

War Damage Act, 1941.

4 & 5 GEO. 6. CH. 12.

ARRANGEMENT OF SECTIONS.

PART I.

BUILDINGS AND OTHER IMMOVABLE PROPERTY.

The War Damage Commission.

Section.

- I. Constitution and functions of War Damage Commission.

Payments. Nature, amount, and provisions for securing the public interest.

2. Payments under Part I and hereditaments that are to be units for purposes thereof.
3. Nature and amount of payments.
4. Cases in which payments of cost of works and value payments respectively are to be made.
5. Additional payments in respect of temporary works.
6. Determination of questions as to works and value.
7. Provisions for securing the public interest in the making of payments.

Provisions as to rights to receive payments.

8. Time when payments may be made.
9. Destination and apportionment of payments.
10. Notification of damage and claims for payments.
11. Commission not to be required to entertain claims for payments of under five pounds.
12. Provision for deduction from payment, &c., for failure to minimize damage.
13. Wages and conditions of employment for works the subject of payments under Part I.

Additional provisions as to payments in certain cases.

14. Power to increase amount of value payments on Commission's report as to altered circumstances.

Section.

15. Payments in respect of tenancies in hereditaments of exceptional site value.
16. Payments in respect of land compulsorily acquired whilst in a damaged condition.
17. Payments in respect of land sustaining repeated damage.

Contribution towards expense of making payments.

18. Contribution to be made towards expense of making payments.
19. Properties liable to contribution.
20. Amount of contribution and time for payment thereof.
21. Temporary use or occupation of land to be disregarded.
22. Increase or reduction of contribution.

Persons liable for contribution.

23. Persons primarily liable for instalments.
24. Rights over against landlords and tenants.
25. Rights over against mortgagees in certain cases.
26. Liability for instalments in case of shooting, fishing, and other rights.
27. Recovery of instalments from mortgagees in possession.
28. Deduction of indemnities from rent and mortgage payments.

Miscellaneous provisions as to contribution.

29. Properties in divided ownership at relevant date.
30. Alteration during risk period in area or condition of properties.
31. Provisions as to instalments of contribution for 1941.
32. Power to pay contribution in advance.
33. Provisions as to recovery of contribution on properties rendered unfit.
34. Indemnities payable and recoverable notwithstanding agreements to contrary.
35. Rights enforceable notwithstanding transmission of interest.
36. Commissioners of Inland Revenue to collect contribution.

Special provisions as to certain classes of land.

37. Crown land.
38. Land belonging to foreign States and Sovereigns, &c.
39. Land held for charitable purposes.
40. Land occupied for purposes of certain undertakings.
41. Highways.
42. Air-raid shelters.
43. Land belonging to National Trust.
44. Requisitioned land.

Special provisions as to land held in trust, &c.

Section.

- 45. Definition of "owner" in relation to proprietary interests.
- 46. Destination of payments in certain cases.
- 47. Liability of trustees, &c., in respect of instalments of contribution.
- 48. Power to raise capital for defraying contribution.
- 49. Repairs to land of ecclesiastical corporations.
- 50. Liability to repair chancels, &c., not to extend to war damage.

Miscellaneous provisions relating to Part I.

- 51. Amendment of 2 & 3 Geo. 6. c. 73.
- 52. Amendment of 2 & 3 Geo. 6. c. 74.
- 53. Disposal of salvage.
- 54. Payments to be made out of moneys provided by Parliament and contributions to be paid into Exchequer.
- 55. Expenses of Public Works Loan Commissioners as mortgagees.
- 56. Annual statement of payments and receipts under Part I.
- 57. Power of Commission to obtain information.
- 58. Power of Commission to inspect damaged premises.

PART II.

GOODS.

The Insurance Schemes.

- 59. Insurance schemes.
- 60. Goods insurable under the schemes.
- 61. Time for payment of losses under the schemes.

Special provisions as to business scheme.

- 62. Insurance under business scheme to be compulsory.
- 63. Power of Board of Trade to obtain information.

Special provisions as to private chattels scheme.

- 64. Graduated premiums under private chattels scheme.
- 65. Limitation of indemnity provided under private chattels scheme.
- 66. Rights under insurance on goods of members of household or servants.
- 67. Power to refuse applications for insurance under private chattels scheme.

Power to make payments otherwise than under policies.

- 68. Power of Board of Trade to make payments otherwise than under policies.

Miscellaneous.

Section.

- 69. Employment of agents by Board of Trade.
- 70. Annual statement of receipts and payments under Part II.
- 71. Definition of owner in relation to goods affixed to land.
- 72. Orders of Board of Trade for purposes of Part II.

PART III.

AMENDMENTS OF PART II OF WAR RISKS INSURANCE
ACT, 1939.

- 73. Amendment of Part II of War Risks Insurance Act, 1939.
- 74. Insurance of certain goods under Part II of War Risks Insurance Act, 1939.
- 75. Provisions in policies limiting indemnity.
- 76. Extension of power to exempt goods from compulsory insurance.
- 77. Exclusion of certain goods from commodity insurance scheme.
- 78. Miscellaneous amendments.
- 79. Application of Part III to Isle of Man.

PART IV.

MISCELLANEOUS AND GENERAL.

Miscellaneous.

- 80. Definition of "war damage".
- 81. Avoidance of duplication of payments in respect of war damage.
- 82. Contributions and premiums to be treated as capital outgoings.
- 83. Payments under Parts I and II to be subject to conditions in case of non-residents.
- 84. Certain expenses not to be a deduction for income tax, national defence contribution or excess profits tax.
- 85. Set-off of certain payments under Parts I and II against loans under s. 2 of 2 & 3 Geo. 6. c. 74.
- 86. Set-off of certain payments under Parts I and II against loans out of Vote of Credit.
- 87. Provision as to certain mutual insurance schemes.
- 88. Amendments by Defence Regulations.
- 89. Information as to Schedule A assessment and rating valuation.
- 90. Restriction on disclosure of information.
- 91. Expenses.
- 92. Provisions as to Board of Trade.
- 93. Provisions as to regulations and orders.

General.

Section.

94. Assignment of proceedings arising under this Act to special judges.
95. Interpretation.

Application to Scotland and Northern Ireland.

96. Application to Scotland.
97. Application to Northern Ireland.
98. Liability of Northern Ireland Government departments as mortgagees.
99. Repeal in part of 2 & 3 Geo. 6. c. 32 (N.I.).
100. Amendment of 2 & 3 Geo. 6. c. 34 (N.I.).
101. Set-off of certain payments under Parts I and II against loans under s. 3 of 2 & 3 Geo. 6. c. 34 (N.I.).

Short Title and Repeal.

102. Short title and repeal.

SCHEDULES :

First Schedule.—Constitution and Procedure of the War Damage Commission.

Second Schedule.—Provisions as to Appeals and References under Part I to a Referee.

Third Schedule.—Payments under Part I in cases of Repeated Damage.

Fourth Schedule.—Ultimate Incidence of Liability to Contributions.

Fifth Schedule.—Part I.—Enactments Repealed.

Part II.—Northern Ireland Enactments Repealed.



CHAPTER 12.

An Act to make provision with respect to war damage to immovable property and to goods. [26th March 1941.]

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 :—

PART I.

BUILDINGS AND OTHER IMMOVABLE PROPERTY.

The War Damage Commission.

1.—(1) For the purposes of this Act there shall be constituted a Commission, to be called the War Damage Commission (in this Act referred to as "the Commission") consisting of persons appointed by the Treasury in accordance with the First Schedule to this Act, which shall be charged with the duty of executing the provisions of this Part of this Act relating to the making of payments in respect of war damage to land, and shall exercise such other functions as are conferred upon them by this Act.

Constitution
and func-
tions of
War
Damage
Commis-
sion.

(2) The Commission shall, as respects such matters as may be specified in regulations made by the Treasury, exercise their functions under this Act (including any discretionary power exercisable by them) subject to and in accordance with the provisions of regulations so made :

Provided that any regulations made for the purposes of this subsection shall be of a general character, and nothing in this subsection shall be construed as authorising the making of any regulations requiring the Commission to exercise any of its functions in a manner inconsistent with the provisions of this Act.

PART I.
—cont.

(3) The provisions of the First Schedule to this Act shall have effect with respect to the constitution and procedure of the Commission.

Payments. Nature, amount and provisions for securing the public interest.

Payments under Part I and hereditaments that are to be units for purposes thereof.

2.—(1) Payments shall be made by the Commission, subject to and in accordance with the provisions of this Part of this Act, in respect of war damage to land occurring during the risk period.

(2) For the purposes of the provisions of this Part of this Act relating to such payments, land sustaining war damage as aforesaid shall, subject to the provisions of the next succeeding subsection, be dealt with in such units as the Commission may determine, and land which is to constitute a unit for those purposes is in this Part of this Act referred to as a "hereditament".

(3) Hereditaments shall be of two kinds consisting respectively of—

(a) buildings (excluding buildings the use of which is accessory to the use of other land and which would not be readily marketable apart from that other land) or parts of such buildings, and the sites of such buildings or of parts thereof; and

(b) land other than as aforesaid:

Provided that there shall be included in a hereditament that comprises a building falling within paragraph (a) of this subsection, or a part of such a building, any land (including a building) which, though not falling within that paragraph, might be expected ordinarily to be occupied with the first-mentioned building or part and is so situated that war damage thereto, if not made good, would be likely to affect substantially the value of the first-mentioned building or part.

A hereditament that comprises a building falling within paragraph (a) of this subsection, or a part of such a building, is in this Part of this Act referred to as a "developed hereditament".

Nature and amount of payments.

3.—(1) Subject to the provisions of this Part of this Act, a payment to be made thereunder shall be of one or other of two kinds, in this Part of this Act referred to respectively as a "payment of cost of works" and a "value payment"

(2) The amount of a payment of cost of works shall be computed as follows:—

(a) If the war damage is made good by reinstating the hereditament in the form in which it existed immediately before the occurrence of the damage, the amount of the payment shall be an amount equal to the proper cost of the works executed for the making good thereof:

Provided that if the reinstatement of any part of the hereditament could have been omitted without detracting from its value, or the omission thereof would have increased the value of the hereditament, the amount of the payment shall be reduced to what it would have been if that part had not been reinstated.

In this Part of this Act the expression “ the permissible amount ” means, in relation to a payment of cost of works, the amount that is payable by virtue of this paragraph or that would have been payable if this paragraph had had effect in relation to the payment.

(b) If the war damage is made good by works which include alterations or additions to the hereditament, the amount of the payment shall be an amount equal to so much of the proper cost of the works executed for the making good of the damage as falls within the permissible amount.

(3) In this Part of this Act the expression “ proper cost ” means, in relation to any works, such cost as is reasonable, having regard to the prices of materials and rates of remuneration for services current when the works are executed and to all other relevant circumstances, and in computing the proper cost of any works the cost of the necessary employment of an architect, engineer, surveyor, land agent, or other person in an advisory or supervisory capacity, in connection with the execution of the works, shall be treated as part of the cost of the works.

(4) The amount of a value payment shall be an amount equal to the amount of the depreciation in the value of the hereditament caused by the war damage, that is to say, the amount by which the value of the hereditament in the state in which it was immediately after the occurrence of the damage is less than its value in the state in which it was immediately before the occurrence of the damage.

(5) For the purposes of the last preceding subsection, the value of a hereditament in the state in which it was at any time shall be ascertained by reference to prices current at the thirty-first day of March, nineteen hundred and thirty-nine, and shall be taken to be the amount which the fee simple in the hereditament in that state might have been expected to realise on a sale thereof made in the open market on the said day with vacant possession, subject to any restrictive covenant, easement, quasi-easement, or other right inuring for the benefit of other land, any public right of way, right of common, or other right inuring for the benefit of the public or of any section thereof, and any restriction or liability imposed by or under an enactment, to which the hereditament was subject at that time, but free from any other incumbrance :

PART I.
—cont

Provided that provision may be made by regulations made by the Treasury for the valuation by reference to such matters as may be therein specified of hereditaments consisting of or comprising premises of a kind not normally the subject of sales in the open market, or having a value which could not be fully realised on such a sale.

(6) The amount of a payment of cost of works shall be reduced by an amount equal to the value, ascertained in accordance with regulations made by the Treasury, of any articles which formed part of the hereditament and become available as materials in consequence, whether directly or indirectly, of the war damage, and in computing the amount of a value payment the value, ascertained as aforesaid, of any such articles shall be included in the value of the hereditament in the state in which it was immediately after the occurrence of the war damage :

Provided that—

- (a) where any such articles are removed in exercise of emergency powers, otherwise than pursuant to a requisition, the amount of the payment shall be computed as if they had been wholly destroyed on the occurrence of the damage ; and
- (b) where any such articles are requisitioned, the amount of the payment shall be computed as mentioned in the preceding proviso and then reduced by the amount of the sum payable under the Compensation (Defence) Act, 1939, or under any such agreement as is mentioned in section fifteen of that Act, in respect of the requisition, or which would have been so payable if a claim therefor had been duly made under that Act.

2 & 3 Geo. 6.
c. 75.

Cases in which payments of cost of works and value payments respectively are to be made.

4.—(1) Subject as provided by subsection (2) of this section, the question whether a payment under this Part of this Act is to be a payment of cost of works or a value payment shall be determined as follows, that is to say—

- (a) in the case of a developed hereditament the payment shall be a payment of cost of works unless the damage involves total loss, that is to say, is such that the making good thereof would be likely to require works costing more than the difference between the value which the hereditament would have after the execution of the works and the value which the hereditament, with the damage not made good, would have as a site ;
- (b) in the case of a hereditament not being a developed hereditament the payment shall be a payment of cost of works in a case only in which the permissible amount of that payment would be likely to be less than the amount of a value payment in respect of the damage.

(2) The preceding subsection shall have effect subject to the provisions of section seven of this Act for securing the public interest in the making of payments under this Part of this Act, and subject also to the following provisions, that is to say—

- (a) in a case in which the appropriate payment would, apart from this provision, be a payment of cost of works, if the Commission are satisfied that it is the wish of the owners of proprietary interests in the hereditament and of any mortgagee of any such interest, or of any of the persons aforesaid whose wish ought in the opinion of the Commission to prevail, that the damage should not be made good, or if they are satisfied that the circumstances are such that the damage will not in fact be made good, they may, if they think fit, make a value payment in respect of the damage, so however that the amount of a payment made by virtue of this paragraph shall be such amount as the Commission think proper, not exceeding either the amount that would have been permissible for the payment of cost of works or the amount that would have been payable if a value payment had been the appropriate payment ; and
- (b) in a case in which the appropriate payment would, apart from this provision, be a value payment, the Commission may make a payment of cost of works in respect of the damage if it appears to them to be expedient so to do having regard to the effect that the making good of the damage would have in relation to the value of another hereditament.

5. Where a payment of cost of works or a value payment is made in respect of war damage to a hereditament, there shall be made, in addition to that payment, a payment (in this Part of this Act referred to as a "temporary works payment") of an amount equal to the proper cost of any works reasonably executed for temporarily meeting the circumstances created by the damage, being—

Additional
payments
in respect
of tem-
porary
works.

- (a) where a payment of cost of works is made, works, other than those taken into account in computing the amount of that payment, executed between the occurrence of the damage and the time when it is made good ;
- (b) where a value payment is made, works executed between the occurrence of the damage and the time when the Commission's determination to make that payment, and not a payment of cost of works, has been notified to all persons having an interest in the hereditament who have made a request in writing to the Commission to be notified thereof, or, if no such request has been made, the time of their determination.

PART I.
—*cont.*
Determina-
tion of
questions as
to works
and value.

6.—(1) Subject to the provisions of subsections (2) and (3) of this section, any question arising in giving effect to the provisions of the three last preceding sections shall be determined by the Commission.

(2) An appeal shall lie from a determination of the Commission—

(a) as to the value of a hereditament in respect of which a value payment is to be made, at the instance of the person who is entitled to receive the payment in question or any share thereof or who would be so entitled but for the subsistence of a mortgage; or

(b) as to the value which a hereditament would have in the circumstances specified in paragraph (a) of subsection (1) of section four of this Act, at the instance of the owner of any proprietary interest in the hereditament, of any mortgagee of any such interest, or of any other person who has incurred cost which would be the subject of the payment of cost of works if it were made;

9 Edw. 7.
c. 8.

to one of the panel of referees appointed under Part I of the Finance (1909-10) Act, 1910, and the provisions of the Second Schedule to this Act shall have effect in relation to any such appeal.

(3) If any person is aggrieved by a determination of the Commission of any question which is under this section to be determined by them, other than a determination from which an appeal lies under subsection (2) of this section, he may appeal therefrom on any question of law to the High Court.

Provision may be made by rules of court for regulating appeals under this subsection, and those rules shall provide for limiting the time within which such an appeal may be brought, for the determination thereof in a summary manner, and for requiring notice thereof to be given to the Commission, and may provide for the hearing and determination of any such appeal by a single judge, and the Commission shall be entitled to appear and be heard on any such appeal.

Provisions
for securing
the public
interest in
the making
of pay-
ments.

7.—(1) The Treasury shall give directions to be observed by the Commission for securing that the provisions of this Part of this Act relating to the making of payments in respect of war damage shall be executed in conformity with the public interest, as respects town and country planning, the provision of housing accommodation, the development of industries and services and of agriculture, the preservation of amenities, the consumption of supplies of building materials for the time being available, the building requirements of persons engaged in work of public importance, and such other matters as may be prescribed.

(2) For the purpose of giving effect to any such directions, the Commission may, by notice published in the London, Edinburgh and Belfast Gazettes or such of them as may be appropriate in

the case of the notice in question, and in such other manner as they think best for informing persons likely to be affected, specify any particular area or class of hereditaments or of works, and impose on any person who proposes to execute works (other than temporary works) for making good war damage to hereditaments in the specified area or to hereditaments of the specified class, or who proposes to execute for making good war damage any works of the specified class, an obligation to inform the Commission of the proposal and to furnish to them such particulars of the proposed works as they may require, and the Commission shall have power, where such a notice has been published—

PART I.
—cont.

- (a) to impose, as a condition of the right to receive so much of any payment of cost of works as would be payable in respect of any such works executed after the publication of the notice, requirements as to the nature of the works, the materials to be used therefor or the time for the execution thereof, or any other requirements relating thereto ; or
 - (b) if the Commission are satisfied that the directions given by the Treasury require that the damage should not be made good, to make a value payment in respect thereof in lieu of any payment of cost of works that would otherwise have been appropriate.
- (3) For the purpose of giving effect to any such directions, the Commission shall have power, whether such a notice as aforesaid has been published or not,—
- (a) to require the person to whom a value payment in respect of war damage to a developed hereditament or any share of such a payment is to be made to enter into an undertaking with the Commission to observe conditions as to the application of the payment or share, or of any part thereof, to the construction, alteration or acquisition of a building to be used in substitution for the building comprised in the damaged hereditament ;
 - (b) where war damage in respect of which a value payment would otherwise be appropriate is made good in the public interest, to make a payment of cost of works in respect thereof ; or
 - (c) to make an addition to a payment of cost of works in consideration of the omission, by agreement between the Commission and the owners of proprietary interests in the hereditament and any mortgagee of any such interest, of any works for the making good of the damage the cost of which would otherwise have been payable, so however that the amount of the payment with the addition thereto shall not exceed the amount permissible by virtue of subsection (2) of section three of this Act :

PART I.
—*cont.*
2 & 3 Geo. 6.
c. 62.

Provided that the power conferred by paragraph (a) of this subsection shall not, except in relation to a sum paid during the period whilst the Emergency Powers (Defence) Act, 1939, continues in force, extend to the imposition of any condition as to the location of any substituted building.

(4) Where a value payment is made by virtue of paragraph (b) of subsection (2) of this section, section five of this Act shall have effect in relation to any works appearing to the Commission to have been reasonably executed before the publication of the notice referred to in that subsection, notwithstanding that they may not have been of a temporary character.

(5) If default is made in the observance of an undertaking entered into for the purposes of paragraph (a) of subsection (3) of this section, the sum paid shall be recoverable as money had and received to the use of His Majesty, and the right to receive the value payment or share thereof, or, if the condition related to a part only thereof, the right to receive that part, shall be forfeited.

15 & 16
Geo. 5. c. 22.

(6) The provisions of the Land Charges Act, 1925, shall apply to a notice published under subsection (2) of this section specifying a particular area (in this subsection referred to as "the specified area") as if the notice were a local land charge, and the notice shall be registered accordingly by the proper officer of the council of any county borough or county district the area of which comprises the specified area or any part thereof, or, if the specified area or any part thereof is comprised in the City of London or any other part of the administrative county of London, by the proper officer of the Common Council or of the London County Council, as the case may be.

It shall be the duty of the Commission, as soon as may be after they have published any such notice as aforesaid, to inform the proper officer of any such council as aforesaid, the area of which comprises the specified area or any part thereof, of that fact, and to furnish to him any information relating to the notice requisite for enabling him to discharge his functions under this subsection.

(7) In determining whether, and the manner in which, any of the powers conferred upon the Commission by this section is to be exercised in cases in which it appears to them that an exercise of the power would be likely to affect the exercise by a local or public authority of any of their functions, the Commission shall afford to the authority, or, where the matter in question is one in which a number of such authorities are concerned, to such representative body as appears to the Commission to be appropriate, an opportunity of making representations to them, and the Commission shall consider any representation made to them by any such authority or body with respect to the exercise by the Commission of any of the

said powers, and any such authority shall at the request of the Commission furnish them with any information in the possession of the authority which the Commission may reasonably require in connection with the exercise by them of any of the said powers.

PART I.
—cont.

Provisions as to rights to receive payments.

8.—(1) The times when payments may be made under this Part of this Act shall, except in such cases as may be determined by the Commission in accordance with directions given to them by the Treasury, be the following, that is to say—

Time when
payments
may be
made.

- (a) in the case of payments of cost of works, and in the case of temporary works payments, the time of the completion of the works, or, where payment is to be made by instalments, of the relevant parts thereof, or the expiration of such period thereafter as may be reasonably requisite for enabling the Commission to ascertain whether they have been duly completed and what was the proper cost thereof;
- (b) in the case of value payments, such time or times as may be specified in regulations made by the Treasury either generally or as respects payments to be made in different circumstances.

(2) Interest at the rate of two and a half per cent. per annum shall accrue on a value payment from the time of the occurrence of the war damage, and shall be payable when that payment is discharged.

(3) Notwithstanding anything in subsection (1) of this section, where the Commission are satisfied that a person who will in due course become entitled to receive a value payment or a payment of cost of works or a share of such a payment (not being a person so entitled in a fiduciary capacity only or in the capacity of a mortgagee), or a beneficiary or borrower to whom a person so entitled in such a capacity as aforesaid will be liable to account, is at a time before the payment can be made in need of funds required—

- (a) where he or his family was maintaining a residence in the damaged hereditament immediately before the damage occurred, in order to secure housing accommodation for himself or his family, or
- (b) where he was then carrying on a trade or business therein, in order to secure premises for the carrying on of a trade or business,

the Commission may pay to him, on account and in part satisfaction of the payment or share, any sum or sums not together exceeding such amount as they are satisfied will fall within the

PART I.
—cont.

amount of that payment or share and not together exceeding eight hundred pounds, or, in the case of a person as to whom the requirements both of paragraph (a) and of paragraph (b) of this subsection are satisfied, eight hundred pounds for each of the purposes therein mentioned.

(4) Where any sum or sums is or are paid under the last preceding subsection by reference to the needs of such a beneficiary or borrower as is therein mentioned, the amount thereof shall not in the aggregate exceed such amount as the Commission are satisfied, after such consultation with other persons concerned as they think requisite, can be paid without prejudice to the rights of any other person concerned, and payment of the sum or sums in question may be made either to the beneficiary or borrower himself or to any other person, as may appear to the Commission to be requisite in order to give effect to the purposes of that subsection and to the rights of all persons concerned.

(5) Any sum or sums to be paid under subsection (3) of this section may be paid subject to any conditions which the Commission think requisite for the purposes aforesaid, and, if any conditions imposed under this subsection are not complied with, the sum in question shall be recoverable as money had and received to the use of His Majesty.

