

## HOUSE OF REPRESENTATIVES

# Supplementary Order Paper

Friday, the 12th day of October 1973

### PUBLIC WORKS AMENDMENT BILL

#### *Proposed Amendments*

Hon. Mr WATT, in Committee, to move the following amendments:

*Clause 3:* To add to the proposed new section 2B the following subsection:

“(4) The Ministry shall have all such powers as may be reasonably necessary or expedient to enable it to carry out its functions.”

To insert in the proposed new section 2c, after the word “functions” in line 24 on page 4, the words “and powers”.

To omit subclause (2) on page 5, and substitute the following subclause:

(2) The Ministry of Works Act 1943 is hereby amended—

(a) By repealing the long title, and substituting the following long title:

“An Act to amend the Public Works Act 1928”:

(b) By repealing section 2.

*New clauses 5A to 5E:* To insert, after clause 5, the following new clauses:

5A. Notices and objections, etc.—(1) Section 22 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Subject to section 10 of this Act, when land (other than land owned by the Crown) is required to be taken for any public work, the Minister in the case of Government works, and the local authority in the case of local works, shall—

“(a) Cause a survey to be made and a plan to be prepared showing the land required to be taken, together with the names of the owners and occupiers of such land so far as they can be ascertained; and

“(b) Cause a copy of such plan to be deposited in such convenient place as the Minister or local authority may direct; and

- “(c) Cause a notice to be gazetted and to be twice publicly notified stating the place where such plan is open for inspection, with a general description of the land required to be taken (including the name of and number in the road or street or some other readily identifiable description of the place where the land is situated), and a description of the general purposes for which the land is to be used; and
- “(d) In the notice call upon every person directly affected to set forth in writing any objection he may wish to make to the taking of the land, not being an objection to the amount or payment of compensation, and to send the written objection within 40 days after the first publication of the notice to the Town and Country Planning Appeal Board; and
- “(e) In the notice state that, if any objection is made in accordance with paragraph (d) of this subsection, a public hearing of the objection will be held unless the objector otherwise requires, and that each objector will be advised of the time and place of the hearing; and
- “(f) Cause a copy of such notice and description to be served on the said owners and occupiers, so far as they can be ascertained.”

(2) Section 22 (3) of the principal Act is hereby amended by omitting the words “and upon all other persons having an interest in the land”.

(3) Section 22 (5) of the principal Act (as added by section 3 of the Public Works Amendment Act 1952) is hereby amended—

(a) By omitting the words “execute works and”;

(b) By omitting the words “executing the work and”.

(4) The provisions of the principal Act shall continue to apply in respect of every notice gazetted under section 22 of the principal Act before the commencement of this section as if sections 5A to 5c of this Act had not been enacted.

(5) The following enactments are hereby consequentially repealed:

(a) Section 3 of the Public Works Amendment Act 1963:

(b) Section 2 of the Public Works Amendment Act 1965.

**5B. Hearing of objections—**(1) The principal Act is hereby further amended by inserting, after section 22, the following section:

“22A. (1) In this section, ‘Appeal Board’ means any one of the Town and Country Planning Appeal Boards constituted under the Town and Country Planning Act 1953.

“(2) Notwithstanding anything in section 40 of the Town and Country Planning Act 1953, the Chairman or Deputy Chairman of the Appeal Board sitting alone or sitting with any other member of the Board shall have jurisdiction to conduct an inquiry under this section and to report on the inquiry and make recommendations in respect of the inquiry.

“(3) On receiving a written objection under section 22 of this Act, the Appeal Board shall—

“(a) As soon as practicable send a copy of the objection to the Minister or local authority, as the case may require; and

“(b) Inquire into the objection and the proposed taking and for that purpose shall conduct a hearing at such time and place as it may appoint.

“(4) Not less than 28 days’ notice of the time and place so appointed shall be given to the objector and to the Minister or local authority, as the case may require.

“(5) Every such hearing shall be held in public unless the objector gives written notice to the Appeal Board before the date of the hearing that he requires the hearing to be held in private.

