



Requisitioned Land and War Works Act 1945

1945 CHAPTER 43

PART VII

APPLICATION AND AMENDMENTS OF DEFENCE ACTS, &C.

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

(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.
- (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 (II) 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).