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SCHEDULES

[^{F1}SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND NOT IN NOTICE TO TREAT

Textual Amendments

- F1** Sch. 2A inserted (3.2.2017) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), **Sch. 17 para. 3**; [S.I. 2017/75](#), reg. 3(g) (with reg. 5)

Modifications etc. (not altering text)

- C1** Sch. 2A excluded by [High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\)](#), **ss. 7(2)**, 8(2) (as amended (24.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\)](#), s. 70(2), **Sch. 14 para. 3**; [S.I. 2017/209](#), reg. 2)
- C1** Sch. 2A modified (8.8.2017) by [The Wrexham Gas Fired Generating Station Order 2017 \(S.I. 2017/766\)](#), arts. 1, 23(4), **Sch. 7 para. 9**
- C1** Sch. 2A excluded (19.12.2017) by [The Network Rail \(Buxton Sidings Extension\) Order 2017 \(S.I. 2017/1150\)](#), arts. 1, **22(3)** (with arts. 22(4), 32(2))
- C1** Sch. 2A excluded (22.12.2017) by [The M20 Junction 10a Development Consent Order 2017 \(S.I. 2017/1202\)](#), arts. 1, **29(3)(a)** (with arts. 4, 29(4), 37)
- C1** Sch. 2A excluded (4.1.2018) by [The Blackpool Tramway \(Blackpool North Extension\) Order 2017 \(S.I. 2017/1214\)](#), arts. 1, **30(3)(a)** (with arts. 30(4), 58, 59)
- C1** Sch. 2A excluded (18.4.2018) by [The Network Rail \(Hope Valley Capacity\) Order 2018 \(S.I. 2018/446\)](#), arts. 1, **21(4)(a)** (with arts. 24(8), 33(2))
- C1** Sch. 2A excluded (31.5.2018) by [The Silvertown Tunnel Order 2018 \(S.I. 2018/574\)](#), arts. 1(2), **27(4)(a)** (with art. 27(5))
- C1** Sch. 2A excluded (24.8.2018) by [The Network Rail \(Werrington Grade Separation\) Order 2018 \(S.I. 2018/923\)](#), arts. 1, **22(3)(a)** (with arts. 22(4), 31(2))
- C1** Sch. 2A excluded (3.10.2018) by [The A19/A184 Testo's Junction Alteration Development Consent Order 2018 \(S.I. 2018/994\)](#), arts. 1, **27** (with arts. 3(3), 5)
- C1** Sch. 2A excluded (13.3.2019) by [The Port of Tilbury \(Expansion\) Order 2019 \(S.I. 2019/359\)](#), arts. 1, **26(3)(a)(4)** (with arts. 55, 56)
- C1** Sch. 2A excluded (3.4.2019) by [The Millbrook Gas Fired Generating Station Order 2019 \(S.I. 2019/578\)](#), arts. 1, **24(3)(a)** (with art. 24(4))
- C1** Sch. 2A excluded (10.10.2019) by [The Abergelli Power Gas Fired Generating Station Order 2019 \(S.I. 2019/1268\)](#), arts. 1, **25(3)(a)** (with art. 25(4))
- C1** Sch. 2A excluded (25.10.2019) by [The Drax Power \(Generating Stations\) Order 2019 \(S.I. 2019/1315\)](#), **arts. 1, 25(3)(a)** (with art. 25(4))
- C1** Sch. 2A excluded (27.2.2020) by [The A30 Chiverton to Carland Cross Development Consent Order 2020 \(S.I. 2020/121\)](#), arts. 1, **31(3)(a)** (with arts. 3(1), 31(4))
- C1** Sch. 2A excluded (14.4.2020) by [The Reinforcement to the North Shropshire Electricity Distribution Network Order 2020 \(S.I. 2020/325\)](#), arts. 1, **23(3)(a)** (with arts. 7, 23(4))
- C1** Sch. 2A excluded (30.4.2020) by [The A585 Windy Harbour to Skippool Highway Development Consent Order 2020 \(S.I. 2020/402\)](#), arts. 1, **27(3)(a)** (with arts. 5, 27(4), 44)
- C1** Sch. 2A excluded (1.5.2020) by [The Riverside Energy Park Order 2020 \(S.I. 2020/419\)](#), arts. 1, **25(3)(a)** (with arts. 7, 25(4))

