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Defence Act, 1948

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ARRANGEMENT OF SECTIONS

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CHAPTER 5

An Act to make further provision for civil defence.

[16th December 1948.]

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) It shall be part of the functions of the designated Minister to take such steps as appear to him from time to time to be necessary or expedient for civil defence purposes, and, in particular, and without prejudice to the generality of the preceding words, such steps as appear to him from time to time to be necessary or expedient in connection with any of the following matters, that is to say—

Civil defence
functions of
Ministers.

- (a) the organisation, formation, maintenance, equipment and training of civil defence forces and services;
- (b) the organisation, equipment and training for civil defence purposes of police forces, fire brigades and employees of local or police authorities employed primarily for purposes other than civil defence purposes;
- (c) the instruction of members of the public in civil defence and their equipment for the purposes of civil defence;
- (d) the provision, storage and maintenance of commodities and things required for civil defence; and
- (e) the provision, construction, maintenance or alteration of premises, structures or excavations required for civil defence and the doing of any other work required for civil defence.

(2) The designated Minister may make arrangements whereby any of his functions under this section are, to such extent as may be provided by the arrangements, exercised on his behalf by another Minister.

Civil defence
functions of
local and
police
authorities.

2.—(1) Every local authority and police authority shall, for civil defence purposes, and, in particular, and without prejudice to the generality of the preceding words, in connection with the matters specified in paragraphs (a) to (e) of subsection (1) of the preceding section, have and perform such functions as may be prescribed in relation to them by regulations to be made by the designated Minister.

(2) Regulations made under this section—

- (a) may require that, as respects the exercise of any functions conferred on them under this section, any local or police authority shall be bound to comply with any directions given to them by the designated Minister;
- (b) may empower authorities on whom functions are conferred under this section to appoint committees (including joint committees) constituted in accordance with the regulations, whether from among their own members or not, may empower those authorities to authorise those or other committees, or other authorities, to exercise all or any of those functions on their behalf as their agents, and may exclude any of those functions from the operation of so much of any statutory provision as would otherwise require that function, or any question connected therewith, to be delegated to, or to stand referred to, or to be considered or otherwise dealt with by, any particular committee or any other authority;
- (c) may empower the designated Minister, where he is satisfied that a local or police authority have failed or refused properly to discharge any functions conferred on them under this section, either himself to discharge those functions in the name and at the expense of that local or police authority or to authorise or require some other authority or person to exercise those functions in the name and at the expense of that local or police authority;
- (d) may, on such conditions, if any, as may be prescribed by the regulations, authorise or require things to be done in contravention of, or without compliance with, any statutory provision regulating or restricting the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land; and
- (e) may authorise the employment of personnel, and the provision, construction or maintenance of premises and equipment, in excess of any limits imposed by any statutory provision.

(3) The reference in paragraph (c) of subsection (2) of this section to the exercise of any functions of a local or police authority in the name and at the expense of that authority, shall, in relation to a police authority which is the watch committee of a borough, be construed as a reference to the exercise of those functions in the name of the watch committee and at the expense of the council of the borough.

3.—(1) Regulations to be made by the designated Minister with the consent of the Treasury may authorise or require the payment by the designated Minister of such grants towards expenses incurred by local authorities or police authorities in or in connection with the discharge of functions conferred on them under the last preceding section, and towards expenses incurred by statutory water undertakers as defined in section one of the Water Act, 1948, not being local authorities, in or in connection with civil defence, as may be prescribed by the regulations.

Grant towards
expenses of
local and police
authorities.

(2) The said grants shall—

(a) in the case of such expenses as may be prescribed in that behalf by the regulations, be grants which may amount to complete reimbursement of the whole amount of the expenses ;

(b) in other cases, be grants of not more than three quarters of the expenses.

(3) Any grants under this section towards expenses incurred by a police authority in England or Wales shall be paid into the police fund, that is to say, in the case of a combined police authority as defined in section nineteen of the Police Act, 1946, into the combined police fund as defined in that section, and, in any other case, into the police fund as defined in the Third Schedule to the Police Pensions Act, 1921.

(4) No grants shall be made under section eight of the Air Raid Precautions Act, 1937, towards any expenditure incurred after such date as may be specified in that behalf by the regulations first made under this section.

4.—(1) The designated Minister and any such local authority as is mentioned in subsection (1) of section eight of the Acquisition of Land (Authorisation Procedure) Act, 1946, may be authorised to purchase compulsorily in accordance with the provisions of that Act—

Powers as
to land.

