



# Atomic Energy Act 1946

1946 CHAPTER 80 9 and 10 Geo 6

An Act to provide for the development of atomic energy and the control of such development, and for purposes connected therewith. [6th November 1946]

## Extent Information

**E1** For the extent of this act in relation to Northern Ireland see [s. 20](#).

## Modifications etc. (not altering text)

**C1** Functions of Minister of Supply under this Act now exercisable by Secretary of State: [S.I. 1953/1673](#) (1953 I, p. 1222), 1957/561 (1957 I, p. 1435), 1959/1826 (1959 I, p. 1791), 1964/490, 1964/2048, 1970/1537

## GENERAL FUNCTIONS OF MINISTER OF SUPPLY

### 1 General duty of Minister of Supply.

It shall be the general duty of the Minister of Supply (in this Act referred to as “the Minister”) to promote and control the development of atomic energy.

## Modifications etc. (not altering text)

**C2** [S. 1](#). amended by [Atomic Energy Authority Act 1954 \(c. 32\)](#), [s. 3\(1\)](#)

### 2 General powers of Minister.

(1).....<sup>F1</sup>

(2) [<sup>F2</sup>Subsections (1) and (2) of section two of the <sup>M1</sup>Supply Powers Act 1975] and Articles 5 and 6 of the Ministry of Supply (Transfer of Powers) (No. 1) Order, 1939, shall apply in relation to any functions of the Minister under this Act or any property vested in or under the control of the Minister by virtue of this Act.

*Status: Point in time view as at 22/07/2004.*

*Changes to legislation: There are currently no known outstanding effects for the Atomic Energy Act 1946. (See end of Document for details)*

**Textual Amendments**

- F1 S. 2(1) repealed with savings by Atomic Energy Authority Act 1954 (c. 32), s. 2(3)
- F2 Words substituted by Supply Powers Act 1975 (c. 9), s. 8(2)

**Marginal Citations**

- M1 1975 c. 9.

F3

**Textual Amendments**

- F3 S. 3 repealed by Atomic Energy Authority Act 1954 (c. 32), s. 2(3)

**POWERS TO OBTAIN INFORMATION AND TO INSPECT**

**4 Power to obtain information of materials, plant and processes.**

- (1) The Minister may by notice in writing served upon any person require him to make such periodical and other returns, at such times and containing such particulars and accompanied by such plans, drawings and other documents as may be specified in the notice,—
  - (a) of any prescribed substance, specified in the notice, in his possession or under his control;
  - (b) of any minerals so specified in his possession or under his control or present in or on land owned or occupied by him, being minerals from which, in the opinion of the Minister, any of the prescribed substances can be obtained;
  - (c) of any plant in his possession or under his control designed or adapted for the production or use of atomic energy or research into matters connected therewith;
  - (d) of any contract entered into by him or any licence granted by or to him relating to the production or use of atomic energy or research into matters connected therewith;
  - (e) of any other information in his possession relating to any work carried out by him, or on his behalf or under his direction, in connection with the production or use of atomic energy or research into matters connected therewith.
- (2) If any person—
  - (a) fails to comply with any notice served on him under this section; or
  - (b) knowingly or recklessly makes any untrue statement in any return made in pursuance of any such notice;
 he shall be guilty of an offence under this Act.

**5 Power of entry and inspection.**

- (1) Any person authorised by the Minister may, on producing, if so required, some duly authenticated document showing his authority, enter any premises where he has

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reasonable grounds for believing that work is being carried out for the purpose of or in connection with the production or use of atomic energy or research into matters connected therewith, or that any of the prescribed substances, or any minerals from which any such substance can be obtained, or any such plant as is mentioned in paragraph (c) of subsection (1) of the last foregoing section are situated, and may inspect the premises and any articles found therein.

The person carrying out the inspection may make copies of, or extracts from, any drawing, plan or other document found in the premises and, for the purpose of making such copies or extracts, may remove any such drawing, plan or other document and retain possession thereof for a period not exceeding seven days.

- (2) If any person wilfully obstructs any person exercising powers under this section, he shall be guilty of an offence under this Act.