“(6) At every such hearing the Minister or the local authority may be represented by counsel or by an officer of the Ministry or local authority, as the case may require, and the objector may appear and act personally or by counsel or any duly authorised representative.

“(7) For the purposes of any hearing, the provisions of the Commissions of Inquiry Act 1908 shall, so far as they are applicable and with the necessary modifications, apply as if the Appeal Board were a Commission of Inquiry appointed under that Act.

“(8) On the completion of the inquiry, the Appeal Board shall prepare a written report on the objection and on whether the proposed taking is fair, sound, and reasonably necessary for achieving the objectives of the Minister or local authority, as the case may require; and shall submit the report together with such recommendations as it considers proper to make in the circumstances to the Minister or local authority, as the case may require.

“(9) At the same time as the Appeal Board submits its report to the Minister or local authority, it shall send a copy of the report to the objector.

“(10) No appeal shall lie from any report or recommendation of the Appeal Board under this section.”

(2) Section 2 (1) of the Town and Country Planning Act 1953 is hereby amended by inserting in the definition of the term “appeal” (as inserted by section 2 (1) (b) of the Town and Country Planning Amendment Act 1966), after the word “regulation;”, the words “but does not include any objection lodged under section 22 of the Public Works Act 1928;”.

5c. Land to be taken by Proclamation—Section 23 of the principal Act is hereby amended—

(a) By omitting the words “all objections”, and substituting the words “the report and the recommendations (if any) of the Appeal Board received under section 22A of this Act”:

(b) By omitting the words “it is expedient that the proposed works should be executed”, and substituting the words “the land should be used for the general purposes for which it is required”:

(c) By omitting from paragraph (c) (iii) the words “undertake the work”, and substituting the words “carry out the general purposes”:

- (d) By omitting from paragraph (c) (iii) the words “proposed works should be executed”, and substituting the words “land should be used for such general purposes”.

**5D. Person failing to make claim**—Section 2 (1) of the Public Works Amendment Act 1954 is hereby amended by omitting the words “twelve months”, and substituting the words “3 months”.

**5E. Interpretation**—Subsection (3) of section 101A of the principal Act (as inserted by section 6 (1) of the Public Works Amendment Act 1970) is hereby amended—

- (a) By adding to the definition of the term “designated” the words “, or made subject to the powers conferred by a middle-line Proclamation issued under this Act, or included in a reclamation area or a comprehensive urban renewal area under Part II or Part IIA of the Urban Renewal and Housing Improvement Act 1945:
- (b) By adding to the definition of the term “designating authority” the words “; and includes any local authority within whose district land has been included in a reclamation area or a comprehensive urban renewal area under Part II or Part IIA of the Urban Renewal and Housing Improvement Act 1945”.

*Clause 6:* To omit subclause (1), and substitute the following subclauses:

(1) Section 101B of the principal Act (as inserted by section 6 (1) of the Public Works Amendment Act 1970) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Subject to the provisions of this section, where any land that—

“(a) Has been designated or made the subject of a requirement; and

“(b) Contains a separate dwelling used solely as a private residence—

is taken or acquired for the public work for which it was designated or made the subject of a requirement—

“(c) There shall, if the land is taken or acquired otherwise than at the request or instigation of the owner, be paid to the owner of that land by the designating authority, in addition to the compensation otherwise payable under this Act, a sum of \$1,500 by way of solatium:

“(d) There may, in the discretion of the designating authority, if the land is taken or acquired at the request or instigation of the owner or pursuant to an order of the Town and Country Planning Appeal Board under section 47A of the Town and Country Planning Act 1953, be paid to the owner of the land by the designating authority, in addition to the compensation otherwise payable under this Act, such sum not exceeding \$750 as the designating authority considers reasonable in the circumstances.”

(1A) The said section 101B (as so inserted) is hereby further amended by omitting from subsection (5) the expression "\$500", and substituting the words "the amount of compensation that would otherwise be payable".

To omit from paragraph (a) of subclause (3) the words "subsection (1)", and substitute the words "subsections (1) and (1A)".

