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SCHEDULES

THIRD SCHEDULE

Sections 43, 51, 57.

COMPULSORY PURCHASE OF LAND UNDER PART III

PART I

PROCEDURE FOR AUTHORISING COMPULSORY PURCHASES

General

- 1 (1) A compulsory purchase order under Part III of this Act shall be in the prescribed form and shall describe by reference to a map the land to which it applies.
- (2) If the order is made under section forty-three of this Act it shall show in the prescribed manner—
 - (a) what parts, if any, of the land to be purchased compulsorily are outside the clearance area, and
 - (b) what buildings, if any, to be purchased compulsorily are included in the clearance area only on the ground that by reason of their bad arrangement in relation to other buildings, or the narrowness or bad arrangement of the streets, they are dangerous or injurious to the health of the inhabitants of the area.
- 2 (1) Before submitting the order to the Minister the local authority shall—
 - (a) publish in one or more newspapers circulating within their district a notice in the prescribed form stating the fact of such an order having been made and describing the area comprised therein and naming a place where a copy of the order and of the map referred to therein may be seen at all reasonable hours ; and
 - (b) serve on every owner, lessee and occupier (except tenants for a month or a less period than a month) of any land to which the order relates and, so far as it is reasonably practicable to ascertain such persons, on every mortgagee of any land to which the order relates, a notice in the prescribed form stating the effect of the order and that it is about to be submitted to the Minister for confirmation and specifying the time within and the manner in which objections thereto can be made:

Provided that in the case of an order under section fifty-seven of this Act the notice need not be served on a mortgagee of any land unless it is land comprising or consisting of a house indicated in the order as being unfit for human habitation and not capable at reasonable expense of being rendered so fit.

- (2) A notice which under this paragraph is to be served on an owner, lessee or occupier may be served by addressing it to him by (the description of " owner " or " lessee " or " occupier " of the land (describing it) to which it relates and by delivering it to

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some person on the premises or, if there is no person on the premises to whom it may be delivered, by fixing it, or a copy of it, to some conspicuous part of the premises.

The provisions of this subsection shall be without prejudice to the service of a notice in a manner authorised by section one hundred and sixty-nine of this Act.

- (3) For the purposes of this paragraph an occupier being a statutory tenant within the meaning of Part II of the Housing Repairs and Rents Act, 1954, shall be deemed to be a tenant for a period less than a month.

Procedure for orders for the compulsory purchase of land within, surrounded by or adjoining a clearance area

- 3 (1) The provisions of this paragraph shall have effect with respect to any order made under section forty-three or section fifty-one of this Act.
- (2) If no objection is duly made by any of the persons on whom notices are required to be served, or if all objections so made are withdrawn, then, subject to the provisions of this Part of this Schedule, the Minister may, if he thinks fit, confirm the order with or without modification.
- (3) If any objection duly made is not withdrawn, the Minister shall, before confirming the order, either cause a public local inquiry to be held or afford to any person by whom an objection has been duly made as aforesaid and not withdrawn an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose, and, after considering any objection not withdrawn and the report of the person who held the inquiry or of the person appointed as aforesaid, may, subject to the provisions of this Part of this Schedule, confirm the order with or without modification.
- (4) Where any objection not withdrawn has been made on the ground that a building included in the order is not unfit for human habitation the public local inquiry or hearing shall not be held earlier than the expiration of fourteen days after it has been shown to the satisfaction of the Minister (that the local authority have served upon the objector a notice in writing stating what facts they allege as their principal grounds for being satisfied that the building is so unfit.
- (5) A person who objects to the order on the grounds that a building included therein, being a building in which he is interested, is not unfit for human habitation and who appears at the public local inquiry or hearing in support of his objection shall, if the building is included in the order as confirmed as being unfit for human habitation, be entitled, on making a request in writing, to be furnished by the Minister with a statement in writing of his reasons for deciding that the building is so unfit.
- (6) Notwithstanding anything in the foregoing provisions of this paragraph, the Minister may require any person who has made an objection to state in writing the grounds thereof and may disregard the objection for the purposes of this paragraph if he is satisfied that the objection relates exclusively to matters which can be dealt with by the tribunal by whom the compensation is to be assessed.
- 4 (1) An order as confirmed by the Minister under the last foregoing paragraph shall not authorise the local authority to purchase any land which the order would not have authorised them to purchase if it had been confirmed without modification.
- (2) An order under section forty-three of this Act shall not, as confirmed under the last foregoing paragraph,—

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- (a) authorise the local authority to purchase as being land comprised in a clearance area any land shown in the order as submitted as being outside that area ; or
 - (b) authorise the local authority to purchase compulsorily any building on less favourable terms with respect to compensation than the terms on which the order would have authorised them to purchase the building if the order had been confirmed without modification.
- (3) If the Minister is of opinion that any land included by the local authority in a clearance area should not have been so included, he shall in confirming an order made under section forty-three of this Act modify it so as to exclude that land for all purposes from the clearance area, but if in any such case he is of opinion that the land may properly be purchased by the authority under subsection (2) of that section, he shall further modify the order so as to authorise the local authority to purchase that land under that subsection and not as being land comprised in a clearance area.
- (4) The Minister may confirm an order made in connection with a clearance area notwithstanding that the effect of the modifications made by him in excluding any building from the clearance area is to sever that area into two or more separate and distinct areas, and in any such case the provisions of this Act relating to the effect of the order when confirmed and to the proceedings to be taken subsequent to the confirmation thereof shall apply as if those areas formed one clearance area.

