altering text)**

**C10** S. 6 amended by [Emergency Laws \(Transitional Provisions\) Act 1946 \(c. 26\), s. 16](#)

*Tribunals for determining disputes*

**7 Determination of claims by tribunals in default of agreement.**

Any dispute as to whether any compensation is payable under this Act, or as to the amount of any compensation so payable, shall, in default of agreement, be referred to,



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and determined by, the appropriate tribunal constituted under the following provisions of this Act, and the decision of that tribunal shall be final:  
Provided that at any stage in proceedings before it the tribunal may, and, if so directed by the High Court, shall, state in the form of a special case for the opinion of that Court any question of law arising in the course of the proceedings.

**Modifications etc. (not altering text)**

**C11** S. 7 applied with modifications by [Public Works \(Festival of Britain\) Act 1949 \(c. 26\), s. 5\(8\)\(b\)](#); applied by [War Damaged Sites Act 1949 \(c. 84\), s. 13](#)

**8 Constitution of tribunals.**

- (1) For the purpose of determining disputes as to the payment of compensation under this Act in respect of the requisition or acquisition of vessels or the taking of space or accommodation therein, there shall be a Shipping Claims Tribunal (hereinafter referred to as “the Shipping Tribunal”), consisting of a president and two other members appointed by the Lord Chancellor.
- (2) The president and one of the other members of the Shipping Tribunal shall be respectively members of the legal profession who appear to the Lord Chancellor to have a special knowledge of commercial and admiralty law; and the third member of the tribunal shall be a person appearing to the Lord Chancellor to have special qualifications as an average adjuster or accountant.
- (3) .....<sup>F3</sup>
- (5) There shall be paid out of moneys provided by Parliament—
  - (a) to any member of a tribunal constituted under this Act such remuneration (if any) [<sup>F4</sup>and such allowances (if any)] as the Lord Chancellor, with the approval of the Treasury, may determine in his case, and
  - (b) the amounts necessary to defray such expenses of the tribunals constituted under this Act as the Lord Chancellor and the Treasury may approve.

**Textual Amendments**

**F3** S. 8(3)(4) repealed by [Land Powers \(Defence\) Act 1958 \(c. 30\), s. 22](#)

**F4** Words in s. 8(5)(a) inserted (10.3.2022 for specified purposes, 10.5.2022 in so far as not already in force) by [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\), s. 131\(1\)\(4\)\(b\)\(ii\)](#), **Sch. 2 para. 1**

**Modifications etc. (not altering text)**

**C12** S. 8 applied with modifications by [Public Works \(Festival of Britain\) Act 1949 \(c. 26\), s. 5\(8\)\(b\)](#)

**9 [<sup>F5</sup>Incidental powers of tribunals and rules of procedure ]**

- (1) Each of the tribunals constituted under this Act shall have the following powers, that is to say:—
  - <sup>F6</sup>(a) .....

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- (b) to order persons to attend and give evidence, and to produce and give discovery and inspection of documents, in like manner as in proceedings in the High Court;
  - (c) to award and assess, or direct the assessment of, such sums by way of costs as the tribunal in its discretion thinks just, and in particular to award costs to an unsuccessful claimant where such an award appears to the tribunal to be justified on the merits of the case;
  - (d) to call in the aid of one or more assessors specially qualified, and hear any claim wholly or partly with their assistance;
  - (e) to appoint an expert or experts to report on any matter material to the hearing of any claim;
  - (f) to determine, subject to the approval of the Treasury, the remuneration, if any, of such assessors and experts.
- [<sup>F7</sup>(1A) Rules prescribing the procedure for notifying, presenting and hearing claims and all matters incidental thereto may be made in relation to each of the tribunals constituted under this Act.
- (1B) Such rules are to be made as follows—
- (a) if the rules relate to proceedings in England and Wales, they are to be made by the Lord Chancellor;
  - (b) if the rules relate to proceedings in Scotland, they are to be made by the Lord President of the Court of Session;
  - (c) if the rules relate to proceedings in Northern Ireland, they are to be made by the Lord Chancellor with the concurrence of the Lord Chief Justice of Northern Ireland.]
- (2) [<sup>F8</sup>Such rules] may contain provisions authorising a tribunal to take into consideration any matter which the tribunal considers relevant to the subject of the inquiry before it, notwithstanding that the matter is not admissible in evidence under the law relating to evidence.
- (3) The High Court shall have, for the purposes of and in relation to any proceedings under this Act, the same power of making orders in respect of any of the matters specified in paragraph (b) of subsection (1) of this section as it has for the purpose of and in relation to an action or matter in that Court.
- [<sup>F9</sup>(4) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this section.
- (5) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

