

Agriculture (Miscellaneous War Provisions) (No. 2) Act, 1940.

3 & 4 GEO. 6. CH. 50.

ARRANGEMENT OF SECTIONS.

Section.

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CHAPTER 50.

An Act to make certain amendments in the law relating to agriculture and agricultural land in connection with the present war.

[22nd August 1940.]

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:—

1.—(1) For subsection (1) of section fifteen of the Agriculture (Miscellaneous War Provisions) Act, 1940, there shall be substituted the following subsection—

Amendments as to drainage of agricultural land.
3 & 4 Geo. 6.
c. 14.

“(1) Where a scheme for the field drainage of any agricultural land or for the cleansing or other improvement of ditches on any such land—

(a) has been submitted by the owner or occupier of the land to the War Agricultural Executive Committee for the county or county borough in which the land is situated; and

(b) has been approved for the purposes of this section by that Committee;

the Minister may, out of moneys provided by Parliament, make, towards expenditure incurred by any person in carrying out the scheme, grants of such amounts and subject to such conditions as the Treasury may approve.”

(2) Where an improvement of a holding by mole drainage works has been made by a tenant in pursuance of a direction given to him under or by virtue of Defence Regulations, compensation under the Agricultural Holdings Act, 1923, shall be payable in respect of the improvement, subject to the provisions of subsection (2) of section fifteen of the Agriculture (Miscellaneous War Provisions) Act, 1940, as to the taking into account of a grant made under that section, notwithstanding that the tenant has not given to the landlord such notice of his intention to execute the improvement as is mentioned in section three of the said Act of 1923, or that the improvement was begun within such a period or at such a time as is mentioned in section eight of that Act.

2.—(1) Where work for the improvement of a way (not being a highway repairable by the inhabitants at large) over fen-land in an internal drainage district, or for the drainage of such fen-land, has been done under the authority of the Minister in the exercise of powers conferred by Defence Regulations, the following provisions of this section shall have effect as to—

- (a) the recovery from the owners of land, the value of which for agricultural purposes will be increased by the doing of the work, of the expenses reasonably incurred in connection therewith; and
- (b) the maintenance by the internal drainage board of the work done.

(2) A proportion of the said expenses shall be recoverable as a debt due to His Majesty from each such owner as aforesaid on whom a notice in writing requiring payment thereof is served by the Minister within one year from the completion of the work, and shall, without prejudice to any other mode for the recovery thereof, be recoverable by the Minister summarily as a civil debt.

(3) A notice served for the purposes of the last preceding subsection shall specify the sum which the owner on whom it is served is required to pay and the part of the land aforesaid in respect of which he is required to pay it, and that sum shall not exceed either of the following limits, that is to say,—

- (a) the amount by which the value for agricultural purposes of the specified part of the land aforesaid will be increased by the doing of the work;

(b) the same proportion of the said expenses as the amount aforesaid bears to the amount by which the value for agricultural purposes of all the land aforesaid will be increased by the doing of the work.

(4) Subject to the provisions of the two next succeeding subsections, the sum specified in such a notice shall become recoverable at the expiration of one month from the date of the service thereof.

(5) If an owner on whom such a notice is served claims that none of the land in his ownership will be increased in value for agricultural purposes by the doing of the work, or that the sum specified in the notice exceeds either of the limits mentioned in subsection (3) of this section, he may, by notice in writing served on the Minister at any time within the said month, require his claim to be referred for determination by a single arbitrator appointed by agreement between him and the Minister, or, in default of such agreement, by the President of the Chartered Surveyors' Institution and, if he does so, no sum shall be recoverable from him until his claim has been so determined, and—

(a) if it is determined that none of the land in his ownership will be increased in value as aforesaid, no part of the said expenses shall be recoverable from him ;

(b) if it is determined that the sum specified exceeds either of the said limits, the sum recoverable from him shall be that sum less such amount as the arbitrator may determine to be requisite in order to bring it within those limits.

(6) An owner on whom a notice for the purposes of subsection (2) of this section is served may, by notice in writing served on the Minister at any time within the said month, or, if he has claimed a reference under the last preceding subsection, at any time within fourteen days from the date on which his claim has been determined, elect to pay any sum recoverable from him under this section, together with interest thereon from the date on which that amount would otherwise have become recoverable from him, by such number of equal annual instalments, not exceeding five, as may be specified in his notice :

Provided that—

- (a) the first instalment shall be payable within one year from the last mentioned date; and
- (b) the rate of interest shall, in default of agreement between the owner and the Minister, be fixed by the Treasury.

(7) Any amount recoverable under the preceding provisions of this section shall be a charge on the land specified in the relevant notice served for the purposes of subsection (2) of this section, and the Minister shall, for the purpose of enforcing the charge, have the same powers and remedies under the Law of Property Act, 1925, and otherwise as he would have if he were a mortgagee by deed having powers of sale and lease, of accepting surrenders of leases, and of appointing a receiver.

15 & 16
Geo. 5. c. 20.