## **POWER TO SEARCH FOR AND WORK MINERALS AND ACQUIRE PROPERTY**

### **6 Power to do work for purpose of discovering minerals.**

- (1) The Minister or any person authorised by him in that behalf may, subject to the provisions of this section, do on, over or below the surface of the land such work as the Minister considers necessary for the purpose of discovering whether there is present in or on the land, either in a natural state or in a deposit of waste material obtained from any underground or surface working, any minerals from which in his opinion any of the prescribed substances can be obtained, and the extent to which any such mineral is so present.
- (2) Before any powers are exercised under the last foregoing subsection in relation to any land, the Minister shall serve on every owner, lessee and occupier of the land a notice in writing specifying the nature of the work proposed to be done and the extent of the land affected, and the time, not being less than twenty-eight days, within which and the manner in which objections can be made thereto, and no such power shall be exercised otherwise than in pursuance of the notice or before the expiration of the time specified therein for making objections.
- (3) If any objection is duly made and not withdrawn, the Minister shall, before exercising any such powers, afford an opportunity to the person making the objection of appearing before and being heard by a person appointed by the Minister for the purpose and, if the person making the objection avails himself of that opportunity, the Minister may afford to any other persons to whom it appears to him expedient to afford it, an opportunity of being heard on the same occasion.
- (4) The Minister may, after considering any such objection and the report of the person appointed as aforesaid, serve on the persons on whom the original notice was served a further notice in writing withdrawing the original notice or modifying the terms thereof, but not so as to increase the extent of the land affected, and, in the case of modification, no powers shall be exercised under subsection (1) of this section otherwise than in pursuance of the original notice as so modified.
- (5) The powers conferred by subsection (1) of this section shall be construed as including a power to remove any work constructed or other thing placed on, over or below the surface of the land in the course of the exercise of those powers, and to do such work on the land as the Minister or person authorised by him in that behalf thinks fit for the

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purpose of restoring the land wholly or partly to the condition in which it would have been but for the exercise of those powers.

- (6) For the purpose of exercising the powers conferred by the foregoing provisions of this section, any person authorised by the Minister in that behalf may pass, with or without animals or vehicles, over any land.
- (7) If any person wilfully obstructs or interferes with the exercise of powers under this section, he shall be guilty of an offence under this Act.
- (8) Compensation shall be determined and paid in accordance with the First Schedule to this Act in respect of any diminution in the value of any land resulting from the exercise of powers under this section.

## 7 **Compulsory acquisition of rights to work minerals.**

- (1) Where it appears to the Minister that any minerals from which in his opinion any of the prescribed substances can be obtained are present in or on any land, either in a natural state or in a deposit of waste material obtained from any underground or surface working, he may by order provide for compulsorily vesting in him [<sup>F4</sup>or in the United Kingdom Atomic Energy Authority] the exclusive right, so long as the order remains in force, to work those minerals and any other minerals which it appears to him to be necessary to work with those minerals, and may also provide, by that order or subsequent order, for compulsorily vesting in him [<sup>F4</sup>or the said Authority] any other ancillary rights which appear to him to be necessary for the purpose of working the minerals aforesaid including (without prejudice to the generality of the foregoing provisions)—
  - (a) rights to withdraw support;
  - (b) rights necessary for the purpose of access to or conveyance of the minerals aforesaid or the ventilation or drainage of the workings;
  - (c) rights to use and occupy the surface of any land for the purpose of erecting any necessary buildings and installing any necessary plant in connection with the working of the minerals aforesaid;
  - (d) rights to use and occupy for the purposes of working the minerals aforesaid any land forming part of or used in connection with an existing mine or quarry, and to use or acquire any plant used in connection with any such mine or quarry; and
  - (e) rights to obtain a supply of water for purposes connected with the working of the minerals aforesaid, or to dispose of water or other liquid matter obtained in consequence of working such minerals.
- (2) Any order made under this section shall provide for the payment of compensation in such cases and subject to such conditions as may be specified in the order or determined thereunder, in respect of loss suffered as the result of the acquisition or exercise of rights under the order, but no account shall be taken, in calculating the compensation payable as aforesaid, of the value of any minerals present in or on land affected by the order, being minerals specified in the order as those from which in the opinion of the Minister any of the prescribed substances can be obtained.
- (3) Any order made under this section shall be subject to special parliamentary procedure, and the First Schedule to the <sup>M2</sup>Statutory Orders (Special Procedure) Act, 1945 (which sets out the notices to be given and the other requirements to be complied with before an order is made) shall apply to orders made under this section subject to

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the modification that paragraph 1 of the said Schedule shall be deemed to include a provision requiring the notice of the order as proposed to be made to be served by the Minister—

- (a) on all persons who, but for the order, would be entitled to work the minerals affected; and
- (b) on every owner, lessee and occupier (except tenants for a month or any period less than a month) of any land in respect of which rights are proposed to be acquired under the order.