(6) When any sum is paid on account of a value payment or of a share of such a payment, interest on the amount of the sum paid shall cease to accrue.

Destination
and
apportion-
ment of
payments.

9.—(1) A payment of cost of works, and a temporary works payment, shall be made to the person by whom the cost of executing the works is incurred or, if such cost is incurred partly by one person and partly by another, shall be divided amongst them in such manner as may be determined by agreement between them, or, in default of agreement, in such manner as may be determined by the Commission.

(2) Subject as hereinafter provided, a value payment and the interest thereon shall, if no proprietary interest other than the fee simple was subsisting in the damaged hereditament or in any part thereof immediately before the occurrence of the war damage, be paid to the person who was then the owner of the fee simple therein, and in any other case shall be paid to the persons who were then the owners of the several proprietary interests then subsisting therein, or in any part thereof, which suffer depreciation in value by reason of the war damage, in shares proportionate to the amount of the depreciation in value which they respectively suffer by reason thereof, that is to say, the amount by which the value of those interests respectively immediately after the occurrence of the damage is less than the value thereof respectively immediately before the occurrence of the damage.

(3) For the purposes of the last preceding subsection, the value that a proprietary interest in a hereditament had immediately before the occurrence of war damage and the value (if any) that it had immediately thereafter shall be taken respectively to be the amount that the interest might have been expected to realise on a sale thereof in the open market on the thirty-first day of March, nineteen hundred and thirty-nine, if it had been subsisting on that day with the like incidents in all respects (other than its being subject to any charge or lien for securing money or money's worth) as it had, and the hereditament had been on that day in the state in which it was, immediately before the occurrence of the damage, or immediately thereafter, as the case may be, so, however, that—

PART I.
—cont.

- (a) in determining the value that the interest had immediately after the occurrence of the damage, regard shall be had to what in fact happens as respects any surrender by virtue of the Landlord and Tenant (War Damage) Act, 1939, of any tenancy in the hereditament or in a part thereof (including that interest if it is a tenancy), and the amount that the interest might have been expected to realise on the assumed sale shall accordingly be determined as if any such tenancy surrendered by virtue of that Act (including that interest if it is a tenancy and is surrendered) had been for a term limited to expire on the date on which the surrender takes effect, and had been held free from any obligation as to repairs to which it was subject ; but
- (b) subject as aforesaid, the amount that the interest might have been expected to realise on the assumed sale shall be determined without regard to the provisions of the said Act.

2 & 3 Geo. 6.
c. 72.

(4) Where a proprietary interest in a hereditament was subject to a mortgage immediately before the occurrence of the war damage, and the mortgage is subsisting at the time when a value payment in respect thereof is discharged, in the absence of agreement to the contrary between the mortgagee and the person entitled to that interest subject to the mortgage the payment and the interest thereon shall, as to the whole or as to the share thereof apportioned to that proprietary interest, as the case may be, be paid to the mortgagee, and the mortgagee shall be liable to account therefor as if the payment or share and the interest thereon had been respectively proceeds of sale of that proprietary interest arising under a power of sale exercisable by the mortgagee and interest on such proceeds, except that the mortgagee shall not be entitled to credit for any costs incurred by him in connection with the claiming, ascertainment, apportionment or making of the payment.

PART I.
—cont.

(5) The value which a proprietary interest in a hereditament is to be taken by virtue of subsection (3) of this section to have had immediately before the occurrence of war damage, or immediately thereafter, shall be such as may be determined by agreement between the owners of proprietary interests in the hereditament, together with any mortgagee of any such interest, or, in default of agreement, by reference to one of the panel of referees appointed under Part I of the Finance (1909-10) Act, 1910, and the provisions of the Second Schedule to this Act shall have effect in relation to any such reference.

(6) Where any sum has been paid under the last preceding section on any date on account of a share of a value payment, there shall, on the discharge of the payment, be brought into hotchpot and accounted for accordingly, in addition to that sum, an amount equal to any interest which would have accrued thereon after that date if it had not been so paid.

(7) The right to receive a payment under this Part of this Act in respect of war damage or a share of such a payment shall be transmissible by assignment or by operation of law as a personal right, but an assignment in whole or in part of any such payment or share, made either before or after the commencement of this Act, whether absolutely or by way of charge, other than an assignment which does not affect any beneficial interest in the payment or share or in any part thereof, shall be of no effect until it has been approved in writing by the Commission.

Notification
of damage
and claims
for
payments.

10.—(1) Regulations may be made by the Treasury—

- (a) as to the notification of the occurrence of war damage to land, and of particulars of such damage and of the land affected thereby; and
- (b) as to the making of claims for payments under this Part of this Act, and the information to be furnished for the purpose of the investigation thereof and of the determination and ascertainment of the kind and the amount of the payment to be made in respect of any war damage and of the person entitled to receive the payment or any share thereof, and as to the manner in which such information is to be verified.

(2) Regulations made under this section may specify limits of time for the giving of such notification as aforesaid, for the making of such claims as aforesaid, or for the observance of the requirements of the regulations as to any other matter:

Provided that the Commission shall have power in their discretion to extend any limit of time so specified in particular cases.

(3) Regulations made under this section may provide for rendering the right to receive a payment under this Part of this

Act, or a share of such a payment, conditional on the requirements of the regulations having been duly observed :

PART I.
—cont.

Provided that the Commission shall have power to waive any of the said requirements in particular cases, and to make payments under this Part of this Act notwithstanding that any of them have not been observed.

(4) The power to make regulations as to the matters specified in the preceding provisions of this section shall include power to make regulations as to any of those matters in relation to war damage sustained before the coming into force of the regulations, and provision shall be made by the regulations for securing, so far as may be, that action taken before the coming into force of the regulations in relation to any of those matters shall not be required to be repeated after the coming into force thereof.

11.—(1) Notwithstanding anything in the preceding provisions of this Part of this Act, the Commission shall not be required to entertain a claim by any person for a payment in respect of war damage to a hereditament, being damage in respect of which a payment of cost of works is the appropriate payment, if the total cost of executing works on the hereditament in relation to such war damage which was incurred by him and which would apart from this provision be the subject either of a payment of cost of works or of a temporary works payment is less than five pounds :

Commission not to be required to entertain claims for payments of under five pounds.

Provided that, in the case of a person who has incurred such cost as aforesaid in relation to war damage sustained by the same hereditament on two or more occasions, or in executing works on two or more developed hereditaments in the same area, the whole of such cost shall be taken into account together for the purposes of this subsection.

In this subsection the expression " area " means the area of a local authority for the purposes of Part II of the Housing Act, 1936.

26 Geo. 5. &
1 Edw. 8.
c. 51.

(2) Notwithstanding anything in the preceding provisions of this Part of this Act, the Commission shall not be required to entertain a claim for a payment in respect of war damage to a hereditament not being a developed hereditament, being damage in respect of which the appropriate payment is a value payment, if the total amount of the depreciation in the value of the hereditament caused by the war damage, and of the cost of executing works on the hereditament in relation to such war damage which apart from this provision would be the subject of a temporary works payment, is less than five pounds :

Provided that, in the case of such a hereditament which sustains war damage on two or more occasions, the said depreciation and cost attributable to the war damage occurring on those occasions respectively shall be taken into account together for the purposes of

PART I.
—cont.

this subsection, and, if the hereditament also sustains war damage in respect of which a payment of cost of works is the appropriate payment, the amount of that payment shall be included in the said total for those purposes.

Provision
for
deduction
from pay-
ment, &c.,
for failure
to minimize
damage.

12.—(1) If war damage to a hereditament is increased by failure on the part of the owner of, or any person interested in, a proprietary interest in the hereditament or any part thereof (including a mortgagee of such an interest) to take any steps for preserving the hereditament or that part thereof which he might reasonably have been expected to take after the happening of the event from which the damage results, the following provisions of this section shall have effect.

(2) Where a value payment is to be made in respect of the war damage, both the actual depreciation in the value of the hereditament caused thereby and the depreciation that would have been caused if the damage had not been increased as aforesaid shall be determined in accordance with the provisions of sections three and six of this Act and the difference shall be deducted from the payment, or, if it is payable in two or more shares, from the share apportioned to the relevant proprietary interest :

Provided that where the person in default was a mortgagee, if the mortgage is subsisting when the payment is discharged, the mortgagee shall be liable to account as if the payment or share had been paid in full, and, if it is not then subsisting, the payment or share shall be paid in full and an amount equal to the said difference shall be recoverable as a debt due to his Majesty from the person in default.

(3) Where a payment of cost of works is to be made in respect of the war damage the amount by which the proper cost of the works executed for making it good is increased by reason of the failure shall be determined by the Commission and that amount shall be deducted from so much (if any) of the payment as would otherwise have been payable to the person in default, and, so far as not so deducted, shall be recoverable as a debt due to His Majesty from him.

Wages and
conditions
of employ-
ment for
works the
subject of
payments
under
Part I.

13.—(1) The Commission may specify requirements as to contracts for the execution of works, the cost of which may be the subject of a payment of cost of works or the execution of which may be the subject of an undertaking required in relation to the receipt of a value payment by virtue of section seven of this Act, and requirements as to the engagement of employees by persons undertaking directly the execution of such works, for securing that the wages and conditions of employment of persons employed in the execution thereof are regulated in like manner as those of persons employed in the execution of works under contracts made by Government departments.

(2) Such requirements as aforesaid shall be observed, as a condition of the right to receive the payment of cost of works or as a term of the undertaking, as the case may be, in such cases as the Commission may specify generally by notice published in such manner as they think best for informing persons likely to be affected and in any other cases in which the Commission require observance thereof by notice given or sent to the claimant for the payment in question.

PART I.
—cont.

Additional provisions as to payments in certain cases.

14.—(1) If, when the discharge of value payments generally or in substantial volume has become permissible, it appears to the Commission that, having regard to any circumstances arising since the passing of this Act, the amounts of any such payments computed as provided by section three of this Act are inadequate, the Commission shall make a report to the Treasury stating that they are of that opinion, the circumstances to which they have had regard in forming it, and the deductions which they draw therefrom.

Power to increase amount of value payments on Commission's report as to altered circumstances.

(2) On receipt from the Commission of any such report the Treasury shall consider the report, and shall have power by order to direct that the amounts of value payments which would otherwise be computed as provided by section three of this Act shall, either in all cases or in such classes of cases as may be specified in the order, be increased by a sum equal to such proportion of the amount computed as aforesaid as may be specified in the order.

(3) An order under this section as to any value payments shall have effect in relation to any such payment whether made before or after the coming into force of the order.

(4) The Treasury shall publish in such manner as they think fit any report made to them under subsection (1) of this section as soon as may be after they have made an order in pursuance thereof or have determined to make no order thereon.

(5) An order under this section may be varied or revoked by any subsequent order made by the Treasury :

Provided that no person shall be liable in consequence of an order made by virtue of this subsection to repay any sum paid to him before the coming into force thereof.

(6) An order under this section may make provision for any such modification of the provisions of this Act relating to the discharge of value payments, or to the computation of the interest thereon, as may appear to the Treasury to be requisite in consequence of the making of the order.

(7) An order made under this section shall be of no effect until it has been approved by a resolution of the Commons House of Parliament.

PART I.
—cont.
Payments
in respect of
tenancies in
heredita-
ments of
exceptional
site value.

15.—(1) Where a developed hereditament sustains war damage in respect of which the appropriate payment would be a value payment, but, owing to the value as a vacant site of land comprised in the hereditament, the value of the hereditament in the state in which it was immediately after the occurrence of the damage is no less than its value in the state in which it was immediately before the occurrence of the damage, if a tenancy being a proprietary interest was then subsisting in the hereditament and the Commission are satisfied that the time which it then had to run was sufficiently short to render it probable that the hereditament would have remained in its existing form during that time apart from war damage, they may, if they think fit, make in respect of the tenancy a payment of such kind and amount as appears to them to be reasonable in view of the value thereof.

(2) Paragraph (a) of subsection (3) of section seven of this Act, section eight thereof, and subsection (4) of section nine thereof, shall have effect in relation to a payment to be made under this section as they have effect in relation to a value payment, and a payment to be so made shall, subject to the provisions of subsection (4) of section nine of this Act, be made to the person who was, immediately before the occurrence of the damage, the owner of the tenancy.

Payments
in respect of
land com-
pulsorily
acquired
whilst in a
damaged
condition.

16.—(1) If any land constituting or forming part of a hereditament which has sustained war damage in respect of which a payment of cost of works would be the appropriate payment, but which has not been fully made good, is acquired compulsorily by virtue of an enactment passed before the passing of this Act, and compensation for the acquisition falls to be determined by reference to the value of the land in its damaged state (without regard to the prospective right of a purchaser to payment of the cost of making the damage good), the payment to be made under this Part of this Act in respect of the damage to the land acquired shall be of an amount equal to what would have been permissible for the payment of cost of works (so far as attributable to the land acquired if it is part only of the hereditament), and shall be made in the form of—

- (a) a payment of cost of works in respect of any works for making good the damage executed before the date of the notice to treat or other the date on which the acquisition became obligatory, in so far as the proper cost thereof falls within the said permissible amount; and
- (b) a value payment of an amount equal to the residue of the said permissible amount, or, if no such works were so executed, to the whole thereof.

(2) In a case in which the preceding subsection has effect, section five of this Act shall have effect in relation to works reasonably executed for temporarily meeting the circumstances created by the damage to the land acquired, being works, other than those taken

into account under paragraph (a) of the preceding subsection, executed between the occurrence of the damage and the date mentioned in that paragraph, and in relation to such works only.

PART I.
—cont.

(3) Any question arising in giving effect to this section shall be determined by the Commission.

17. The preceding provisions of this Part of this Act shall have effect, in relation to war damage occurring on two or more occasions during the risk period and affecting the same hereditament, subject to and in accordance with the provisions of the Third Schedule to this Act, and the provisions of that Schedule relating to physical changes not directly due to war damage, but affecting the determination of the amount of a payment in respect of such damage, shall have effect.

Payments
in respect of
land
sustaining
repeated
damage.

Contribution towards expense of making payments.

18. Contributions towards the expense of making payments under this Part of this Act in respect of war damage shall be made in respect of the properties, at the rates and in the manner specified in the following provisions of this Part of this Act.

Contribution to
be made to-
wards expense
of making
payments.

19.—(1) The properties liable to the said contributions (hereinafter referred to as “contributory properties”) shall, save as otherwise provided in this Part of this Act, be every property—

Properties
liable to
contribu-
tion.

- (a) the full annual value of which was ascertained for the purposes of an assessment under Schedule A in force at any time during the risk period ; or
- (b) which, not being a property to which paragraph (a) of this subsection applies, was, at any time during the risk period, the subject of a valuation shown in a valuation list for the time being in force under the Rating and Valuation Acts, 1925 to 1940, or the Rating and Valuation (Metropolis) Acts, 1869 to 1940, as the case may be :

Provided that a property shall not be treated for the purposes of this Part of this Act as a contributory property—

- (i) if the conditions specified in paragraph (a) or paragraph (b) of this subsection are satisfied as respects the property by reason only of the use of any land for the exhibition of advertisements, or for the erection of any hoarding, frame, post, wall or structure used for the exhibition of advertisements ; or
- (ii) if the property consisted of a fishery ; or
- (iii) if the property consisted of any corn-rent or other rent-charge issuing out of land,

so, however, that nothing in paragraph (ii) of this proviso shall affect any liability to the said contributions in respect of properties

PART I.
—cont.
37 & 38
Vict. c. 54.

consisting of or including such fishing rights as are mentioned in section six of the Rating Act, 1874.

(2) The amount on which the contribution is to be calculated in respect of each contributory property (hereinafter referred to as "the contributory value") shall be—

(a) in the case of a property to which paragraph (a) of the preceding subsection applies, the amount of the net assessment for the purposes of Schedule A on the first day during the risk period on which an assessment for those purposes was in force

(b) in the case of a property to which paragraph (b) of the preceding subsection applies, the net annual value shown in the valuation list during the risk period, or, where that value varies, the first such value :

Provided that, where the net annual value and the rateable value are not separately shown, the references in paragraph (b) of this subsection to the net annual value shall be taken to be references to the rateable value, except in the case of properties which were in the risk period industrial hereditaments in the occupation of the Crown, where the said references shall be taken to be references to such multiple of the rateable value as the Treasury may determine to be the net annual value.

(3) Where, apart from the provisions of this subsection, the contributory value of any contributory property would, under either paragraph (a) or paragraph (b) of the last preceding subsection, be computed by reference to an amount corresponding to the value of the property for any period less than a full year, it shall be computed as if the said amount were increased so as to bear to the actual amount thereof the same proportion as a full year bears to the said period.

(4) Where—

(a) a property which was throughout the risk period, used mainly or exclusively for the purpose of open air games, open air racing or open air recreation, comprised, at the beginning of that period, buildings or works the cost of which amounted to five thousand pounds or more, or

(b) a property which in the opinion of the Minister of Agriculture and Fisheries consisted throughout the risk period of waste land or land valuable only for the purpose of taking fish, game or other animals fit for human consumption or land whose value for other purposes is small in comparison with its value for the said purpose, comprised a dwelling-house,

the buildings or works and the site thereof or, as the case may be, the dwelling-house and its offices (if any) and the site thereof, on the one hand, and the remainder of the property on the other

hand, shall be treated as separate properties and the contributory values of each ascertained by apportioning what would have been the contributory value of the whole property.

PART I.
—cont.

Any such apportionment shall be made by the Commissioners of Inland Revenue, but any person who is aggrieved by any such apportionment may appeal to the Special Commissioners.

(5) In this section, the expression "net assessment" means the full annual value as ascertained for the purposes of an assessment under Schedule A, less any sums on which relief was allowed under Rules 1, 4 and 7 of No. V of Schedule A or subsection (6) of section thirteen of the Tithe Act, 1936, and less any sums on which relief would have been allowable in respect of an annuity under section four of the Tithe Act, 1918, or of payments in respect of the redemption or reduction of an annuity under the Tithe Act, 1936, if relief in respect of so much of such an annuity or such payments as represents interest were in all cases given by way of reduction of an assessment under Schedule A in lieu of being given by a right of deduction of tax.

26 Geo. 5.
& 1 Edw. 8.
c. 43.
8 & 9 Geo. 5.
c. 54.

(6) For the purposes of this Part of this Act—

- (a) an assessment under Schedule A shall be treated as having been in force during the period as respects which it has effect ; and
- (b) a valuation shown in a valuation list shall be treated as having been shown in the list during the period as respects which the valuation has effect.

20.—(1) The contribution in respect of any contributory property shall be payable by five annual instalments becoming due in the year nineteen hundred and forty-one and each of the four subsequent years.

Amount of
contribution and
time for
payment
thereof.

(2) The instalment for each of the said years shall become due on the first day of July in that year, but in relation to any such instalment regard shall be had, in so far as the provisions of this Part of this Act and of the Fourth Schedule thereto expressly so provide, to the circumstances prevailing on the first day of January in that year (hereinafter referred to as "the relevant date").

(3) The amount of each instalment shall be two shillings in every pound of the contributory value of the contributory property :

Provided that in the case of a contributory property—

- (a) which consisted throughout the risk period of agricultural land or agricultural buildings ; or
- (b) which consisted throughout the risk period of land used mainly or exclusively for the purpose of open air games, open air racing or open air recreation ; or

PART I.
—cont.

- (c) which in the opinion of the Minister of Agriculture and Fisheries consisted throughout the risk period of waste land or land valuable only for the purpose of taking fish, game or other animals fit for human consumption, or land whose value for other purposes is small in comparison with its value for the said purpose ; or
- (d) which falls as to part thereof within any of the preceding paragraphs and as to the remainder thereof within any other of those paragraphs ; or
- (e) which consisted of such rights as are mentioned in section six of the Rating Act, 1874 (which relates to shooting, fishing and other rights) or of any other incorporeal rights,

the amount of each instalment shall be sixpence in every pound of the contributory value, but nothing in paragraph (e) of this proviso shall be construed as affecting the amount of an instalment in respect of a property which was the subject of a valuation for rating purposes by virtue of the occupation of land.

The reference in this subsection to land used mainly or exclusively for the purpose of open air games, open air racing or open air recreation does not include any buildings, works or sites which are by virtue of the last preceding section to be treated as a separate property as being comprised in a property used mainly or exclusively for the purpose mentioned in paragraph (a) of subsection (4) of that section ; and nothing in the proviso to this subsection shall apply to a dwelling-house which is by virtue of the said section to be treated as a separate property as being comprised in such a property as is referred to in paragraph (b) of the said subsection (4).

Temporary
use or
occupation
of land to
be dis-
regarded.

21.—Where the normal use or occupation of any land is such that it would fall within paragraph (a) or paragraph (b) of the proviso to subsection (3) of section twenty of this Act, then if and so long as it is temporarily diverted from such use or occupation by reason of circumstances arising from war, the land shall be deemed for the purposes of sections nineteen and twenty of this Act to be used or occupied as it is normally used or occupied.

Increase or
reduction
of contribu-
tion.

22.—(1) The Treasury may from time to time (whether during, or after the expiration of, the risk period) make estimates of the expected net receipts of the Exchequer under this Part of this Act on the one hand and the expected payments under this Part of this Act on the other hand.

(2) If on any such estimate it appears that the said expected net receipts fall short of half of the said expected payments, the

Treasury may (whether or not any previous order has been made under this section) by order—

PART I.
—cont.

- (a) increase the number of instalments ;
 - (b) increase the proportion which each remaining instalment is to bear to the contributory value ; or
 - (c) increase both that number and that proportion,
- to such extent as will in their opinion make good the deficiency :

Provided that an order increasing the said proportion shall be so made as to secure that the proportion in the case of properties to which the proviso to subsection (3) of section twenty of this Act applies is always one-quarter of the proportion in the case of other properties.

(3) An order under this section shall be of no effect until it has been approved by a resolution of the Commons House of Parliament.

(4) If on such an estimate as aforesaid the said expected net receipts exceed the said expected payments, such provision shall be made for the reduction of the receipts as Parliament may determine.

(5) In estimating net receipts and payments under this section—

- (a) there shall be left out of account contributions and payments made in accordance with section thirty-nine, forty or forty-one of this Act ;
- (b) any sums which, in accordance with any of the provisions of this Act, are discharged by a credit in account in lieu of being paid by the Commission, shall be included among the payments ;
- (c) where a value payment is reduced by any amount in respect of instalments of contribution, the net receipts shall be calculated as if that amount had been actually received, and the payments shall be computed as if the reduction in the value payment had not been made.

Persons liable for contribution.

23.—(1) An instalment of contribution becoming due in any year in respect of any contributory property shall, save as otherwise provided in this Part of this Act—

Persons
primarily
liable for
instalments.

- (a) if there is at the relevant date only one proprietary interest subsisting in the whole of that property, be payable by the owner at that date of that interest ;
- (b) if there is then subsisting therein more than one such interest, be payable by the owner at that date of that one of those interests which as against the owners of the remainder of those interests carries the right to possession of the whole of the property.

PART I.
—cont. (2) The person who is liable as aforesaid in respect of any instalment on any property is hereinafter referred to as a “direct contributor.”

Rights over
against
landlords
and
tenants. 24. The provisions of the Fourth Schedule to this Act shall have effect for determining the ultimate incidence of the liability for instalments of contribution as between the direct contributor and other persons having proprietary interests in the contributory property.

Rights over
against
mortgagees
in certain
cases. 25.—(1) Where the interest of a direct or indirect contributor in respect of a contributory property to which this section applies is at the relevant date subject to a mortgage to which this section applies, and the amount secured by the mortgage at the relevant date is more than one third of the price of acquisition of that interest, he shall be entitled to be indemnified by the mortgagee to the following extent, that is to say—

- (a) if the amount secured by the mortgage at the relevant date does not exceed one half of the said price, against one sixth of his net liability ;
- (b) if the said amount exceeds one half, but does not exceed two thirds, of the said price, against one third of his net liability ;
- (c) if the said amount exceeds two thirds, but does not exceed three quarters, of the said price, against half his net liability ;
- (d) if the said amount exceeds three quarters of the said price, against two thirds of his net liability.