(8) The Minister may, at any time after the completion of the work, make an order requiring the internal drainage board of the internal drainage district in which the land over which the way runs, or the land comprising the drainage works, as the case may be, is situated to maintain the work done, and, where such an order is made, it shall be the duty of the board to maintain the work unless and until the requirement is revoked by a subsequent order made by the Minister.

(9) Any question as to whether the internal drainage board have failed to perform a duty imposed upon them under the last preceding subsection shall be decided by the Minister, and the Minister may, if he is satisfied that they have so failed, give such directions to the board as he thinks fit as to the steps to be taken to remedy the failure, and compliance with any such directions shall be enforceable, on the application of the Minister, by mandamus.

21 & 22
Geo. 5. c. 44.

(10) Notwithstanding anything in subsection (2) of section twenty-four of the Land Drainage Act, 1930, a rate raised by the internal drainage board for the purpose of defraying expenses incurred in connection with the maintenance of the work shall be an owners' drainage rate.

(11) In determining for the purposes of this section whether, and the amount by which, the value for

agricultural purposes of any land will be increased by the doing of the work, due regard shall be had to the provisions of the three last preceding subsections.

(12) A notice to be served for the purposes of this section may be served in any manner specified in section seventy-five of the Land Drainage Act, 1930, in relation to notices required or authorised to be served under or by virtue of that Act.

(13) In this section—

the expressions “drainage”, “internal drainage district” and “internal drainage board” have the meanings assigned to them respectively by section eighty-one of the Land Drainage Act, 1930;

the expression “fen-land” shall be construed generally and not as limited to land in that part of England commonly known as “the Fens”; and

the expression “owner”, in relation to land, means 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, and in this definition the expression “rackrent” has the same meaning as in the Public Health Act, 1936.

26 Geo. 5. &
1 Edw. 8. c. 49.

3. Notwithstanding anything in any local Act, or in subsection (5) of section thirty-one of the Land Drainage Act, 1930 (which contains a saving for the powers conferred by any local Act in relation to arrears of drainage rates), no distress for arrears of any rate made under the said Act of 1930 shall be levied after the commencement of this Act on the goods or chattels of any person other than a person from whom the arrears may be recovered by virtue of subsection (1) of the said section thirty-one, and no proceedings, whether by action or otherwise, for the enforcement of any charge on land for securing payment of arrears of any such rate created by any local Act shall be commenced after the commencement of this Act.

Restriction of remedies conferred by local Acts for recovery of drainage rates.

4.—(1) The period specified in subsection (1) of section twenty of the Agriculture Act, 1937 (which empowers the Minister to make, during a period ending

Extension of time for making payments

in connection with the eradication of bovine tuberculosis. 1 Edw. 8. & 1 Geo. 6. c. 70.

with the thirty-first day of January nineteen hundred and forty-one payments to the owner of any herd of cattle in Great Britain for the purpose of securing so far as practicable that the herd will be free from bovine tuberculosis) shall be extended so as to expire on the thirtieth day of September nineteen hundred and forty-eight.

(2) Subsection (2) of the said section twenty is hereby repealed.

(3) In accordance with subsection (1) of this section, section twenty-one of the said Act shall have effect with the substitution for the reference therein to the thirty-first day of January nineteen hundred and forty-one of a reference to the thirtieth day of September nineteen hundred and forty-eight.

Antedating of directions to plough up land.

5. Section twenty-four of the Agriculture (Miscellaneous War Provisions) Act, 1940 (which relates to the antedating of directions to plough up land) shall have effect, and shall be deemed always to have had effect, as if the words "before the thirty-first day of March nineteen hundred and forty" had been omitted.

Recovery of expenses of making good default in compliance with Defence Regulations in relation to agricultural land.

6.—(1) If any person makes default in complying with any direction given or requirement imposed under or by virtue of Defence Regulations with respect to—

- (a) the cultivation, management or use, of agricultural land ; or
- (b) the taking of steps for the destruction of vermin or pests, or the killing or taking of hares, rabbits, birds, or the eggs of birds ;

the amount of any expenses reasonably incurred by the Minister in connection with anything done, in exercise of powers conferred by Defence Regulations by a person authorised by the Minister, for the purpose of making good the default shall (without prejudice to any proceedings which may be taken for the default) be recoverable by the Minister summarily as a civil debt from the person in default.

(2) This section shall, in its application to Scotland, have effect as if for the references to the Minister there were substituted references to the Secretary of State and as if the word " summarily " were omitted.

(3) This section shall, in its application to Northern Ireland, have effect as if for the references to the Minister there were substituted references to the Secretary of State.

7.—(1) For subsection (1) of section twenty-nine of the Agriculture (Miscellaneous War Provisions) Act, 1940, the following subsection shall be substituted—

Amendment
of 3 & 4
Geo. 6. c. 14,
s. 29.

