

SCHEDULES

SECOND SCHEDULE

Sections 11, 12 and 47.

APPLICATIONS FOR GRANT OF COMPULSORY PURCHASE ORDERS AND COMPULSORY RIGHTS ORDERS

PART I

APPLICATIONS FOR GRANT OF COMPULSORY PURCHASE ORDERS

- 1 An application for a compulsory purchase order must be made to the Minister in writing and must—
 - (a) state the name and address of the person in whose favour the order whose making is sought by the application is to be made ;
 - (b) be accompanied by three copies of a map (whereof the scale shall be not less than that of six inches to the mile) on which are delineated the boundaries of the land proposed to be comprised in the order ;
 - (c) contain such other (if any) particulars as may be prescribed.
- 2 Where an application for a compulsory purchase order is duly made to the Minister, he shall take it into consideration and shall give notice to the applicant of his decision either that he refuses to make the order or that the application is (without prejudice, however, to subsequent refusal thereof in the exercise of his discretion) to be allowed to proceed.
- 3 Where an applicant for a compulsory purchase order is given notice under the last foregoing paragraph that his application is to be allowed to proceed, compliance with the following requirements of (this sub-paragraph (and, where subsection (1) of section fifty-one of this Act applies, with the requirement specified therein) shall be a condition precedent to the taking by the Minister of further steps in the matter of (the application, namely.—
 - (a) there must be published by the applicant in two successive weeks in one or more local newspapers circulating in the locality in which the land proposed to be comprised in the order is situate a notice in the prescribed form stating that application has been made to the Minister for the making of the order, describing the land, naming a place in the locality where a copy of the map (that accompanied the application may be inspected, and specifying the time (not being less than twenty-eight days from the date on which the notice is first published) within which and the manner in which objections to the application may be made to the Minister ;
 - (b) there must be served by the applicant on every owner, lessee and occupier (except tenants for a month or any period less than a month) of any land proposed to be comprised in the order a notice in the prescribed form stating the effect of the order and that application for the making thereof has been made to the Minister, and specifying the time (not being less than twenty-

- eight days from the date on which the notice is served) within which and the manner in which objection to the application may be made to the Minister.
- 4 (1) Where the proper notices concerning an application for the making of a compulsory purchase order have been published and served under the last foregoing paragraph, and an objection to the application is duly made by any such owner, lessee or occupier as aforesaid and is not withdrawn, /the Minister shall in no event grant the application without either causing a public inquiry to be held with respect to the objection and considering the report of the person who held it or affording to the objector an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose and considering the report of the person so appointed.
- (2) If any such owner, lessee or occupier as aforesaid by whom an objection has been made avails himself of the opportunity of being heard, the Minister shall afford to the applicant for the order, and to any other persons to whom it appears to the Minister expedient to afford it, an opportunity of being heard on the same occasion.
- (3) Notwithstanding anything in the two last foregoing sub-paragraphs, the Minister may require any such owner, lessee or occupier as aforesaid who has made an objection to state in writing the grounds thereof, and may disregard for the purposes of this paragraph an objection made by any such owner, lessee or occupier as aforesaid if he is satisfied that the objection relates exclusively to matters which can be dealt with by the Lands Tribunal.
- (4) In relation to Scotland any inquiry required by sub-paragraph (1) of this paragraph shall, if the Minister so directs, be held by Commissioners under the Private Legislation Procedure (Scotland) Act, 1936, and where any direction is so given—
- (a) it shall be deemed to have been given under section two, as read with section ten, of the Statutory Orders (Special Procedure) Act, 1945 ;
 - (b) 'the publication and service under the last foregoing paragraph of the proper notices concerning the application for the making of the order shall be deemed to be sufficient compliance with the requirements of subsection (1) of the said section two with regard to the giving of notice by advertisement; and
 - (c) subsection (2) of section forty-seven of this Act shall not apply to such inquiry.
- 5 Where the Minister refuses to make a compulsory purchase order, he shall give to the (applicant 'therefor a written statement of his reasons for so doing.
- 6 A compulsory purchase order may be made with or without modification as regards the land sought to be comprised therein, but shall not, unless all persons interested consent, be so made as to authorise the person in whose favour it is made to purchase any land which the order would not have authorised that person to purchase if it had been made without modification.
- 7 (1) There shall be annexed (to every compulsory purchase order a map (whereof the scale shall be not less than that of six inches to the mile) on which is plainly delineated the boundaries of the land comprised in the order.
- (2) So soon as may be after a compulsory purchase order has been made the person in whose favour it has been made shall publish in one or more local newspapers circulating in the locality in which the land comprised in the order is situate a notice in the prescribed form, describing the land, stating that the order has been made and naming a place where a copy of the order and of the map annexed thereto may be inspected at all reasonable hours, and shall serve a like notice, a copy of the order

and a copy (on the same scale) of the map annexed to the order on every person who is an owner, lessee or occupier of any land comprised in the order.