#### Textual Amendments

- F5** Words in s. 9 substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 4 para. 21\(2\)](#); S.I. 2006/1014, Sch. 1 para. 11(d)
- F6** S. 9(1)(a) repealed (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 4 para. 21\(3\)](#), [Sch. 18 Pt. 2](#); S.I. 2006/1014, Sch. 1 para. 30(b)

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- F7** S. 9(1A)(1B) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 21(4)**; S.I. 2006/1014, Sch. 1 para. 11(d)
- F8** Words in s. 9(2) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 21(5)**; S.I. 2006/1014, Sch. 1 para. 11(d)
- F9** S. 9(4)(5) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 21(6)**; S.I. 2006/1014, Sch. 1 para. 11(d)

**Modifications etc. (not altering text)**

- C13** S. 9 applied with modifications by Public Works (Festival of Britain) Act 1949 (c. 26), **s. 5(8)(b)**; applied by War Damaged Sites Act 1949 (c. 84), **s. 13**

*General and Supplementary Provisions*

**10 Interest on compensation.**

Any compensation under this Act shall carry interest, as from the date on which it accrues due until payment, at such rate not exceeding five per cent. per annum as the Treasury may from time to time by order prescribe.

**Modifications etc. (not altering text)**

- C14** S. 10 applied by Requisitioned Land and War Works Act 1948 (c. 17), **s. 13(4)(5)**; applied with modifications by Public Works (Festival of Britain) Act 1949 (c. 26), **s. 5(8)(b)**

**11 Limitation of time for claiming compensation.**

No claim for any compensation under this Act shall be entertained unless notice of the claim has, in such form and manner as may be prescribed, been given to the prescribed authority within the period of six months, or such longer period as the Treasury may, either generally or in relation to any particular claim or class of claims, allow, beginning in either case with the date on which the compensation accrues due or the date of the passing of this Act, whichever is the later.

**Modifications etc. (not altering text)**

- C15** S. 11 amended by Landlord and Tenant (Requisitioned Land) Act 1942 (c. 13), **s. 6(3)**; applied with modifications by Public Works (Festival of Britain) Act 1949 (c. 26), **s. 5(8)(b)**

**12 Exclusion of compensation under Act in certain cases.**

- (1) No person shall, by virtue of this Act, be entitled to compensation in respect of the acquisition on behalf of His Majesty of any currency, gold or securities, or in respect of the taking control on behalf of His Majesty of any railway undertaking or any undertaking carried on by any person by whom a railway undertaking is carried on, or of any part of such an undertaking as aforesaid.
- (2) No compensation shall, by virtue of this Act, be payable to any person in respect of any loss of, or damage to, property, if and so far as that person has become entitled, apart from the provisions of this Act, to recover any sum by way of damages or indemnity in

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respect of that loss or damage or is, at the time of the occurrence of the loss or damage, required under any contract with the Crown to be insured in respect thereof.

**Modifications etc. (not altering text)**

- C16** S. 12 applied with modifications by [Public Works \(Festival of Britain\) Act 1949 \(c. 26\)](#), s. **5(8)(b)**  
**C17** S. 12(2) amended by [Landlord and Tenant \(Requisitioned Land\) Act 1944 \(c. 5\)](#), s. **3(2)**

**13 Provisions as to property subject to hire-purchase agreements.**

In a case where any property in respect of the requisition or acquisition of which compensation is required by the preceding provisions of this Act to be paid to the person who is the owner of the property immediately before the requisition or acquisition, is then in the possession of some other person by virtue of a hire-purchase agreement [<sup>F10</sup>or a conditional sale agreement], that person may, by a notice given in the prescribed form and manner to the prescribing authority, within the period limited by this Act in relation to the making of any claim by the owner for payment of the compensation, make a claim to have apportioned to him such part of the compensation as may be specified in his claim; and, in default of agreement between the parties, the last-mentioned claim shall be referred to the tribunal constituted under this Act which has jurisdiction in the matter of any such claim by the owner, and thereupon that tribunal may apportion the compensation between the owner and the other person in such manner as appears to it to be just.

**Textual Amendments**

- F10** Words inserted by [Consumer Credit Act 1974 \(c. 39, SIF 60\)](#), s. **192(3)(a)(4)**, Sch. 4 Pt. I para. 7

**Modifications etc. (not altering text)**

- C18** S. 13 applied with modifications by [Public Works \(Festival of Britain\) Act 1949 \(c. 26\)](#), s. **5(8)(b)**

**14 Provisions as to property subject to mortgages, pledges, &c.**

[<sup>F11</sup>(1)] Where any sum by way of compensation is paid in accordance with any provisions of this Act requiring compensation to be paid to the owner of any property, then, if at the time when the compensation accrues due, the property is subject to any mortgage, pledge, lien or other similar obligation, the sum so paid shall be deemed to be comprised in that mortgage, pledge, lien or other obligation.