In this section and in the following provisions of this Act—

- (i) the expression “indirect contributor” means a person who is liable under any of the provisions of the Fourth Schedule to this Act to give an indemnity ;
- (ii) the expression “net liability” means, in relation to a direct contributor, the liability of the contributor for the instalment in question reduced by the gross amount of any indemnities to which he is entitled under the said provisions, and, in relation to an indirect contributor, the amount of the indemnity which, under the said provisions, he is bound to give, less the gross amount of any indemnities which, under the said provisions, he is entitled to receive.

(2) Where the interest of a direct or indirect contributor in respect of a contributory property to which this section applies is at the relevant date subject to successive mortgages to which this section applies, then, in considering whether the contributor is entitled to any and, if so, what indemnity against the mortgagee under any such mortgage other than the first mortgage of the

interest, subsection (1) of this section shall be construed as if for the references therein to the net liability of the direct or indirect contributor there were substituted references to his net liability reduced by the aggregate of the gross amounts of any indemnities to which he is entitled under this section in respect of any such prior mortgages as aforesaid.

(3) Where the interest of a direct or indirect contributor in respect of a contributory property to which this section applies is at the relevant date subject to a mortgage to which this section applies, but is not the only property subject to that mortgage, then, in considering whether, in accordance with subsection (1) and subsection (2) of this section, the contributor is entitled to any, and if so, what indemnity against the mortgagee under that mortgage, the said subsection (1) shall be construed as if for the references therein to the amount secured by that mortgage at that date there were substituted references to an amount which bears to that amount the same proportion as the price of acquisition of that interest bears to the aggregate of the price of acquisition of the interest and of the value of all the other property (whether real or personal) then subject to that mortgage.

(4) This section applies to a contributory property the contributory value of which does not exceed one hundred and fifty pounds and which consists of or comprises premises used or suitable for use for residential purposes, and to a contributory property the contributory value of which does not exceed five hundred pounds and which consists solely or mainly of agricultural land or agricultural buildings or of such land and such buildings :

Provided that this section shall not apply to a contributory property by virtue of its comprising premises used for residential purposes if their use for those purposes is connected with, and subsidiary to, the use for other purposes of those premises or of some other part of the property.

(5) This section applies to a mortgage of the interest of a direct or indirect contributor which was created to secure a capital sum (whether with or without interest) on the occasion of, and in connection with, the acquisition of that interest by the contributor or a predecessor in title of his, or on the occasion of, and in connection with, the execution of any works of construction or improvement for the benefit of the contributory property, or was substituted for a mortgage so created :

Provided that this section does not apply to a mortgage which was created on the occasion of, and in connection with, the acquisition by a person of an interest in, or on the occasion of, and in connection with, the execution of any such works as aforesaid for the benefit of, more than one contributory property, or was substituted for a mortgage so created.

PART I.
—cont.

(6) In relation to a case—

- (a) where the mortgage was created on the occasion of, and in connection with, the execution of any such works as aforesaid, or was substituted for a mortgage so created ; or
- (b) where the mortgage was created on the occasion of, and in connection with, the acquisition of the interest at any time before the first day of January nineteen hundred and thirty-two, or was substituted for a mortgage so created, and (in either case) the value of the interest is at the relevant date less than four fifths of the price of acquisition of the interest ; or
- (c) where the mortgage was created on the occasion of, and in connection with, the acquisition of the interest, or was substituted for a mortgage so created, and at the time of the acquisition of the interest the person acquiring the interest was entitled to a tenancy which on the acquisition merged in the interest acquired,

the foregoing provisions of this section shall have effect as if any reference to the price of acquisition of the interest were a reference to the value of the interest.

(7) Where a claim for indemnification under this section is made by a direct or indirect contributor in respect of a contributory property to which this section applies, as being a property which consists of or comprises premises used, or suitable for use, for residential purposes, and a dispute arises as to the value of the interest of the contributor or of any other property subject to the mortgage, then, if a request in that behalf is made to the Commissioners of Inland Revenue by the contributor and the mortgagee, the Commissioners may certify the value of the interest or other property in question, and the determination of the Commissioners shall be final and conclusive for the purpose of this section as between the contributor and the mortgagee.

(8) For the purposes of this section—

- (a) the price of acquisition of an interest of a direct or indirect contributor which is subject to a mortgage which was created on the occasion of, and in connection with, the acquisition of the interest, or was substituted for a mortgage so created, shall be taken to be the amount of any capital sum paid as consideration for the acquisition in question ;
- (b) the amount secured by a mortgage at any date shall be taken to be the capital sum secured thereby, together with any costs or arrears of interest so secured ;
- (c) the value of any property (including the interest of a direct or indirect contributor) which is subject to a mortgage

to which this section applies shall be taken to be the value which that property would have had in the open market at the end of March nineteen hundred and thirty-nine, if it had then been subsisting with the like incidents in all respects as it had on the relevant date, other than its being subject to that mortgage;

- (d) a mortgage shall be deemed to have been substituted for another mortgage if it was substituted for a mortgage which itself was substituted therefor.

PART I.
—cont.

26.—(1) An instalment of contribution becoming due in any year in respect of a contributory property consisting of such rights over any land as are mentioned in section six of the Rating Act, 1874, or of any other incorporeal rights over any land, shall, subject to the provisions of this section, in all cases be paid by the direct contributor in respect of the instalment of contribution for that year on the contributory property comprising the land, and the provisions of this Act relating to the recovery and ultimate incidence of instalments of contribution shall apply as if the instalment on the rights formed part of the instalment on the land:

Liability
for instal-
ments in
case of
shooting,
fishing, and
other rights.

Provided that where the land is comprised in more than one contributory property—

- (a) if the same person is not the direct contributor in respect of all the contributory properties comprising the land, the Commissioners of Inland Revenue, in consultation with the rating authority for the area in which those properties are situated, shall apportion to each property or group of properties having a separate direct contributor such proportion of the instalment on the rights as, having regard to the contributory values of the properties, they may determine;
- (b) the said Commissioners, in consultation with the authority aforesaid, shall, on the application of any person interested as, or as a mortgagee of, a direct or indirect contributor in respect of any of the properties, certify the proportion of the instalment on the rights which, having regard to the contributory values of the properties, is apportionable to the property in question,

and the provisions of this subsection, other than the proviso thereto, shall apply as if the proportion of the instalment on the rights apportioned, or certified to be apportionable, to any of the properties were an instalment in respect of such rights as aforesaid over land wholly comprised in that property.

(2) Where a direct contributor in respect of a contributory property comprising land who would be under a liability under the last preceding subsection to pay an instalment, or an apportioned part of an instalment, on any such rights over the land as are mentioned in that subsection proves that the contributory value of the

PART I.
—cont.

property took into account the value of all or any of the rights, or fell to be computed by reference to an assessment or valuation in force at a time when the rights were not subsisting, the Commissioners of Inland Revenue shall give to the contributor such relief, by way of reducing or discharging the said liability, as appears to them just having regard to the extent to which the rights were taken into account as aforesaid or, as the case may be, to the fact that the contributory value of the property fell to be computed as aforesaid.

(3) Where a direct contributor in respect of a contributory property who would be under a liability under subsection (1) of this section to pay an instalment, or an apportioned part of an instalment, on any such rights over any land as are mentioned in section six of the Rating Act, 1874, proves that the fee simple in the contributory property comprising the rights was severed from the fee simple in the contributory property comprising the land, the liability in respect of the rights shall be discharged.

(4) Subject to the provisions of the two last preceding subsections, an instalment of contribution on a contributory property consisting of such rights as aforesaid shall be payable notwithstanding that at the relevant date the rights no longer subsist, or, in the case of such rights as are mentioned in section six of the Rating Act, 1874, are no longer severed from the occupation of the land.

(5) Nothing in the preceding provisions of this section shall be construed as affecting any liability for an instalment of contribution in respect of a property which was the subject of a valuation for rating purposes by virtue of the occupation of land.

Recovery of
instalments
from
mortgagees
in
possession.

27. Where at the relevant date in any year—

- (a) the proprietary interest in the whole of any contributory property; or
- (b) if there is then subsisting in the property more than one such interest, that one of them which as between them carries the immediate right to possession of the whole of the property,

is subject to a mortgage, and under the mortgage the mortgagee is in possession of the property or the mortgagee or a receiver is in receipt of the whole of the rents and profits incident to the mortgaged interest, the instalment of contribution becoming due in that year in respect of the property shall be payable by the mortgagee, and—

- (i) the mortgagee shall be entitled to the like rights against any landlord or tenant of the mortgagor, and against any other mortgagee of the interest, as the mortgagor would have had if the instalment had been payable by him, and
- (ii) the amount of the instalment, reduced by the aggregate of any amounts which the mortgagee is entitled to recover by virtue of paragraph (i) of this section and of any amount

which the mortgagor would have been entitled by virtue of section twenty-five of this Act to recover from the mortgagee if the instalment had been payable by the mortgagor, shall be treated, except for the purpose of computing what amount, if any, the mortgagor would have been entitled to recover as aforesaid in respect of the instalment in question, as an addition to the capital sum secured by the mortgage.

PART I.
—cont.

28.—(1) Where a direct or indirect contributor in respect of a contributory property who is a tenant of the property or whose interest therein is subject to a mortgage is entitled to an indemnity under the Fourth Schedule to, or this Part of, this Act from any person as being at the relevant date his landlord or mortgagee, he may, without prejudice to any other method of recovery, deduct the amount of the indemnity from any instalment of rent or any payment (whether of interest or capital) under the mortgage, as the case may be, falling due to the said person on or after the date on which the contributor became entitled to recover the said amount.

Deduction
of indem-
nities from
rent and
mortgage
payments.

(2) Where, in accordance with subsection (1) of this section, any person makes a deduction from any instalment of rent or payment under a mortgage, so much of the instalment or payment as is represented by the deduction shall be treated as having been actually paid and the said person shall be acquitted and discharged thereof accordingly.

Miscellaneous provisions as to contribution.

29.—(1) If, in the case of any contributory property comprising land, there is at the relevant date in any year no proprietary interest subsisting in respect of the whole of the property, the instalment for that year for that property shall be apportioned among such parts of the property, and in such proportions, as the Commissioners of Inland Revenue may determine, and the provisions of this Part of this Act and of the Fourth Schedule thereto relating to the recovery and the ultimate incidence of instalments of contributions shall apply in relation to the parts of the property in question, and of the instalment apportioned thereto, as if each of those parts were a separate contributory property and as if the apportioned part of the instalment were an instalment in respect thereof.

Properties
in divided
ownership
at relevant
date.

(2) Any person who is aggrieved by any apportionment made by the Commissioners of Inland Revenue under this section may appeal to the Special Commissioners.

30.—(1) Where, by reason of an alteration in the areas of any units of land as respects which annual values are ascertained for the purposes of Schedule A, assessments for those purposes which have been in force at any time during the risk period cease to be in force and are replaced by other assessments

Alteration
during
risk period
in area or
condition of
properties.

PART I.
—cont.

for those purposes in force at any such time as aforesaid, the replaced assessments shall be disregarded for the purposes of this Part of this Act.

(2) Where, by reason of any alteration in the condition of a unit of land the annual value of which is ascertained for the purposes of Schedule A, an assessment for those purposes in respect of that unit which has been in force at any time during the risk period ceases to be in force and is replaced by another assessment for those purposes in force at any such time as aforesaid, then—

- (a) if the amount of the new assessment is less than the amount of the assessment replaced, the new assessment;
- (b) in any other case, the assessment replaced,

shall be disregarded for the purposes of this Part of this Act.

(3) In relation to the instalments of contribution falling due in any year, references in this Part of this Act and in the Fourth Schedule thereto to an interest at the relevant date in that year in a contributory property shall be construed as references to an interest in the site of the property together with any buildings or works thereon at that date, and references to an interest in part of a contributory property shall be construed as references to an interest in any part of the site, buildings or works.

References in this subsection to the site of a property include references to the space occupied by the property, and references to buildings or works on the site include references to buildings or works occupying the whole or any part of that space.

Provisions
as to instal-
ments of
contribu-
tion for
1941.

31. In considering, in relation to the instalments of contribution falling due in the year nineteen hundred and forty-one—

- (a) whether any property is a contributory property,
- (b) what is the contributory value of any contributory property,
- (c) for what purposes a contributory property was used, or of what kind of land or buildings it consisted, throughout the risk period,

the risk period shall be deemed to have ended with the first day of January nineteen hundred and forty-one.

Power to
pay con-
tribution in
advance.

32.—(1) Any person may pay in advance to the Commissioners of Inland Revenue any sum on account of so much of the contribution as is still outstanding in respect of any property, and the sum paid, together with the proper interest thereon, shall be applied in or towards the discharge of the instalment next falling due after the payment, and, in so far as the said sum and interest exceed the amount of that instalment, the balance, together with the proper interest thereon, shall be applied in or towards

the discharge of the next instalment, and so on ; and where the amount of any instalment is reduced by reason of any payment in advance under this section the provisions of this Part of this Act and of the Fourth Schedule thereto shall apply in relation thereto as if the reduced amount were the whole of the instalment.

PART I.
—*cont.*

(2) For the purposes of this section—

- (a) the proper interest on any sum paid under this section is an amount equal to one halfpenny for each complete pound of the sum paid for each complete month in the period beginning with the date of the payment and ending with the day before the date of the instalment next falling due ;
- (b) the proper interest on the balance remaining after the discharge of any instalment is an amount equal to one halfpenny for each complete pound of the balance for each complete month of the period beginning with the date on which that instalment fell due and ending with the day before the date of the instalment next falling due.

(3) Notwithstanding anything in any enactment, the full amount of any interest allowed under this section shall be allowed without deduction of income tax ; but the person to whom the interest is allowed shall be assessed and charged to income tax under Case III of Schedule D on the full amount of the interest.

33.—(1) Where a value payment is made in respect of any hereditament, the amount of the payment shall be reduced by so much of any contribution in respect of any property comprised wholly within that hereditament as has not been paid (which, in so far as it consists of instalments which have not become due at the time when the value payment is made, shall be treated for the purpose of the last preceding section as one instalment then becoming due), and no person shall be under any liability to the Commissioners of Inland Revenue in respect of so much of the contribution as has not been paid, or, save as provided by subsection (2) of this section, to give any indemnity in respect thereof.

Provisions
as to
recovery of
contribution
on
properties
rendered
unfit.

(2) Where the preceding subsection has effect in the case of a contributory property to which section twenty-five of this Act applies, and a proprietary interest in the hereditament was subject immediately before the occurrence of the war damage to a mortgage to which that section applies and which is subsisting when the value payment is discharged, the owner of that interest shall be entitled to the like indemnity from the mortgagee against the reduction of the value payment, or of his share thereof, as the case may be, which results from the operation of the preceding subsection as he would have been entitled to have from the mortgagee if the amount of that reduction had been a net liability

PART I.
—cont.

of his as a contributor for an instalment and the date of the discharge of the value payment had been the relevant date.

(3) Where the Commissioners of Inland Revenue receive notice from the Commission that it is likely that a value payment will fall to be made in respect of any hereditament, the Commissioners shall take no steps to recover the whole or any part of any instalment of contribution falling due in respect of any property comprised wholly within that hereditament unless and until they receive notice from the Commission that a value payment will not be made in respect of the hereditament.

(4) Where the Commissioners of Inland Revenue are satisfied that a property is unfit by reason of war damage, they shall take no steps to recover the whole or any part of any instalment of contribution falling due in respect thereof (notwithstanding that they may have received notice that a value payment will not be made in respect of a hereditament comprising it) unless and until they are satisfied that it has been rendered fit.

In this subsection the expressions “unfit” and “fit” have the same meanings as in the Landlord and Tenant (War Damage) Act, 1939.

Indemnities payable and recoverable notwithstanding agreements to contrary.

34. The provisions of this Part of this Act and of the Fourth Schedule thereto relating to the payment and recovery of indemnities in respect of the liability of a direct or indirect contributor for an instalment of contribution shall have effect notwithstanding any agreement to the contrary, whether made before or after the instalment became due.

Rights enforceable notwithstanding transmission of interest.

35. Where by the provisions of this Part of this Act or the Fourth Schedule thereto a right is conferred against or on any person or against the Commissioners of Inland Revenue or any other person, and is so conferred by virtue of the first mentioned person being at any date the owner of any interest, or the landlord, tenant or mortgagee of any such owner, the right shall be enforceable notwithstanding that the first mentioned person has, since that date, died or otherwise ceased to be the owner, or the landlord, tenant or mortgagee of the owner, of the interest in question.

Commissioners of Inland Revenue to collect contribution.

36.—(1) An instalment of contribution under this Part of this Act shall be assessed and collected by the Commissioners of Inland Revenue.

(2) The said Commissioners may make regulations with respect to the assessment and collection of instalments and any such regulations may, in particular apply with modifications any of the enactments relating to the assessment and collection of income tax (including enactments relating to the assessment and collection of tax in the case of incapacitated persons, deceased persons and persons not resident in the United Kingdom and in

the case of property under the direction and control of a receiver appointed by the court) and provide for the assessment and collection of instalments by officers appointed by the Commissioners for that purpose.

PART I.
—cont

(3) Any appeal to the Special Commissioners under this Part of this Act shall be brought and heard in accordance with the provisions of regulations made by the Commissioners of Inland Revenue under this section.

(4) Any person authorised in that behalf by the said Commissioners may, for the purposes of assessing or collecting contributions under this Part of this Act, give notice to any person who is entitled to any rent or other annual payment in respect of any land, or is in receipt of any rent or other annual payment belonging to any other person, or is in possession of, or entitled to the possession of, any land, requiring him to deliver within the time limited by the notice, and in such form as may be prescribed by the said Commissioners, such particulars relating to the land and to the interests of persons therein, as may be prescribed by those Commissioners.

(5) Any person who fails to comply with the requirements of a notice given under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds.

(6) Any person who, being required under this section to furnish any information, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, shall be guilty of an offence and, unless indicted therefor, 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 fine and such imprisonment.

Special provisions as to certain classes of land.

37.—(1) Except in the following case, that is to say, where at the relevant date in any year there belongs to His Majesty in right of the Crown, or belongs to a Government department or is held in trust for His Majesty for the purposes of a Government department, every proprietary interest in a contributory property (other than a property, or a property of a class, designated for the purposes of this subsection by the Treasury), instalments of contribution and indemnities in respect thereof shall be paid and given by and to the Crown in respect of any proprietary interest belonging to His Majesty in right of the Crown or the Duchy of Lancaster, or to the Duchy of Cornwall, or belonging to a Government department or held in trust for His Majesty for the purposes of a Government department, as if that interest had belonged to a subject of the realm. Crown land.

PART I.
—cont.

(2) No payment shall be made under this Part of this Act in respect of war damage occurring to a hereditament wherein, immediately before the occurrence of the damage, every proprietary interest belongs to His Majesty in right of the Crown, or belongs to a Government department or is held in trust for His Majesty for the purposes of a Government department, not being a hereditament, or a hereditament of a class, designated for the purposes of this subsection by the Treasury.

Land
belonging
to foreign
States and
Sovereigns,
&c.

4 & 5 Geo. 6.
c. 7.
22 & 23
Geo. 5. c. 4.

38.—(1) No claim for any instalment of contribution in respect of any contributory property or for any indemnity in respect of any such instalment shall be maintained by or against a foreign State, the Sovereign of a foreign State, the envoy of a foreign State accredited to His Majesty, a member of the retinue of such an envoy, a person to whom immunities and privileges are for the time being extended under section one or two of the Diplomatic Privileges (Extension) Act, 1941, the High Commissioner for a Dominion (as defined for the purposes of the Statute of Westminster, 1931), India or Southern Rhodesia, or the Agent-General for a state or province forming part of a Dominion (as so defined).

(2) Where at the relevant date in any year any such State or person as aforesaid is the owner of a proprietary interest in the whole or any part of any contributory property, and but for its or his special character as such it or he would have been both—

- (a) under a liability as a direct or indirect contributor in respect of that property in respect of the instalment of contribution for that year; and
- (b) entitled by virtue of this Part of this Act to any indemnity from any landlord or tenant in respect of the said instalment,

the Commissioners of Inland Revenue or other person to whom it or he would have been under that liability shall be entitled to the same rights against that landlord or tenant (and that landlord or tenant against his landlord or tenant, and so on) as the State or person (or, as the case may be, the landlord or tenant) would have been entitled to if the State or person had not been entitled to any special treatment in respect of the instalment by reason of its or his special character as such and had duly discharged its or his liability as a direct, or, as the case may be, an indirect, contributor.

(3) Where at the relevant date in any year any such State or person as aforesaid is the owner of a proprietary interest in the whole or any part of a contributory property, and under the foregoing provisions of this section the amount of the indemnities which any other person having a proprietary interest in the property or any part thereof is entitled to claim in respect of the instalment of contribution for that year is reduced by reason

of the special character as such of the State or person aforesaid, the Commissioners of Inland Revenue shall give to that other person such relief, whether by repayment or otherwise, as will make good the amount of the reduction.

PART I.
—cont.

References in this Part of this Act and the Fourth Schedule thereto to any indemnity to which any person is, or would have been, entitled in respect of an instalment of contribution shall be construed as including a reference to any relief to which he is, or would have been, entitled under this subsection.

(4) Where a proprietary interest in the whole or any part of a contributory property is held upon trust for the benefit of any such State or person as aforesaid only, the preceding provisions of this section shall have effect in relation to that interest and (so far as regards that interest) in relation to the person by whom it is so held as they have effect in relation to a proprietary interest in the ownership of such a State or person and to such a State or person.

39.—(1) Where at the relevant date in any year the following conditions are satisfied as respects any land which constitutes or forms part of a contributory property, that is to say,—

Land
held for
charitable
purposes.

- (a) that a proprietary interest in the land is held for charitable purposes to which this section applies, or for ecclesiastical purposes, and for such purposes only; and
- (b) that the land, as distinct from rents and profits thereof, is used in any manner (including use in a manner involving the beneficial occupation of the land by any person) for or in connection with the carrying out of the purposes for which that interest is held, and not otherwise,

the Commissioners of Inland Revenue shall give such relief, by repayment or otherwise, to the owner of the said proprietary interest as is necessary to reduce his net liability in respect of that interest to nil, or, if the purposes for which the said interest is held are the advancement of education, learning, science or research only, or, if they include such purposes and the use of the land is solely or mainly for or in connection with the carrying out of such purposes, to one-third of its amount.

(2) The charitable purposes to which this section applies are charitable purposes of any of the following kinds, that is to say,—

- (a) the relief of poverty;
- (b) the making of provision for the cure or mitigation or prevention of, or for the care of persons suffering from or subject to, any disease or infirmity or disability affecting human beings (including the care of women before, during, and after childbirth);

PART I.
—cont.

- (c) the advancement of religion ;
- (d) the advancement of education, learning, science or research.

(3) No relief given under this section shall affect the existence or amount of any liability under this Part of this Act or the Fourth Schedule thereto of any person other than the owner of the proprietary interest in question.

(4) Where immediately before the occurrence of war damage to a hereditament the conditions specified in paragraphs (a) and (b) of subsection (1) of this section are satisfied as respects land which constitutes or forms part of the hereditament—

- (a) if apart from this provision a value payment or a share of such a payment would be payable in respect of the damage under the preceding provisions of this Part of this Act to the owner of the proprietary interest held for charitable purposes or to any other person in right of that interest, that payment or share, as the case may be, shall not be paid, but the Commission may if they think fit make, in lieu of that payment or share, a payment of such amount, to such person and subject to such conditions, as they may in their discretion determine after consultation with such persons or bodies (including, in the case of an interest in respect of which there is a one-third net liability for contribution, the owner thereof) as appear to them to be appropriate having regard to the nature of the purposes for which that interest is held ;
- (b) if apart from this provision a payment of cost of works would be payable in respect of the damage under the preceding provisions of this Part of this Act, the Commission may in their discretion after such consultation as aforesaid, and, if the proprietary interest held for charitable purposes was not the only proprietary interest in the hereditament, after consultation with the owners of the other proprietary interests therein, determine either to make the payment, or to make in lieu thereof, or of any part thereof, a payment of such amount, to such person and subject to such conditions as they may determine, or not to make any payment in respect of the damage ;
- (c) in respect of the cost of any works reasonably executed for temporarily meeting the circumstances created by the damage as to which, in consequence of the preceding provisions of this subsection, the provisions of section five of this Act do not have effect, the Commission may make to the person by whom such cost is incurred such payment as appears to them to be requisite in order to confer upon him the like benefit as he would have had under the provisions of that section.