#### Textual Amendments

**F4** Words inserted by [Atomic Energy Authority Act 1954 \(c. 32\)](#), s. 6(4), [Sch. 3](#)

#### Marginal Citations

**M2** [1945 c. 18 \(9 & 10 Geo. 6\)](#).

## 8 Compulsory acquisition of prescribed substances, stocks of minerals and plant.

- (1) The Minister may, subject to and in accordance with Part I of the Second Schedule to this Act, compulsorily acquire—
  - (a) any prescribed substance;
  - (b) any minerals, being minerals from which in the opinion of the Minister any of the prescribed substances can be obtained, other than minerals in a natural state or contained in a deposit of waste material obtained from any underground or surface working;
  - (c) any plant designed or adapted for the production or use of atomic energy or research into matters connected therewith.

In the case of any plant which is affixed to land, the Minister may sever it from the land, and shall in that case make good any damage caused by the severance.

- (2) Compensation in respect of the acquisition of any article under this section shall be paid in accordance with Part II of the Second Schedule to this Act.

## 9 Compulsory acquisition of rights under contract.

- (1) The Minister may serve on any person who is a party to a contract relating to the production or use of atomic energy or research into matters connected therewith, not being a contract for the rendering of personal services, a notice in writing stating that on such date as may be specified in the notice his rights and liabilities under the contract will be transferred to the Minister; and thereupon, subject to any withdrawal of the notice under the following provisions of this section, the contract shall, as regards any rights exercisable, or liabilities incurred, on or after the said date, have effect as if the Minister were a party to the contract instead of the person on whom the notice was served, and as if for any reference in the contract to that person there were substituted a reference to the Minister.
- (2) A notice served under the last foregoing subsection shall contain a statement to the effect that an objection may be made thereto within such time and in such manner as may be specified, and if any such objection is duly made and not withdrawn, the Minister shall afford an opportunity to the person making the objection of appearing before and being heard by a person appointed by the Minister for the purpose.

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- (3) After considering any such objection and the report of the person appointed by him under the last foregoing subsection, the Minister may serve on the person on whom the original notice was served a further notice in writing withdrawing the original notice, and if the original notice has already taken effect, it shall cease to operate in relation to the contract as regards any rights exercisable, or liabilities incurred, on or after the date on which the notice of withdrawal was served.
- (4) Where the rights and liabilities of a party to a contract are transferred to the Minister under this section, there shall be paid to that party such compensation in respect of any loss suffered by the party that may be agreed between him and the Minister with the approval of the Treasury or, in default of such agreement, as may be determined by arbitration.

## CONTROL OF PRODUCTION AND USE OF ATOMIC ENERGY AND PUBLICATION OF INFORMATION

### 10 Control of production and use of atomic energy.

- (1) The Minister may by order provide for prohibiting, except under the authority of a licence granted by the Minister,—
  - (a) the working of any minerals specified in the order, being minerals from which in the opinion of the Minister any of the prescribed substances can be obtained;
  - (b) the acquisition, production, treatment, possession, use, disposal, export or import,
    - (i) of any of the prescribed substances; or
    - (ii) of any minerals specified in the order, being minerals from which in the opinion of the Minister any of the prescribed substances can be obtained and not being minerals in a natural state or contained in a deposit of waste material obtained from any underground or surface working; or
    - (iii) of any plant designed or adapted for the production or use of atomic energy or for research into matters connected therewith;

and any such order may contain such incidental and supplementary provisions as the Minister considers necessary.
- (2) The Minister shall secure so far as practicable, by the issue of licences in such cases or classes of cases as he thinks fit, that such minerals, substances and plant as aforesaid are available for purposes of research and education, for medical and biological purposes and for commercial purposes not involving the production or use of atomic energy.
- (3) An order made under this section may provide for the seizure of any article in respect of which there are reasonable grounds for suspecting that a contravention of the order has been committed, and for the retention of any such article pending the institution and final determination of proceedings in respect of the contravention, and for the disposal, if the proceedings lead finally to a conviction, of any such article.
- (4) Any person who contravenes or fails to comply with an order made under this section or any condition subject to which a licence was granted under this section shall be guilty of an offence under this Act.