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- C1 Sch. 2A excluded (21.5.2020) by The Lake Lothing (Lowestoft) Third Crossing Order 2020 (S.I. 2020/474), arts. 1, **27(4)(a)** (with arts. 51, 57)
- C1 Sch. 2A excluded (11.6.2020) by The M42 Junction 6 Development Consent Order 2020 (S.I. 2020/528), arts. 1, **31(3)(a)** (with arts. 31(4), 37)
- C1 Sch. 2A excluded (18.6.2020) by The A63 (Castle Street Improvement, Hull) Development Consent Order 2020 (S.I. 2020/556), arts. 1, **27(3)(a)** (with arts. 5, 27(4), 44)
- C1 Sch. 2A excluded (19.6.2020) by The Cleve Hill Solar Park Order 2020 (S.I. 2020/547), arts. 1, **21(3)(a)** (with arts. 21(4), 37)
- C1 Sch. 2A modified (22.7.2020) by The Norfolk Vanguard Offshore Wind Farm Order 2020 (S.I. 2020/706), art. 1, **Sch. 7 para. 5** (with arts. 41, 42, Sch. 16 para. 66)
- C1 Sch. 2A excluded (6.8.2020) by The A19 Downhill Lane Junction Development Consent Order 2020 (S.I. 2020/746), arts. 1, **27(3)(a)** (with arts. 5, 27(4))
- C1 Sch. 2A excluded (1.9.2020) by The Immingham Open Cycle Gas Turbine Order 2020 (S.I. 2020/847), arts. 1, **24(3)(a)** (with art. 24(4), Sch. 9 para. 144)
- C1 Sch. 2A excluded (15.10.2020) by The Great Yarmouth Third River Crossing Development Consent Order 2020 (S.I. 2020/1075), arts. 1, **33(4)(a)** (with art. 33(5))
- C1 Sch. 2A excluded (29.10.2020) by The Southampton to London Pipeline Development Consent Order 2020 (S.I. 2020/1099), arts. 1, **28(3)(a)** (with arts. 28(4), 32, Sch. 9 para. 36)
- C1 Sch. 2A excluded (22.1.2021) by The Hornsea Three Offshore Wind Farm Order 2020 (S.I. 2020/1656), arts. 1, **23(3)** (with arts. 23(4), 40, 41, Sch. 9 Pt. 5 para. 18)
- C1 Sch. 2A applied (9.2.2021) by The A1 Birtley to Coal House Development Consent Order 2021 (S.I. 2021/74), arts. 1, **26(4)** (with art. 5, Sch. 27 para. 36)
- C1 Sch. 2A excluded (9.2.2021) by The A1 Birtley to Coal House Development Consent Order 2021 (S.I. 2021/74), arts. 1, **30(3)(a)** (with arts. 5, 30(4), Sch. 27 para. 36)
- C1 Sch. 2A excluded (11.2.2021) by High Speed Rail (West Midlands - Crewe) Act 2021 (c. 2), **ss. 6(2)(a), 7(2)(a), 64(1)** (with s. 7(3))
- C1 Sch. 2A excluded (19.2.2021) by The A303 Sparkford to Ilchester Dualling Development Consent Order 2021 (S.I. 2021/125), arts. 1, **31(3)(a)** (with arts. 4, 31(4), 47)
- C1 Sch. 2A excluded (22.12.2021) by The Morlais Demonstration Zone Order 2021 (S.I. 2021/1478), arts. 1, **26(3)(a)** (with arts. 15, 50, Sch. 11 para. 29)
- C1 Sch. 2A excluded (1.1.2022) by The Norfolk Boreas Offshore Wind Farm Order 2021 (S.I. 2021/1414), arts. 1, **24(3)(a)** (with arts. 41, 42, Sch. 17 para. 66)
- C1 Sch. 2A excluded (5.3.2022) by The Norfolk Vanguard Offshore Wind Farm Order 2022 (S.I. 2022/138), arts. 1, **24(3)(a)** (with arts. 24(4), 41, 42, Sch. 16)
- C1 Sch. 2A excluded (10.3.2022) by The Thurrock Flexible Generation Plant Development Consent Order 2022 (S.I. 2022/157), arts. 1, **25(a)** (with Sch. 8 Pt. 6 para. 19)
- C1 Sch. 2A excluded (25.3.2022) by The Bridgwater Tidal Barrier Order 2022 (S.I. 2022/299), arts. 1, **35** (with art. 55)
- C1 Sch. 2A excluded (22.4.2022) by The East Anglia TWO Offshore Wind Farm Order 2022 (S.I. 2022/433), arts. 1(2), **24(3)(a)** (with arts. 24(4), 40, 41)
- C1 Sch. 2A excluded (22.4.2022) by The East Anglia ONE North Offshore Wind Farm Order 2022 (S.I. 2022/432), arts. 1(2), **24(3)(a)** (with arts. 24(4), 40, 41)
- C1 Sch. 2A excluded (12.5.2022) by The M54 to M6 Link Road Development Consent Order 2022 (S.I. 2022/475), arts. 1, **27(3)(a)** (with art. 27(4))
- C1 Sch. 2A excluded (2.6.2022) by The M25 Junction 10/A3 Wisley Interchange Development Consent Order 2022 (S.I. 2022/549), arts. 1, **30(3)(a)** (with arts. 6, 30(4), 34)
- C1 Sch. 2A excluded (6.6.2022) by The M25 Junction 28 Development Consent Order 2022 (S.I. 2022/573), arts. 1, **32(3)(a)** (with arts. 5, 32(4), 36)
- C1 Sch. 2A excluded (13.7.2022) by The A47 Blofield to North Burlingham Development Consent Order 2022 (S.I. 2022/738), arts. 1, **32(3)(a)** (with arts. 4, 32(4), 50)
- C1 Sch. 2A excluded (11.8.2022) by The Sizewell C (Nuclear Generating Station) Order 2022 (S.I. 2022/853), arts. 1, **35** (with arts. 35(4), 62, 76, 87, Sch. 19 paras. 4, 78)