Procedure for orders for compulsory purchase of land for purposes of re-development

- 5 (1) The provisions of this paragraph shall have effect with respect to any order under section fifty-seven of this Act.
- (2) If any objection is duly made in writing by any of the persons on whom notices are required to be served, stating as the ground thereof either—
- (a) that any house indicated in the order as being unfit for human habitation and not capable at reasonable expense of being rendered so fit ought not to have been so indicated ; or
 - (b) in the case of land in the re-development area, that the objector is prepared to enter into arrangements for the carrying out of re-development, or for securing the use of the land, in accordance with the re-development plan ; or
 - (c) in the case of land outside the re-development area, any matter not being a matter which in the opinion of the Minister can be dealt with by the tribunal by whom the compensation is to be assessed ;

the Minister shall, unless the objection is withdrawn, cause a public local inquiry to be held with respect thereto and shall consider any objection not withdrawn and the report of the person who held the inquiry, and may then, subject to the provisions of this Schedule, confirm the order either with or without modification, and in any other case the Minister may, subject as aforesaid, confirm the order with or without modification and either after, or without, causing a public local inquiry to be held.

- (3) Where any objection not withdrawn has been made on the ground that a building included in the order is not unfit for human habitation the public local inquiry shall not be held earlier than the expiration of fourteen days after it has been shown to the satisfaction of the Minister that the local authority have served upon the objector a notice in writing stating what facts they allege as their principal grounds for being satisfied that the building is so unfit.

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- (4) A person who objects to the order on the grounds that a building included therein, being a building in which he is interested, is not unfit for human habitation and who appears at the public local inquiry in support of his objection shall, if the building is included in the order as confirmed as being unfit for human habitation, be entitled, on making a request in writing, to be furnished by the Minister with a statement in writing of his reasons for deciding that the building is so unfit.
- 6 An order as confirmed by the Minister under the last foregoing paragraph shall not authorise the local authority to purchase any land which the order would not have authorised them so to purchase if it had been confirmed without modification, or to purchase, as being a house unfit for human habitation, and not capable at reasonable expense of being rendered so fit, any house not indicated in the order as submitted as being in that condition.

PART II

INCORPORATION OF ENACTMENTS

- 7 (1) A compulsory purchase order under Part III of this Act shall incorporate, subject to the modifications hereinafter mentioned and any necessary adaptations,—
- (a) the Lands Clauses Acts ;
 - (b) the Acquisition of Land (Assessment of Compensation) Act, 1919; and
 - (c) section seventy-seven of the Railways Clauses Consolidation Act, 1845, and sections seventy-eight to eighty-five of that Act as originally enacted and not as amended for certain purposes by section fifteen of the Mines (Working Facilities and Support) Act, 1923.
- (2) In construing for the purposes of this Schedule or any order made thereunder any enactment incorporated in the order, this Act, together with the order, shall be deemed to be the special Act, and the local authority shall be deemed to be the promoters of the undertaking.
- 8 (1) The modifications subject to which the Lands Clauses Acts and the Acquisition of Land (Assessment of Compensation) Act, 1919, shall be incorporated in the order are set out in this paragraph.
- (2) The compensation shall be assessed in accordance with such of the provisions of section fifty-nine of this Act as are applicable to the particular case.
- (3) The following sections of the Lands Clauses Consolidation Act, 1845, shall be excepted from incorporation as aforesaid, that is to say,—
- (a) sections one hundred and twenty-seven to one hundred and thirty-two (which relate to the sale of superfluous land);
 - (b) section one hundred and thirty-three (which relates to promoters making good deficiencies in rates).
- (4) In the case of an order under section forty-three or section fifty-one of this Act, the tribunal by whom the compensation is to be assessed may, notwithstanding anything in section ninety-two of the Lands Clauses Consolidation Act, 1845, determine that such part of any house, building or manufactory as is proposed to be taken by the local authority can be taken without material damage to the house, building or manufactory and, if they so determine, may award compensation in respect of the severance of the part so proposed to be taken in addition to the value of that part.

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Where they so determine, the party interested shall be required to sell and convey to the local authority that part of the house, building or manufactory.