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

C3 S. 10 excluded by [Atomic Energy Authority Act 1954 \(c. 32\)](#), s. 6(4), [Sch. 3](#)

**11 Restriction on disclosure of information relating to plant.**

(1) Subject to the provisions of this section, any person who without the consent of the Minister communicates to any other person except an authorised person any document, drawing, photograph, plan, model or other information whatsoever which to his knowledge describes, represents or illustrates—

- (a) any existing or proposed plant used or proposed to be used for the purpose of producing or using atomic energy;
- (b) the purpose or method of operation of any such existing or proposed plant; or
- (c) any process operated or proposed to be operated in any such existing or proposed plant;

shall be guilty of an offence under this Act:

Provided that it shall not be such an offence to communicate information with respect to any plant of a type in use for purposes other than the production or use of atomic energy, unless the information discloses that plant of that type is used or proposed to be used for the production or use of atomic energy.

In this subsection “authorised person” means, in relation to information on any subject to which this subsection applies, a person to whom, by virtue of a general authority granted by the Minister, information on that subject may be communicated.

- (2) The Minister shall not withhold consent under the last foregoing subsection, if he is satisfied that the information proposed to be communicated is not of importance for purposes of defence.
- (3) The Minister may by order grant exemption from this section in such classes of cases, and to such extent and subject to such conditions, as may be specified in the order.
- (4) Where any information has been made available to the general public otherwise than in contravention of this section, any subsequent communication of that information shall not constitute an offence under this Act.

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

C4 S. 11 excluded by [Atomic Energy Authority Act 1954 \(c. 32\)](#), s. 6(4), [Sch. 3](#)

**SPECIAL PROVISIONS AS TO INVENTIONS**

**12 Special provisions as to inventions.**

- (1) . . . <sup>F5</sup>
- (5) . . . . . <sup>F6</sup>
- (6) . . . <sup>F5</sup>

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[<sup>F7</sup>(8) The power of the Minister of Supply and persons authorised by the Minister of Supply under section forty-six of the <sup>M3</sup>Patents Act 1949 shall include power to make, use, exercise or vend an invention for such purposes relating to the production or use of atomic energy or research into matters connected therewith as the Minister thinks necessary or expedient, and any reference in that section or in sections forty-seven and forty-eight of that Act to the services of the Crown shall be construed as including a reference to those purposes.]

#### Textual Amendments

- F5** S. 12(1)—(4)(6)(7) repealed by [Patents Act 1977 \(c. 37\)](#), s. 132(5), [Sch. 6](#)  
**F6** S. 12(5) repealed by [Patents and Designs Act 1949 \(c. 62\)](#), s. [32\(1\)](#)  
**F7** S. 12(8) substituted by [Patents Act 1949 \(c. 87\)](#), s. [106\(3\)](#)

#### Marginal Citations

- M3** 1949 c. 87.

## GENERAL PROVISIONS

### 13 Disclosure of information obtained under Act.

Any person who, without the authority of the Minister [<sup>F8</sup>or the United Kingdom Atomic Energy Authority], discloses any information obtained in the exercise of powers under this Act, shall be guilty of an offence under this Act.

#### Textual Amendments

- F8** Words inserted by [Atomic Energy Authority Act 1954 \(c. 32\)](#), s. 6(4), [Sch. 3](#)

### 14 Offences and penalties.

- (1) Any person guilty of an offence under this Act shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds, or to both such imprisonment and such fine; or
  - (b) on conviction on indictment, to [<sup>F9</sup>imprisonment] for a term not exceeding five years or to a fine not exceeding five hundred pounds, or to both such penal servitude and such fine.
- (2) Where a person convicted on indictment of an offence under this Act is a body corporate, the provision of the foregoing subsection limiting the amount of the fine which may be imposed shall not apply and the body corporate shall be liable to a fine of such amount as the court thinks just.
- (3) Where any offence under this Act has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the offence was committed without his consent or connivance and that he



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exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

- (4) Proceedings in respect of an offence under section eleven of this Act shall not be instituted, in England or Wales, except by, or with the consent of, the Director of Public Prosecutions, or, in Northern Ireland, except by, or with the consent of, the Attorney General for Northern Ireland.

