

## SCHEDULES

### SCHEDULE 10

Section 6

#### ACQUISITION OF PART OF LAND ONLY

- 1 (1) The person to whom the notice to treat mentioned in section 6 is given (“the owner”) may, within the period of 21 days beginning with the day on which the notice is given, give the Secretary of State a counter-notice—
- (a) objecting to the sale of the part (“the land subject to the notice to treat”), and
  - (b) stating that he or she is willing and able to sell the whole (“the land subject to the counter-notice”).
- (2) If no counter-notice is given under sub-paragraph (1), the owner is required to sell the land subject to the notice to treat.
- (3) If—
- (a) a counter-notice is given under sub-paragraph (1), and
  - (b) the Secretary of State agrees to take the land subject to the counter-notice,
- the notice to treat is to be deemed to be a notice to treat in addition for the remainder of the land subject to the counter-notice.
- (4) If—
- (a) a counter-notice is given under sub-paragraph (1), and
  - (b) the Secretary of State does not agree to take the land subject to the counter-notice,
- the question as to what land the owner is required to sell must be referred to the Upper Tribunal.
- 2 (1) If, on a reference under paragraph 1(4), the Upper Tribunal determines that the land subject to the notice to treat can be taken—
- (a) without material detriment to the remainder of the land subject to the counter-notice, and
  - (b) where the land subject to the notice to treat consists of or includes garden only land, without seriously affecting the amenity and convenience of the house to which the garden only land belongs,
- the owner is required to sell the land subject to the notice to treat.
- (2) If, on such a reference, the Upper Tribunal determines that only part of the land subject to the notice to treat can be taken as mentioned in sub-paragraph (1), the notice to treat is to be deemed to be a notice to treat for that part.
- (3) If, on such a reference, the Upper Tribunal determines—
- (a) that none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice, but
  - (b) that the material detriment is confined to part of the remainder of that land,

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*Status: This is the original version (as it was originally enacted).*

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then, except where sub-paragraph (4) applies, the notice to treat is to be deemed to be a notice to treat in addition for the land to which the material detriment is confined.

- (4) If, in a case where the land subject to the notice to treat consists of or includes garden only land, the Upper Tribunal determines on such a reference that none of the land subject to the notice to treat can be taken without seriously affecting the amenity or convenience of the house to which the garden only land belongs, the notice to treat is to be deemed to be a notice to treat in addition for the remainder of the land subject to the counter-notice.
- (5) If, on such a reference, the Upper Tribunal determines—
- (a) that none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice, and
  - (b) that the material detriment is not confined to part of the remainder of that land,
- the notice to treat is to be deemed to be a notice to treat in addition for the remainder of the land subject to the counter-notice.
- (6) For the purposes of this paragraph, the land subject to the notice to treat consists of or includes “garden only land” if—
- (a) it consists of the whole part or part of a park or garden belonging to a house, or
  - (b) it includes the whole or part of such a park or garden but does not include the house or any part of it.
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- (1) Where under paragraph 2 a notice to treat is deemed by virtue of a determination of the Upper Tribunal to be a notice to treat for less land or more land than that specified in the notice, the Secretary of State may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice.
- (2) If the Secretary of State withdraws a notice to treat under sub-paragraph (1), the Secretary of State must pay the person to whom the notice was given compensation for any loss or expense occasioned to that person by the giving and withdrawal of the notice; and in case of dispute, such compensation is to be determined by the Upper Tribunal.
- (3) Where under paragraph 1 or 2 a person is required to sell part only of a house, building or manufactory or of land consisting of a house with a park or garden, the Secretary of State must pay the person compensation for any loss sustained by the person due to the severance of that part in addition to the value of the interest acquired.
- (4) A notice to treat has the effect which it is deemed to have under paragraph 1(3) or paragraph 2(3), (4) or (5) whether or not the additional land is, apart from that provision, land which the Secretary of State is authorised to acquire compulsorily under this Act.