

SCHEDULE 5

COMPULSORY PURCHASE

PART I

PROCEDURE FOR MAKING COMPULSORY PURCHASE ORDERS

- 1 A compulsory purchase order shall describe by reference to a map the land to which it applies.
- 2 (1) Before making a compulsory purchase order, the Minister shall—
 - (a) publish in one or more newspapers circulating in the locality in which the land to which the order relates is situated a notice stating that a compulsory purchase order is proposed to be made ; and
 - (b) serve a copy of the notice in such manner as he thinks fit on every owner, lessee and occupier (except tenants for a month or less period than a month) of any land to which the order relates.
- (2) Section 30 of this Act applies to the service of a notice under sub-paragraph (1)(b) above as it applies to the service of documents under Part II of this Act.
- (3) A notice under sub-paragraph (1) above shall—
 - (a) describe the land,
 - (b) name the place where a copy of a draft of the compulsory purchase order and of the map referred to therein may be seen at all reasonable hours, and
 - (c) specify the time (not less than twenty-eight days from the date of the publication of the notice) within which, and the manner in which, objections to the order may be made.
- 3 (1) If no objection is duly made by any of the persons on whom notices are required to be served, or by any other person -appearing to the Minister to be affected, or if all objections so made are withdrawn, the Minister may, if he thinks fit (but subject to sub-paragraph (3) below), make the order, either with or without modifications.
- (2) In any other case the Minister shall, before making the order, cause a local inquiry to be held and shall consider any objections not withdrawn and the report of the person who held the inquiry, and may then, if he thinks fit (but subject to sub-paragraph (3) below), make the order, either with or without modifications.
- (3) An order made by the Minister with modifications shall not, unless all persons interested consent, authorise him to purchase compulsorily any land which the order would not have authorised him so to purchase if it had been made without modifications.
- 4 Subject to paragraph 5 below, where objection to a compulsory purchase order is duly made by a person mentioned in paragraph 3(1) above and is not withdrawn before the order is made, the order shall be subject to special parliamentary procedure and the Statutory Orders (Special Procedure) Acts 1945 and 1965 shall have effect accordingly.
- 5 If an objection appears to the Minister to relate exclusively to matters which can be dealt with by the tribunal by whom the compensation for the compulsory purchase would be assessed, the Minister may disregard the objection for the purposes of

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paragraph 3 above, and may (whether he disregards it for those purposes or not) direct that it shall be disregarded for the purposes of paragraph 4 above.

6 An inquiry in relation to a compulsory purchase order affecting land in Scotland, being an order which becomes subject to special parliamentary procedure, shall, if the Minister so directs, be held by Commissioners under the Private Legislation Procedure (Scotland) Act 1936 ; and, where any direction has been so given.—

- (a) it shall be deemed to have been given under section 2, as read with section 10, of the Statutory Orders (Special Procedure) Act 1945;
- (b) the provisions of section 2(1) of that Act with regard to advertisement of notice shall be deemed to have been complied with.

PART II

VALIDITY AND OPERATION OF COMPULSORY PURCHASE ORDERS

7 (1) So soon as may be after a compulsory purchase order has been made by the Minister, he shall—

- (a) publish in one or more newspapers circulating in the locality in which the land to which the order relates is situated a notice stating that the order has been made 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 a like notice on every person who made an objection to the order.

(2) Section 30 of this Act applies to the service of a notice under' sub-paragraph (1)(b) above as it applies to the service of documents under Part II of this Act.

(3) Where the order is subject to special parliamentary procedure," the notice to be published and served by the Minister under sub-paragraph (1) above shall contain a statement that the order is to be laid before Parliament under the Statutory Orders (Special Procedure) Acts 1945 and 1965.

8 (1) Except where the order is confirmed by Act, if a person aggrieved by the order desires to question its validity on the ground that it is not within the powers of this Act or that any requirement of this Act has not been complied with, he may—

- (a) in the case of an order to which the Statutory Orders (Special Procedure) Acts 1945 and 1965 apply, within a period of six weeks after the date on which the order becomes operative under those Acts; and
- (b) in any other case, within a period of six weeks after the first publication of the notice of the order,

make an application for that purpose to the court.

(2) Where any such application is duly made, the court—

- (a) may by interim order suspend the operation of the compulsory purchase order, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and
- (b) if satisfied upon the hearing of the application that the order is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by any requirement of this Act not having been complied with, may quash the order, either generally or in so far as it affects any property of the applicant.

