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## SCHEDULES

### TENTH SCHEDULE

Section 209.

#### DEVELOPMENT CHARGES

- 1 This Schedule applies to any determination under Part VII of the Act of 1947 that a development charge was payable in respect of the carrying out of operations in, on, over or under land, or in respect of the use of land, where the development charge in question or part thereof for the time being remains undischarged and a person is or may become liable in respect thereof.
- 2 (1) The Minister may at any time, on application made to him in that behalf in accordance with regulations under this Act by the person entitled to an interest in land to which such a determination relates, vary the determination in such manner as appears to him to be appropriate having regard to any change of circumstances since the determination was made, including the development, after the determination, of adjacent land in accordance with planning permission granted otherwise than in accordance with the provisions of the development plan:
- Provided that the Minister shall not vary any such determination so as to increase the amount of the development charge payable thereunder.
- (2) Where the Minister varies a determination under the preceding sub-paragraph, he may amend, discharge or release any covenants or charges made or given in respect of the determination, or repay any sums previously paid thereunder, so far as may be required in order to give effect to the variation.
- 3 Where, in the case of a determination to which this Schedule applies.—
- (a) planning permission for the carrying out of operations, or the institution or continuance of a use, to which the determination relates is revoked by an order made under section twenty-seven of this Act, or
  - (b) an order is made under section twenty-eight of this Act requiring the removal of any buildings or works erected or constructed in carrying out those operations, or requiring the discontinuance of that use, as the case may be, or
  - (c) the whole of the land to which the determination relates is compulsorily acquired under this or any other Act,
- the determination, and any covenants or charges made or given in respect thereof, shall thereupon cease to have effect, but without prejudice to the validity of anything previously done thereunder.
- 4 Where, in the case of a determination to which this Schedule applies.—
- (a) planning permission for the carrying out of the operations, or for the institution or continuance of the use, to which the determination relates is modified by an order made under section twenty-seven of this Act, or
  - (b) an order is made under section twenty-eight of this Act requiring the alteration of any buildings or works erected or constructed in the carrying

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out of those operations, or imposing conditions on the continuance of that use, as the case may be, or

- (c) part (but not the whole) of the land to which the determination relates is compulsorily acquired under this or any other Act,

the Minister shall, on application made to him in accordance with regulations under this Act, vary the determination, and amend, discharge or release any covenants or charges made or given in respect thereof, so far as may be just in consequence of the order or acquisition, as the case may be.

5 Where compensation is payable under Part VII of this Act in consequence of any such order as is mentioned in sub-paragraph (a) or sub-paragraph (b) of paragraph 3 or paragraph 4 of this Schedule, then in calculating for the purposes of the compensation and depreciation of the value of an interest in the land to which the order relates, or any other loss or damage sustained by a person interested in that land, regard shall be had to the preceding provisions of this Schedule and to anything done by the Minister thereunder, or done by the Minister or the Central Land Board under section seventy-three of the Act of 1947.

6 Where, in the case of a determination to which this Schedule applies, compensation is payable under Part VII of this Act in consequence of any such order as is mentioned in the last preceding paragraph, or where the whole or part of the land to which the determination relates is compulsorily acquired under this or any other Act, then if any sums have been paid by way of development charge in accordance with that determination, the Minister shall pay to the authority or person by whom compensation is payable in consequence of the order, or in respect of the compulsory acquisition, as the case may be, a contribution towards that compensation, representing such proportion of the sums so paid by way of development charge as may be agreed between the Minister and that authority or person, or, failing agreement, as may be determined by the Minister, to be appropriate in all the circumstances of the case.

7 Section one hundred and nineteen of this Act shall apply for the purposes of the preceding provisions of this Schedule and shall accordingly have effect as if those provisions were included among the provisions of sections one hundred and twenty to one hundred and twenty-two applied (with modifications) by subsection (2) of section one hundred and nineteen.

8 Where a determination to which this Schedule applies was made by an order under section seventy-four of the Act of 1947 (which related to development carried out in contravention of Part VII of that Act) and, by virtue of subsection (2) of that section, an interest in land was charged with the payment of any sums, that charge shall be deemed to 'be a land charge of Class A within the meaning of the Land Charges Act, 1925 ; and the Minister shall, for the purposes of enforcing it, have the same powers and remedies under the Law of Property Act, 1925, and otherwise as he would have had if he were a mortgagee by deed having powers of sale and lease and of appointing a receiver.

9 Where a determination to which this Schedule applies was in respect of the winning and working of minerals over a period ending on or after the first day of January, nineteen hundred and fifty-five, the Minister shall, on application made to him in that behalf in accordance with regulations under this Act, vary the determination, and amend, discharge or release any covenants or charges made or given in respect thereof, in such manner as appears to him appropriate for limiting the development charge to the winning and working of the minerals within so much of that period

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- as preceded that day, and shall repay any sums paid thereunder so far as may be requisite for giving effect to the variation.
- 10 (1) For the purposes of the provisions of Part VI of this Act, and of the Fifth Schedule thereto, and of the last preceding paragraph, a development charge shall be deemed not to have been determined if—
- (a) the determination thereof ceased to have effect by virtue of subsection (2) of section seventy-three of the Act of 1947 or ceases to have effect by virtue of paragraph 3 of this Schedule, or
  - (b) by virtue of subsection (1) of section one of the Town and Country Planning Act, 1953, the charge was not payable, or
  - (c) under subsection (5) of the said section one, any sum paid in respect of the charge became repayable.
- (2) For the purposes mentioned in the preceding sub-paragraph a development charge shall be deemed to have become payable notwithstanding any agreement of the Central Land Board or of the Minister to a postponement of the payment of the charge, if the whole or part of the charge would have been payable but for that agreement.
- (3) In the provisions of this Act mentioned in sub-paragraph (1) of this paragraph references to a determination that a development charge was payable, or as to the amount of a development charge, shall, in a case where the determination was subsequently varied, be construed as references to the determination as so varied.
- 11 (1) References in this Schedule to the carrying out of operations include references to the retention on land of buildings or works which have been erected or carried out in accordance with planning permission granted for a limited period.
- (2) Any reference in this Schedule to the compulsory acquisition of land includes a reference to the acquisition of land by agreement by an authority or person who has power or can be authorised to acquire it compulsorily.