“(1) Where, on consideration of a report from the Agricultural Executive Committee for any area in Scotland, the Secretary of State is satisfied—

(a) that any agricultural land in the area of that Committee is being injured or in danger of being injured by reason of the failure of the owner or occupier of any other land to undertake or to join in undertaking—

- (i) the cleansing or scouring of the channel, or
- (ii) the keeping in repair of any sluice or flapvalve, or
- (iii) the restoration of the banks or of any embankment,

of or in any watercourse in or partly in that other land ; or

(b) that in order to protect from flooding any agricultural land in the area of the Committee it is essential that the channel of a watercourse in or partly in any other land should be widened or deepened, or that sluices or flapvalves should be constructed in such a watercourse, or that an embankment should be erected on any other land ; and

(c) in any such case as aforesaid, that the estimated cost of carrying out any operations necessary to remedy or prevent such injury, or to secure such protection from flooding, as the case may be, would not be unreasonable having regard to the benefits to agriculture that would accrue and would not in any case exceed an amount equal to five pounds for each acre of agricultural land benefited by the operations ;

the Secretary of State may serve a notice on the owner of the other land requiring him to carry out within such period as may be specified in the notice such operations as may be necessary in his opinion to remedy or prevent the injury, or to secure the protection from flooding, as may be so specified."

(2) Subsection (4) of the aforesaid section shall have effect as if for the proviso thereto there were substituted the following proviso—

" Provided that—

- (i) if it appears to the Secretary of State that the necessity for any such operations as are required to remedy or prevent such injury as aforesaid is due in whole or in part to the neglect of the owner of any land other than that belonging to the person on whom the notice was served, or that any benefit has accrued or is expected to accrue in consequence of the carrying out of the operations to the owner of any land other than as aforesaid, the Secretary of State may require the owner of that other land to pay such proportion of the aforesaid expense as in all the circumstances seems just ;
- (ii) in the case where the operations were necessary to secure protection from flooding, the Secretary of State shall require the expense to be paid in such proportions as in all the circumstances shall seem just by the owners of any lands to whom benefit has accrued or is expected to accrue in consequence of the carrying out of the operations, and no part of such expense shall be recoverable from the person on whom the notice was served if no benefit has so accrued or is expected so to accrue to him, and
- (iii) any person required to pay the whole or any part of such expense may, within fourteen days after being so required, appeal to the Scottish Land Court against the requirement."

(3) Subsection (10) of the aforesaid section shall have effect as if after the word "any", in the first place where that word occurs, the word "river" were inserted.

(4) There shall be paid out of moneys provided by Parliament any increase attributable to the passing of this section in the expense authorised by subsection (9) of the aforesaid section twenty-nine to be defrayed out of moneys so provided.

8.—(1) Where any owner of land is required, in pursuance of section twenty-nine of the Agriculture (Miscellaneous War Provisions) Act, 1940, as amended by this Act, to pay any sum in respect of the expense of carrying out operations under that section, he may by notice in writing served on the Secretary of State within one month after the date when he was so required, elect to pay the said sum together with interest thereon from the said date, by such number of equal annual instalments, not exceeding five, as may be specified in the notice, so however that—

Provisions as to sums payable by owners of land under 3 & 4 Geo. 6. c. 14, s. 29.

- (i) the first instalment shall be paid within one year from the said date; and
- (ii) the rate of interest shall, in default of agreement between the owner and the Secretary of State, be fixed by the Treasury.

(2) The Secretary of State shall, in relation to any such sum as aforesaid, have the like power to make a charging order in favour of himself as is conferred on him by section twenty-three of the aforesaid Act as applied to Scotland in relation to amounts payable under subsection (5) of that section.

9.—(1) Where, whether before or after the commencement of this Act, the Secretary of State has taken possession for agricultural purposes of any land in Scotland kept or preserved mainly or exclusively for purposes of sport or recreation and has certified that, at the time possession was so taken, the land was not being cultivated, or was not being cultivated in accordance with the rules of good husbandry, the provisions of subsections (2) to (8) of section twenty-three of the Agriculture (Miscellaneous War Provisions) Act, 1940, as applied to Scotland, shall apply to that land in like manner as those provisions apply to the land specified in subsection (1) of that section.

Further provision as to requisitioned land in Scotland.

(2) There shall be paid out of moneys provided by Parliament any increase attributable to the passing of the last foregoing subsection in the sums authorised to

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(*Miscellaneous War Provisions*) (No. 2) Act, 1940.

2 & 3 Geo. 6. be so paid by way of compensation under the Compen-
c. 75. sation (Defence) Act, 1939.

Short title,
interpretation
and
extent.

10.—(1) This Act may be cited as the *Agriculture (Miscellaneous War Provisions) (No. 2) Act, 1940.*

(2) In this Act the expression "the Minister" means the Minister of Agriculture and Fisheries, and the expression "Defence Regulations" means Regulations made under the Emergency Powers (Defence) Acts, 1939 and 1940.

(3) Sections one to three of this Act shall not extend to Scotland.

(4) This Act, except section six thereof, shall not extend to Northern Ireland.

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