S C H E D U L E S

SCHEDULE 6

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

Compensation enactments

2.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(**1**) has effect subject to the modifications set out in sub-paragraphs (2) and (3).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4—

> (a) for "land is acquired or taken from" substitute "a right over land is purchased from or imposed on"; and

> (b) for "acquired or taken from him" substitute "over which the right is exercisable".

(3) In section 58(1)(**2**) (determination of material detriment where part of house etc. proposed for compulsory acquisition), as it applies to determinations under section 8 of the 1965 Act as substituted by paragraph 5, substitute—

> "(1) In determining under section 8(1) or 34(2) of the Compulsory Purchase Act 1965, or section 166(2) of the Town and Country Planning Act 1990 whether—

>> (a) a right over land consisting of a house, building or manufactory can be taken or imposed without material detriment or damage to the house, building or manufactory; or

>> (b) a right over land consisting of a park or garden belonging to a house can be taken or imposed without seriously affecting the amenity or convenience of the house,

> the Upper Tribunal must take into account not only the effect of the acquisition of the right but also the use to be made of the right proposed to be acquired, and, in a case where the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use to be made of the other land.".

(**1**)   1973 c.26.

(**2**)   Section 58(1) was amended by section 16(3) of, and Schedule 5 to, the Compulsory Purchase (Vesting Declarations) Act 1981 (c. 66), section 4 of, and paragraph 29(1) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and S.I. 2009/1307.