(5) If and so long as land normally used as mentioned in paragraph (b) of subsection (1) of this section is temporarily diverted from such use by reason of circumstances arising from war, the land shall be deemed for the purposes of this section to be used as it is normally used.

(6) A proprietary interest held—

- (a) by a body having power to levy a rate or to issue a precept to a rating authority, for purposes for which it has that power ;
- (b) by a Government department, for purposes for which public moneys may be applied ; or
- (c) by any person, if the expense of executing repairs on the land is defrayed wholly out of moneys being either moneys raised by rates or public moneys,

shall not be treated for the purposes of this section as held for charitable purposes.

(7) Any question arising in giving effect to the provisions of this section as to whether the conditions specified in paragraphs (a) and (b) of subsection (1) of this section are satisfied as respects any land at any time, or as to whether, or as to the extent to which, a proprietary interest is held for, or land is used for or in connection with, the purposes of the advancement of education, learning, science or research, shall be determined by the Commission :

Provided that the provisions of subsection (3) of section six of this Act as to appeals to the High Court on questions of law shall have effect in relation to a determination of the Commission under this subsection as they have effect in relation to a determination of the Commission under that section.

(8) If any conditions subject to which any sum is paid by the Commission under this section are not complied with, the sum paid shall be recoverable as money had and received to the use of His Majesty.

40.—(1) If at the relevant date in any year any contributory property is occupied mainly or exclusively for the purpose of the carrying on of an undertaking to which this section applies, no instalment of contribution shall be payable for that year in respect of that property. Land occupied for purpose of certain undertakings.

(2) Such contributions towards the expense of making payments in respect of war damage shall be made in respect of properties to which subsection (1) of this section applies as Parliament may hereafter determine.

(3) If immediately before the occurrence of war damage to a hereditament the hereditament is occupied mainly or exclusively for the purpose of the carrying on of an undertaking to which this

PART I. section applies, no payment shall be made in respect of the damage
—cont. under the preceding provisions of this Part of this Act, but—

- (a) such payments shall be made in respect of war damage to hereditaments as respects which this subsection has effect as Parliament may hereafter determine ; and
 - (b) the Commission may make to the persons carrying on the undertakings in question payments towards the cost of works certified by the appropriate department to be urgently required for meeting the circumstances created by war damage to hereditaments in respect of which this subsection has effect, and any payments so made shall be taken as made in part satisfaction of the payments to be made as mentioned in paragraph (a) of this subsection.
- (4) The undertakings to which this section applies are—
- (a) public utility undertakings ;
 - (b) except in so far as Parliament may hereafter determine, any undertaking of such a character that the valuation for rating purposes of hereditaments in which the undertaking is carried on is made by reference to the accounts, receipts, profits or output of the undertaking ;
 - (c) any other undertaking to which Parliament may hereafter determine that this section shall apply.

(5) In this section the expression “ public utility undertaking ” means any of the following undertakings the carrying on of which is authorised by any enactment, scheme or order, that is to say any railway, light railway, tramway, trolley-vehicle, canal, inland navigation, dock, harbour, quay, pier, lighthouse, gas, electricity, hydraulic power, sewerage, sewage disposal, refuse disposal or water undertaking in the United Kingdom, and the undertaking of any drainage authority, except that any undertaking carried on by undertakers who carry on a railway undertaking being a public utility undertaking shall be deemed for the purposes of this section to be part of their railway undertaking.

(6) In this section, the expression “ appropriate department ” means—

- (a) in relation to any railway, light railway, tramway, trolley-vehicle, canal, inland navigation, dock, harbour, quay or pier undertaking, the Minister of Transport ;
- (b) in relation to any gas or hydraulic power undertaking, and in relation to any mining or quarrying undertaking, the Board of Trade ;
- (c) in relation to any lighthouse undertaking, the Minister of Shipping ;
- (d) in relation to any electricity undertaking, the Electricity Commissioners ;

- (e) in relation to any sewerage, sewage disposal, refuse disposal or water undertaking, the Minister of Health ;
- (f) in relation to the undertaking of a drainage authority, the Minister of Agriculture and Fisheries ;
- (g) in relation to any other undertaking, such Government department as the Treasury may determine ;

PART I.
—cont.

and the expression " drainage authority " has the same meaning as in the Land Drainage Act, 1930.

20 & 21
Geo. 5.
c. 44.
Highways.

41.—(1) No payment shall be made under the preceding provisions of this Part of this Act in respect of war damage to a highway maintainable at the public expense.

(2) Payments shall be made by the Commission to highway authorities in accordance with, and subject to the provisions of, a scheme to be made by the Treasury, after consultation with such associations of local authorities as appear to them to be concerned, in respect of war damage to such highways as aforesaid occurring during the risk period, and contributions towards the expense of making such payments shall be made by the councils of counties and county boroughs at such rates and in such manner as may be provided by the scheme.

The contributions aforesaid shall be expenses for general county purposes as well in the case of the London County Council as of the councils of other counties.

(3) The contributions aforesaid shall be payable by five interim annual instalments, becoming due in the year nineteen hundred and forty-one and each of the four subsequent years, and a final instalment.

(4) The provision to be made by the scheme in relation to the contributions aforesaid shall be such as to secure, as nearly as may be, by reference to estimates of the relevant amounts—

- (a) that the aggregate of the contributions shall bear to the payments made under subsection (2) of this section the same proportion as the net receipts of the Exchequer under the provisions of this Part of this Act (calculated in accordance with paragraphs (a), (b) and (c) of subsection (5) of section twenty-two of this Act) bear to the payments in respect of war damage made under the provisions of this Part of this Act (calculated as aforesaid) ; and
- (b) that each interim instalment, and the final instalment, to be paid by the council of any county or county borough shall bear to the aggregate of the corresponding interim instalments, or of the final instalments, as the case may be, to be paid by all such councils, such proportion as may be prescribed by the scheme.

PART I.
—cont.

(5) The scheme may provide for the payment by the Minister of Transport, with the approval of the Treasury, to the councils of counties and county boroughs in Great Britain of grants in respect of the contributions to be made by them under this section not exceeding in the aggregate in the case of any council one half of the contributions to be made by that council.

Any grants paid by the Minister of Transport under any provision made by the scheme under this subsection shall be defrayed out of the Road Fund.

(6) The scheme may provide for the making by the Commission to highway authorities of payments in respect of war damage to roads, not being highways maintainable at the public expense, in cases in which works for the making good of war damage thereto are executed by such authorities ; and where a payment has been, or is to be, made under the scheme in respect of any such works, the cost thereof shall not be the subject of a payment under the preceding provisions of this Part of this Act.

(7) Nothing in the three last preceding subsections shall be construed as limiting the generality of the power conferred on the Treasury by virtue of subsection (2) of this section to make by the scheme such provision as to the payments and contributions therein mentioned as appear to them to be requisite.

(8) A scheme made under this section may be amended by a subsequent scheme made thereunder.

(9) A scheme made under this section shall be embodied in an order which shall be laid before the Commons House of Parliament as soon as may be after it is made and shall be of no effect until it has been approved by a resolution of that House.

(10) The fact that works have been executed on a road by a highway authority as mentioned in subsection (6) of this section, or that a payment in respect of such works has been made under the scheme, shall not be treated as relevant for the purposes of the determination of any question arising as to whether the road is maintainable at the public expense.

(11) In this section—

the expression “ highway authority ” does not include the Minister of Transport ;

the expression “ highway maintainable at the public expense ” means a highway repairable by the inhabitants at large or by a highway authority, and includes any bridge, viaduct or tunnel carrying a highway, and any pedestrian subway or pipe subway, being a bridge, viaduct, tunnel or subway which is repairable by the council of a county, county borough, metropolitan borough or county district, by the Common Council of the City of London, by the

mayor and commonalty and citizens of the City of London acting as trustees of the Bridge House Estates, or by the inhabitants of any locality ;

the expression “ road ” includes a footway and a bridle path, and includes any bridge or viaduct carrying a road ;

the expression “ bridge ” and “ viaduct ” respectively include the approaches thereto and the abutments thereof, and any works connected with, or ancillary to, the bridge or viaduct ;

the expression “ tunnel ” includes the approaches thereto and the abutments of such approaches, and any lifts or other works connected with, or ancillary to, the tunnel ;

the expression “ pedestrian subway ” includes the stairways thereof, the approaches thereto, any public convenience constructed therein, and any works connected with or ancillary to the subway ;

the expression “ pipe subway ” means any passage or covered way under a road constructed or adapted for the reception of, and affording convenient access to, any mains, pipes, tubes, cables, wires or apparatus, and includes any works connected with or ancillary to the subway.

(12) For the purposes of this section—

(a) any embankment, embankment wall or retaining wall supporting a highway, and the sides of, and any retaining wall supporting, any cutting enclosing a highway ; and

(b) a place of refuge in a highway, a lamp, lamp post, or other materials or apparatus affixed on or near a highway for the purpose of illuminating it, and a traffic sign (as defined by subsection (9) of section forty-eight of the Road Traffic Act, 1930) placed on or near a highway either by a highway authority or in accordance with the provisions of a scheme under section eighteen of the Road Traffic Act, 1934 ;

20 & 21
Geo. 5. c. 43.
24 & 25
Geo. 5. c. 50.

shall be deemed to form part of the highway.

(13) For the purposes of this section, the London County Council shall be deemed to be a highway authority as respects any highway repairable by the Council and as respects any bridge, viaduct, tunnel or subway repairable by the Council, whether the highway thereon or therein is or is not repairable by the Council.

(14) References in this section to councils of counties shall be construed as including references to the Council of the Isles of Scilly, but contributions made under this section by the said Council shall be general expenses.

PART I.
—cont.
Air-raid
shelters.

42.—(1) Works executed by a local authority for making good war damage to an air-raid shelter (in this section referred to as "a shelter"), shall not be the subject of a payment of cost of works or of a temporary works payment—

1 & 2 Geo. 6.
c. 6.
2 & 3 Geo. 6.
c. 31.

(a) if the shelter is a building or structure erected by a local authority as a shelter, in respect of the erection whereof a grant was payable to the local authority either under the Air Raid Precautions Act, 1937, or by the Minister of Home Security out of moneys provided by Parliament (otherwise than under section twenty-two of the Civil Defence Act, 1939); or

(b) if the shelter is comprised in a building and there were executed by a local authority works (being works in respect of the execution whereof a grant was payable as aforesaid) for the purpose of the provision of the shelter, so far as regards works the purpose of the execution whereof is the provision of a shelter.

(2) Works executed by a local authority for making good war damage to a shelter shall not be the subject of a payment of cost of works or of a temporary works payment if the shelter is a building or structure which was erected by any person wholly or mainly with materials provided on behalf of His Majesty under the Air Raid Precautions Act, 1937, free of charge.

(3) No value payment shall be made in respect of a hereditament consisting of any such building or structure as is mentioned in paragraph (a) of subsection (1) of this section or in subsection (2) thereof, or which consists of a building or structure erected, wholly at the expense of the Board of Education, for the purpose of affording air raid shelter to pupils attending a school or educational institution, and so much (if any) of the value of a hereditament as is attributable to its comprising or being in the vicinity of—

(a) a building or structure as to which the conditions specified in paragraph (a) or (b) of the said subsection (1) or in the said subsection (2) are satisfied; or

(b) a building or structure erected, wholly at the expense of the Board of Education, for the purpose aforesaid; or

(c) a shelter comprised in a building, being a shelter the works necessary for the provision whereof were executed wholly at the expense of the Board of Education,

shall be disregarded.

(4) Any question arising in giving effect to the provisions of this section shall be determined by the Commission:

Provided that the provisions of subsection (3) of section six of this Act as to appeals to the High Court on questions of law shall

have effect in relation to a determination of the Commission under this subsection as they have effect in relation to a determination of the Commission under that section.

PART I.
—cont.

(5) In this section—

the expressions “ air raid shelter ” and “ an air raid shelter ” have the same meanings as in the Civil Defence Act, 1939; the expression “ local authority ” means the Common Council of the City of London, the council of a metropolitan borough, the council of a county, county borough or county district, or the Council of the Isles of Scilly.

43.—(1) If at the relevant date in any year the fee simple absolute in possession in any contributory property belongs either—

Land
belonging
to National
Trust.

(a) to the National Trust for Places of Historic Interest or Natural Beauty incorporated by the National Trust Act, 1907; or

7 Edw. 7.
c. cxxxvi.

(b) to the National Trust for Scotland for Places of Historic Interest or Natural Beauty incorporated under the National Trust for Scotland Order Confirmation Act, 1935;

25 & 26
Geo. 5. c. ii.

and is held inalienably by them, whether subject to any tenancy or not, no instalment of contribution shall be payable for that year in respect of that property.

(2) If immediately before the occurrence of war damage to a hereditament the fee simple absolute in possession in the hereditament belongs to either of the bodies mentioned in the preceding subsection and is held inalienably by them, whether subject to any tenancy or not, no payment shall be made under the preceding provisions of this Part of this Act in respect of the damage.

44.—(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 the thirty-first day of August nineteen hundred and forty-one possession of any land (hereinafter referred to as “ the requisitioned land ”) has been taken on behalf of His Majesty, the preceding provisions of this Part of this Act relating to contributions and the provisions of the Fourth Schedule to this Act shall have effect in relation to the land—

Requisi-
tioned land.

(a) as if throughout the period during which possession of the requisitioned land under the said powers continued, that land had continued to be in the form in which it was immediately before the time of taking possession thereof and to be used or occupied for the purposes for which it was used or occupied immediately before that time;

PART I.
—cont.

(b) where—

(i) the full annual value of the requisitioned land was ascertained (either separately or together with other land) for the purposes of an assessment under Schedule A in force immediately before that time, or

(ii) the requisitioned land was (either separately or together with other land) the subject of a valuation shown in a valuation list in force immediately before that time under the Rating and Valuation Acts, 1925 to 1940, or the Rating and Valuation (Metropolis) Acts, 1869 to 1940, as the case may be,

as if that assessment, or, as the case may be, the net annual value (or, where the proviso to subsection (2) of section nineteen of this Act has effect, the rateable value) shown in that valuation list immediately before that time, had continued in force throughout the period during which possession of the requisitioned land under the said powers continued ;

(c) where the assessment or value related also to other land, as if the requisitioned land were a separate contributory property having a contributory value of such amount as the Commissioners of Inland Revenue may determine to be just, having regard to the amount of the assessment or value and the relative values of the requisitioned land and the other land ;

(d) where possession of the requisitioned land was taken before the third day of September nineteen hundred and thirty-nine, as if the risk period had begun immediately before possession of the land was taken.

Any person who is aggrieved by a determination of the Commissioners of Inland Revenue under paragraph (c) of this subsection may appeal to the Special Commissioners.

(2) Nothing in subsection (1) of this section shall affect any liability of any person under this Part of this Act or the Fourth Schedule thereto in respect of any land other than the requisitioned land.

(3) Where, at any time during the period during which possession of the requisitioned land under emergency powers continues, a hereditament comprised wholly within the land sustains war damage such that a value payment becomes payable, then—

(a) in the application of section three of this Act to the computation of the amount of the payment, the depreciation in the value of the hereditament caused by the war damage shall be taken to be the amount by which the value of the hereditament in the state in which it was immediately

after the occurrence of the damage is less than its value in the state in which it was immediately before the time of taking possession of the requisitioned land ;

PART I.
—cont.

- (b) no sum shall be payable under paragraph (b) of subsection (1) of section two of the Compensation (Defence) Act, 1939 (which provides for payment of compensation for damage, other than wear and tear or damage caused by war operations, occurring to requisitioned land during the period of requisition) in respect of damage occurring to the hereditament.

Special provisions as to land held in trust, &c.

45.—(1) Subject to the provisions of this section, references in this Part of this Act to the owner of a proprietary interest shall be construed as references to the person in whom the legal estate in respect of the interest is vested, or if the interest is a tenancy under an agreement for a lease or under-lease, to the person entitled to have vested in him the legal term agreed to be created.

Definition
of "owner"
in relation
to pro-
prietary
interests.

(2) Where the legal estate or the title to the legal term, as the case may be, in respect of a proprietary interest is vested in the official trustee of charity lands or other trustee on or for charitable, ecclesiastical or public trusts or purposes not entitled to act in the trust, or in the Public Trustee holding in circumstances in which he is not entitled to act in the trust, then,—

- (a) in the case of a trustee on or for charitable, ecclesiastical or public trusts or purposes, the managing trustees or committee of management shall be deemed for the purposes of this Part of this Act to be the owner of the interest ; and
- (b) in the case of the Public Trustee, the person in receipt of the rent incident to the Public Trustee's estate, or, if there is no rent incident thereto, the person in occupation of the land, shall be deemed for those purposes to be the owner of the interest.

In relation to land of which possession has been taken on behalf of His Majesty in the exercise, during the period beginning with the twenty-fourth day of August, nineteen hundred and thirty-nine, and ending with the thirty-first day of August, nineteen hundred and forty-one, of emergency powers, the reference in paragraph (b) of this subsection to rent shall be construed as including a reference to compensation payable under the Compensation (Defence) Act, 1939, or under any such agreement as is mentioned in section fifteen of that Act, and the reference in the said paragraph (b) to the person in receipt of rent shall be construed

PART I.
--cont.

as a reference to the person who is, or, if a claim therefor had been duly made under that Act, would have been, in receipt of such compensation as aforesaid.

15 & 16
Geo. 5. c. 23.

(3) Where under section nine of the Administration of Estates Act, 1925, the estate of a person who died intestate is vested in the Probate Judge, that judge shall not be deemed for the purposes of this Part of this Act to be the owner of any proprietary interest comprised in the estate, but upon administration being granted the administrator shall be deemed for those purposes to have been the owner thereof as from the date of the death.

Destination
of payments
in certain
cases.

46.—(1) Where immediately before the occurrence of war damage to a hereditament a proprietary interest therein is subject to a settlement or is otherwise held in such manner that the owner of the interest would not be competent to give an effective discharge for the proceeds of a sale thereof, the right to receive any value payment or share of such a payment, or any payment under section fifteen of this Act in respect of that interest, shall vest and devolve as if, for the references in sections nine and fifteen of this Act to the owner of a proprietary interest as the person to whom payment is to be made, there had been substituted references to the person competent to give an effective discharge for the proceeds of a sale thereof.

(2) A devise or bequest of an interest in, or in the proceeds of sale of, land which sustains war damage in respect of which a value payment is made, or in, or in the proceeds of sale of, a tenancy in respect of which a payment is made under section fifteen of this Act, contained in a testamentary disposition made before the occurrence of the war damage shall, in the absence of any contrary intention expressed therein or in any other testamentary disposition made by the testator, have effect as if it had included a bequest of any such payment, or of any part of any such payment, to which the testator might become entitled in respect of that interest.

(3) Where a hereditament sustains war damage at a time when an interest therein is the subject of a contract of sale or of a notice to treat served under an enactment authorising the compulsory acquisition thereof, any value payment in respect of the damage, or share of such a payment, or payment under section fifteen of this Act, payable to the vendor in respect of that interest, shall, unless the contract is rescinded or the notice ceases to have effect, be held by him upon trust for the purchaser:

Provided that any lien upon that interest to which the vendor is entitled by virtue of the contract shall extend to that payment or share.

(4) Where a value payment is to be made in respect of war damage to a hereditament and immediately before the occurrence of the damage a person had a right to remove from the hereditament an article comprised therein to which he would have been entitled on removing it, and either—

- (a) there was subsisting in the article a proprietary interest owned otherwise than by that person or owned by him otherwise than in the capacity in which he had the right to remove the article (being an interest against which his right to remove it was exercisable); or
- (b) the article was included in a mortgage of a proprietary interest in the hereditament, and that person's right to remove it was exercisable against the mortgagee;

then, for the purposes of section nine of this Act the article shall be dealt with as a separate part of the hereditament, and

- (i) in a case falling within paragraph (a) of this subsection, the said section nine and the other provisions of this Act as to the vesting and devolution of the right to receive a share of a value payment shall have effect as if the proprietary interest mentioned in that paragraph had been owned by the person who had the right to remove the article, or owned by him in the capacity in which he had the right to remove it, as the case may be; and
- (ii) in a case falling within paragraph (b) of this subsection, subsection (4) of the said section nine shall not have effect in relation to the share of the value payment attributable to the article.

(5) If the right to receive a payment under this Part of this Act in respect of war damage, or a share of such a payment, is claimed by two or more persons adversely to each other, or the Commission are unable to ascertain in whom such a right is vested, or if it appears to the Commission to be expedient for them so to do in order to safeguard the rights of persons beneficially interested in any such payment or share or for any other special reason, they may make payment thereof to the proper officer of the Supreme Court or, if the amount thereof does not exceed five hundred pounds, of the county court, in accordance with rules of court.

47.—(1) Where, in proceedings taken against any person for the enforcement of a personal liability as, or as a mortgagee of, a direct or indirect contributor in respect of an instalment of contribution becoming due in any year, the said person proves that the proprietary interest or, as the case may be, the mortgage of such an interest by virtue of which he incurred the liability was at the relevant date in that year vested in him as a trustee, and that his

Liability of trustees, &c., in respect of instalments of contribution.

PART I.
—cont.

rights of indemnification out of the trust estate are, otherwise than by negligence or default on his part, insufficient to provide for his reimbursement in respect of the liability, the court may give such directions for the limitation or release of the liability as the court thinks just and equitable.

In this subsection any reference to a trustee includes a reference to a personal representative, and any reference to the trust estate shall be construed accordingly.

(2) Where at the relevant date in any year a proprietary interest, or a mortgage of such an interest, in a contributory property is vested in any person as the trustee of the property of a bankrupt, any sum paid by that person in discharge of his liability as, or as a mortgagee of, a direct or indirect contributor in respect of the instalment of contribution becoming due in that year in respect of the contributory property shall be treated as part of the costs of administration of the property of the bankrupt.

Power to
raise capital
for defray-
ing contri-
bution.
15 & 16
Geo. 5. c. 18.
15 & 16
Geo. 5. c. 20.
15 & 16
Geo. 5. c. 24.

48.—(1) The purposes—

- (a) authorised for the application of capital moneys by section seventy-three of the Settled Land Act, 1925, by that section as applied by section twenty-eight of the Law of Property Act, 1925, in relation to trusts for sale, and by section twenty-six of the Universities and College Estates Act, 1925; and
- (b) authorised by section seventy-one of the Settled Land Act, 1925, by that section as applied as aforesaid, and by section thirty-one of the Universities and College Estates Act, 1925, as purposes for which moneys may be raised by mortgage,

shall include the discharge of any liability as, or as a mortgagee of, a direct or indirect contributor.

(2) Any expenses incurred by the Commissioners of Crown Lands in discharging any liability as a direct or indirect contributor may, with the approval of the Treasury, be charged as a principal sum to the account of the capital of the land revenues of the Crown; but any sum so charged in pursuance of this subsection shall, if the Treasury so direct, be repaid out of the income of the said revenues within such time and by such number of instalments of such amounts respectively as may be specified in the directions.

(3) The purposes authorised by section twenty-five of the Act of the fifty-seventh year of King George the Third, chapter ninety-seven, for the application of moneys arising by any such sale of annuities standing in the name or to the account of the Duchy of

Lancaster as is therein mentioned, shall include the discharge of any liability as a direct or indirect contributor. PART I.
—cont.

(4) The purposes authorised by section eight of the Duchy of Cornwall Management Act, 1863, as amended by section one of the Act of the thirty-first and thirty-second years of Queen Victoria, chapter thirty-five, for the advancement of parts of such gross sums as are therein mentioned, shall include the discharge of any liability as a direct or indirect contributor. 26 & 27
Vict. c. 49.