#### Textual Amendments

- F9** Words substituted by virtue of (E.W.) [Criminal Justice Act 1948 \(c. 58\), s. 1\(1\)](#), (S.) by [Criminal Justice \(Scotland\) Act 1949 \(c. 94\), s. 16\(1\)](#) and (N.I.) by [Criminal Justice Act \(Northern Ireland\) 1953 \(c. 14\), s. 1\(1\)](#)

### 15 Provisions as to orders.

- (1) Every order made by the Minister under this Act, except an order made under section seven thereof or an order varying or revoking such an order, shall be laid before Parliament forthwith after it is made, and if either House of Parliament, within a period of forty days beginning with the day on which any such order is laid before it, resolves that the order be annulled, the order shall cease to have effect, but without prejudice to anything previously done thereunder or to the making of a new order.

In reckoning any such period of forty days, 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.

- (2) Any order made under this Act may be varied or revoked by a subsequent order made in like manner and subject to the like conditions.

- (3) ..... **F10**

#### Textual Amendments

- F10** S. 15(3) repealed by [Statute Law Revision Act 1963 \(c. 30\)](#)

### 16 Expenses.

Any expenses incurred by the Minister in the exercise of functions under this Act and any sums required by or under any provision of this Act to be paid to any person by way of compensation or interest thereon shall be defrayed out of moneys provided by Parliament.

[<sup>F11</sup>Provided that any compensation required to be paid by an order made under section seven of this Act vesting any right in the United Kingdom Atomic Energy Authority shall be paid by that Authority.]

#### Textual Amendments

- F11** Proviso added by [Atomic Energy Authority Act 1954 \(c. 32\), s. 6\(4\), Sch. 3](#)

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## 17 Service of notices.

Any notice required or authorised by or under this Act to be served on any person may be served either—

- (a) by delivering it to that person; or
- (b) by leaving it or sending it in a registered letter to him at his usual or last known residence or place of business; or
- (c) in the case of an incorporated company or body, by delivering it to their clerk or secretary at their registered or principal office, or by sending it in a registered letter addressed to him at that office; or
- (d) in the case of a notice to be served on the owner, lessee or occupier of land, if it is not practicable after reasonable inquiry to ascertain his name or address, addressing it to him by the description “owner,” “lessee” or “occupier” of the land (describing it) to which it relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it may be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

## 18 Definitions.

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

“atomic energy” means the energy released from atomic nuclei as the result of any process, including the fission process, but does not include energy released in any process of natural transmutation or radioactive decay which is not accelerated or influenced by external means;

“minerals” includes all substances obtained or obtainable from the soil by underground or surface working;

“plant” includes any machinery, equipment or appliance, whether affixed to land or not;

“prescribed substance” means uranium, thorium, plutonium, neptunium or any of their respective compounds or any such other substance as the Minister may by order prescribe, being a substance which in his opinion is or may be used for the production or use of atomic energy or research into matters connected therewith.

- (2) Any reference in this Act to articles shall be construed as including a reference to substances, vehicles, vessels and animals and also as including a reference to electricity.
- (3) Any reference in this Act to the working of minerals shall be construed as including a reference to the getting, carrying away, sorting and treating of minerals.
- (4) Any reference in this Act to the production or use of atomic energy shall be construed as including a reference to the carrying out of any process preparatory or ancillary to such production or use.

## 19 Application to Scotland.

In the application of this Act to Scotland—

- (a) for references to a mortgage and a mortgagee (except where those expressions occur in the Second Schedule to this Act) there shall be respectively

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substituted references to a heritable security, and to the creditor in such a security; the expression “hire purchase agreement” means a contract to which the <sup>M4</sup>Hire Purchase and Small Debt (Scotland) Act 1932 applies or would apply if a limitation as to value contained in section one of that Act were omitted; for any reference to an arbitrator there shall be substituted a reference to an arbiter;

- (b) any provision in this Act requiring the Minister to serve notices on the owners, lessees and occupiers of land shall be deemed to be complied with if notice is served on all the persons appearing from the valuation roll or otherwise known to the Minister to have an interest in the land. Service of a notice on any person so appearing to have an interest may be effected by sending the notice in a registered letter addressed to him at his address as entered in the valuation roll;
- (c) an order made under section seven of this Act providing for vesting in the Minister [<sup>F12</sup>or in the United Kingdom Atomic Energy Authority] an exclusive right to work minerals situated in any land or any ancillary right shall be recorded in the appropriate register of sasines, and when so recorded shall be enforceable against any persons having an interest in the land affected by the order, and against any person deriving title from them;
- (d) subsection (3) of section seven of this Act shall have effect as if for references to the First Schedule to the <sup>M5</sup>Statutory Orders (Special Procedure) Act 1945 and to paragraph 1 thereof there were respectively substituted references to section two of that Act as it applies to Scotland and to subsection (1) of that section;
- (e) section seventeen of this Act shall have effect as if paragraph (d) thereof were omitted.