(3) In this paragraph—

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" confirmed by Act" means confirmed by Act of Parliament under section 6 of the Statutory Orders (Special Procedure) Act 1945 or (in relation to Scotland) that section and section 2(4) of the Act as read with section 10 thereof; and

"the court" means, in relation to England and Wales, the High Court and, in relation to Scotland, the Court of Session.

- 9 Subject to the foregoing provisions, the order shall not be questioned by prohibition or certiorari or in any legal proceedings whatsoever either before or after the order is made.
- 10 The order, except where the Statutory Orders (Special Procedure) Acts 1945 and 1965 apply to it, shall become operative at the expiration of six weeks from the date on which notice of it is first published in accordance with the provisions of this Part of this Schedule.

PART III

PROCEDURE FOR ACQUISITION OF LAND BY COMPULSORY PURCHASE

England and Wales

- 11 (1) For the purpose of any acquisition by the Minister of land in England or Wales, where the acquisition is by compulsory purchase, Part I of the Compulsory Purchase Act 1965 shall apply subject to and in accordance with the following provisions of this paragraph.
- (2) In the said Part I as so applied—
- (a) " the acquiring authority " means the Minister, and
 - (b) " the special Act" means section 39 of this Act and the compulsory purchase order under section 40.
- (3) In relation to compulsory purchase under this Act, Part I of the said Act of 1965 shall be modified as follows:—
- (a) section 8(1) (provisions as to divided land) shall not apply, but no person shall at any time be required to sell or convey a part only of a house, or other building or manufactory, if that person is willing and able to convey the whole ;
 - (b) in section 11 (power of entry after notice to treat), subsection (1) shall not apply and subsection (2) shall apply with the omission of the word " also " ;
 - (c) section 27 (liability of acquiring authority to make good deficiency in rates) shall not apply;
 - (d) in section 30 (method of serving notices), subsection (3) shall not apply, but notices required to be served by the Minister under any provision of the said Act of 1965 as applied by this paragraph may, notwithstanding anything in section 30(1) of that Act, be served and addressed in the manner specified in section 30 of this Act; and
 - (e) section 31 (ecclesiastical property) shall not apply.
- (4) Where land compulsorily purchased is glebe land or other land belonging to an ecclesiastical benefice, sums agreed upon or awarded for the purchase of the land, or to be paid by way of compensation for damage sustained by reason of severance

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or injury affecting the land shall not be paid as directed by the said Act of 1965 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.

- 12 As regards land in England or Wales, a compulsory purchase order under this Act may provide that section 77 of the Railways Clauses Consolidation Act 1845, and sections 78 to 85 of that Act as originally enacted and not as amended for certain purposes by section 15 of the Mines (Working Facilities and Support) Act 1923, shall be incorporated with section 39 of this Act, subject to such adaptations and modifications as may be specified in the order.

Scotland

- 13 (1) For the purpose of any acquisition by the Minister of land in Scotland, where the acquisition is by compulsory purchase, the Lands Clauses Acts, except the following enactments in the Lands Clauses Consolidation (Scotland) Act 1845, that is to say sections 120 to 125,
section 127, and
sections 142 and 143,
are hereby incorporated with section 39 of this Act, subject to the modifications and adaptations specified in the following two sub-paragraphs.
- (2) In construing the Lands Clauses Acts as incorporated by this paragraph, section 39 of this Act and the compulsory purchase order under section 40 shall be deemed to be the special Act, and references to the promoters of the undertaking shall be construed as references to the Minister.
- (3) Notices required to be served by the Minister under any provision of the Lands Clauses Acts as incorporated by this paragraph may, notwithstanding anything in section 18 of the Lands Clauses Consolidation (Scotland) Act 1845, be served and addressed in the manner specified in section 30 of this Act.
- (4) For the purposes of section 116 of the Lands Clauses Consolidation (Scotland) Act 1845 (which provides that powers of compulsory purchase shall not be exercised after the expiration of the prescribed period) the prescribed period shall be three years from the coming into operation of the compulsory purchase order.
- 14 As regards land in Scotland, a compulsory purchase order under this Act may provide that section 70 of the Railways Clauses Consolidation (Scotland) Act 1845, and sections 71 to 78 of that Act as originally enacted and not as amended for certain purposes by section 15 of the Mines (Working Facilities and Support) Act 1923, shall be incorporated with section 39 of this Act, subject to such adaptations and modifications as may be specified in the order.