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- C1 Sch. 2A excluded (2.9.2022) by The A47 North Tuddenham to Easton Development Consent Order 2022 (S.I. 2022/911), arts. 1, **31(3)(a)** (with arts. 4, 31(4), 53)
- C1 Sch. 2A excluded (8.9.2022) by The A428 Black Cat to Caxton Gibbet Development Consent Order 2022 (S.I. 2022/934), arts. 1, **35(3)** (with arts. 23, 53, Sch. 9 para. 65)
- C1 Sch. 2A excluded (3.11.2022) by The Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order 2022 (S.I. 2022/1067), arts. 1, **30-32** (with art. 46(2), Sch. 19 para. 61)
- C1 Sch. 2A excluded (4.11.2022) by The A47/A11 Thickthorn Junction Development Consent Order 2022 (S.I. 2022/1070), arts. 1, **32(3)** (with arts. 4, 52, Sch. 9 para. 82)
- C1 Sch. 2A excluded (5.12.2022) by The Portishead Branch Line (MetroWest Phase 1) Order 2022 (S.I. 2022/1194), arts. 1, **31(3)(a)** (with arts. 31(4), 51)
- C1 Sch. 2A excluded (7.12.2022) by The A57 Link Roads Development Consent Order 2022 (S.I. 2022/1206), arts. 1, **29(3)(a)** (with arts. 5, 29(4))
- C1 Sch. 2A excluded (7.12.2022) by The A417 Missing Link Development Consent Order 2022 (S.I. 2022/1248), arts. 1, **32(3)** (with arts. 4, 32(4))
- C1 Sch. 2A excluded (29.12.2022) by The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022 (S.I. 2022/1396), arts. 1, **24(3)(a)** (with arts. 24(4), 32, Sch. 10 paras. 26(2), 68)
- C1 Sch. 2A excluded (10.3.2023) by The A47 Wansford to Sutton Development Consent Order 2023 (S.I. 2023/218), arts. 1, **32(3)** (with arts. 4, 50)
- C1 Sch. 2A excluded (18.7.2023) by The Longfield Solar Farm Order 2023 (S.I. 2023/734), arts. 1, **23(3)** (with art. 23(4))
- C1 Sch. 2A excluded (27.7.2023) by The Boston Alternative Energy Facility Order 2023 (S.I. 2023/778), arts. 1, **32(3)(a)** (with arts. 5, 32(4), 53, Sch. 8 paras. 6, 64)
- C1 Sch. 2A excluded (3.8.2023) by The Hornsea Four Offshore Wind Farm Order 2023 (S.I. 2023/800), arts. 1, **25(3)** (with arts. 25(4), 42, 43, Sch. 9 Pt. 1 para. 4, Sch. 9 Pt. 3 para. 6(1), Sch. 9 Pt. 4 para. 20, Sch. 9 Pt. 9 para. 4)
- C1 Sch. 2A excluded (4.8.2023) by The A303 (Amesbury to Berwick Down) Development Consent Order 2023 (S.I. 2023/834), arts. 1, **27(4)** (with arts. 6(2), 18, 27(5), Sch. 11 paras. 5, 30)
- C1 Sch. 2A excluded (7.9.2023) by The A38 Derby Junctions Development Consent Order 2023 (S.I. 2023/923), arts. 1, **31(3)** (with arts. 4, 31(4), 45, Sch. 9 paras. 6, 46, 54(1))
- C1 Sch. 2A excluded (11.10.2023) by The Awel y Môr Offshore Wind Farm Order 2023 (S.I. 2023/1033), arts. 1, **24**
- C1 Sch. 2A excluded (7.2.2024) by The Drax Power Station Bioenergy with Carbon Capture and Storage Extension Order 2024 (S.I. 2024/70), arts. 1, **22(3)** (with arts. 22(4), 43, Sch. 12 paras. 5, 24)
- C1 Sch. 2A excluded (9.2.2024) by The A12 Chelmsford to A120 Widening Development Consent Order 2024 (S.I. 2024/60), arts. 1, **38(3)** (with arts. 4, 38(4), 52, Sch. 11 paras. 6, 24, 39(1), 55(1), 84)