(a) any land required by them for discharging any of the functions exercisable by them respectively under the preceding provisions of this Act; and

(b) in the case of the designated Minister, any land required by any other Minister or any local or police authority

for discharging any functions exercisable under the preceding provisions of this Act by that other Minister or that authority,

and that Act shall apply accordingly—

- (i) as if paragraph (b) of subsection (1) of section one thereof (which refers to the compulsory purchase of land by the Minister of Transport under certain enactments) included a reference to any compulsory purchase of land by the designated Minister under this subsection; and
- (ii) as if this Act had been in force immediately before the commencement of that Act; and
- (iii) as if references in that Act to the confirming authority were references to the designated Minister.

(2) Where, in the discharge of any functions exercisable by them under this Act, the designated Minister or any local or police authority do any work for the purpose of providing or maintaining a civil defence shelter, he or they may, if it appears expedient so to do, do that work and provide or maintain the shelter wholly or partly in, under or over any highway:

Provided that—

- (a) the powers conferred by this subsection shall be exercisable subject to such restrictions as may be prescribed by regulations to be made by the designated Minister, and to such provisions as to compensation as may be so prescribed; and
- (b) in no event shall the said powers be exercised unless the designated Minister or local authority, as the case may be, is or are satisfied that the shelter will not so obstruct the highway as substantially to diminish the utility of the highway to the public.

(3) Any person duly authorised in that behalf by the designated Minister or any local or police authority by whom functions are exercisable under the preceding provisions of this Act shall have a right to enter any land at all reasonable hours for the purpose of inspecting that or any other land with a view to ascertaining whether or not anything ought to be constructed or done thereon or any use made thereof for civil defence purposes:

Provided that a person proposing to exercise a power of entry conferred under this section—

- (a) shall, if so required, produce some duly authenticated document showing his authority;
- (b) shall not demand admission as of right to any land which is occupied unless twenty-four hours' notice of the intended entry has been given to the occupier.

(4) If—

- (a) any person who, in compliance with the provisions of this section, is admitted into a factory or workplace, discloses, otherwise than in the performance of his duty, to any person any information obtained by him in the factory or workplace with regard to any manufacturing process or trade secret; or
- (b) any person to whom, by reason of his official position, any information obtained as aforesaid is disclosed, discloses, otherwise than in the performance of his duty, that information to any person,

he shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both such a fine and such imprisonment.

(5) The powers conferred by this section shall be in addition to and not in derogation of any powers which would apart from this section be available in relation to any of the functions exercisable under the preceding provisions of this Act, and, in particular, the powers of compulsory purchase conferred by subsection (1) of this section shall be in addition to and not in derogation of the powers conferred by section fifteen of the Police Act, 1946, on councils of counties or county boroughs to purchase compulsorily land required for the purpose of any of the functions of the police authority for the county or borough.

(6) In the application of this section to Scotland—

- (a) for the references to the Acquisition of Land (Authorisation Procedure) Act, 1946, and to subsection (1) of section eight thereof, there shall respectively be substituted references to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, and to subsection (1) of section seven thereof; and
- (b) in subsection (5), for the words from “section fifteen” to the end of the subsection there shall be substituted the words “section eleven of the Police (Scotland) Act, 1946, on police authorities and joint police committees to acquire compulsorily land required for the purpose of the powers conferred by subsection (1) of that section.”

5. It is hereby declared that members of police forces and fire brigades, and, if and so far as provision in that behalf is made by regulations of the designated Minister, employees of local authorities or police authorities employed primarily for purposes other than civil defence purposes, are, as such, under a duty to comply with requirements as to training for and taking part in any form of civil defence for the time being recognised

Civil defence obligations of constables, firemen, etc., and of members of civil defence forces and services.

by the designated Minister as appropriate to be undertaken by those forces and brigades and their members respectively or, as the case may be, as appropriate to be undertaken by employees of the class in question having regard to the nature of the work for which those employees are primarily employed.

Saving for,
and power to
revive and
amend,
existing Acts
relating to
civil defence.

6.—(1) Subject to the provisions of section three of this Act relating to grants under section eight of the Air Raid Precautions Act, 1937, the preceding provisions of this Act shall be in addition to and not in derogation of the provisions of the Civil Defence Acts, 1937 and 1939.

(2) The designated Minister may by regulations—

- (a) bring again into force any provision of the Civil Defence Acts, 1937 and 1939, the operation of which is suspended under the Civil Defence (Suspension of Powers) Act, 1945, and, in particular, and without prejudice to the generality of the preceding words, any provision of those Acts relating to factories, mines, commercial buildings or public utility undertakings, the operation of which was suspended as aforesaid;
- (b) direct that any provision of those Acts which was spent before the passing of the Civil Defence (Suspension of Powers) Act, 1945, and, in particular, and without prejudice to the generality of the preceding words, any provision of those Acts relating to notices to be given and grants to be made in the case of factories, mines, commercial buildings or public utility undertakings which was spent as aforesaid, shall again come into force;
- (c) make, in any of the provisions of the said Acts, whether in force by virtue of regulations made under paragraph (a) or paragraph (b) of this subsection or in force otherwise, any such amendments as appear to him to be required owing to the passage of time or to be necessary or expedient to adapt them to any changes which have occurred since the passing of the said Acts either in the law or in the relevant circumstances, including, in particular, any actual or apprehended developments in the forms of warfare;
- (d) repeal any of the provisions of the said Acts and, if it appears to him necessary or expedient so to do having regard to any such changes as aforesaid, substitute any comparable provision for any provision so repealed; and
- (e) amend or extend any of the provisions of the Rating and Valuation (Air Raid Works) Act, 1938, or the