(5) Where a proprietary interest in any contributory property belongs to an ecclesiastical corporation—

- (a) the Ecclesiastical Commissioners or Queen Anne's Bounty may apply any money or securities held by them respectively for the corporation in discharging any liability as a direct or indirect contributor arising in respect of an instalment of contribution on that property ;
- (b) if the interest belongs to a benefice as defined by section forty-seven of the Tithe Act, 1936, Queen Anne's Bounty may make grants out of their corporate funds for or towards the discharge of any such liability as aforesaid ;
- (c) the purposes for which a loan under the Clergy Residences Repair Act, 1776, or the Acts or Measures amending that Act may be made by Queen Anne's Bounty shall include the discharge of any such liability as aforesaid. 17 Geo. 3.
c. 53.

(6) Any expenses incurred by the Admiralty in discharging any liability as a direct or indirect contributor arising in respect of lands vested in them by virtue of the Greenwich Hospital Act, 1865, or the Naval Knights of Windsor (Dissolution) Act, 1892, or as mortgagees of a direct or indirect contributor arising by reason of an exercise of the powers conferred on them by section forty of the said Act of 1865, may be defrayed out of cash standing to the credit of the Greenwich Hospital capital account ; and for that purpose the Admiralty may from time to time convert into money any securities for the time being held by them for the benefit of Greenwich Hospital, and all money produced by any such conversion shall be paid into the Bank of England to the cash account of His Majesty's Paymaster General who shall carry it to the Greenwich Hospital capital account. 28 & 29
Vict.
c. lxxxix.
55 & 56
Vict.
c. xxxiv.

49. Where war damage occurs to any land, and any interest in the land belongs to an ecclesiastical corporation, the Ecclesiastical Commissioners or Queen Anne's Bounty may apply money or securities held by them respectively for the corporation in discharging the cost of any works executed as a matter of urgency for meeting the circumstances created by the damage. Repairs to
land of
ecclesias-
tical cor-
porations.

PART I.
—cont.
Liabilities
to repair
chancels,
&c., not to
extend to
war
damage.

50.—(1) A liability to which this section applies to repair a chancel of a church or to repair any other ecclesiastical building or any part thereof shall not extend to any repairs required for making good war damage.

(2) Where war damage occurs to a chancel of a church or to any other ecclesiastical building in respect of which such a liability exists, then, in so far as the discharge of that liability, as modified by the provisions of the preceding subsection, is, having regard to the extent of the war damage—

(a) impracticable, or only practicable at a cost which is unreasonable in view of all the circumstances ; or

(b) of no substantial advantage ;

the liability shall be suspended until the war damage is made good to such an extent that the discharge thereof is practicable at a reasonable cost and is of substantial advantage.

(3) Where under the preceding provisions of this section a liability is modified or suspended, all rights and remedies arising out of the non-discharge of the liability shall be modified or suspended accordingly.

(4) The preceding provisions of this section shall be deemed to have had effect as from the third day of September, nineteen hundred and thirty-nine.

(5) Where war damage occurs to a chancel of a church or to any other ecclesiastical building in respect of which such a liability exists, or to the church of which such a chancel forms part or to premises of which such a building forms part, the Commission shall, in exercising the powers conferred on them by subsection (4) of section thirty-nine of this Act in relation to that damage, have regard to the circumstances affecting the church or those premises as a whole, and may make provision under that subsection in relation to the church or to those premises as a whole.

(6) This section applies to a liability arising as mentioned in section thirty-one of the Tithe Act, 1936, or in any other manner whatsoever except by virtue of a contract providing expressly for the execution of repairs required for making good war damage or by reason of a person's holding property upon trusts which authorise its application in the execution of such repairs.

Miscellaneous provisions relating to Part I.

Amend-
ment of
2 & 3 Geo. 6.
c. 73.

51.—(1) Subsection (3) of section two of the Housing (Emergency Powers) Act, 1939 (which relates to the recovery of expenses incurred by local authorities in making fit for housing purposes buildings damaged by war) is hereby repealed.

(2) A charge to which any building has become subject by virtue of the said subsection (3) is hereby discharged.

(3) Notwithstanding anything in section nine of this Act, so much of any payment under this Part of this Act as consists of the proper cost of any works executed by a local authority under the said Act of 1939 may, in lieu of being paid by the Commission, be discharged by crediting the appropriate amount to the authority in their account with the Minister of Health in respect of any money lent by him to the authority under section three of that Act.

PART I.
—cont.

52.—(1) Paragraph (iii) of subsection (4) of section one of the Essential Buildings and Plant (Repair of War Damage) Act, 1939, and subsection (3) of section three of that Act (which relate respectively to the recovery of expenses incurred by housing authorities in repairing buildings used for purposes essential to the welfare of the civil population that have been damaged by war, and to the recovery of loans made by the appropriate Minister for the purpose of repairing any such building) are hereby repealed.

Amend-
ment of
2 & 3 Geo. 6.
c. 74.

(2) A charge to which any building or premises has or have become subject by virtue of the said paragraph (iii) or of the said subsection (3) is hereby discharged.

(3) Where works have been executed by any person (whether that person is a local authority or a housing authority or not), being works for the purpose of the execution whereof a loan has been made to that person under section one of the said Act by the appropriate Minister, so much of any payment under this Part of this Act as consists of the proper cost of those works may, notwithstanding anything in section nine of this Act, in lieu of being paid by the Commission, be discharged by crediting the appropriate amount to that person in his account with the said Minister in respect of that loan.

(4) Where works have been executed by some person other than a local authority or a housing authority, being works for the purpose of the execution whereof there has been made to that person by a housing authority a loan either under paragraph (a) of subsection (3) of section one of the said Act or in pursuance of a notice under paragraph (i) of subsection (4) of that section, then—

(a) in a case in which there has been made to the housing authority by the appropriate Minister a loan, under paragraph (b) of the said subsection (3), of an equivalent amount, or under paragraph (ii) of the said subsection (4), of such amount as is necessary to enable the authority to comply with the notice, as the case may be, so much of any payment under this Part of this Act as consists of the proper cost of those works may, notwithstanding anything in section nine of this Act, in lieu of being paid by the Commission, be discharged by crediting the

PART I.
—cont.

appropriate amount to the authority in their account with the said Minister in respect of that loan and by crediting the like amount to the person who has executed the works in question in his account with the authority in respect of the loan made by them ;

- (b) in any other case, so much of any such payment as aforesaid may, notwithstanding anything in section nine of this Act, be paid to the housing authority in discharge of the loan made by them.

(5) In this section the expression " the appropriate Minister " has the same meaning as it has for the purposes of the Essential Buildings and Plant (Repair of War Damage) Act, 1939.

Disposal of
salvage.

53.—(1) Where a hereditament has sustained war damage and, in exercise of emergency powers, any materials that formed part of any building or other land comprised therein are removed from any land, the materials may be dealt with or disposed of in such manner as may be directed by or on behalf of the Treasury, and the proceeds of any disposal thereof shall be paid into the Exchequer.

(2) No compensation shall be payable under the Compensation (Defence) Act, 1939, in respect of any materials dealt with or disposed of under this section.

(3) This section shall be deemed to have come into operation on the seventh day of September nineteen hundred and forty.

Payments to be
made out of
moneys pro-
vided by Parlia-
ment and
contributions to
be paid into
Exchequer.

54. Payments by the Commission in respect of war damage, and payments of interest on value payments and on payments to be made under section fifteen of this Act, shall be made out of moneys provided by Parliament, and all sums received by the Commissioners of Inland Revenue under this Part of this Act shall be paid into the Exchequer.

Expenses of
Public
Works Loan
Commis-
sioners as
mortgagees

55. Any expenses incurred by the Public Works Loan Commissioners in discharging any liability as mortgagees of a direct or indirect contributor shall be defrayed out of moneys provided by Parliament.

Annual
statement
of pay-
ments and
receipts
under
Part I.

56. The Treasury shall, in relation to each financial year, cause to be prepared statements of payments made by the Commission, and of sums recovered by the Commissioners of Inland Revenue under this Part of this Act, during that year, and of the proceeds of the disposal during that year of any materials disposed of in accordance with section fifty-three of this Act, and shall on or before the thirtieth day of November next following the expiration of that year lay copies thereof before both Houses of Parliament.

57.—(1) Where for the purpose of the determination or ascertainment by the Commission of the kind or amount of a payment to be made under this Part of this Act, or of the person entitled to receive such a payment or any share of such a payment, or of the determination by the Commission of any other question falling by virtue of this Part of this Act to be determined by them, or for the purpose of facilitating the determination by agreement of any question arising thereunder, it is requisite to ascertain the proprietary interests subsisting in a hereditament or the identity or address of the owner of any such interest, or of a mortgagee of any such interest, or any other fact relevant for any such purpose, the Commission, either on an application in that behalf being made by any person appearing to them to be interested or of their own motion, may require any person who is or has been in occupation of, or who receives or has received rent in respect of, the hereditament in question or any part thereof, to inform them of the name and address of any other person to whom that person pays or has paid rent in respect thereof or of any part thereof, and may require any such person, or any other person appearing to them to be capable of giving to them information relevant for any such purpose as aforesaid, to give them any such information that is in his possession and to produce for their inspection any documents relevant for any such purpose as aforesaid that are in his custody or under his control.

(2) Any person who fails to furnish or produce any information or document which he is required under this section to furnish or produce shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds, and also to a fine not exceeding ten pounds for every day on which the failure continues.

(3) Any person who, being required under this section to furnish any information, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular, or who, being required under this section to produce any document, with intent to deceive produces any document which he knows to be false in a material particular, shall be guilty of an offence and, unless indicted therefor, 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 fine and such imprisonment.

58.—(1) A member of the Commission or any person authorised in writing by the Commission may, on producing, if so required, his authority, or in the case of a member of the Commission sufficient documentary evidence of his identity, enter at all reasonable hours any premises on which war damage has occurred or on which he has reasonable ground for believing war damage to have occurred, for the purpose of obtaining information as to the nature and extent of

PART I.
—cont.
Power of
Commission
to obtain
informa-
tion.

Power of
Commission
to inspect
damaged
premises.

PART I.
—cont.

the damage, as to the state in which the premises were immediately before, or immediately after, the occurrence of the damage, as to any works executed for the purpose of making good the damage or for temporarily meeting the circumstances created thereby, as to any articles which formed part of the premises and become available as materials in consequence of the damage, as to whether any conditions imposed by the Commission under this Part of this Act have been observed, or as to any other matter as to which information may be reasonably required by the Commission for the purpose of the exercise of any of their functions :

Provided that if the premises are occupied, admission thereto shall not be demanded as of right unless twenty-four hours notice of the intended entry has been given to the occupier.

(2) Any person who wilfully obstructs a member of the Commission or a person authorised by them in the exercise of powers conferred on him by this section shall be liable on summary conviction to a fine not exceeding fifty pounds.

PART II.

GOODS.

The Insurance Schemes.

Insurance
schemes.

59.—(1). The Board of Trade may operate two insurance schemes (in this Part of this Act referred to as “the schemes”), that is to say—

(a) a scheme, in this Part of this Act referred to as “the business scheme”, whereby the Board undertake the liability of insuring persons carrying on business against war damage to the goods specified in the next succeeding section as being goods which, in relation to those persons respectively, are insurable under the business scheme ;

(b) a scheme, in this Part of this Act referred to as “the private chattels scheme”, whereby the Board undertake the liability of insuring any persons (whether carrying on business or not) against war damage to the goods specified in the said section as being goods which, in relation to those persons respectively, are insurable under the private chattels scheme.

(2) Each of the schemes shall be such as to secure that, subject to the provisions of this Act—

(a) the extent and nature of the indemnity provided by the Board of Trade as insurers under the scheme, and the cases in which and the conditions subject to which

that indemnity is provided, are determined by a policy of insurance issued in the prescribed form by a person acting on behalf of the Board ;

PART II.
—cont.

- (b) there are payable under the policy such premiums as may be prescribed,

and different forms of policy and different premiums may be prescribed in relation to different classes of cases, and any prescribed form of policy may be such as to incorporate by reference provisions set out in the order prescribing the form :

Provided that the Board of Trade shall have power, with the consent of the Treasury, in any case where it appears to the Board to be just and equitable so to do, to refund the whole or any part of any sum paid to them by any person by way of premium under either of the schemes, or to remit payment of any part of any sum so payable by any person.

(3) The War Damage Commission shall exercise such functions for the purposes of this Part of this Act as the Board of Trade may, with the approval of the Treasury, direct.

(4) No payment under either of the schemes shall be made in respect of war damage to goods insurable under the scheme in question which appears to the Board of Trade to have occurred on any occasion if the amount recoverable under the scheme in respect of the damage is less than two pounds.

(5) An assignment, whether absolute or by way of charge, of the right to a payment under either of the schemes, or of any part of such a payment, other than an assignment which does not affect any beneficial interest in such a payment or in any part of such a payment, shall be of no effect until it has been approved in writing by the Board of Trade.

(6) Stamp duty shall not be chargeable in respect of any policy of insurance issued in pursuance of either of the schemes.

60.—(1) Subject to the provisions of subsection (4) of this section, the goods insurable under the business scheme in relation to any person carrying on business are all goods situated in the United Kingdom—

Goods
insurable
under the
schemes.

- (a) which are in his possession (whether he owns them or not) and are held or used by him wholly or mainly for the purposes of that business ; or
- (b) which, though not in his possession, are owned by him in the course of that business ; or
- (c) which are the subject of a mortgage in his favour which he holds in the course of that business.

PART II.
—cont.

(2) For the purposes of this Part of this Act, the carrying on of any activity by a corporation or unincorporated body of persons shall be deemed to be the carrying on of a business :

Provided that goods which would, apart from this proviso, be insurable under the business scheme in relation to a corporation sole or a body of persons who are trustees, and would be so insurable by virtue only of this subsection, shall, in such cases as may be prescribed, be deemed not to be insurable in relation to the corporation or body of persons under the business scheme.

(3) Subject to the provisions of the said subsection (4), the goods insurable under the private chattels scheme in relation to any person are all goods situated in the United Kingdom which are not, in relation to him, insurable under the business scheme and are either—

- (a) owned by him or in his possession ; or
- (b) owned by, or in the possession of, a member of his household ordinarily resident with him or a domestic servant of his :

Provided that no goods shall be insurable in relation to any person under the private chattels scheme as being goods owned by, or in the possession of, such a member or servant as aforesaid unless they are insurable under the private chattels scheme in relation to that member or servant.

(4) The following goods shall not, in relation to any person, be insurable under either of the schemes—

- (a) any goods as respects which that person is, or could be, insured under Part II of the War Risks Insurance Act, 1939 ;
- (b) any ship other than a vessel used solely in docks, ports, estuaries, rivers or other inland waters or inland waterways ;
- (c) the machinery, tackle and furniture of any ship other than such a vessel as aforesaid, so long as the machinery tackle or furniture is in the ship ;
- (d) any goods which are for the time being insured or re-insured by the Minister of Shipping under Part I of the said Act ; or
- (e) any goods in the possession of, or held at the disposal of, a Government department or any other person on behalf of His Majesty, so long as the owner of the goods is entitled, and, in the case of goods being a vehicle or aircraft, is entitled otherwise than by virtue of the Compensation (Defence) Act, 1939, to be indemnified by the Crown against war damage to the goods.

2 & 3 Geo. 6.
c. 57.

For the purposes of this subsection, a vessel shall be deemed to be used solely in the manner specified in paragraph (b) thereof notwithstanding that it may be used otherwise on any special occasion, or so long as any use to which it is put otherwise than in the manner specified in the said paragraph (b) is incidental only to its being used in the said manner.

PART II.
—cont.

(5) For the purposes of this section, where any goods are consigned from a port in the United Kingdom to any other such port in a vessel which in its transit between those ports is not due to call at any port outside the United Kingdom, the goods shall at all times during the transit be deemed to be situated in the United Kingdom.

61.—(1) Subject to the provisions of subsection (2) of this section, the times at which payments by the Board of Trade under either of the schemes may be made in any class of cases shall be such times as may be specified in regulations made by the Treasury, either generally or in relation to that class of cases.

Time for
payment of
losses under
the
schemes.

(2) Notwithstanding anything in subsection (1) of this section—

(a) the Board of Trade may make the whole or any part of any particular payment under either of the schemes in respect of the destruction of or damage to any goods at an earlier date than would be allowable under subsection (1) of this section if they are satisfied either that the replacement or repair of the goods destroyed or damaged is expedient in the public interest or, in the case of the private chattels scheme, that it is expedient that the payment, or that part thereof, should be made to avoid undue hardship; and

(b) the Board of Trade may make a payment under either of the schemes at an earlier date than would be allowable under subsection (1) of this section if the amount claimed does not exceed such sum as may be prescribed in relation to the scheme in question and they are satisfied that the total sum claimable under the policy in question in respect of all war damage which in their opinion should be included in the same claim does not exceed the said prescribed sum.

(3) Where the whole or any part of a payment in respect of the destruction of or damage to any goods is made on an earlier date than would be allowable under subsection (1) of this section, and is so made by virtue of paragraph (a) of the last preceding subsection, the Board of Trade may impose conditions restricting the manner in which the sum paid may be applied in the replacement or repair of the goods destroyed or damaged, and if in the application as aforesaid of the whole or any part of the sum paid

PART II. any conditions imposed under this subsection are not complied
—cont. with, the sum or the part thereof in question shall be recoverable
as money had and received to the use of His Majesty.

(4) Except in so far as a payment in respect of war damage under either of the schemes is, by virtue of the provisions of subsection (2) of this section, made at an earlier date than would be allowable under subsection (1) of this section, interest at the rate of two and a half per cent. per annum shall accrue on the payment from the time of the occurrence of that damage, and shall be payable when the payment is made.

Special provisions as to business scheme.

Insurance
under
business
scheme to
be com-
pulsory.

62.—(1) Subject to the provisions of this subsection, where, after such date as may be prescribed, any person carries on in the United Kingdom any business, not being a farming business, then, if at any time, in respect of any goods which are insurable in relation to him under the business scheme, and are so insurable by virtue of the carrying on by him in the United Kingdom of any business not being a farming business, there is not in force a policy of insurance issued in accordance with that scheme whereby he is insured, in respect of all such goods, for a sum not less than the value thereof for the time being, he shall be guilty of an offence under this section :

Provided that—

- (a) nothing in this subsection shall require any person to be insured under the business scheme if and so long as the value of all goods which are for the time being insurable in relation to him under the business scheme, and are so insurable by virtue of the carrying on by him in the United Kingdom of any business not being a farming business, does not exceed such sum as may be prescribed ;
- (b) the Board of Trade may by order exempt any classes of persons from the provisions of this subsection ; and
- (c) this subsection shall not operate so as to require any person to be insured under the business scheme in respect of goods of such descriptions as may be prescribed.

(2) Subject to the provisions of this subsection, where, after such date as may be prescribed, any person carries on any farming business in the United Kingdom, then, if at any time, in respect of any goods which are insurable in relation to him under the business scheme by virtue of the carrying on by him of that business, there is not in force a policy of insurance issued in accordance with that scheme whereby he is insured in respect of such goods for an amount not less than such sum as is hereinafter mentioned, he shall be guilty of an offence under this section :

Provided that—

PART II.
—cont.

- (a) nothing in this subsection shall require any person to be insured under the business scheme so long as the net assessment of the farm for the purposes of Schedule A for the time being in force does not exceed such amount as may be prescribed ; and
- (b) the Board of Trade may by order exempt any classes of persons from the provisions of this subsection.

(3) Where by virtue of the proviso to subsection (1) or the proviso to subsection (2) of this section any person is exempted, either generally or as respects any description of goods, from the obligation to insure under the business scheme, any goods insurable in relation to him under that scheme as respects which he is so exempted may, in such circumstances and to such extent as may be prescribed and so long as he is so exempted as respects those goods, be treated for the purposes of the private chattels scheme as if they were insurable in relation to him under that scheme.

(4) The sum referred to in subsection (2) of this section is—

- (a) subject to the next succeeding paragraph, that multiple of ten pounds which is nearest to the prescribed multiple of the net assessment of the farm for the purposes of Schedule A for the time being in force ;
- (b) where the prescribed multiple of the said net assessment is a multiple of five pounds but not a multiple of ten pounds, the amount of the said prescribed multiple reduced by five pounds.

(5) In relation to a person carrying on a farming business who is a tenant of the whole or any part of the farm, subsections (2) and (4) of this section shall have effect as if for any reference to the net assessment of the farm for the purposes of Schedule A for the time being in force there were substituted a reference—

- (a) where the person in question is a tenant of the whole of the farm, to the annual rent for the time being payable in respect of the farm ;
- (b) where he is a tenant of part of the farm, to the aggregate of the annual rent for the time being payable in respect of that part of the farm and the net assessment of the remainder of the farm for the purposes of Schedule A for the time being in force.

(6) Where, under the prescribed form of policy, the maximum amount recoverable in respect of any goods is, irrespective of the sum insured, less than the value of those goods, subsection (1) of this section shall have effect in relation to those goods as if that maximum amount were their value.

PART II.
—*cont.*

(7) Any person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding one hundred pounds and to a further fine not exceeding fifty pounds for every day on which the contravention continues.

(8) Proceedings for an offence under this section shall not, in England or Northern Ireland, be instituted except by or with the consent of the Board of Trade.

(9) The Board of Trade may undertake the liability of insuring, under the business scheme, persons owning growing trees which are goods within the meaning of this Act, but which are owned by them otherwise than in the course of a business, against war damage to such trees owned by them, in like manner as if the trees had been owned by them in the course of a farming business.

(10) In this section—

the expression “farming business” means a business carried on by any person wholly or mainly in connection with the occupation by him of agricultural land ;

the expression “the farm,” in relation to any farming business, means the aggregate of the agricultural land occupied in connection with the carrying on of the business, together with any agricultural buildings occupied with the land ; and

the expression “net assessment” means the full annual value as ascertained for the purposes of an assessment under Schedule A, less any sums on which relief was allowed under Rules 1, 4 and 7 of No. V of Schedule A or subsection (6) of section thirteen of the Tithe Act, 1936, and less any sums on which relief would have been allowable in respect of an annuity under section four of the Tithe Act, 1918, or of payments in respect of the redemption or reduction of an annuity under the Tithe Act, 1936, if relief in respect of so much of such an annuity or such payments as represents interest were in all cases given by way of reduction of an assessment under Schedule A in lieu of being given by a right of deduction of tax.

Power of
Board of
Trade to
obtain in-
formation.

63.—(1) Any person authorised in that behalf by the Board of Trade may at all reasonable times, on producing sufficient documentary evidence of his authority, enter any premises occupied by any person carrying on any business in the United Kingdom for the purpose of that business and may inspect the premises and request any person found therein who is for the time being in charge thereof, or in control of the business carried on therein, to produce to him and allow him to examine such accounts, books and other documents and to furnish to him such information as he may reasonably require for the purposes of ascertaining whether or not, and, if so, to what extent, the person

carrying on the business is insured under the business scheme in respect of goods which are insurable under that scheme in relation to him in connection with that business, and of ascertaining the value of any goods so insurable and the maximum amount which would be recoverable in respect of any such goods under a policy issued under that scheme if those goods were all totally destroyed.

PART II.
—cont

(2) Where—

- (a) under paragraph (a) of subsection (2) of section sixty-one of this Act a payment in respect of the destruction of or damage to any goods has been made under either of the schemes at an earlier date than would be allowable under subsection (1) of that section, and the Board of Trade have imposed conditions as to the application of the sum paid ; and
- (b) a person authorised by the Board of Trade for the purposes of this subsection has reason to believe that there are on any premises any goods acquired with the proceeds of the payment to replace the goods destroyed, or any goods repaired out of the proceeds of the payment,

the powers conferred by the last preceding subsection shall be exercisable by that person in relation to those premises for the purpose of ascertaining whether or not the said conditions have been complied with in relation to the goods as they are exercisable by a person authorised in that behalf by the Board of Trade in relation to such premises, and for such purposes, as are mentioned in that subsection.

