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## SCHEDULES

### FIFTH SCHEDULE

Sections 11, 12.

#### TRANSITIONAL PROVISIONS

- 1 All orders and regulations made, all directions, consents and notices given, and all building lines and improvement lines prescribed, with respect to a road which becomes a trunk road, either by the former highway authority for the purposes of their functions with respect to that road or by a local authority under any of the enactments specified in Part I of the Third Schedule to this Act shall, if they were in force immediately before the road became a trunk road, have effect with respect thereto as if made, given, or prescribed by the Minister :

Provided that nothing in this paragraph shall be taken as transferring to the Minister any liability not transferred to him by or under section seven of this Act.

- 2 Any order, byelaw, regulation or other instrument made by a local authority with respect to a road which becomes a trunk road, which would, if it had been made after the road became a trunk road, have required the consent or approval of the Minister, may be revoked or varied by the Minister in like manner and subject to the like conditions as the original order, so, however, that no appeal shall lie to quarter sessions or petty sessions against any order made by the Minister under this paragraph.

- 3 Where, in relation to a road which becomes a trunk road on the first day of April nineteen hundred and thirty-seven, any local authority has incurred, on or after the sixth day of July nineteen hundred and thirty-six, a liability to pay compensation as the result of—

- (a) a refusal to give consent, or the attaching of conditions to a consent, before the first day of April nineteen hundred and thirty-seven under section one or section two of the Restriction of Ribbon Development Act, 1935;
- (b) the prescribing of a building line under section five of the Roads Improvement Act, 1925; or
- (c) the prescribing of an improvement line under section thirty-three of the Public Health Act, 1925;

the Minister shall, if he is satisfied that the liability was incurred wholly or partly for the purpose of securing that the road should be of adequate width or of controlling the access to the road, pay to the authority such sum as in his opinion represents the extent of the liability reasonably incurred for those purposes or either of them.

- 4 All contracts, deeds, bonds, or agreements entered into or made by the former highway authority for a road which becomes a trunk road, or by a local authority for the purposes of functions in relation to the road under any of the enactments mentioned in Part I of the Third Schedule to this Act, and subsisting on the day on which the road became a trunk road, shall, in so far as they relate to property and liabilities transferred to the Minister in respect of that road, have effect with the substitution of the Minister for the authority and may be enforced by or against the Minister accordingly.

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- 5 Where any such contract as aforesaid provides for the execution of works or the rendering of services by a person other than the authority in connection with the construction, maintenance, repair, or improvement, or other dealing with, the road, then—
- (a) if the works or services have been completed before the day on which the road becomes a trunk road but the price or payment, or any part thereof, has not accrued due before that day, the Minister may recover from the authority the price or payment, or part thereof, as the case may be; and
  - (b) if the works or services have not been completed before the said day, the value of any works executed, or services, rendered, before that day, shall be ascertained, regard being had to the terms of the contract, and the Minister may recover from the authority the amount of the said value less any sum paid by the authority in pursuance of the contract, and if the authority have paid in pursuance of the contract a sum greater than the amount of the said value, the Minister shall repay the excess to the authority.
- 6 Where, before the day on which a road becomes a trunk road, the former highway authority or any such local authority as aforesaid have been themselves executing works in connection with the construction, maintenance, repair, or improvement, or other dealing with the road, but have not completed the works before that day, the Minister shall, if required to do so by the authority, purchase all unused materials necessarily acquired by the authority for the purpose of the works and hire from the authority all plant so acquired which is still necessary for the purpose of the works.
- 7 In calculating—
- (a) the amount of any sum to be recovered or paid by the Minister under paragraph 5 of this schedule; or
  - (b) the price of the materials to be purchased, or the hire of plant to be hired, by the Minister under the last foregoing paragraph;
- account shall be taken of any grant paid or payable by the Minister to the authority for the purpose of the works or services.
- 8 If any dispute arises under the last three foregoing paragraphs as to the materials to be purchased, or the plant to be hired, by the Minister from any authority, or as to the sums to be paid by any authority to the Minister, or by the Minister to any authority, it shall be determined by arbitration.
- 9 All proceedings, legal or other, begun before the day upon which a road becomes a trunk road and relating to any property or liabilities transferred to the Minister in respect of that road, may be carried on with the substitution of the Minister as party to the proceedings, in lieu of the authority from whom the property or liabilities was or were transferred, and any such proceeding may be amended in such manner as may be necessary for that purpose.
- 10 The provisions of this schedule, except paragraph 2 thereof, shall apply in a case where a road ceases to be a trunk road in like manner as they apply where a road becomes a trunk road, with the substitution for the references to the former highway authority, and to any local authority, of references to the Minister, and for the references to the Minister of references to the council which becomes the highway authority for the road, or, so far as relates to any functions under enactments mentioned in Part I of the Third Schedule to this Act and to property and liabilities vested in or incurred by the Minister for the purposes of those functions, to the local authority which is to exercise those functions in relation to the road.