

## SCHEDULE 3

Article 12(3)

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

#### Compensation enactments modified

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

#### Land Compensation Act 1973 modified

2.—(1) Without limiting 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) omit “land is acquired or taken” and substitute “a right over land is purchased”; and
- (b) omit “acquired or taken from him” and substitute “over which the right is exercisable”.

(3) In section 58(1) (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,—

- (a) omit “part” in paragraphs (a) and (b) and substitute “a right over land consisting”;
- (b) omit “severance” and substitute “right over the whole of the house, building or manufactory or of the house and the park or garden”;
- (c) omit “part proposed” and substitute “right proposed”; and
- (d) omit “part is” and substitute “right is”.

#### 1965 Act modified

3.—(1) The 1965 Act has effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land must be read (according to the requirements of the particular context) as referring to, or as including, references to—

- (a) the right acquired or to be acquired; or
- (b) the land over which the right is or is to be exercisable.

(2) Without limiting sub-paragraph (1), Part 1 of the 1965 Act applies in relation to the compulsory acquisition under this Order of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

4. Omit section 7 of the 1965 Act (measure of compensation in case of severance) and substitute the following section—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right, but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land

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(1) 1973 c.26.

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of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

5. Omit section 8 of the 1965 Act (other provisions as to divided land) and substitute the following section—

“8.—(1) Where in consequence of the service on a person under section 5 of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (the “relevant land”)—

- (a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Upper Tribunal (the “tribunal”); and
- (b) before the tribunal has determined that question, the tribunal is satisfied that the person has an interest in the whole of the relevant land and is able and willing to sell that land and—
  - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased without material detriment to that land; or
  - (ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs,

in relation to that person, the Order ceases to authorise the purchase of the right and is deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice is deemed to have been served in respect of that interest on such date as the tribunal directs.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) must be determined by the tribunal.

(3) Where, in consequence of a determination of the tribunal that it is satisfied as mentioned in subsection (1), the Order is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of 6 weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.

(4) In this section, “Order” means the Port Talbot Steelworks Generating Station Order 2015.”

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

- (a) section 9(4) (refusal to convey, failure to make title, etc.);
- (b) paragraph 10(3) of Schedule 1 (persons without power to sell their interests);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

7. Section 11 of the 1965 Act (powers of entry) is so modified as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right, it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose

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of exercising that right (which is deemed for this purpose to have been created on the date of service of the notice); and sections 12 (unauthorised entry) and 13 (refusal to give possession to acquiring authority) of that Act<sup>(2)</sup> are modified correspondingly.

**8.** Section 20 of the 1965 Act<sup>(3)</sup> (tenants at will, etc.) applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

**9.** Section 22 of the 1965 Act (interests omitted from purchase) is so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

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(2) Section 13 was amended by section 139 of the Tribunals, Courts and Enforcement Act 2007 (c.15) and by paragraph 28 of Schedule 13 and Part 3 of Schedule 23 to that Act.

(3) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c.34) and paragraph 70 of Schedule 1 to the Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009.