[<sup>F12</sup>(2)] Where any goods have been requisitioned in such circumstances as to give a right to compensation assessed under section 6 of this Act, the ownership of the goods shall be deemed to have vested in the Crown as from the time of requisition free from any mortgage, pledge, lien or similar obligation.]

**Textual Amendments**

- F11** S. 14 renumbered by [Statute Law \(Repeals\) Act 1989 \(c. 43\)](#), s. 1(2), **Sch. 2 Pt. II para. 10**  
**F12** S. 14(2) inserted by [Statute Law \(Repeals\) Act 1989 \(c. 43\)](#), s. 1(2), **Sch. 2 Pt. II para. 10**

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**Modifications etc. (not altering text)**

**C19** S. 14 applied with modifications by [Public Works \(Festival of Britain\) Act 1949 \(c. 26\), s. 5\(8\)\(b\)](#)

**15 Compensation payable apart from the Act.**

The provisions of this Act shall be without prejudice to any agreement for the making of any payment (whether by way of compensation or otherwise) in respect of the doing of anything on behalf of His Majesty in the exercise of emergency powers; but, where compensation in respect of the doing of anything as aforesaid, would, apart from this section, be payable both under this Act and under some other enactment or rule of law, then, subject to any such agreement as aforesaid, the compensation shall be payable in accordance with this Act and not otherwise.

**Modifications etc. (not altering text)**

**C20** S. 15 applied by [Landlord and Tenant \(Requisitioned Land\) Act 1944 \(c. 5\), s. 3\(3\)](#); applied with modifications by [Public Works \(Festival of Britain\) Act 1949 \(c. 26\), s. 5\(8\)\(b\)](#); saved by [Requisitioned Land and War Works Act 1945 \(c. 43\), ss. 23](#) proviso (b), 47

**16 Service of notices.**

Any notice which by this Act is required or authorised to be served on any person may be served by post.

**Modifications etc. (not altering text)**

**C21** S. 16 applied with modifications by [Public Works \(Festival of Britain\) Act 1949 \(c. 26\), s. 5\(8\)\(b\)](#)

**17 Interpretation.**

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

“agricultural land” means any land used as arable, meadow or pasture land, land used for a plantation or a wood or for the growth of saleable underwood, or land used for the purpose of poultry farming, market gardens, nursery grounds, orchards or allotments, including allotment gardens within the meaning of the <sup>M1</sup>Allotments Act, 1922;

“aircraft” means any flying machine, glider or airship or any balloon (whether fixed or free);

[<sup>F13</sup>“conditional sale agreement” means an agreement for the sale of goods which a consumer credit agreement within the meaning of the Consumer Credit Act 1974 under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise may be specified in the agreement are fulfilled;]

“the emergency” means the emergency that was the occasion of the passing of this Act;

“emergency powers” means any power conferred by—

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- (a) ..... F14  
 (b) ..... F15  
 (c) section seven of the <sup>M2</sup>Air Navigation Act, 1920, as amended by any subsequent enactment,

or any power exercisable by virtue of the prerogative of the Crown;  
 “exercise” includes purported exercise;

“fair wear and tear,” in relation to any property possession of which is taken on behalf of His Majesty or which is requisitioned on behalf of His Majesty, means such fair wear and tear as might have been expected to occur but for the fact that possession of the property was so taken or that the property was so requisitioned, as the case may be;

“goods” means chattels other than vessels, vehicles and aircraft;

“the High Court” means the High Court of Justice in England;

[<sup>F16</sup>“hire-purchase agreement” means an agreement which is a consumer credit agreement within the meaning of the Consumer Credit Act 1974, other than a conditional sale agreement, under which—

- (a) goods are bailed or (in Scotland) hired in return for periodical payments by the person to whom they are bailed or hired, and  
 (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs—  
 (i) the exercise of an option to purchase by that person,  
 (ii) the doing of any other specified act by any party to the agreement,  
 (iii) the happening of any other specified event;]

“land” includes (without prejudice to any of the provisions of section three of the <sup>M3</sup>Interpretation Act, 1889,) land covered with water, and parts of houses or buildings;

“owner” means—

- (a) in relation to land, the person who is receiving the rackrent of the land, whether on his own account or as agent or trustee for any other person, or who would so receive the rackrent of the land if it were let at a rackrent, or  
 (b) in relation to any property other than land, the person entitled to sell the property, it being assumed not to be subject to any mortgage, pledge, lien or other similar obligation;

and in this definition the expression “rackrent” has the same meaning as in the <sup>M4</sup>Public Health Act, 1936;

“prescribed” means prescribed by rules made by the Treasury;

“requisition” means, in relation to any property, take possession of the property or require the property to be placed at the disposal of the requisitioning authority; “ship” and “vessel” [<sup>F17</sup>have the same meaning as “ship” in the Merchant Shipping Act 1995]; and

“war operations” means action taken by an enemy, or action taken in combating an enemy or in repelling an imagined attack by an enemy.

