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SCHEDULES

SCHEDULE 3

Section 26.

MODIFICATION OF PART I OF COMPULSORY PURCHASE ACT 1965 IN CONNECTION WITH PURCHASE OF NEW RIGHTS

1 In the Compulsory Purchase Act 1965 (hereafter in this Schedule referred to as “the Act”) for section 7 (which relates to compensation) there shall be substituted the following:—

“7 (1) In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is purchased is depreciated by the purchase but also to the damage, if any, to be sustained by the owner of the land by reason of injurious affection of other land of the owner by the exercise of the right.

(2) The modifications subject to which subsection (1) of section 44 of the Land Compensation Act 1973 is to have effect, as applied by subsection (2) of that section to compensation for injurious affection under this section, are that for the words ‘land is acquired or taken’ there shall be substituted ‘a right over land is purchased’ and for the words ‘acquired or taken from him’ there shall be substituted ‘over which the right is exercisable’.”

2 For section 8 of the Act (which relates to cases in which a vendor cannot be required to sell part only of a building or garden) there shall be substituted the following:—

“8 (1) Where in consequence of the service on a person under section 5 of this Act 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 (hereafter in this subsection referred to as ‘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 Lands Tribunal (hereafter in this section referred to as ‘the Tribunal’); and

(b) before the Tribunal has determined that question the person satisfies the Tribunal that he has an interest which he is able and willing to sell in the whole of the relevant 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;

the Avon Weir Act 1992 shall, in relation to that person, cease to authorise the purchase of the right and be 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

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to which it belongs, and the notice shall be 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 Avon Weir Act 1992 is deemed to authorise the purchase of an interest by virtue of subsection (1) above shall be determined by the Tribunal.
- (3) Where, in consequence of a determination of the Tribunal that it is satisfied as mentioned in subsection (1) above, the Avon Weir Act 1992 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 six 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 acquiring authority to withdraw the notice.
- (4) The modifications subject to which subsection (1) of section 58 of the Land Compensation Act 1973 is to have effect, as applied by subsection (2) of that section to the duty of the Tribunal in determining whether it is satisfied as mentioned in subsection (1) of this section, are that at the beginning of paragraphs (a) and (b) there shall be inserted the words ‘a right over’, for the word ‘severance’ there shall be substituted ‘right over the whole of the house, building or manufactory or of the house and the park or garden’ and for the words ‘part proposed’ and ‘part is’ there shall be substituted respectively ‘right proposed’ and ‘right is’.”

3 The following provisions of the 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) namely:—

- section 9(4) (failure of owners to convey);
- paragraph 10(3) of Schedule 1 (owners under incapacity);
- paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- paragraphs 2(3) and 7(2) of Schedule 4 (common land);

shall be 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 purchased compulsorily is vested absolutely in the acquiring authority.

4 Section 11 of the Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty of unauthorised entry) and 13 (entry of sheriff’s warrant in the event of obstruction) of the Act shall be modified correspondingly.

5 Section 20 of the Act (compensation for short term tenants) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of the interests but taking into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right in question.

6 Section 22 of the Act (protection of acquiring authority’s possession of land where by inadvertence an interest in the land has not been purchased) shall be so modified as to enable the acquiring authority in circumstances corresponding to

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those referred to in that section, to continue to be entitled to exercise the right in question, subject to compliance with that section as respects compensation.