

Status: Point in time view as at 25/11/1998.

Changes to legislation: There are currently no known outstanding effects for the Regional Development Agencies Act 1998, Part II. (See end of Document for details)

SCHEDULES

SCHEDULE 5

ACQUISITION OF LAND

Commencement Information

II Sch. 5 in force for certain purposes at 25.11.1998 by S.I. 1998/2952, art. 2(2)

PART II

ACQUISITION OF RIGHTS

- 3 (1) The Compulsory Purchase Act 1965 (“the 1965 Act”) shall have effect with the modifications necessary to make it apply to the compulsory acquisition of rights by virtue of section 20(2) above as it applies to the compulsory purchase of land so that, in appropriate contexts, references in the 1965 Act to land are read as referring, or as including references, to the rights or to land over which the rights are or are to be exercisable, according to the requirements of the particular context.
- (2) Without prejudice to the generality of sub-paragraph (1), in relation to the acquisition of rights by virtue of section 20(2) above—
- (a) Part I of the 1965 Act (which relates to compulsory purchases under the ^{M1}Acquisition of Land Act 1981) shall have effect with the modifications specified in paragraphs 4 and 5, and
 - (b) the enactments relating to compensation for the compulsory purchase of land shall apply with the necessary modifications as they apply to such compensation.

Marginal Citations

M1 1981 c. 67.

- 4 For sections 7 and 8 of the 1965 Act there is substituted—

“7 Measure of compensation in case of acquisition of new right.

- (1) In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent, if any, to which the value of the land over which the right is purchased is depreciated by the purchase but also to the damage, if any, to be sustained by the owner of the land by reason of injurious affection of other land of the owner by the exercise of the right.

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- (2) The modifications subject to which subsection (1) of section 44 of the ^{M2}Land Compensation Act 1973 (compensation for injurious affection) is to have effect, as applied by subsection (2) of that section to compensation for injurious affection under this section, are that—
- (a) for the words “land is acquired or taken” there shall be substituted the words “a right over land is acquired”, and
 - (b) for the words “acquired or taken from him” there shall be substituted the words “over which the right is exercisable”.

8 Other provisions relating to acquisition of new right.

- (1) Where in consequence of the service on a person in pursuance of section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—
- (a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Lands Tribunal (“the Tribunal”); and
 - (b) before the Tribunal has determined that question the person satisfies the Tribunal that he has an interest which he is able and willing to sell in the whole of the relevant land and—
 - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased without material detriment to that land, or
 - (ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs,

the compulsory purchase order to which the notice to treat relates shall, in relation to that person, cease to authorise the purchase of the right and be deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the Tribunal directs.
- (2) Any question as to the extent of the land in which a compulsory purchase order is deemed to authorise the purchase of an interest by virtue of the preceding subsection shall be determined by the Tribunal.
- (3) Where in consequence of a determination of the Tribunal that it is satisfied as mentioned in subsection (1) of this section a compulsory purchase order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of 6 weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.
- (4) The modifications subject to which subsection (1) of section 58 of the ^{M3}Land Compensation Act 1973 (determination of material detriment) is to have effect, as applied by subsection (2) of that section to the duty of the Tribunal

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in determining whether it is satisfied as mentioned in subsection (1) of this section, are that—

- (a) at the beginning of paragraphs (a) and (b) there shall be inserted the words “a right over”;
- (b) for the word “severance” there shall be substituted the words “right on the whole of the house, building or manufactory or of the house and the park or garden”; and
- (c) for the words “part proposed” and “part is” there shall be substituted respectively the words “right proposed” and “right is”.

Marginal Citations

M2 1973 c. 26.

M3 1973 c. 26.

- 5 (1) The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), namely—
- (a) section 9(4) (failure of owners to convey),
 - (b) paragraph 10(3) of Schedule 1 (owners under incapacity),
 - (c) paragraph 2(3) of Schedule 2 (absent and untraced owners), and
 - (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),
- shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be acquired compulsorily is vested absolutely in the acquiring authority.
- (2) Section 11 of the 1965 Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right, it has power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on sheriff’s warrant in the event of obstruction) of the 1965 Act shall be modified correspondingly.
- (3) Section 20 of the 1965 Act (compensation for short-term tenants) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory purchase of the interests but taking into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right in question.
- (4) Section 22 of the 1965 Act (protection of acquiring authority’s possession of land where by inadvertence an interest in the land has not been purchased) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right in question, subject to compliance with that section as respects compensation.

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