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SCHEDULES

SCHEDULE 4

Section 21.

COMMON LAND

Modifications etc. (not altering text)

C1 Sch. 4 excluded (11.2.2021) by High Speed Rail (West Midlands - Crewe) Act 2021 (c. 2), s. 64(1), **Sch. 14 para. 2(4)** (with Sch. 14 para. 3)

General

1 (1) The compensation in respect of the right in the soil of any of the land subject to compulsory purchase and subject to any rights of common shall be paid to the lord of the manor, in case he is entitled thereto, or to such party, other than the commoners, as is entitled to the right in the soil.

(2) The compensation in respect of all other commonable and other rights in or over such land, including therein any commonable or other rights to which the lord of the manor may be entitled, other than his right in the soil of the land, shall be determined and paid and applied in the manner provided in the following provisions of this Schedule with respect to common land the right in the soil of which belongs to the commoners: and upon payment of the compensation so determined either to the persons entitled thereto or into court all such commonable and other rights shall cease and be extinguished.

Duty of owner of right in the soil to convey on payment of compensation

2 (1) On payment or tender to the lord of the manor, or such other party as aforesaid, of the compensation agreed or awarded in respect of the right in the soil of any such land, or, where provided for in this Act, on payment into court of that compensation, the lord of the manor or other party shall convey the land to the acquiring authority.

(2) The conveyance shall have the effect of vesting the land in the acquiring authority as if the lord of the manor or other party had been seised in fee simple of the land at the time of executing the conveyance.

(3) In default of such a conveyance it shall be lawful for the acquiring authority, if they think fit, to execute a deed poll in the manner provided by section 9(3) of this Act, and thereupon the land in respect of which the compensation was paid into court shall vest absolutely in the acquiring authority and they shall be entitled to immediate possession thereof, subject nevertheless to the commonable and other rights theretofore affecting the same, until those rights have been extinguished by payment, as hereinafter provided, of compensation for the same either to the persons entitled thereto or into court.

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Modifications etc. (not altering text)

C2 Sch. 4 para. 2(3) modified (31.3.1994) by 1994 c. iv, **s. 17 Sch. 2 para. 3**

C3 Sch. 4 para. 2(3) applied (with modifications) (22.10.1991) by Greater Manchester (Light Rapid Transit System) Act 1991 (c. xvi), s. 13, **Sch. para.3**.
Sch. 4 para. 2(3) applied (with modifications) (7.3.1995) by S.I. 1995/519, art. 23(3), **Sch. 4 para. 6(d)**

C4 Sch. 4 para. 2(3) modified (8.8.2017) by The Wrexham Gas Fired Generating Station Order 2017 (S.I. 2017/766), art. 1, **Sch. 7 para. 5(d)**

C5 Sch. 4 para. 2(3) modified (22.7.2020) by The Norfolk Vanguard Offshore Wind Farm Order 2020 (S.I. 2020/706), art. 1, **Sch. 7 para. 6(d)** (with arts. 41, 42, Sch. 16 para. 66)

Compensation for common land not held of a manor

3 The compensation in respect of any of the land subject to compulsory purchase, being common land, or in the nature thereof, the right to the soil of which belongs to the commoners, as well as the compensation in respect of the commonable and other rights in or over common land the right in the soil of which does not belong to the commoners (other than compensation to the lord of the manor or other party entitled to the soil of common lands in respect of his right in the soil) shall be determined by agreement between the acquiring authority and a committee of the persons entitled to commonable or other rights in the land to be appointed under the following provisions of this Schedule.

Appointment of committee of commoners

4 (1) The acquiring authority may convene a meeting of the persons entitled to commonable or other rights over or in the land subject to compulsory purchase to be held at some convenient place in the locality for the purpose of appointing a committee to treat with the acquiring authority for the compensation to be paid for the extinction of the commonable or other rights.

(2) The meeting shall be called by publishing a notice in two consecutive weeks in a newspaper circulating in the county or counties and in the locality in which the land is situated.

(3) The last of those notices shall be published not more than fourteen or less than seven days before the meeting.

(4) Notice of the meeting shall also, not less than seven days before the meeting, be affixed on the door of the parish church in the locality where the meeting is to be held, or if there is no such church, at some other place in the locality where notices are usually affixed; and if the land is parcel of or held of a manor, the notice of the meeting shall also be given to the lord of the manor.

(5) A meeting called under this paragraph may appoint a committee consisting of not more than five of the persons entitled to any such rights, and at such a meeting the decision of the majority of the persons so entitled who are present shall bind the minority and all absent parties.

(6) In this paragraph "county" includes any riding or other like division of a county, and a county of a city or of a town.

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Negotiations with committee

5 (1) The committee may agree on behalf of themselves and all other parties interested in the commonable and other rights, and all such parties shall be bound by the agreement.

(2) The committee may receive the compensation agreed to be paid, and the receipt of the committee, or of any three of them, shall be an effectual discharge for the compensation.

(3) The compensation when received shall be apportioned by the committee among the several persons interested, according to their respective interests, and the acquiring authority shall not be bound to see the apportionment or to the application of the compensation, nor shall they be liable for the misapplication or nonapplication of the compensation.

(4) If the committee fail to agree with the acquiring authority as to the amount of the compensation it shall be referred to and determined by the **[**F1Upper Tribunal**]**.

Textual Amendments

F1 Words in Sch. 4 para. 5(4) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, **Sch. 1 para. 73(a)** (with Sch. 5)

Settlement of compensation where no committee is appointed

6 If there is a failure to hold an effective meeting under paragraph 4 of this Schedule, or if the meeting fails to appoint a committee, the amount of the compensation shall be determined by a surveyor selected from the members of the **[**F2Upper Tribunal who are members or fellows of the Royal Institution of Chartered Surveyors**]**.

Textual Amendments

F2 Words in Sch. 4 para. 6 substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 1, **Sch. 1 para. 73(b)** (with Sch. 5)

Execution of deed poll

7 (1) On payment or tender to the committee, or any three of them, or if there is no such committee then upon payment into court in the manner provided in the like case, of the compensation agreed or awarded in respect of the commonable or other rights, it shall be lawful for the acquiring authority, if they think fit, to execute a deed poll in the manner provided by section 9(3) of this Act.

(2) On execution of the deed poll the land in respect of which the compensation was paid over, or paid into court, shall vest in the acquiring authority freed and discharged from all such commonable or other rights, and they shall be entitled to immediate possession thereof.

(3) The High Court may order payment of the compensation paid into court to a committee appointed under this Schedule, or make such other order with respect thereto for the benefit of the parties interested as the High Court thinks fit.

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C6 Sch. 4 para. 7(2) modified (31.3.1994) by 1994 c. iv, **s. 17 Sch. 2 para. 3**

C7 Sch. 4 para. 7(2) applied (with modifications) (22.10.1991) by Greater Manchester (Light Rapid Transit System) Act 1991 (c. xvi), s. 13, **Sch. para.3**.
Sch. 4 para. 7(2) applied (with modifications) (7.3.1995) by S.I. 1995/519, art. 23(3), **Sch. 4 para. 6(c)**

C8 Sch. 4 para. 7(2) modified (8.8.2017) by The Wrexham Gas Fired Generating Station Order 2017 (S.I. 2017/766), art. 1, **Sch. 7 para. 5(d)**

C9 Sch. 4 para. 7(2) modified (22.7.2020) by The Norfolk Vanguard Offshore Wind Farm Order 2020 (S.I. 2020/706), art. 1, **Sch. 7 para. 6(d)** (with arts. 41, 42, Sch. 16 para. 66)

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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