Rating and Valuation (Air Raid Works) (Scotland) Act, 1938,

and nothing in the preceding provisions of this Act shall be construed as limiting the generality of the powers conferred by this subsection:

Provided that regulations under this subsection relating to grants out of moneys provided by Parliament shall not be made except with the consent of the Treasury.

(3) The power to make regulations under this section shall be in substitution for the power of His Majesty to make Orders in Council under the Civil Defence (Suspension of Powers) Act, 1945, terminating the suspension of any of the provisions of the Civil Defence Acts, 1937 and 1939.

7.—(1) Any expenses incurred by any Minister in discharging Expenses. functions exercisable by him under or by virtue of this Act, including any sums required for paying grants or compensation, shall be defrayed out of moneys provided by Parliament, and any sums received under or by virtue of this Act by any Minister shall be paid into the Exchequer.

(2) There shall also be paid out of moneys provided by Parliament any increase resulting from any of the provisions of this Act in the sums which, under Part I or Part II of the Local Government Act, 1948, fall to be paid out of moneys so provided.

8.—(1) Any regulations made under this Act,—

Regulations.

- (a) may make different provision for different cases or classes of case; and
- (b) may contain such consequential and incidental provisions as may appear to the designated Minister to be necessary or expedient,

and, in particular, and without prejudice to the generality of the foregoing provisions, regulations made under any of the provisions of this Act may make different provision in relation to different authorities or undertakers or classes of authorities or undertakers.

(2) Any power conferred by this Act to make regulations shall be exercisable by statutory instrument.

(3) No regulations shall be made under this Act unless a draft thereof has been laid before Parliament and has been approved by resolution of each House of Parliament.

9.—(1) In this Act, except where the context otherwise Interpretation,
etc. requires,—

“civil defence” does not include the provision or maintenance of a shelter which is used or intended to be

used wholly or mainly by naval, military or air forces but, save as aforesaid, includes any measures not amounting to actual combat for affording defence against any form of hostile attack by a foreign power or for depriving any form of hostile attack by a foreign power of the whole or part of its effect, whether the measures are taken before, at or after the time of the attack;

“civil defence forces” and “civil defence services” mean respectively forces and services formed wholly or mainly to meet the needs of civil defence;

“a civil defence shelter” means any shelter other than a shelter which is used or intended to be used wholly or mainly by naval, military or air forces;

“fire brigade” means a fire brigade maintained in pursuance of the Fire Services Act, 1947;

“local authority,” as respects England and Wales, means any authority being, within the meaning of the Local Loans Act, 1875, an authority having power to levy a rate, and, as respects Scotland, has the same meaning as in the Local Government (Scotland) Act, 1947, and includes a joint board and joint committee within the meaning of that Act;

“police force” means any police force maintained for any police area mentioned in the Third Schedule to the Police Pensions Act, 1921, or maintained by virtue of any scheme under the Police Act, 1946, or under the Police (Scotland) Act, 1946;

“a shelter” means any premises, structure or excavation used or intended to be used to provide shelter from any form of hostile attack by a foreign power;

“statutory provision” means a provision, whether of a general or a special nature, contained in, or in any document made or issued under, any Act, whether of a general or a special nature.

(2) In this Act, the expression “the designated Minister” means such Minister as may be designated by Order in Council, and different Ministers may be designated for different purposes or different provisions of this Act:

Provided that if and in so far as other provision is not made by Order in Council under this subsection, the said expression means the Secretary of State.

Any Order in Council under this subsection may be revoked or varied by a subsequent Order in Council.

(3) Any reference in this Act to the organisation, equipment or training for civil defence purposes of police forces includes a reference to the organisation, equipment and training of persons who are special constables for the police area in question.

10.—(1) The provisions of this Act, other than this section, shall not extend to Northern Ireland. Northern
Ireland.

(2) It is hereby declared that the Parliament of Northern Ireland has power to make laws for purposes similar to those of the provisions of this Act.

11.—(1) This Act may be cited as the Civil Defence Act, 1948, and this Act and the Civil Defence Acts, 1937 to 1945, may be cited together as the Civil Defence Acts, 1937 to 1948. Short title,
citation and
repeal.

(2) The enactments specified in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.