(3) If any person wilfully obstructs any person in the exercise of his powers under this section or fails without reasonable excuse to comply with a request made thereunder, he shall, in respect of each occasion on which any such obstruction or failure takes place, be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds.

(4) If any person in purporting to comply with his obligations under this section knowingly or recklessly makes a statement false in a material particular, he shall be guilty of an offence and liable 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.

(5) Where in any proceedings in respect of a contravention of the last preceding section in relation to any business, it is proved, in relation to that business—

- (a) that a demand for the production of a policy of insurance issued in accordance with the business

PART II.
—cont.

scheme insuring the person carrying on the business was duly made under this section and was not complied with ; and

- (b) that the person making the demand was not satisfied that there was such a policy in existence ;

it shall be presumed, except in so far as the contrary is proved, that the said section was being contravened in relation to that business at the time when the demand was made and continued to be contravened in relation to that business at all times thereafter.

(6) Proceedings for an offence under this section shall not, in England or Northern Ireland, be instituted except by or with the consent of the Board of Trade.

Special provisions as to private chattels scheme.

Graduated premiums under private chattels scheme.

64. The premiums prescribed for insurance under the private chattels scheme may be such as to secure that the rate of premium varies in such manner as may be prescribed for any prescribed increase in the amount insured by any person.

Limitation of indemnity provided under private chattels scheme.

65. Without prejudice to the generality of the power of the Board of Trade to determine the extent and nature of the indemnity provided under the private chattels scheme—

- (a) any prescribed form of policy under that scheme shall contain provisions securing that no indemnity shall be given in excess of such sum as may be specified in the policy ; and
- (b) the indemnity provided by any prescribed form of policy under the private chattels scheme in respect of the destruction of or damage to goods of any description specified in the policy shall be limited in such manner as may be so specified.

Rights under insurance on goods of members of household or servants.

66. A person may recover on an insurance effected by him under and in accordance with the private chattels scheme on goods owned by or in the possession of a member of his household or a domestic servant of his notwithstanding that he has himself no insurable interest in the goods, but where a person recovers as aforesaid in respect of any such goods in which he has no insurable interest, he shall hold the net amount recovered on trust for the member or servant in question.

Power to refuse applications for insurance under private chattels scheme.

67. The Board of Trade may, if they think fit, refuse any application for the issue of a policy under the private chattels scheme.

Power to make payments otherwise than under policies.

PART II.

—cont.

68. The Board of Trade, acting in accordance with regulations made by the Treasury, may make payments to a person in respect of—

Power of Board of Trade to make payments otherwise than under policies.

- (a) war damage to goods which, when the damage occurred, were insurable in relation to him under the private chattels scheme ;
- (b) war damage occurring to goods which, when the damage occurred, were, or, if the scheme in question had then been in force, would have been insurable in relation to him under either of the schemes, being damage occurring before such date as may be prescribed as the date on which the scheme in question will come into full operation,

whether or not that person was insured under either of the schemes.

Miscellaneous.

69.—(1) The Board of Trade may employ or authorise the employment of persons to act as their agents for any of the purposes of the schemes and may pay the persons so employed such remuneration (if any) as the Board may, with the approval of the Treasury, determine, and such expenses incurred by the said persons as the Board and the Treasury may approve shall be defrayed by the Board.

Employment of agents by Board of Trade.

(2) The objects of the body incorporated by Lloyd's Act, 1871, shall include the carrying on of business as agents of the Board of Trade for any of the said purposes.

34 & 35 Vict. c. xxxi.

70. With respect to each of the schemes, the Board of Trade shall prepare, in such form and manner as the Treasury may direct, a statement of the sums received, and of the payments made, by the Board in each financial year, and shall, on or before the thirtieth day of November next following the expiration of that year lay copies thereof before both Houses of Parliament.

Annual statement of receipts and payments under Part II.

71. Where anything falling within the meaning in this Act of the expression " goods " has been so affixed to any land as to have become part of the land, it shall be deemed for the purposes of this Part of this Act to be owned—

Definition of owner in relation to goods affixed to land.

- (a) if there is any person who is entitled to remove it from the land, and would be entitled to it if he so removed it, by that person ;
- (b) if there is no such person, by any person having the fee simple in, or a tenancy or right of occupation of, the land.

PART II.
—cont.
Orders of
Board of
Trade for
purposes of
Part II.

72.—(1) The Board of Trade may by order prescribe anything which is by this Part of this Act required or authorised to be prescribed.

(2) Any power conferred by this Part of this Act to prescribe a sum includes power to prescribe different sums in relation to different classes of cases, and, in the exercise of any power so conferred to prescribe any class of persons or description of goods, the persons or goods may be described by reference to any circumstances whatsoever.

PART III.

AMENDMENTS OF PART II OF WAR RISKS INSURANCE ACT, 1939.

Amendment of
Part II of War
Risks Insurance
Act, 1939.

73. Part II of the War Risks Insurance Act, 1939, shall be amended in accordance with the following provisions of this Part of this Act.

Insurance
of certain
goods under
Part II of
War Risks
Insurance
Act, 1939.

74.—(1) After subsection (1) of section seven there shall be inserted the following subsection:—

“(1A) The commodity insurance scheme may also extend—

(a) to the undertaking by the Board of Trade, in relation to any person carrying on business in the United Kingdom as a seller or supplier of goods, of the liability of insuring such a person against King's enemy risks in respect of goods insurable under this Part of this Act which are not owned by him, but in which he has an interest arising in the course of that business;

(b) without prejudice to the provisions of paragraph (a) of this subsection, to the undertaking by the Board, in relation to a person carrying on any business in the United Kingdom, of the liability of insuring such a person against King's enemy risks in respect of—

(i) any goods situated in the United Kingdom which are in his possession, otherwise than under a hire-purchase agreement, for the purposes of that business;

(ii) any goods situated in the United Kingdom which are subject to a mortgage in his favour held by him in the course of that business,

being in either case goods which are not owned by him but which are insurable under this Part of this Act in relation to the person by whom they are owned.

In this subsection the expression “hire purchase agreement” means a hire purchase agreement as defined by

section twenty-one of the Hire Purchase Act, 1938, or a contract to which the Hire Purchase and Small Debt (Scotland) Act, 1932, applies, or would apply if the limitation as to value contained in section one of that Act were omitted, and any agreements which for the purposes of the first mentioned Act would be treated as a single agreement made at any time shall be treated for the purposes of this Act as a single agreement made at that time; and the expression "mortgage" does not include a floating charge, but subject as aforesaid, includes any charge or lien on any property for securing money or money's worth".

PART III.
—cont.
1 & 2 Geo. 6.
c. 53.
22 & 23
Geo. 5. c. 38.

(2) Subsection (4) of section seven and subsection (3) of section fifteen shall cease to have effect.

75.—(1) After subsection (2) of section seven there shall be inserted the following subsection:—

Provisions
in policies
limiting
indemnity.

"(2A) The prescribed form of policy may be such as to limit the extent and nature of the indemnity provided by the Board of Trade and to impose conditions subject to which the indemnity is provided",

and in subsection (3) of that section for the words "the last preceding subsection", there shall be substituted the words "subsection (2) of this section".

(2) After subsection (1A) of section nine there shall be inserted the following subsection:—

"(1B) Where under any form of policy prescribed under this Part of this Act the maximum amount recoverable in respect of any goods is, irrespective of the sum insured, less than the value of those goods, any reference in the foregoing provisions of this section to the value of goods shall be construed, in relation to those goods, as a reference to that maximum amount".

(3) At the end of subsection (1) of section eleven A there shall be added the words "and the maximum amount which would be recoverable in respect of any such goods under a policy issued under this Part of this Act".

(4) The said section seven, section nine and section eleven A shall be deemed always to have had effect subject to the amendments made therein respectively by the foregoing provisions of this section, and any reference to the value of goods in any compulsory insurance order made under the said section nine before the commencement of this Act shall be construed in like manner as any such reference in subsection (1) or subsection (1A) of the said section nine.

PART III.
—cont.

Extension
of power to
exempt
goods from
compulsory
insurance.

76.—(1) After subsection (1B) of section nine there shall be inserted the following subsection:—

“(1C) The Board of Trade may by order made as respects any description of goods specified in the order direct that a compulsory insurance order shall not operate so as to require any person to insure in respect of goods of that description”.

(2) The proviso to subsection (2) of section eleven is hereby repealed, but any order made under that proviso shall have effect as if made under the power conferred by subsection (1) of this section.

Exclusion
of certain
goods from
commodity
insurance
scheme.

77.—(1) Section eleven shall have effect, and shall be deemed always to have had effect, as if at the end of subsection (1) thereof there were inserted the following—

“Provided that no goods shall be deemed to be insurable under this Part of this Act—

(a) in relation to any person, being the owner of the goods, who carries on business as a seller of goods, unless they are owned by him with a view to being sold, or to being used as material for the production of goods to be sold, or as ingredients or component parts of goods to be sold;

(b) in relation to any person, being the owner of the goods, who carries on business as a supplier of goods, unless they are owned by him with a view to being supplied for the purposes of or in pursuance of a contract made by him for work, labour and materials, or to being used as material for the production of goods to be supplied as aforesaid, or as ingredients or component parts of goods to be so supplied.

(1A) For the purposes of the proviso to the last preceding subsection, any goods shall be deemed to be owned by the person in whom the property in the goods is vested:

Provided that any reference in that subsection to the owner of any goods—

(a) shall include a reference to any person for the time being entitled, either unconditionally or conditionally, to have the property in the goods vested in him;

(b) in relation to any goods—

(i) the property in which is vested in any person otherwise than in the course of a business carried on by him in the United Kingdom, or as respects

which any person is entitled to have the property therein vested in him otherwise than in the course of such a business ; and

PART III.
—cont.

(ii) which any person carrying on business in the United Kingdom is for the time being entitled to sell as agent,

shall include a reference to the last-mentioned person,

and any reference to goods owned by any person shall be construed accordingly”.

(2) Nothing in subsection (1) of this section shall be construed as limiting the power of the Board of Trade under subsection (4) of the said section eleven by order to direct that goods of any description specified in the order shall be deemed not to be goods insurable under Part II of the War Risks Insurance Act, 1939.

78.—(1) Subsection (3) of section eleven shall have effect, and be deemed always to have had effect, as if after the word “insured” there were inserted the words “or re-insured”.

Miscellaneous
amendments.

(2) For paragraph (a) of subsection (1) of section fifteen there shall be substituted the following paragraph :—

“(a) the expression ‘King’s enemy risks’ means such risks arising from—

(i) action taken by the enemy, or action taken in combating the enemy or in repelling an imagined attack by the enemy ;

(ii) measures taken under proper authority to avoid the spreading of, or otherwise to mitigate, the consequences of damage occurring (whether accidentally or not) as the direct result of any such action as aforesaid ;

(iii) precautionary or preparatory measures taken under proper authority with a view to preventing or hindering the carrying out of any attack by the enemy, being measures involving a substantial degree of risk to property ;

(iv) precautionary or preparatory measures involving the doing of work on land and taken under proper authority in any way in anticipation of enemy action, being measures involving a substantial degree of risk to property,

as the Board of Trade may by order define for the purposes of this Part of this Act”.

(3) In subsection (2) of the said section fifteen for the words “Subject to the provisions of this and the next two following subsections, any goods shall” there shall be substituted the words

PART III. "Save in so far as is otherwise expressly provided in this Part of
—cont this Act, any goods shall, subject to the provisions of this
section".

(4) For subsection (4) of the said section fifteen there shall be substituted the following subsections:—

"(4) Where in the course of any business a ship is being, or has been, constructed under contract, and the ship or any part thereof or any goods appropriated for the construction thereof—

(a) would, apart from the provisions of this subsection, have been deemed for the purposes of this Part of this Act to be owned at any time by the person from time to time carrying on the business; or

(b) have at any time been accepted, in pursuance of a contract made with him, by the person from time to time carrying on the business,

then, notwithstanding that they would not, apart from the said provisions, be deemed for the said purposes to be owned by the person from time to time carrying on the business, the ship and any part thereof and any goods so appropriated as aforesaid shall, subject to the provisions of the next following subsection, be deemed, in a case to which paragraph (a) of this subsection applies, to continue to be owned by the person from time to time carrying on the business until the acceptance of the ship, in pursuance of the contract in question, by the person for whom it is being, or has been, constructed, and in a case to which paragraph (b) of this subsection applies, to be owned by the person from time to time carrying on the business at all times between the acceptance referred to in the said paragraph (b) and the acceptance of the ship as aforesaid by the person for whom it is being, or has been, constructed.

(4A) The provisions of the last preceding subsection shall apply in relation to the construction under contract in the course of a business of part of a ship, not being part of a ship which is being, or has been, constructed by the person from time to time carrying on the business, as they apply in relation to the construction of a ship—

(a) with the substitution for references to a ship of references to part of a ship;

(b) where the contract for the part of the ship is with the person for whom the ship is being constructed, with the substitution for references to the acceptance of the ship under the contract in question of references to the acceptance of the ship under the contract for the construction thereof;

(c) where the contract for the part of the ship is with any other person, with the substitution for references to the acceptance of the ship under the contract in question of references to the acceptance of the part of the ship under the contract for the construction of the part by the person for whom it is being, or has been, constructed.

PART III.
—cont.

(4B) Where the person from time to time carrying on a business receives any money, under a policy issued in pursuance of the commodity insurance scheme, in respect of the loss of or damage to a ship, part of a ship or goods which are deemed to be owned by him by virtue of subsection (4) or subsection (4A) of this section, the money shall be held by him on trust for the person who apart from the provisions of those subsections would be deemed for the purposes of this Part of this Act to be the owner of the ship, part or goods, subject, however, to any lien or charge which would otherwise be enforceable against the ship, part or goods and subject also to the right to retain out of the money the amount of any expenses reasonably incurred by the first-mentioned person in making good any part of the loss or damage which he is liable to make good”.

(5) The said section fifteen shall be deemed always to have had effect subject to the amendments made by the foregoing provisions of this section.

79. This Part of this Act shall extend to the Isle of Man.

Application
of Part III
to Isle of
Man.

PART IV.

MISCELLANEOUS AND GENERAL.

Miscellaneous.

- 80.—(1) In this Act the expression “war damage” means—
- Definition
of “war
damage”.
- (a) damage occurring (whether accidentally or not) as the direct result of action taken by the enemy, or action taken in combating the enemy or in repelling an imagined attack by the enemy;
 - (b) damage occurring (whether accidentally or not) as the direct result of measures taken under proper authority to avoid the spreading of, or otherwise to mitigate, the consequences of such damage as aforesaid;

PART IV.
—cont.

(c) accidental damage occurring as the direct result—

(i) of any precautionary or preparatory measures taken under proper authority with a view to preventing or hindering the carrying out of any attack by the enemy ; or

(ii) of precautionary or preparatory measures involving the doing of work on land and taken under proper authority in any way in anticipation of enemy action,

being, in either case, measures involving a substantial degree of risk to property :

Provided that the measures mentioned in paragraph (c) of this subsection do not include the imposing of restrictions on the display of lights or measures taken for training purposes.

(2) For the purposes of the preceding subsection, such action against the enemy as is referred to in paragraph (a) of that subsection—

(a) shall, in relation to any ship or aircraft taking part in such action, be deemed to continue until the ship or aircraft has returned to its base ;

(b) includes naval, military or air reconnaissances and patrols.

(3) References in this Act to the occurrence of war damage shall be construed as references to the taking of the action or measures specified in subsection (1) of this section from which that damage results.

(4) In determining the value of a hereditament, or of a proprietary interest in a hereditament, in the state in which it was immediately after the occurrence of war damage, it shall be assumed that all war damage which is known at the time when the valuation is made to have resulted from the taking of the action or measures in question could have been foreseen immediately thereafter.

(5) In paragraph (c) of subsection (1) of section one of the Compensation (Defence) Act, 1939, the reference to measures taken to avoid the spreading of the consequences of damage caused by war operations shall be construed as a reference to such measures as are referred to in paragraph (b) of subsection (1) of this section ; and in paragraph (b) of subsection (1) of section two of that Act the reference to damage caused by war operations, and in paragraph (ii) of the proviso to subsection (1) of section four of that Act the reference to loss or damage arising in consequence of war operations, shall be construed as references to war damage.

(6) The provisions of subsection (5) of this section shall have effect as respects work done on land, damage caused to land, and

loss of or damage to vehicles or aircraft whether done, caused or occurring, before or after the commencement of this Act :

PART IV.
—cont.

Provided that nothing in this subsection shall be construed as affecting any payment under the Compensation (Defence) Act, 1939, made before the commencement of this Act.

81.—(1) Where any person is entitled under the Compensation (Defence) Act, 1939, to a payment in respect of war damage—

Avoidance
of duplica-
tion of
payments in
respect of
war
damage.

(a) by reason of the doing of any work on land in the exercise of emergency powers ; or

(b) by reason of the occurrence of damage to a vehicle or aircraft requisitioned on behalf of His Majesty in the exercise of emergency powers,

no payment in respect of the damage shall be made under the provisions of this Act or a policy issued under either of the schemes operated under Part II thereof to that person or to any person claiming under him.

(2) Where war damage occurs to land or goods, and at the time when, apart from the provisions of this subsection, any payment (whether with or without interest) would be made to any person in respect thereof under Part I of this Act or under a policy issued under either of the schemes operated under Part II thereof, that person or any other person—

(a) has received (otherwise than by way of loan) in respect of the damage any sum paid on behalf of His Majesty or by a civil defence authority acting as such, not being a sum paid by virtue of the Compensation (Defence) Act, 1939, or of this Act ; or

(b) is entitled to receive (otherwise than by way of loan) in respect of the damage any sum payable on behalf of His Majesty or by a civil defence authority acting as such, not being a sum payable by virtue of either of the said Acts,

the payment under Part I of this Act or the policy shall be withheld or reduced, as the case may require, for the purpose of securing—

(i) that the total amount (excluding any interest) paid in respect of the damage under the said Part I or the said policy is reduced by the aggregate of any such sums received or receivable in respect of the damage as are referred to in paragraphs (a) and (b) of this subsection ; or

(ii) if the aggregate of those sums exceeds the total amount (excluding any interest) which, apart from the provisions of this subsection, would be payable in respect of the damage under the said Part I or the said policy, that no payment in respect of the damage is made under the said Part I or the said policy,

and any interest on the payment shall be withheld or reduced accordingly.

PART IV.
—cont.

In this subsection the expression “civil defence authority” means a local authority on whom functions have been conferred or imposed by or under the Civil Defence Acts, 1937 and 1939.

(3) Where war damage occurs to any land or goods in the United Kingdom and it is certified by the Secretary of State or other Minister in charge of a Government department that the damage arose out of action taken on behalf of or by agreement with, or under the direction of a person acting on behalf of or by agreement with the Crown, being action taken for purposes with which that department is concerned, no damages shall be recoverable for—

(a) the damage to the land ; or

(b) the damage to the goods, in so far as payment in respect thereof falls to be made under the provisions of this Act or under a policy issued under either of the schemes operated under Part II thereof,

on the grounds that the damage was attributable to negligence, nuisance or breach of duty.

(4) For the purposes of the last preceding subsection, a certificate purporting to be issued by the Secretary of State or other Minister in charge of a Government department, and to be signed by him or on his behalf, shall be receivable in evidence and shall be deemed, until the contrary is proved, to be a certificate of the Secretary of State or Minister.

Contribu-
tions and
premiums
to be treated
as capital
outgoings.

82. Contributions made and indemnities given under Part I of this Act, and premiums paid under policies issued under either of the schemes operated under Part II of this Act, shall be treated for all purposes as outgoings of a capital nature.

Payments
under
Parts I and
II to be
subject to
conditions
in case of
non-
residents.

83.—(1) Notwithstanding anything in Part I of this Act, any payment thereunder in respect of war damage, or any share of such a payment, which the Commission are satisfied would inure for the benefit of a person not resident in the United Kingdom at the time when the payment would fall due shall be payable only as to so much thereof, and subject to such conditions, as may be determined in accordance with regulations made by the Treasury.

(2) Without prejudice to the generality of the power of the Board of Trade to determine the extent and nature of the indemnity provided under either of the schemes operated under Part II of this Act, any prescribed form of policy under that scheme shall contain provisions securing that a payment thereunder which the Board are satisfied would inure for the benefit of a person not resident in the United Kingdom at the time when the payment would fall due shall be payable only as aforesaid.

(3) Regulations made for the purposes of this section may contain such provisions (including penal provisions) as appear to

the Treasury to be necessary for securing the due operation and enforcement of the regulations.

PART IV.
—cont.

84. No sum shall be deducted in computing the amount of the profits or gains of any person for any purpose of the Income Tax Acts or the profits of any person for the purposes of the national defence contribution or for the purposes of excess profits tax, and no sum shall be included in computing—

Certain expenses not to be a deduction for income tax, national defence contribution or excess profits tax. 8 & 9 Geo. 5. c. 40.

(a) the expenses of management of any person in respect of which relief may be claimed under section thirty-three of the Income Tax Act, 1918; or

(b) the cost to any person of maintenance, repairs, insurance and management in respect of which relief may be claimed under Rule 8 of No. V of Schedule A; or

(c) the cost to any person of management or supervision in respect of which relief may be claimed under section twenty-six of the Finance Act, 1922,

12 & 13
Geo. 5.
c. 17.

in respect of—

(i) any payment made in or towards the discharge of any liability imposed on him under Part I of this Act as, or as a mortgagee of, a direct or indirect contributor;

(ii) any premium payable under a policy issued under either of the schemes operated under Part II of this Act; or

(iii) any expenditure on repairing or otherwise making good war damage in so far as he is entitled to a payment in respect of the damage by virtue of the provisions of this Act or by virtue of a policy issued under either of the said schemes.

85.—(1) Where there has been made by the appropriate Minister a loan under section two of the Essential Buildings and Plant (Repair of War Damage) Act, 1939, for the purpose of repairing or replacing any plant used for the purposes of an undertaking, so much of any payment under Part I of this Act as consists of the proper cost of works executed for that purpose or so much of any payment under the business scheme operated under Part II of this Act, or of any payment that the Board of Trade have decided to make under section sixty-eight of this Act, as is referable to that plant, as the case may be, may, notwithstanding anything in section nine of this Act or in any policy of insurance issued in pursuance of the said scheme, in lieu of being paid by the Commission or, as the case may be, by the Board of Trade, be discharged by crediting the appropriate amount to the person carrying on the undertaking in his account with the said Minister.

Set-off of certain payments under Parts I and II against loans under s. 2 of 2 & 3 Geo. 6. c. 74.

(2) In this section the expression “the appropriate Minister” has the same meaning as it has for the purposes of the Essential Buildings and Plant (Repair of War Damage) Act, 1939.

PART IV.
—*cont.*
Set-off of certain payments under Parts I and II against loans out of Vote of Credit.

86. Where war damage has occurred to any building occupied, or plant or works used, for the purposes of an undertaking, and a loan either for the purpose of making good the damage, or partly for that purpose and partly for other purposes, has been made by a Minister of the Crown out of moneys provided by Parliament to the person carrying on the undertaking, on the ground that, immediately before the occurrence of the damage, the undertaking was being carried on for purposes which, in the opinion of the said Minister, were essential to the efficient prosecution of any war in which His Majesty may be engaged, so much of any payment under Part I of this Act as consists of the proper cost of any works executed for the purpose of making good the damage, or so much of any payment under the business scheme operated under Part II of this Act or any payment that the Board of Trade have decided to make under section sixty-eight of this Act, as is referable to the damage, may, notwithstanding anything in section nine of this Act or in any policy of insurance issued in pursuance of the said scheme, in lieu of being paid by the Commission, or, as the case may be, by the Board of Trade, be discharged by crediting the appropriate amount to the person carrying on the undertaking in his account with the said Minister.

Provision as to certain mutual insurance schemes.

