

SCHEDULES.

SECOND SCHEDULE

Section 1.

INCORPORATION OF ENACTMENTS.

PART I

The Lands Clauses Acts and the Railways Clauses Consolidation (Scotland) Act, 1845.

- 1 In relation to any compulsory purchase to which the provisions of the foregoing Schedule apply, the Lands Clauses Acts and section six of the Railways Clauses Consolidation (Scotland) Act, 1845, are hereby incorporated with the enactment under which the purchase is authorised; and in construing those Acts as so incorporated—
 - (a) the enactment under which the purchase is authorised and the compulsory purchase order shall be deemed to be the special Act;
 - (b) references to the promoters of the undertaking shall be construed as references to the authority authorised by the compulsory purchase order to purchase the land.
- 2 The following sections of the Lands Clauses Consolidation (Scotland) Act, 1845, shall be excepted from incorporation as aforesaid, that is to say—
 - (a) sections one hundred and twenty to one hundred and twenty-five (which relate to the sale of superfluous land) ;
 - (b) in the case of a purchase under the Housing (Scotland) Acts, 1925 to 1935, and in any other case in which the compulsory purchase order so provides, section one hundred and twenty-seven (which relates to promoters making good deficiencies in land tax and rates) ; and
 - (c) sections one hundred and forty-two and one hundred and forty-three (which relate to access to the special Act).
- 3 (1) Where a local authority or Minister have been authorised in accordance with the provisions of section one of this Act to purchase any land compulsorily, then, at any time after serving notice to treat and after serving on the owner, lessee and occupier of the land not less than fourteen days' notice, the authority or Minister may enter on and take possession of the land or such part thereof as is specified in the notice without previous consent or compliance with sections eighty-three to eighty-eight of the Lands Clauses Consolidation (Scotland) Act, 1845, but subject to the payment of the like compensation for the land of which possession is taken, and interest on the compensation awarded, as would have been payable if those provisions had been complied with.
(2) Paragraph 19 of the foregoing Schedule shall apply to the service of notices under this paragraph.
- 4 The following provisions shall have effect in substitution for the provisions of section ninety of the Lands Clauses Consolidation (Scotland) Act, 1845, that is

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

to say, no person shall be required to sell a part only of any house, building or manufactory, or of a park or garden belonging to a house, if he is willing and able to sell the whole of the house, building, manufactory, park or garden, unless the tribunal by whom the compensation is to be assessed determines that, in the case of a house, building or manufactory, such part as is proposed to be taken can be taken without material detriment to the house, building or manufactory, or, in the case of a park or garden, that such part as aforesaid can be taken without seriously affecting the amenity or convenience of the house, and, if the tribunal so determines, the tribunal shall award compensation in respect of any loss due to the severance of the part so proposed to be taken, in addition to the value of that part, and thereupon the party-interested shall be required to sell to the acquiring authority that part of the house, building, manufactory, park or garden.

5 Notices required to be served by the acquiring authority may, notwithstanding anything in section eighteen of the Lands Clauses Consolidation (Scotland) Act, 1845, be served and addressed in the manner specified in paragraph 19 of the foregoing Schedule.

6 (1) A compulsory purchase order may make provision for the incorporation with the enactment under which the purchase is authorised of section seventy of the Railways Clauses Consolidation (Scotland) Act, 1845 (which relates to the exception of minerals from purchases) and sections seventy-one to seventy-eight of that Act (which relate to restrictions on the working of minerals) as originally enacted and not as amended for certain purposes by section fifteen of the Mines (Working Facilities and Support) Act, 1923, or the said section seventy only.

(2) Such provision may be made as to all or any of the land to which the compulsory purchase order relates, and may include such modification of references in the said sections to the railway or works, or to the company, as may be specified in the order, and sub-paragraph (a) of paragraph 1 of this Schedule shall apply for the construction of the said sections as incorporated by the order.

PART II

The Acquisition of Land (Assessment of Compensation) Act, 1919.

7 The arbiter shall not take into account any interest in land, or any enhancement of the value of any interest in land by reason of any building erected, work done, or improvement or alteration made, whether on the land purchased or on any other land with which the claimant is, or was at the time of the erection, doing or making of the building, works, improvement or alteration directly or indirectly concerned, if the arbiter is satisfied that the creation of the interest, the erection of the building, the doing of the work, the making of the improvement or the alteration, as the case may be, was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

PART III

Purchases under Section 2.

8 In relation to a compulsory purchase authorised in accordance with section two of this Act references in sub-paragraph (b) of paragraph 2 and in paragraph 6 of

this Schedule, or in subsection (4) of section seventeen of the Town and Country Planning (Scotland) Act, 1945, to an order authorising a compulsory purchase of land shall be construed as references to the authorisation under section two of this Act.