PART 3

DETERMINATION BY THE UPPER TRIBUNAL

Introduction

- 24 This Part applies where, in accordance with paragraph 9 or 21, the acquiring authority refer a counter-notice to the Upper Tribunal.
- 25 In this Part “land proposed to be acquired” and “additional land” have the meanings given by paragraph 3 or 16 as the case may be.

Role of the Upper Tribunal

- 26 (1) The Upper Tribunal must determine whether the severance of the land proposed to be acquired would—

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- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or
- (b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

(2) In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the severance,
- (b) the proposed use of the land proposed to be acquired, and
- (c) if that land is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

27 If the Upper Tribunal determines that the severance of the land proposed to be acquired would have either of the consequences described in paragraph 26(1) it must determine how much of the additional land the acquiring authority ought to be required to take in addition to the land proposed to be acquired.

Effect of determination that more land should be acquired

- 28 (1) This paragraph applies where the Upper Tribunal determines that the acquiring authority ought to be required to take the whole or part of the additional land.
- (2) The compulsory purchase order has effect as if it included the owner's interest in the additional land.
- (3) If the acquiring authority have already served a notice to treat in relation to the land proposed to be acquired, the notice has effect as if it also included the owner's interest in the additional land.
- (4) If the acquiring authority have not served a notice to treat, they must serve a notice to treat in relation to the owner's interest in the land proposed to be acquired and the additional land.
- (5) If the acquiring authority have already entered on and taken possession of the land proposed to be acquired, the power to award compensation under section 7 includes power to award compensation for any loss suffered by the owner by reason of the temporary severance of the land from the additional land.
- (6) Where the Upper Tribunal determines that the acquiring authority ought to be required to take part only of the additional land, a reference in sub-paragraph (2) to (5) to “the additional land” is to that part.

Withdrawal of notice to treat following determination

- 29 (1) This paragraph applies where—
- (a) the acquiring authority have served a notice to treat in respect of the land proposed to be acquired,
 - (b) the Upper Tribunal has determined that the authority ought to be required to take the whole or part of the additional land, and
 - (c) the authority have not yet entered on and taken possession of any of the land proposed to be acquired or the additional land.

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- (2) The acquiring authority may withdraw the notice to treat in respect of the whole of the land at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal made its determination.
- (3) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.
- (4) Any dispute as to the compensation is to be determined by the Upper Tribunal.]

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by [S.I. 2024/393 Sch. 10 para. 13-9](#)