**Textual Amendments**

**F12** Words inserted by [Atomic Energy Authority Act 1954 \(c. 32\), s. 6\(4\)](#), **Sch. 3**

**Marginal Citations**

**M4** 1932 c. 38.

**M5** 1945 c. 18 (9 & 10 Geo. 6).

**20 Application to Northern Ireland.**

(1) It is hereby declared that this Act, except sections six and seven thereof, extends to Northern Ireland, <sup>F13</sup> . . .

<sup>F14</sup>(2) . . . . .

<sup>F15</sup>(3) . . . . .

**Textual Amendments**

**F13** Words repealed by [Northern Ireland Constitution Act 1973 \(c. 36\), s. 41\(1\)](#), **Sch. 6 Pt. I**

**F14** S. 20(2) repealed by [Northern Ireland Act 1962 \(c. 30\)](#), **Sch. 4 Pt. IV**

**F15** S. 20(3) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **Sch. 1 Pt. 16** Group 1

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**21 Short title.**

This Act may be cited as the Atomic Energy Act 1946.

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## SCHEDULES

### FIRST SCHEDULE

Section 6.

#### COMPENSATION FOR WORK DONE IN SEARCHING FOR MINERALS

- 1 Where compensation is payable under section six of this Act, in respect of powers exercised thereunder in relation to any land, the compensation shall in the first instance be a sum calculated by reference to the diminution of the annual value of the land ascribable to the exercise of the powers and shall be paid in instalments, quarterly in arrear, to the person who for the time being is entitled to occupy the land. Any such compensation shall be considered as accruing due from day to day and shall be apportionable in respect of time accordingly.
- 2 The Minister may at any time serve a notice in writing on every owner, lessee and occupier of land in respect of which such powers as aforesaid have been exercised stating that he does not propose to exercise those powers any further in relation to that land, and thereupon the period in respect of which compensation is payable under the foregoing paragraph shall end, and the said powers shall cease to be exercisable in so far as they depend on any notice previously served under the said section six (but without prejudice to the service of a new notice thereunder).
- 3 Where, by virtue of the serving of a notice under the last foregoing paragraph, the said period 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 exercise of the said powers, there shall be paid to him, by way of compensation, 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.
- 4 Where compensation is payable under the last foregoing paragraph in respect of any estate or interest which to the knowledge of the Minister is subject to a mortgage, that compensation and any interest thereon shall be paid to the mortgagee, and he shall be liable to account therefor as if the compensation were proceeds of sale of that estate or interest arising under a power of sale exercised by the mortgagee at the material time and the interest on that compensation were interest on those proceeds:  
  
Provided that, if the estate or interest is subject to two or more successive mortgages, this paragraph shall have effect with the substitution for the references to the mortgagee of references to the first mortgagee.
- 5 Any such compensation shall carry interest, as from the time at which it accrues due, until payment, at such rate per annum as the Treasury may from time to time by order prescribe, and for the purposes of this paragraph compensation payable in accordance with paragraph 1 of this Schedule shall be deemed to accrue due on the last day of each quarter in respect of which it is payable.
- 6 Where the Minister serves a notice under paragraph 2 hereof, he shall cause that fact to be published in such manner as he thinks best adapted for informing persons affected (other than persons on whom the notice was served).

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- 7 In assessing any compensation payable under paragraph 1 of this Schedule, it shall be assumed that the land cannot be restored to the condition in which it would be but for the exercise of the right.
- 8 In this Schedule 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.
- 9 Where any dispute arises under this Schedule as to whether compensation is payable or as to the amount of such compensation or the persons to whom it is payable, it shall be referred to and determined by such one of the official arbitrators appointed under section one of the <sup>M6</sup>Acquisition of Land (Assessment of Compensation) Act 1919 as may be selected in accordance with rules made by the Reference Committee under that section . . . <sup>F16</sup>

#### Textual Amendments

**F16** Words repealed by [Land Tribunal Act 1949 \(c. 42\)](#), s. 10(4), [Sch. 2](#) and [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), [Sch. Pt. V](#)

#### Marginal Citations

**M6** [1919 c. 57](#).

## SECOND SCHEDULE

Section 8.