87.—(1) Subject to the provisions of this section, no person shall, after such date as may be prescribed by order of the Board of Trade, take part in the promoting or carrying on of any business or scheme whereby persons are, or may become, entitled or eligible, either absolutely or conditionally, to or for any form of indemnification, whether total or partial, and whether by way of a money payment or not, in respect of war damage to land or to goods which are insurable in relation to those persons respectively under Part II of the War Risks Insurance Act, 1939, or under either of the insurance schemes operated under Part II of this Act :

Provided that—

- (a) the Board of Trade may direct that the provisions of this subsection shall not apply in relation to any business or scheme specified in the direction of which the primary purpose is the provision of indemnification against losses arising otherwise than by reason of war damage to land or goods, or which operates only as respects goods which, by virtue of an order of the Board of Trade under subsection (1C) of section nine of the War Risks Insurance Act, 1939, are not compulsorily insurable under Part II of that Act, or as respects goods which by virtue of an order of the Board under paragraph (b) or paragraph (c) of the proviso to subsection (1) of section sixty-two of this Act are not compulsorily insurable under the business scheme operated under Part II of this Act ;

- (b) the said provisions shall not apply in relation to any business or scheme which operates only so as to insure persons, in respect of goods insurable in relation to them under either of the schemes operated under Part II of this Act, against losses in respect of which, by reason of the provision of policies issued under the scheme in question limiting the indemnity provided thereunder, they are unable to recover under the scheme irrespective of the amount for which they are insured ;
- (c) the Board of Trade may direct that, subject to compliance with any conditions imposed by the Board, the provisions of this subsection shall not apply in relation to any scheme specified in the direction, being a scheme which appears to the Board to be devised primarily as a scheme for affording assistance to persons who have suffered loss from war damage to their property rather than as a scheme of insurance, whether total or partial, against the occurrence of war damage to property.

(2) Where, in pursuance of any such business or such scheme as is mentioned in subsection (1) of this section, any fund has been constituted before the passing of this Act for the purpose of providing any form of such indemnification as aforesaid in respect of war damage to land or goods, the persons having control of the fund may, and, if the carrying on of the business or scheme has become illegal under the said subsection (1), shall, treat the passing of this Act as an event upon the happening of which the fund becomes distributable, and distribute the fund among the persons and in the shares provided for by the deed or instrument regulating the application of the fund :

Provided that, where the fund is distributed by virtue of this subsection—

- (a) any claim in respect of war damage outstanding against the fund shall be disregarded ;
- (b) any payment in respect of war damage made out of the fund to any person on or before the eleventh day of December nineteen hundred and forty shall not be repayable but shall be treated as having been paid in satisfaction, either wholly or as far as the amount of the payment will go, of any sum payable to that person on the distribution of the fund ; and
- (c) any such payment made out of the fund after the said date shall be recoverable by the persons having control of the fund from the person to whom it was paid.

(3) Where the persons entitled to participate in the distribution of any such fund as is mentioned in the last preceding subsection, or the shares in which persons are entitled to participate in the distribution of the fund, are, under the deed or instrument regulating

PART IV.
—cont

the application of the fund, to be ascertained by reference to any date specified in the deed or instrument, the deed or instrument shall be construed, for the purposes of a distribution made by virtue of the last preceding subsection, as if the said date were the date of the passing of this Act.

(4) If any person contravenes subsection (1) of this section, he shall be liable on summary conviction to a fine not exceeding one hundred pounds and to a further fine not exceeding fifty pounds for every day on which the contravention continues.

(5) Proceedings for an offence under subsection (1) of this section shall not, in England or Northern Ireland, be instituted except by or with the consent of the Board of Trade.

(6) Section ten of the War Risks Insurance Act, 1939, is hereby repealed.

Amend-
ments by
Defence
Regula-
tions.

88.—(1) The purposes for which Defence Regulations may be made shall include the effecting of any amendments of Parts II and III of this Act, and shall include, and be deemed always to have included, the effecting of any amendments of Part II of the War Risks Insurance Act, 1939.

(2) Defence Regulations (whether made before or after the commencement of this Act) effecting any such amendments shall not be invalid by reason that they extend the scope of compulsory insurance; and for the purposes of the Emergency Powers (Defence) Acts, 1939 and 1940, this Act shall be deemed to have been passed before the Emergency Powers (Defence) Act, 1940.

3 & 4 Geo. 6.
c. 20.Informa-
tion as to
Schedule A
assessment
and rating
valuation.

89.—(1) The obligation as to secrecy imposed by any enactment with regard to income tax shall not prevent the disclosure to the War Damage Commission or the Board of Trade of any such information relating to the assessment of any land for the purposes of Schedule A as may be necessary for the purposes of this Act.

(2) The rating authority for any area shall furnish the Commissioners of Inland Revenue or the Board of Trade with any such information relating to the valuation of any land or other property in their area as the Commissioners or the Board may require for the purposes of this Act.

Restriction
on disclo-
sure of
informa-
tion.

90.—(1) No information relating to any individual business, being information which has been obtained by, or on behalf of, any person for the purposes of his functions under this Act, shall, without the previous consent in writing of the owner for the time being of that business, be published or disclosed otherwise than in connection with the execution or for the purposes of this Act or any order, regulation or scheme having effect by virtue of this Act.

(2) Nothing in the preceding subsection shall apply to any disclosure of any information made for the purposes of any legal

proceedings pursuant to this Act (including any appeal or reference under section six or nine thereof and any appeal to the Special Commissioners under Part I thereof) or of any criminal proceedings which may be taken whether pursuant to this Act or otherwise, or for the purposes of any report of any such proceedings as aforesaid.

PART IV
—cont

(3) If any person discloses any information in contravention of this section, he shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds or to both such imprisonment and such fine or, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred pounds or to both such imprisonment and such fine.

91. All expenses incurred for the purposes of this Act by the Commissioners of Inland Revenue or by the Board of Trade shall be defrayed out of moneys provided by Parliament, and all sums received by the Board of Trade under this Act shall be paid into the Exchequer.

Expenses.

92. Anything required or authorised by or under this Act to be done by, to or before the Board of Trade may be done by, to or before the President of the Board of Trade, any secretary, under-secretary or assistant secretary of the Board, or any person authorised in that behalf by the President.

Provisions
as to Board
of Trade.

93.—(1) Any regulations made under this Act by the Treasury and any order made thereunder by the Board of Trade shall, as soon as may be after the making thereof, be laid before Parliament, and if either House of Parliament within the period of twenty-eight days beginning with the day on which any such regulations or order are or is laid before it resolves that the regulations or order be annulled, the regulations or order shall thereupon become void, without prejudice, however, to the validity of anything previously done thereunder or to the making of new regulations or a new order.

Provisions
as to
regulations
and orders.

In reckoning any such period of twenty-eight days as aforesaid, 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) Notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, regulations made under this Act by the Treasury shall be deemed not to be, or to contain, statutory rules to which that section applies.

56 & 57Vict.
c. 66.

(3) Any order made under this Act by the Board of Trade may be varied or revoked by a subsequent order so made and subject to the like conditions as the original order.

PART IV.

—cont.

Assignment
of pro-
ceedings
arising
under this
Act to
special
judges.

General.

94.—(1) The Lord Chancellor may nominate such number of judges of the High Court as appears to him to be expedient as nominated judges for the purposes of this Act.

(2) Subject to rules of court, and to any power of transfer from one judge to another, any proceedings in the High Court for the enforcement of any right conferred by this Act shall, so far as is practicable, be heard and determined by one or more, as the case may require, of the nominated judges; and if in any proceedings in the High Court an issue arises which involves the determination of the construction or effect of this Act, the court or a judge thereof may, in accordance with and subject to rules of court, direct that the proceedings be heard and determined as aforesaid.

Interpre-
tation.

95.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

18 & 19
Geo. 5.
c. 44.

“agricultural land” and “agricultural buildings” have the same meanings as in the Rating and Valuation (Apportionment) Act, 1928, except that “agricultural building” includes a farm-house occupied in connection with any agricultural land and any agricultural cottage so occupied which is on or contiguous to that land;

“agricultural cottage” means, in relation to any land, a house used as a dwelling-house of a person who is employed in agricultural operations on that land in the service of the occupier thereof and is entitled, whether as tenant or otherwise, so to use the house only while so employed;

“building” includes a building in an incomplete state, and in relation to such a building the expression “use” includes potential use;

“contributory property” has the meaning assigned to it by subsection (1) of section nineteen of this Act, “contributory value” has the meaning assigned to it by subsection (2) of section nineteen thereof, “direct contributor” has the meaning assigned to it by subsection (2) of section twenty-three thereof, and “indirect contributor” has the meaning assigned to it by subsection (1) of section twenty-five thereof;

“Defence Regulations” means regulations made under the Emergency Powers (Defence) Act, 1939, or the Emergency Powers (Defence) Acts, 1939 and 1940;

“emergency powers” means powers conferred by Defence Regulations, by section fifty-two of the Telegraph Act,

26 & 27
Vict. c. 112.

1863, or by section seven of the Air Navigation Act, 1920, or exercisable by virtue of the prerogative of the Crown; and "exercise" includes, in relation to emergency powers, a purported exercise thereof;

PART IV.
cont.—
10 & 11
Geo. 5. c. 80.

"family" means, in relation to any person, any one or more of the following, that is to say—

(a) his wife, son, daughter, father, mother; and

(b) any person, whether related to him or not, who is wholly or mainly dependent upon him;

"goods" does not include money, negotiable instruments, securities for money, evidences of title to any property or right or of the discharge of any obligation, or any documents owned for the purpose of a business, but, subject as aforesaid, includes all corporeal property neither falling (whether generally or in relation to any particular land) within the meaning of the expression "land" as hereinafter defined, nor deemed, for the purposes of section forty-one of this Act, to form part of a highway;

"land" means land in the United Kingdom, and—

(a) includes any buildings or works (other than plant or machinery excluded by paragraph (d) of this definition, and other than any works used mainly or exclusively for the exhibition of advertisements and comprised in any property as respects which the proviso to subsection (1) of section nineteen of this Act has effect by virtue of paragraph (i) of that proviso) situated on, over or under land;

(b) includes anything which, on a valuation for rating purposes for the time being in force made by reference to the accounts, receipts, profits or output of an undertaking, was treated as the subject of an occupation enjoyed by the person carrying on the undertaking;

(c) includes, in relation to land not comprised in a hereditament for rating purposes which is the subject of such a valuation as is mentioned in the last preceding paragraph, such plant and machinery as would, if the land were a hereditament to which section twenty-four of the Rating and Valuation Act, 1925, applied, be by virtue of the provisions of that section and of the Plant and Machinery (Valuation for Rating) Order, 1927, deemed for the purposes mentioned in subsection (1) of the said section to be a part of the land, or, where the land is a hereditament to which the said section applies, such plant and machinery as is so deemed for those purposes to be a part of the land;

15 & 16
Geo. 5. c. 90.

PART IV.
—cont.

(*d*) does not include any plant or machinery other than such as is included by virtue of paragraph (*b*) or paragraph (*c*) of this definition ;

(*e*) does not include any crop, whether grown for food or not, and does not include trees, except trees forming part of a hedge and trees whose value for shelter or amenity is greater than their value for felling or for the growing of fruit for sale ;

“ making good ” includes, in relation to war damage, demolition or clearance requisite as a preliminary to, or in the course of, the making good thereof ;

“ mortgage ” does not include a floating charge, but, subject as aforesaid, includes any charge or lien on any property for securing money or money’s worth ;

“ net liability ” has the meaning assigned to it by subsection (1) of section twenty-five of this Act ;

“ owner ”, in relation to a proprietary interest, has the meaning assigned to it by section forty-five of this Act ;

“ prescribed ”—

(*a*) in Part I of this Act, means prescribed by regulations made by the Treasury ; and

(*b*) in Part II of this Act, means prescribed by order of the Board of Trade ;

“ proper cost ” has the meaning assigned to it by subsection (3) of section three of this Act ;

“ proprietary interest ” means, in relation to any hereditament or property—

(*a*) the fee simple in the land comprised therein or in any part of that land ; and

(*b*) any tenancy of that land or of any part thereof, other than a short tenancy ;

“ rating authority ”—

(*a*) means a rating authority under section one of the Rating and Valuation Act, 1925 ;

(*b*) in relation to London, has the meaning assigned to it by subsection (2) of section seven of the Rating and Valuation (Apportionment) Act, 1928 ;

(*c*) in relation to the Isles of Scilly, means the Council of the said Isles ;

“ relevant date ” has the meaning assigned to it by subsection (2) of section twenty of this Act ;

“ risk period ” means the period beginning with the third day of September, nineteen hundred and thirty-nine, and ending with the thirty-first day of August, nineteen hundred and forty-one ;

“ Schedule A ” and “ Schedule D ” have the same meanings as in any enactment relating to income tax ;

“ short tenancy ” means a tenancy granted for a term of seven years or less (without any right of renewal which would enable the tenant to prolong the term thereof beyond seven years), and includes—

(a) a tenancy granted for a term of more than seven years but subject to a subsisting right of the landlord to determine the tenancy at or before the expiration of seven years from the beginning of the term ;

(b) a tenancy from year to year ;

“ Special Commissioners ” has the same meaning as in the enactments relating to income tax ;

“ temporary works payment ” has the meaning assigned to it by section five of this Act ;

“ tenancy ” includes a tenancy under an under-lease and a tenancy under an agreement for a lease or under-lease, but does not include an option to take a tenancy and does not include a mortgage ;

“ war damage ” has the meaning assigned to it by section eighty of this Act ;

“ works ” includes any structure.

(2) For the purposes of this Act, an activity shall not be deemed to be other than a business by reason only that it is of a professional nature, or that it is not carried on for gain.

(3) In considering for the purposes of this Act the length of time which any tenancy, other than such a tenancy as is mentioned in paragraph (a) or (b) of the next succeeding subsection, has still to run at any date, it shall be assumed that the tenant exercises all options to renew the tenancy which are available to him at that date or fall to become available to him thereafter, and does not exercise any similar power to determine the tenancy, and that the landlord exercises any power to determine the tenancy which is available to him at that date or becomes available to him thereafter.

(4) For the purposes of this Act—

(a) a tenancy which by virtue of subsection (6) of section one hundred and forty-nine of the Law of Property Act, 1925 (which relates to leases for lives and similar tenancies), takes effect as a tenancy for a term of ninety years determinable in the manner provided by that subsection

PART IV.
—cont.

shall be treated as having, at any date, twenty or more, but less than twenty-five, years to run ; and

- (b) a tenancy granted for any term, but subject to a power to determine the tenancy on or after the happening of any event, shall be treated as having still to run, at any date, a period of twenty or more, but less than twenty-five, years :

Provided that where at that date less than twenty years of the term is unexpired, the tenancy shall be treated as having then still to run a period equal to so much of the term as is then unexpired.

(5) References in this Act to any other enactment shall, save where the context otherwise requires, be construed as references to that enactment as amended by or under any subsequent enactment, including this Act.

Application to Scotland and Northern Ireland.

Application
to Scotland.

96.—(1) This Act shall extend to Scotland subject to the modifications specified in the following provisions of this section.

(2) For any reference to the Minister of Health or to the Minister of Agriculture and Fisheries or to the Board of Education there shall be substituted a reference to the Secretary of State ; for any reference to the High Court there shall be substituted a reference to the Court of Session ; and for any reference to the county court there shall be substituted a reference to the sheriff.

(3) The expressions “ local authority ” and “ local authority for the purposes of Part II of the Housing Act, 1936 ”, mean a county or town council, and the expression “ precept ” includes any certificate or other document requiring payment from a rating authority.

(4) The expression “ proprietary interest ” means, in relation to any hereditament or property, the estate or interest of the person entered or entitled to be entered in the ordinary valuation roll as the proprietor of the land comprised in the hereditament or in any part of that land :

Provided that—

- (a) where the person so entered or entitled to be so entered is a lessee under a lease the stipulated duration of which is more than twenty-one years, or in the case of minerals more than thirty-one years from the date of entry, the immediate and any superior lessors shall also be deemed to be owners of proprietary interests in such land or part
- (b) where a lessee is so entered or entitled to be entered in pursuance of the Lands Valuation (Scotland) Amendment Act, 1895, in respect of erections or structural improvements on the subjects let, he shall be deemed to be the owner of the fee simple in such erections or structural improvements ; and

58 & 59
Vict. c. 41.

(c) where a lessee or a landholder within the meaning of the Small Landholders (Scotland) Acts, 1911 to 1931, has made or acquired erections or structural improvements in respect of which he is not required to be so entered by reason only that the erections or improvements fall within one of the classes specified in paragraphs (1), (2) or (3) of section four of the said Act of 1895, he shall be deemed to be the owner of the sole proprietary interest and of the fee simple in such erections or improvements.

PART IV.
—cont.

(5) The expression “ mortgage ” in Part I of this Act means—

(a) a heritable security within the meaning of the Conveyancing (Scotland) Act, 1924, exclusive of a security by way of ground annual and a real burden *ad factum praestandum* but inclusive of a security constituted by *ex facie* absolute disposition ; or

14 & 15
Geo. 5.
c. 27.

(b) an assignation in security of a lease recorded under the Registration of Leases (Scotland) Act, 1857 ;

20 & 21
Vict. c. 26.

and the expressions “ mortgagee ” “ mortgagor ” and “ mortgaged interest ” shall be construed accordingly.

(6) The expressions “ fee simple ” and “ fee simple absolute in possession ” mean the estate or interest of the proprietor of the *dominium utile*, or, in the case of property, other than feudal property, of the owner, the expression “ easement ” means servitude, and the expression “ under-lease ” means sub-lease.

(7) The expression “ rating authority ” means (a) in section thirty-nine a county or town council, and (b) elsewhere a county or town council charged with the duty of causing a valuation roll to be made up.

(8) The expression “ agricultural land ” means any agricultural lands and heritages (other than buildings) within the meaning of the Rating and Valuation (Apportionment) Act, 1928, and the expression “ agricultural buildings ” means buildings occupied together with agricultural land or being or forming part of a market garden, and in either case used solely in connection with agricultural operations thereon, exclusive of any dwelling-house not being either a farmhouse occupied in connection with any agricultural land or an agricultural cottage so occupied which is on or contiguous to that land.

(9) For any reference to money had and received to the use of His Majesty there shall be substituted a reference to a debt due to the Crown ; for any reference to a valuation list there shall be substituted a reference to a valuation roll ; and for any reference to the Rating and Valuation Acts, 1925 to 1940, there shall be substituted a reference to the Lands Valuation (Scotland) Act, 1854.

17 & 18
Vict. c. 91.

(10) Sections fifteen, forty-five, forty-nine, fifty and ninety-four shall not apply.

PART IV.
—cont.

(11) In arriving at the net assessment of any contributory property or of any farm under section nineteen or section sixty-two, there shall be deducted from the full annual value as ascertained for the purposes of an assessment under Schedule A, in addition to the sums directed by those sections to be deducted, the amount of the stipend payable in respect of the property or farm during the year for which such assessment was in force.

(12) Section nineteen shall have effect as if—

(a) paragraphs (ii) and (iii) of the proviso to subsection (1) and the words from “so, however,” to the end of the subsection were omitted and there were substituted the following:—

“ (ii) if the property consisted of salmon, oyster or mussel fishings ”;

(b) for any reference to the net annual value of a property shown in a valuation list there were substituted a reference to the gross annual value of a property entered in a valuation roll less—

(i) any sums on which relief would have been allowed under Rules 1, 4, and 7 of No. V. of Schedule A if an assessment based on such gross annual value had been made under Schedule A ; and

(ii) the amount of the stipend payable in respect of the property during the year for which such valuation roll was in force ; and

(c) the proviso to subsection (2) were omitted.

(13) Section twenty shall have effect as if—

(a) for paragraph (e) of the proviso to subsection (3) the following paragraph were substituted—

“ (e) which consisted of shootings or of fishings (other than salmon, oyster or mussel fishings) or of any other incorporeal rights ”; and

(b) the words in subsection (3) from “ but nothing ” to “ occupation of land ” were omitted.

(14) A tenement comprising dwelling houses the rateable value of none of which exceeds thirty-five pounds shall, notwithstanding that some or all of its component parts may be separately assessed to Schedule A or separately entered in the valuation roll, be deemed for the purposes of section twenty-five to be a single contributory property to which that section applies.

(15) Where the interest of a direct or indirect contributor in respect of a contributory property to which section twenty-five applies is at the relevant date subject to two or more heritable securities to

which the said section applies, and which rank *pari passu*, those heritable securities shall for the purposes of the said section be treated as one heritable security, and the amount of any indemnity to or in which the creditors in such heritable securities may be entitled or liable shall be divided among them in proportion to the respective amounts secured by their securities.

PART IV.
—*cont.*

(16) Section twenty-six shall have effect as if—

- (a) for any reference to rights mentioned in section six of the Rating Act, 1874, there were substituted a reference to shootings or fishings other than salmon, oyster or mussel fishings; and
- (b) subsections (3) and (5) were omitted.

(17) Section thirty-three and the definition of “land” in subsection (1) of section ninety-five shall have effect as if the Acts and the Order therein respectively mentioned applied to Scotland.

(18) In relation to a harbour, quay or pier undertaking to which Part III of the Harbours, Piers and Ferries (Scotland) Act, 1937, applies, the appropriate department for the purposes of section forty shall be the Secretary of State instead of the Minister of Transport.

1 Edw. 8. &
1 Geo. 6.
c. 28.

(19) Section forty-one shall have effect as if—

- (a) for any reference to a county borough there were substituted a reference to a large burgh within the meaning of the Local Government (Scotland) Act, 1929; and
- (b) for any reference to a county district there were substituted a reference to a small burgh within the meaning of that Act;

19 & 20
Geo. 5.
c. 25.

and for the purpose of any contribution payable under the said section a small burgh within the meaning of the aforesaid Act shall be deemed to be included within the county in which it is situated.

(20) Section forty-four shall have effect as if for any reference in subsection (1) thereof to a net annual value there were substituted a reference to a gross annual value.

(21) Section forty-six shall have effect as if—

- (a) subsection (1) were omitted; and
- (b) for references in subsection (5) to payment to the proper officer of the Supreme Court and of the county court there were substituted references to consignment subject to the orders of the Court of Session and of the sheriff court, respectively.

PART IV.
—cont.

(22) Section fifty-one shall have effect as if—

(a) for subsection (1) the following subsection were substituted :—

“ (1) Subsection (4) of section four of the Housing (Emergency Powers) Act, 1939 (which relates to the recovery of expenses incurred by local authorities in making fit for housing purposes buildings damaged by war) is hereby repealed ” ; and

(b) subsection (2) were omitted.

(23) Section fifty-two shall have effect as if for a reference to any provision of the Essential Buildings and Plant (Repair of War Damage) Act, 1939, there were substituted a reference to the provision substituted therefor by section five of the said Act.

(24) Where a value payment is made in whole or in part in respect of a proprietary interest that was subject immediately before the occurrence of the war damage to a trust within the meaning of the Trusts (Scotland) Act, 1921, or to an entail or to a life-rent, the sum so paid shall be held and applied in like manner as if the proprietary interest had been acquired under compulsory powers and the said sum were the purchase money or compensation therefor.

11 & 12
Geo. 5.
c. 58.

(25) Payment of contributions in respect of any contributory property by an heir of entail shall be deemed to be expenditure on improvements within the meaning of the Entail Acts.

(26) A county or town council shall have power to borrow such sums as may be necessary for the purpose of paying contributions or premiums under this Act :

Provided that such power shall not be exercised except with the consent of, and subject to such conditions as may be prescribed by—

(a) the Minister of Transport as regards highways, omnibuses, tramways, trolley vehicles and garages therefor ;

(b) the Electricity Commissioners as regards electricity undertakings ; and

(c) the Secretary of State in any other case.

(27) An order by a referee as to the costs of any appeal or reference to him under section six or section nine where the amount of the valuation as determined by the Commission, or the value payment, as the case may be, does not exceed five hundred pounds, may be enforced by leave of the sheriff.

Application
to Northern
Ireland.

97.—(1) This Act shall extend to Northern Ireland subject to the modifications specified in the following provisions of this section.