*New Clause 6A:* To insert, after clause 6, the following clause:

**6A. Additional compensation to assist in purchase of dwelling**—(1) Section 101c of the principal Act (as inserted by section 6 (1) of the Public Works Amendment Act 1970) is hereby amended—

(a) By omitting from subsection (1) the words "and value" in both places where they occur:

(b) By omitting from subsection (1) the words "solely on account of age and lack of means, or infirmity and lack of means", and substituting the words "on account of age or infirmity and lack of means, or solely on account of lack of means":

(c) By adding to subsection (1) the following proviso:  
"Provided that, if any additional compensation is paid under this subsection solely on account of lack of means, such compensation shall not exceed 15 percent of the value as at the specified date of the land taken or acquired by the designating authority."

(2) The said section 101c (as so inserted) is hereby further amended by repealing subsection (3), and substituting the following subsection:

"(3) If additional compensation is paid under this section—

"(a) The amount paid, if it was paid solely on account of lack of means; or

"(b) The amount paid in excess of \$1,000, if it was paid on account of age or infirmity and lack of means—shall constitute a debt due by the person to whom it is paid to the designating authority who or which paid it, and shall be a charge on the estate or interest of that person in the land acquired by him with the assistance of the compensation, and may be registered against that land under the provisions of the Statutory Land Charges Registration Act 1928."

(3) The said section 101c (as so inserted) is hereby further amended by inserting in subsection (6), after the word "section,", the words "being money that has been paid on account of age or infirmity and lack of means,".

(4) The said section 101c (as so inserted) is hereby further amended by adding the following subsections:

"(7) If any money has been paid under this section solely on account of lack of means, such money shall be repaid to the designating authority at such reasonable times and on such reasonable terms and conditions (including interest) as may be specified by the designating authority when making payment of the additional compensation.

"(8) In this section, the term 'specified date' has the same meaning as in section 29 of the Finance Act (No. 3) 1944."

*New Clause 9A:* To insert, after clause 9, the following new clause:

**9A. Procedure for making railway—**(1) Section 216 of the principal Act is hereby amended by omitting from subsection (1) the words “any special Act”, and substituting the words “this or any other Act”.

(2) The said section 216 is hereby further amended by omitting from paragraph (j) of subsection (1) the words “of the Sheriff’s district within which the land is situate”.

*Clause 12:* To add the following subclause:

(2) Section 264 of the principal Act is hereby amended by omitting from subsection (3) the words “, or any Road Board within the county,”.

*Clause 18:* To add the following subclause:

(2) The said section 4 is hereby further amended by repealing subsection (8).

*New clause 19:* To add the following new clause:

**19. Assessment of compensation—**(1) Section 29 of the Finance Act (No. 3) 1944 is hereby amended by omitting from subsection (1) (a) the word “No”, and substituting the words “Subject to Part IIIA of this Act, no”.

(2) The said section 29 is hereby further amended by adding the following subsections:

“(4) Notwithstanding the provisions of subsection (3) of this section, the Minister (in the case of a Government work) and the local authority (in any other case), if he or it considers in the circumstances existing at any time that it is just and equitable to do so, may amend the specified date to such date as he or it considers equitable, so long as any such amendment of the specified date does not operate to the detriment of the claimant.

“(5) If the specified date has been amended under subsection (4) of this section, such amended date shall become the specified date for the purpose of assessing or awarding compensation under Parts III and IIIA of the principal Act.”

*New clause 20:* To add the following clause:

**20. Changing administration of Clerks of Works Act 1944—**(1) The Labour Department Act 1954 is hereby amended by omitting from the First Schedule (as substituted by section 3 (1) of the Labour Department Amendment Act 1970) the words “The Clerks of Works Act 1944”.

(2) Section 2 of the Clerks of Works Act 1944 is hereby amended by repealing the definition of the term “Minister”, and substituting the following definition:

“‘Minister’ means the Minister of Works and Development.”

*Schedule:* To insert in the Schedule in their appropriate alphabetical order the words “The Clerks of Works Act 1944”.

To omit from the Schedule the words “The Underground Water Act 1953”.