### COMPULSORY ACQUISITION OF CERTAIN PROPERTY

#### PART I

##### PROCEDURE FOR ACQUISITION

- 1 Where the Minister proposes to acquire any articles under section eight of this Act, he shall serve upon the person appearing to him to be the owner thereof a notice in writing (hereinafter in this Act referred to as a “notice of acquisition”) specifying the articles to be acquired and requiring that person to make to the Minister within a time specified in the notice a written declaration containing such particulars as may be so specified as to the ownership of those articles and as to any agreement or charge by virtue of which any other person has an interest in any of those articles.
- 2 Upon the service of a notice of acquisition under the last foregoing paragraph no article to which the notice relates shall be removed from the premises in which the article is situated at the time of the service of the notice without the consent of such person as is specified in the notice; and if any person knowingly removes, or causes or permits to be removed, any article in contravention of this paragraph, he shall be guilty of an offence under this Act.
- 3 If it appears to the Minister in consequence of any written declaration made to him in pursuance of paragraph 1 of this section or otherwise that any person other than the person on whom the notice of acquisition was served is the owner of, or has

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any interest in, the articles to which the notice relates, he shall serve a copy of the notice of acquisition on that other person.

- 4 A notice of acquisition shall contain a statement to the effect that an objection may be made thereto within such time (not being less than twenty-eight days) and in such manner as may be specified in the notice, and if any such objection is duly made and not withdrawn, the Minister shall afford an opportunity to the person making the objection of appearing before and being heard by a person appointed by the Minister for the purpose, and, if the person making the objection avails himself of that opportunity, the Minister may afford to any other persons to whom it appears to him expedient to afford it an opportunity of being heard on the same occasion.
- 5 If any such objection is duly made, the Minister shall, after considering any such objection which is not withdrawn and the report of the person appointed by him under the last foregoing paragraph, serve on the persons upon whom the notice of acquisition or a copy thereof was served a further notice in writing either withdrawing the notice of acquisition or confirming the said notice as respects all the articles to which it relates or such of those articles as may be specified.
- 6 Any article with respect to which a notice of acquisition is served under this Part of this Schedule shall—
- (a) if no objection is duly made to the notice, vest in the Minister at the expiration of the time for making such an objection;
  - (b) if such an objection is duly made and the notice is confirmed as respects that article by a notice served under the last foregoing paragraph, vest in the Minister on the service of the last-mentioned notice;
- and shall in either case vest free of any mortgage.

## PART II

### COMPENSATION

- 1 Where compensation is payable under section eight of this Act in respect of any article, the compensation shall be a sum equal to the price which the owner thereof might reasonably have been expected to obtain upon a sale thereof effected by him immediately before the date of the service of the notice of acquisition, and shall accrue due on that date, and shall, subject to the following provisions of this Schedule, be paid to the owner.
- 2 Any dispute as to whether any compensation is payable as aforesaid or as to the amount of such compensation or the persons to whom it is payable, shall be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers.
- 3 Any compensation payable as aforesaid shall carry interest, as from the time at which it accrues due, until payment, at such rate as the Treasury may from time to time by order prescribe.
- 4 Where, immediately before the service of the notice of acquisition relating to any article in respect of which compensation is payable as aforesaid, it was in the possession of some person other than the owner by virtue of a hire purchase agreement or was subject to a mortgage, the said person or the mortgagee, as the case may be, may, by a notice served on the Minister, 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

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determined by such an arbitrator as aforesaid who may apportion the compensation between them in such manner as appears to him to be just.

5 Where any compensation is paid to a mortgagee under the last foregoing paragraph, he shall be liable to account therefor as if the compensation were proceeds of sale of the article in question arising under a power of sale exercised by the mortgagee at the material time and the interest on that compensation were interest on those proceeds.

6 In this Schedule the expression “hire purchase agreement” has the same meaning as in the <sup>M7</sup>Hire Purchase Act 1938; the expression “mortgage” includes any pledge, lien or other similar obligation, and the expression “mortgagee” shall be construed accordingly; and the expression “owner” means, in relation to any article, the person entitled to sell the article, it being assumed not to be subject to any mortgage.

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**Marginal Citations**

**M7** 1938 c. 53.



**Status:**

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**Changes to legislation:**

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