- (5) The tribunal shall not take into account any building erected or any improvement or alteration made or any interest in land created after the date on which notice of the order having been made is published in accordance with the provisions of this Schedule if, in the opinion of the tribunal, the erection of the building or the making of the improvement or alteration or the creation of the interest in respect of which a claim is made was not reasonably necessary and was carried out with a view to obtaining or increasing compensation.
 - (6) Where any land to which an order relates is glebe land or other land belonging to an ecclesiastical benefice, the order shall provide that sums agreed upon or awarded for the purchase of the land, or to be paid by way of compensation for damage to be sustained by the owner by reason of severance or injury affecting the land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Church Commissioners to be applied by them as money paid to them upon a sale, under the provisions of the Ecclesiastical Leasing Acts, of land belonging to a benefice.
 - (7) Any compensation payable in pursuance of this Act by a local authority in respect of any lands, estate or interest of another local authority which would, but for this paragraph, be paid into court in manner provided by the Lands Clauses Acts may, if the Minister consents, instead of being paid into court, be paid and applied as the Minister may determine and a decision of the Minister under this paragraph shall be final and conclusive.
 - (8) All notices required to be served by the local authority may, notwithstanding anything in section nineteen of the Lands Clauses Consolidation Act, 1845, be served and addressed in the manner specified in this Schedule or in section one hundred and sixty-nine of this Act in relation to notices required to be served by or under this Act.
- 9 Where a local authority have been authorised by an order confirmed under this Schedule to purchase any land compulsorily, then, at any time after serving notice to treat and after giving to the owner and occupier of the land not less than fourteen days notice, they may enter on and take possession of the land, or such part thereof as is specified in the notice, without previous consent or compliance with sections eighty-four to ninety of the Lands Clauses Consolidation Act, 1845, but subject to payment of the like compensation for the land of which possession is taken, and interest on the compensation awarded, as would have been payable if those provisions had been complied with.
- 10 Where a local authority are authorised to purchase compulsorily any house to be used for housing purposes under section forty-eight of this Act, and have acquired the right to enter on and take possession of the house by virtue of having served a notice under the last foregoing paragraph, the authority may, instead of exercising that right by taking actual possession of the house, proceed by serving notice on any person then in occupation of the house or any part thereof authorising him to continue in occupation upon terms specified in the notice, or on such other terms as may be agreed ; and accordingly, where the authority proceed in the manner authorised by this paragraph—
- (a) the like consequences shall then ensue, with respect to the determination of the rights and liabilities of any person arising out of any interest of his in the house or any part thereof, as would have ensued if the authority had

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taken actual possession on the date of the notice, and the authority may deal with the premises in all respects as if they had done so ; and

- (b) for the purposes of section one hundred and twenty-one of the Lands Clauses Consolidation Act, 1845 (which provides for payment of compensation to persons entitled to possession under short tenancies who are required to give up possession), any person who by virtue of this paragraph ceases to be entitled to receive rent in respect of any premises shall be deemed to have been required to give up possession thereof.

PART III

RULES AS TO THE ASSESSMENT OF COMPENSATION WHERE LAND PURCHASED OTHERWISE THAN AT SITE VALUE

- 1 If the tribunal by whom the compensation is to be assessed are satisfied with respect to any premises that the rental thereof was enhanced by reason of their being used for illegal purposes, or being overcrowded within the meaning of Part IV of this Act, the compensation shall, so far as it is based on rental, be based on the rental which would have been obtainable if the premises were occupied for legal purposes, and were not so overcrowded.
- 2 If the tribunal are satisfied that any premises are in a state of defective sanitation, or are not in reasonably good repair, the compensation shall be the estimated value of the premises if put into a sanitary condition, or reasonably good repair, less the estimated expense of putting them into such condition or repair.
- 3 The local authority may tender evidence as to the matters aforesaid, notwithstanding that they have not taken any steps with a view to remedying the defects or evils disclosed by the evidence, but before tendering evidence as to sanitation or repair, the authority shall furnish to the tribunal and to the claimant a statement in writing of the respects in which the premises are alleged to be so defective.
- 4 The tribunal shall have regard to and make an allowance in respect of any increased value which, in their opinion, will be given to other premises of the same owner—
- (a) where the premises for which compensation is to be assessed are purchased under section fifty-seven of this Act, by the proposed re-development of the area in accordance with the re-development plan ; or
 - (b) in any other case by the demolition by the local authority of any buildings.
- 5 In assessing compensation for premises purchased under section fifty-seven of this Act, the tribunal may take into account and embody in their award any undertaking given by the local authority with respect to the time within which, and the manner in which, the re-development or any part thereof is to be carried out, and the terms of any undertaking so embodied in the award shall be binding on and enforceable against the authority.
- 6 The tribunal shall embody in their award a statement showing separately whether compensation has been reduced by reference to the use of the premises for illegal purposes, to overcrowding, to the considerations mentioned in paragraph 2 of this Part of this Schedule and to the considerations mentioned in paragraph 4 thereof, and the amount, if any, by which compensation has been reduced by reference to each of those matters.