- 8 Where application is made to the Minister for (the making of a compulsory purchase order applicable to land which includes land which has been acquired by statutory undertakers for the purposes of their undertaking, then if on a representation made to the appropriate Minister before the expiration of the time specified in the notice published, as regards that application, in pursuance of sub-paragraph (a) of paragraph 3 of this Schedule that Minister is satisfied—
- (a) that any of the said land is used for the purposes of the carrying on of their undertaking, or
 - (b) that an interest in any of the said land is held for those purposes,
- the order shall not be made so as to authorise the purchase of any land as to which that Minister is satisfied as aforesaid except land as to which he is satisfied that its nature and situation are such—
- (i) that it can be purchased and not replaced without serious detriment to the carrying on of the undertaking, or
 - (ii) that, if purchased, it can be replaced by other land belonging to, or available for acquisition by, the undertakers without such detriment as aforesaid,
- and certifies accordingly.
- 9 (1) If a person aggrieved by a compulsory purchase order (not being one confirmed by Act of Parliament under section six of the Statutory Orders (Special Procedure) Act, 1945, or under subsection (4) of section two, as read with section ten, of that Act) desires to question the validity thereof or of any provision contained therein on the ground that the making of the order or the inclusion of that provision was not authorised by this Act or on the ground that any requirement of this Act or of any regulation thereunder has not been complied with in relation to the order, he may, within six weeks from the date on which the order becomes operative under the said Act of 1945, make an application for the purpose to the High Court or the Court of Session, as the case may be.
- (2) On an application under the foregoing sub-paragraph, the court—
- (a) may, by interim order, suspend the operation of the order whose validity is questioned, or of any provision of that order, either generally or so far as it affects any property of the applicant or a part of any such property, until the final determination of the proceedings; and
 - (b) if satisfied that the making of the order whose validity is questioned or the inclusion of any provision therein was not authorised by this Act or that the interests of the applicant have been substantially prejudiced by failure to comply in relation to the order with any such requirement as aforesaid, may quash the order, or any provision thereof, either generally or so far as it affects any property of the applicant or a part of any such property.
- (3) Except as provided by this paragraph a compulsory purchase order shall not, either before or after it is made, be questioned in any legal proceedings whatever.

PART II

MODIFICATIONS SUBJECT TO WHICH PART I HAS EFFECT IN ITS APPLICATION TO APPLICATIONS FOR GRANT OF COMPULSORY RIGHTS ORDERS

- 10 (1) The modifications subject to which Part I of this Schedule has effect 'as applied by subsection (3) of section twelve of this Act are those set out in the following provisions of this paragraph.
- (2) For references to a compulsory purchase order there shall be substituted references to a compulsory rights order.
- (3) There shall be included amongst the requirements with which, by virtue of paragraph 1, the application must comply a requirement that it shall state what rights are sought to be obtained by the application.
- (4) There shall be included amongst the particulars to be included in a notice published in pursuance of paragraph 3 particulars of the rights sought to be obtained by the application.
- (5) For paragraph 6 there shall be substituted the following paragraph :—
- “6 A compulsory rights order may be made with or without modification as regards the land sought to be comprised therein or the nature of the rights for the exercise of which authorisation is sought by the order but shall not, unless all persons interested consent, be so made as to authorise the person in whose favour it is made to exercise any right which the order would not have authorised him to exercise if it had been made without modification or to exercise rights in relation to any land in relation to which the order would not have authorised him to exercise rights if it had been so made.”
- (6) There shall be included amongst the particulars to be included in a notice published in pursuance of sub-paragraph (2) of paragraph 7 a statement of the rights of which (the exercise is authorised by the order.
- (7) In paragraph 8, for the words from " the order shall not be made " to the end of the paragraph (there shall be substituted the words “the order shall not be made so as to authorise (the exercise of a right over any land as to which that Minister is satisfied as aforesaid unless he is also satisfied—
- (a) that the nature and situation of the land are such (that the exercise thereover of (that right will not cause serious detriment to the carrying on of the undertaking, or
- (b) that such conditions will be attached to the order under section thirteen of this Act as will ensure that the exercise over the land of that right will not cause such serious detriment as aforesaid,
- and certifies accordingly”.