[<sup>F18</sup>(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 anything, and the maintenance, removal,

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demolition, pulling down, destruction or rendering useless of any thing, on, over or below that surface.]

#### Textual Amendments

- F13** Definition of “conditional sale agreement” inserted by [Consumer Credit Act 1974 \(c. 39, SIF 60\)](#), **Sch. 4 Pt. I para. 8**
- F14** In the definition of “emergency powers” para. (a) repealed by [Statute Law \(Repeals\) Act 1976 \(c. 16\)](#), **Sch. 1 Pt. XX**
- F15** In the definition of “emergency powers” para. (b) repealed by virtue of [Statute Law \(Repeals\) Act 1973 \(c. 39\)](#), s. 1(1), **Sch. 1 Pt. IX** and [Statute Law \(Repeals\) Act 1976 \(c. 16\)](#), s. 1, **Sch. 1 Pt. XX**
- F16** Definition of “hire-purchase agreement” substituted by [Consumer Credit Act 1974 \(c. 39, SIF 60\)](#), **Sch. 4 Pt. I para. 8**
- F17** Words in definition of “ship” and “vessel” substituted (1.1.1996) by [1995 c. 21](#), ss. 314(2), 316(3), **Sch. 13 para. 18** (with s. 312(1))
- F18** S. 17(2) substituted by [Requisitioned Land and War Works Act 1945 \(c. 43\)](#), **s. 50**

#### Modifications etc. (not altering text)

- C22** S. 17 applied with modifications by [Public Works \(Festival of Britain\) Act 1949 \(c. 26\)](#), **s. 5(8)(b)**

#### Marginal Citations

- M1** 1922 c. 51.
- M2** 1920 c. 80.
- M3** 1889 c. 63.
- M4** 1936 c. 49.

## 18 Application to Scotland and Northern Ireland.

(1) For the purpose of the application of this Act to Scotland, the expression “chattels” means corporeal moveables; . . . <sup>F19</sup>; the reference in the last preceding section to [<sup>F20</sup>allotment gardens within the meaning of the Allotments Act, 1922 is omitted]; and the expression “owner”, where used in relation to land, has the like meaning as in the <sup>M5</sup>Public Health (Scotland) Act, 1897.

<sup>F21</sup>(2) . . . . .

(3) For the purpose of the application of this Act to Northern Ireland, the expression “rackrent,” where used in relation to land, has the same meaning as in the <sup>M6</sup>Public Health (Ireland) Act, 1878.

[<sup>F22</sup>(4) Sections seven and nine of this Act shall have effect with these modifications—

- (a) in their application to proceedings in Scotland before a tribunal constituted under this Act, for references to the High Court there shall be substituted references to the Court of Session;
- (b) in their application to proceedings in Northern Ireland before a tribunal constituted under this Act, for references to the High Court there shall be substituted references to the High Court of Justice in Northern Ireland.]

#### Textual Amendments

- F19** Words repealed by [Consumer Credit Act 1974 \(c. 39, SIF 60\)](#), **s. 192(3)(b)**, Sch. 5 Pt. I

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- F20** Words in s. 18(1) substituted (S.) (1.4.2018) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), s. 142(1), **sch. 4 para. 2**; S.S.I. 2017/458, art. 2, sch. (with art. 4)
- F21** S. 18(2) repealed (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), Sch. 4 para. 22(a), **Sch. 18 Pt. 2**; S.I. 2006/1014, Sch. 1 para. 30(b)
- F22** S. 18(4) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), **Sch. 4 para. 22(b)**; S.I. 2006/1014, Sch. 1 para. 11(d)

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**Modifications etc. (not altering text)**

- C23** S. 18(2) applied by [War Damaged Sites Act 1949 \(c. 84\)](#), s. 13

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**Marginal Citations**

- M5** 1897 c. 38.  
**M6** 1878 c. 52.

**19 Extension of Act to Isle of Man and Channel Islands.**

- (1) His Majesty may by Order in Council direct that this Act shall extend to the Isle of Man or any of the Channel Islands, with such exception, adaptations and modifications as may be specified in the Order.
- (2) Any Order in Council under this section may be varied or revoked by a subsequent Order of His Majesty in Council.

**20** <sup>X1</sup>†**Short title and commencement.**

- (1) This Act may be cited as the Compensation (Defence) Act, 1939.
- (2) . . . . . <sup>F23</sup>

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**Editorial Information**

- X1** A dagger appended to a marginal note means that it is no longer accurate.

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**Textual Amendments**

- F23** S. 20(2) repealed by [Statute Law Revision Act 1950 \(14 Geo. 6 c. 6\)](#)



**Changes to legislation:**

There are currently no known outstanding effects for the Compensation (Defence) Act 1939.