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SCHEDULE

Section 5.

ADAPTATION OF PART I OF THE ACT OF 1965 IN
CONNECTION WITH PURCHASE OF NEW RIGHTS

- 1 In the Act of 1965 (hereinafter in this Schedule referred to as “the Act”) for section 7 (which relates to compensation) there shall be substituted the following:—
- “7 (1) In assessing the compensation to be paid by the Company under this Act regard shall be had not only to the extent, if any, to which the value of the land in, over or under which the right is purchased is depreciated by the purchase but also to the damage, if any, to be sustained by the owner of the land by reason of injurious affection of other land of the owner by exercise of the right.
- (2) The modifications subject to which subsection (1) of section 44 of the Land Compensation Act 1973 is to have effect, as applied by subsection (2) of that section to compensation for injurious affection under this section, are that for the words ‘land is acquired or taken’ there shall be substituted the words ‘a right in, over or under land is purchased’ and for the words ‘acquired or taken from him’ there shall be substituted the words ‘in, over or under which the right is exercisable’.”.
- 2 The following provisions of the Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), namely:—
- section 9 (4) (failure of owners to convey);
- paragraph 10 (3) of Schedule 1 (owners under incapacity); and
- paragraph 2 (3) of Schedule 2 (absent and untraced owners);
- shall be so modified as to secure that as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be purchased compulsorily is vested absolutely in the Company.
- 3 Section 11 (power of entry) of the Act shall be so modified as to secure that as from the date on which the Company have served notice to treat in respect of any right they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on sheriff’s warrant in the event of obstruction) of the Act shall be modified correspondingly.
- 4 Section 20 (compensation of short-term tenants) of the Act shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of the interests but taking into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right in question.
- 5 Section 22 (protection of acquiring authority’s possession of land where by inadvertence an interest in the land has not been purchased) of the Act shall be so modified as to enable the Company, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right in question, subject to compliance with that section as respects compensation.