(2) References to the Finance (1909-10) Act, 1910, shall be construed as references to that Act as it applies in Northern Ireland, and for the reference to the Reference Committees for England and Scotland there shall be substituted a reference to the Reference Committee for Northern Ireland.

(3) For any reference to money had and received to the use of His Majesty there shall be substituted a reference to a debt due to the Crown; and for any reference to the Rating and Valuation Acts, 1925 to 1940, there shall be substituted a reference to the Valuation Acts (Northern Ireland), 1852 to 1940.

(4) The reference in subsection (3) of section nine to the Landlord and Tenant (War Damage) Act, 1939, shall be construed as a reference to any corresponding enactment of the Parliament of Northern Ireland for the time being in force.

(5) Section eleven shall have effect as if, in subsection (1) thereof, for the word "area" in the first place in which that word occurs there were substituted the word "district", and as if for the words "In this subsection the expression 'area' means the area of a local authority for the purposes of Part II of the Housing Act, 1936," there were substituted the words "In this subsection the expression 'district' means the district of a local authority for the purposes of Part II of the Housing Act (Northern Ireland), 1939".

(6) Section nineteen shall have effect as if, in the proviso to subsection (1), the words from "so, however," to the end of the proviso, and the proviso to subsection (2) were omitted.

(7) The expression "net annual value" means the net annual value under the Valuation Acts (Northern Ireland), 1852 to 1940, and the net annual value shown in a provisional or revised valuation for the time being in force by virtue of any enactment pending the annual revision of valuation under the said Acts shall be deemed to be the net annual value shown in the valuation list.

(8) The expression "summary conviction" means conviction subject to, and in accordance with, the Petty Sessions (Ireland) Act, 1851, and any Act (including any Act of the Parliament of Northern Ireland) amending that Act. 14 & 15
Vict. c. 93

(9) The expression "Government department" includes a department of the Government of Northern Ireland.

(10) Sections nineteen and twenty shall have effect as if for the references therein to the Minister of Agriculture and Fisheries there were substituted references to the Ministry of Agriculture for Northern Ireland.

(11) Where a house or building let in different apartments or tenements, and occupied by two or more persons severally, comprises more than one contributory property, but each of the contributory properties is used or suitable for use for residential purposes

PART IV. and has a contributory value not exceeding thirty-five pounds, the
—*cont.* house or building shall be deemed for the purposes of section twenty-five to be a single contributory property to which that section applies.

(12) Paragraph (a) of the proviso to subsection (1) of section twenty-six shall have effect as if for the reference to the rating authority for the area in which the properties mentioned in that section are situated there were substituted a reference to the Commissioner of Valuation.

(13) Section thirty-three and the definition of "land" in subsection (1) of section ninety-five shall have effect as if the Acts and the Order therein respectively mentioned applied to Northern Ireland.

(14) Section forty shall have effect as if for subsection (6) the following subsection were substituted:—

"(6) In this section the expression 'appropriate department' means—

(a) in relation to any railway, light railway, tramway, trolley-vehicle, sewerage, sewage disposal, refuse disposal or water undertaking, or any drainage authority, the Ministry of Home Affairs for Northern Ireland;

(b) in relation to any canal, inland navigation, dock, harbour, quay, pier, gas, hydraulic power or electricity undertaking and in relation to any mining or quarrying undertaking, the Ministry of Commerce for Northern Ireland;

(c) in relation to any lighthouse undertaking, the Minister of Shipping;

(d) in relation to any other undertaking, such Government department as the Ministry of Finance for Northern Ireland may determine;

and the expression 'drainage authority' means a county council acting as a drainage authority under the Drainage Acts (Northern Ireland), 1925 to 1935".

(15) In section forty-one—

(a) the expression "highway maintainable at the public expense" means a road or street maintainable at the cost of the council of a county, county borough or urban district and includes any bridge, viaduct or tunnel carrying a road or street, and any pedestrian subway or pipe subway, being a bridge, viaduct, tunnel or subway which is maintainable at the cost of such a council;

(b) the expression "highway authority" means the council of a county, county borough or urban district;

(c) the expression "expenses for general county purposes" means county at large charges; and PART IV.
—cont.

(d) for the reference to a traffic sign there shall be substituted a reference to any sign post or other device provided by a highway authority for the guidance or direction of persons using a road or street.

(16) Section forty-two shall have effect as if for the references to the Air Raid Precautions Act, 1937, to the Civil Defence Act, 1939, and to section twenty-two of that Act there were substituted respectively references to the Air Raid Precautions Act (Northern Ireland), 1938, to the Civil Defence Act (Northern Ireland), 1939, and to section twenty of the last mentioned Act; for the references to the Minister of Home Security and to the Board of Education there were substituted respectively references to the Ministry of Public Security for Northern Ireland and to the Ministry of Education for Northern Ireland; for the reference to Parliament there were substituted a reference to the Parliament of Northern Ireland; for the reference to materials provided on behalf of His Majesty there were substituted a reference to materials provided on behalf of the Crown or of any Government department.

(17) Section forty-five shall have effect as if, in subsection (3) thereof, for the reference to section nine of the Administration of Estates Act, 1925, there were substituted a reference to section fifteen of the Court of Probate Act (Ireland), 1859.

22 & 23
Vict. c. 31

(18) Section forty-eight shall have effect as if for subsection (1) the following subsection were substituted:—

"(1) Notwithstanding the provisions of any instrument, capital money arising under the Settled Land Act, 1882, may be applied in or towards the discharge of any liability as, or as a mortgagee of, a direct or indirect contributor"

45 & 46
Vict. c. 38.

(19) Section sixty-two shall have effect as if, in subsections (2) and (4), for any reference to the net assessment of the farm for the purposes of Schedule A there were substituted a reference to the net annual value of the farm, and as if subsection (5) were omitted.

(20) Section eighty-one shall have effect as if for the reference to the Civil Defence Acts, 1937 and 1939, there were substituted a reference to the Civil Defence Acts (Northern Ireland), 1938 and 1939.

(21) Section eighty-nine shall have effect as if for subsection (2) the following subsection were substituted:—

"(2) The Commissioner of Valuation shall furnish the Commissioners of Inland Revenue or the Board of Trade with any such information relating to the valuation of land in Northern Ireland as the Commissioners or the Board may require for the purposes of this Act".

PART IV.
—cont.

(22) Section ninety-four shall have effect as if, in subsection (1) thereof, for the references to the Lord Chancellor and to the High Court there were substituted respectively references to the Lord Chief Justice of Northern Ireland and to the Supreme Court.

(23) Section ninety-five shall have effect as if in subsection (1) for the reference to the Rating and Valuation (Apportionment) Act, 1928, there were substituted a reference to the Valuation Acts Amendment Act (Northern Ireland), 1932.

Liability of
Northern
Ireland
Govern-
ment
depart-
ments as
mortgagees.

98.—(1) A department of the Government of Northern Ireland shall be under the same liabilities as mortgagee of a direct or indirect contributor as a subject of the realm.

(2) Section twenty-five of this Act shall, in its application to a contributory property which is subject to a charge created in respect of the repayment of an advance under the Acts relating to land purchase in Northern Ireland, have effect subject to the following modifications :—

- (a) any reference to the amount secured by the mortgage shall be construed as a reference to the amount (determined in accordance with the Irish Land (Finance) Rules, 1910, made by the Treasury under section forty-six of the Irish Land Act, 1903) which is required to redeem the outstanding instalments of the purchase annuity payable in respect of the advance ;
- (b) any reference to the mortgagee shall be construed as a reference to the Ministry of Finance for Northern Ireland ;
- (c) paragraph (b) of subsection (8) shall not apply.

3 Edw. 7.
c. 37.

Repeal in
part of 2 & 3
Geo. 6.
c. 32 (N.I.).

99.—(1) Subsections (1), (2), (3), (4) and (5) of section two of the Housing (Emergency Powers) Act (Northern Ireland), 1939 (which relate to the recovery of expenses incurred by local authorities in making fit for housing purposes buildings damaged by war), are hereby repealed.

(2) A charge to which any building has become subject by virtue of the said subsection (4) is hereby discharged.

Amendment
of 2 & 3
Geo. 6. c. 34
(N.I.).

100.—(1) Subsections (1), (2), (3), (4) and (5) of section two of the Essential Buildings and Plant (Repair of War Damage) Act (Northern Ireland), 1939, and subsection (3) of section four of that Act (which relate respectively to the recovery of expenses incurred by local authorities in repairing buildings used for purposes essential to the welfare of the civil population that have been damaged by war, and to the recovery of loans made by the appropriate Ministry for the purpose of repairing any such building) are hereby repealed.

(2) A charge to which any building or premises has or have become subject by virtue of subsection (4) of the said section two or of subsection (3) of the said section four is hereby discharged.

(3) Where works have been executed by any person (whether that person is a local authority or not), being works for the purpose of the execution whereof a loan has been made to that person under section one of the said Act by the appropriate Ministry, so much of any payment under Part I of this Act as consists of the proper cost of those works may, notwithstanding anything in section nine of this Act, be paid to the appropriate Ministry in discharge of the loan made by it.

(4) Where works have been executed by some person other than a local authority, being works for the purpose of the execution whereof there has been made to that person by a local authority a loan either under paragraph (a) of subsection (3) of section one of the said Act or in pursuance of a notice under paragraph (i) of subsection (4) of that section, then—

- (a) in a case in which there has been made to the local authority by the appropriate Ministry a loan, under paragraph (b) of the said subsection (3), of an equivalent amount, or under paragraph (ii) of the said subsection (4) of such amount as is necessary to enable the authority to comply with the notice, as the case may be, so much of any payment under Part I of this Act as consists of the proper cost of those works may, notwithstanding anything in section nine of this Act, be paid to the appropriate Ministry which shall credit the appropriate amount to the authority in their account with the said Ministry in respect of that loan and the authority shall credit the like amount to the person who has executed the works in question in his account with the authority in respect of the loan made by them ;
- (b) in any other case, so much of any such payment as aforesaid may, notwithstanding anything in section nine of this Act, be paid to the local authority in discharge of the loan made by them.

(5) In this section the expression “ the appropriate Ministry ” has the same meaning as it has for the purposes of the Essential Buildings and Plant (Repair of War Damage) Act (Northern Ireland), 1939.

101.—(1) Where there has been made by the appropriate Ministry a loan under section three of the Essential Buildings and Plant (Repair of War Damage) Act (Northern Ireland) 1939, for the purpose of repairing or replacing any plant used for the purposes of an undertaking, so much of any payment under Part I of this

Set-off of certain payments under Parts I and II against loans under

PART IV
—*cont.*
s. 3 of 2 & 3
Geo. 6. c. 34
(N.I.).

Act as consists of the proper cost of works executed for that purpose or so much of any payment under the business scheme operated under Part II of this Act, or of any payment that the Board of Trade have decided to make under section sixty-eight of this Act, as is referable to that plant, as the case may be, may, notwithstanding anything in section nine of this Act or in any policy of insurance issued in pursuance of the said scheme, be paid to the appropriate Ministry which shall credit the appropriate amount to the person carrying on the undertaking in his account with the said Ministry.

(2) In this section the expression “ the appropriate Ministry ” has the same meaning as it has for the purposes of the Essential Buildings and Plant (Repair of War Damage) Act (Northern Ireland), 1939.

Short Title and Repeal.

Short title
and repeal.

102.—(1) This Act may be cited as the War Damage Act, 1941.

(2) The enactments mentioned in the first and second columns of the Fifth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

SCHEDULES.

Section 1.

FIRST SCHEDULE.CONSTITUTION AND PROCEDURE OF THE WAR DAMAGE
COMMISSION.*Membership.*

1. The Commission shall consist of a chairman and such number of other members as the Treasury may think expedient, to be appointed by the Treasury.

2. The appointment of a member of the Commission shall be for such term as may be determined by the Treasury before his appointment and shall be subject to such conditions as may be so determined; and a member of the Commission who ceases to hold office shall be eligible for re-appointment.

3. A person shall be disqualified for being appointed or being a member of the Commission so long as he is a member of the Commons House of Parliament.

Capacity and proceedings.

4. The Commission shall have power to act notwithstanding a vacancy among the members thereof, and at any meeting of the Commission two, or such greater number as the Commission may determine, shall be the quorum.

5. All acts done at a meeting of the Commission shall, notwithstanding that it is afterwards discovered that there was a defect in the appointment of a person purporting to be a member thereof, be as valid as if the defect had not existed.

6. Subject to the preceding provisions of this Schedule the Commission shall have power to regulate their own procedure, including the manner in which, and the officers of the Commission by whom, questions subject to determination by the Commission under this Act are to be determined and the manner in which determinations made by officers acting in any locality are to be subject to review by a deputy commissioner or other superior officer or by members of the Commission.

Officers and servants, and remuneration.

7. The Treasury may appoint a secretary to the Commission, and the Commission may appoint such deputy commissioners and other officers, and such servants, as the Treasury may determine.

8. The Treasury may pay out of moneys provided by Parliament to the members, officers and servants of the Commission such remuneration (whether by way of salaries or by way of fees), and such allowances, as the Treasury may determine.

Sections 6, 9.

SECOND SCHEDULE.

PROVISIONS AS TO APPEALS AND REFERENCES UNDER PART I TO A
REFEREE.

1. The decision of the referee on an appeal or reference under section six or nine of this Act shall, subject as hereinafter provided, be final :

Provided that immediately after the determination by the referee of the appeal or reference, any party thereto, if dissatisfied with the determination as being erroneous in point of law, may declare his dissatisfaction to the referee who heard the appeal or reference, and, having done so, may, within such time as may be limited by rules of court, require the referee to state and sign a case for the opinion thereon of the High Court, or, where the party making the requirement so elects and the amount of the valuation as determined by the Commission, or of the value payment, as the case may be, does not exceed five hundred pounds, of the county court.

2. The Reference Committees for England and Scotland constituted by section thirty-three of the Finance (1909-10) Act, 1910, shall make rules subject to the approval of the Treasury for giving effect to the provisions of Part I of this Act relating to such appeals and references as aforesaid and such rules shall in particular make provision—

- (a) as to the time within which, and the manner in which, any such appeal or reference is to be made ;
- (b) as to the manner in which the referee to whom any such appeal or reference is to be made is to be selected ;
- (c) for limiting the number of expert witnesses who may be heard at the instance of any party to one, except where the referee otherwise determines ; and
- (d) as to the form in which any decision of the referee is to be given, and as to the amendment of any such decision in pursuance of any directions which, on appeal to any court, may be given by that court.

3. A referee may order that the costs of any appeal or reference to him incurred by any party shall be paid by any other party, and any such order as to costs shall have effect as if it were an order of the High Court, save that it shall not be enforced as such except by leave of that court, or of a judge thereof.

THIRD SCHEDULE.

Section 17.

PAYMENTS UNDER PART I IN CASES OF REPEATED DAMAGE.

1. Subject to the subsequent provisions of this Schedule, the references in sections three and four of this Act to war damage shall be construed as references to war damage occurring on a single occasion, and accordingly the nature and amount of the payment to be made in respect of war damage occurring on each of two or more occasions shall, subject as aforesaid, be determined separately.

2. Where a developed hereditament, being or including a developed hereditament which has already sustained (whether on a single occasion or on two or more occasions) war damage not being such that a value payment is to be made in respect thereof, sustains on a subsequent occasion war damage such that the making good thereof, and of the damage sustained earlier so far as not already made good, would be likely, in the opinion of the Commission, to require works costing more than the difference between the value which the hereditament would have after the execution of the works and the value which the hereditament, with the damage not made good, would have as a site, the Commission may determine that a single value payment shall be made in respect of all the war damage as if it had occurred on the earliest occasion, to the exclusion of any other payment in respect of any of it :

Provided that—

- (a) section five of this Act shall have effect both in relation to such temporary works as are therein mentioned, and also in relation to any works appearing to the Commission to have been reasonably executed for making good any of the damage occurring on an occasion earlier than the latest notwithstanding that they may not have been of a temporary character ;
- (b) any payment of cost of works, or any part of any such payment, made in respect of any of the damage shall not be recoverable, but shall be taken into account in determining the amount, if any, to be paid under the preceding proviso ;
- (c) if the value of the hereditament in the state in which it was immediately after the damage occurring on the subsequent occasion is less by any amount than it would otherwise have been by reason of any physical change therein not directly attributable to war damage (other than ordinary wear and tear) occurring between the earliest occasion and the subsequent occasion, the amount of the single value payment shall be reduced by that amount ;
- (d) if the title to the hereditament has altered as respects the proprietary interests subsisting therein, or as respects the ownership or the subsistence of a mortgage of any of those interests, between the earliest occasion and the subsequent occasion, the provisions of Part I of this Act the operation

3RD SCH.
—cont.

of which depends upon those matters, shall have effect as if the damage had occurred on the subsequent occasion ; and
(e) the interest on the single value payment shall run from the subsequent occasion.

3. Where a value payment is to be made in respect of war damage sustained (whether on a single occasion or on two or more occasions) by a developed hereditament, any war damage sustained by the hereditament on a subsequent occasion shall be taken into account in determining the amount of that payment as if that damage had occurred on the earliest occasion, and no separate payment shall be made in respect thereof.

4. The Commission may determine that war damage sustained by a hereditament other than a developed hereditament on any two or more occasions shall be taken into account together for the purposes of Part I of this Act as if it had all occurred on the earliest occasion, and shall be the subject of a single value payment or payment of cost of works accordingly :

Provided that, where the single payment in respect of that damage is a value payment, the proviso to paragraph 2 of this Schedule shall have effect in relation thereto as it has effect in relation to a single value payment to be made under that paragraph, with the substitution, for each reference to the subsequent occasion mentioned in that proviso, of a reference to such one of the occasions of damage taken into account under this paragraph as the Commission may determine.

5. In determining the amounts of separate payments of cost of works to be made in respect of war damage occurring on two or more occasions, the cost of any works which contribute to the making good both of damage occurring on one of those occasions and of damage occurring on another of them shall not be taken into account more than once.

6. The amount of a payment of cost of works shall be reduced by any amount by which the proper cost of the works executed for making good the war damage is increased by reason of any such physical change in the hereditament as is mentioned in proviso (c) to paragraph 2 of this Schedule occurring between the time of the occurrence of the war damage and the time when it is made good.

7. In this Schedule references to war damage occurring, or sustained, on any occasion shall be construed as including references to war damage that results subsequently from the taking on that occasion of such action or measures as are specified in subsection (1) of section eighty of this Act.

FOURTH SCHEDULE.

ULTIMATE INCIDENCE OF LIABILITY TO CONTRIBUTIONS.

Sections 20,
24, 25, 28,
29, 30, 32, 34,
35, 38, 39,
44.

1. Where a direct contributor in respect of the instalment of contribution for any property falling due in any year is at the relevant date in that year a tenant of the property under a tenancy which has less than a hundred years to run, he shall be entitled to be indemnified by his landlord against—

- (a) the proportion of the amount of the instalment appropriate, as at that date, to that tenancy; or
- (b) the amount by which the amount of the instalment exceeds any indemnity to which he is entitled under paragraph 3 of this Schedule,

whichever is the less.

2. Where a person who is under a liability, under the last preceding paragraph or under this paragraph, to indemnify his tenant in respect of any instalment of contribution is, at the relevant date, himself a tenant under a tenancy which has less than a hundred years to run, he shall be entitled to be indemnified by his landlord against his said liability up to an amount not exceeding the proportion of the amount of the instalment appropriate, as at that date, to his tenancy.

3. Where a direct contributor in respect of the instalment of contribution for any property falling due in any year has at the relevant date in that year a tenant of part of the property, and the tenancy is a proprietary interest, the direct contributor shall be entitled to be indemnified by that tenant against so much of the fraction of the instalment attributable to that part of the property as is equal to the difference between the amount of that fraction and the proportion thereof appropriate, as at that date, to that tenancy.

4. Where a person who is under a liability, under the last preceding paragraph or under this paragraph, to indemnify his landlord in respect of any instalment of contribution has at the relevant date a tenant of any part of the property and the tenancy is a proprietary interest, that person shall be entitled to be indemnified by that tenant against his said liability up to an amount not exceeding the difference between the amount of the fraction of the instalment attributable to that part of the property and the proportion of that fraction appropriate, as at that date, to that tenancy.

5. For the purposes of this Schedule, the fraction of the instalment in respect of any property attributable to any part of the property shall be taken to be an amount which bears to the whole amount of the instalment the same proportion as the annual value of that part bears to the annual value of the whole property.

6.—(1) For the purposes of the preceding paragraphs of this Schedule, the proportion appropriate, as at any date, to a tenancy which, at that date, has still to run any period specified in the first column of the Table annexed to this Schedule is the proportion specified in relation to that period in that one of the succeeding columns of the Table which corresponds with the proportion which the rent payable under the tenancy bears to the value of the land comprised therein.

4TH SCH. (2) For the purposes of the foregoing sub-paragraph, the value
—cont. of any land shall be deemed to be—

- (a) where the land is the contributory property in question, the contributory value thereof;
- (b) where the land forms part of the contributory property in question, an amount which bears to the contributory value of that property the same proportion as the annual value of the land bears to the annual value of the contributory property;
- (c) where the land comprises the contributory property in question and also other land, an amount which bears to the contributory value of the contributory property the same proportion as the annual value of the land bears to the annual value of that contributory property.

TABLE.
Appropriate Proportions.

Period of tenancy still to run at relevant date.	Proportion of Rent to Value.			
	(a)	(b)	(c)	(d)
	Three- quarters or more.	One-half or more, but less than three- quarters.	One-quarter or more, but less than one-half.	Less than one-quarter.
(1) Less than 5 years	97½ per cent.	95 per cent.	90 per cent.	85 per cent.
(2) 5 or more, but less than 10, years - -	95 per cent.	87½ per cent.	80 per cent.	70 per cent.
(3) 10 or more, but less than 15, years - -	95 per cent.	80 per cent.	70 per cent.	55 per cent.
(4) 15 or more, but less than 20, years - -	92½ per cent.	75 per cent.	60 per cent.	45 per cent.
(5) 20 or more, but less than 25, years - -	92½ per cent.	72½ per cent.	55 per cent.	35 per cent.
(6) 25 or more, but less than 30, years - -	90 per cent.	70 per cent.	50 per cent.	27½ per cent.
(7) 30 or more, but less than 40, years - -	90 per cent.	67½ per cent.	45 per cent.	20 per cent.
(8) 40 or more, but less than 50, years - -	87½ per cent.	65 per cent.	42½ per cent.	15 per cent.
(9) 50 or more, but less than 100, years - -	87½ per cent.	62½ per cent.	40 per cent.	10 per cent.

FIFTH SCHEDULE.

Section 102.

PART I.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
2 & 3 Geo. 6. c. 57.	The War Risks Insurance Act, 1939.	In section seven, subsection (4); section ten; in section eleven, the proviso to subsection (2); and in section fifteen, subsection (3).
2 & 3 Geo. 6. c. 73.	The Housing (Emergency Powers) Act, 1939.	In section two, subsection (3); and in section four, subsection (4).
2 & 3 Geo. 6. c. 74.	The Essential Buildings and Plant (Repair of War Damage) Act, 1939.	In section one, in subsection (4), paragraph (iii); in section three, subsection (3); and in section five, paragraphs (b) and (c).

PART II.

NORTHERN IRELAND ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
2 & 3 Geo. 6. c. 32.	The Housing (Emergency Powers) Act (Northern Ireland), 1939.	In section two, subsections (1), (2), (3), (4) and (5).
2 & 3 Geo. 6. c. 34.	The Essential Buildings and Plant (Repair of War Damage) Act, (Northern Ireland), 1939.	In section two, subsections (1), (2), (3), (4) and (5); and in section four, subsection (3).

CH. 12.

*War Damage
Act, 1941.*

4 & 5 GEO. 6.

To be purchased directly from H.M. STATIONERY OFFICE at the following addresses:
York House, Kingsway, London, W.C.2; 120, George Street, Edinburgh 2;
39-41 King Street, Manchester 2; 1 St. Andrew's Crescent, Cardiff;
80, Chichester Street, Belfast;
or through any bookseller.

ISBN 0 10 520247 9