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## SCHEDULES

### FIFTH SCHEDULE

Section 92.

#### ADJUSTMENT OF CLAIM HOLDINGS

#### PART I

##### *Adjustment of claim holdings pledged to Central Land Board as security for development charges*

- 1 (1) In this Part of this Schedule references to the pledging of a claim holding to the Central Land Board are references to any transaction whereby—
- (a) the holder of the claim holding mortgaged it to the Central Land Board as security, or part of the security, for one or more development charges determined, or thereafter to be determined, by the Board, or
  - (b) the holder and the Central Land Board agreed that a development charge determined by the Board should be set off against any payment which might thereafter become payable to the holder by reference to that holding, or
  - (c) the Central Land Board refrained from determining a development charge, which would otherwise have fallen to be determined by them, in consideration of a mortgage of the holding, with or without other claim holdings.
- (2) AH pledges of claim holdings to the Central Land Board made by the same person, whether or not made at the same time, other than any pledge to which subparagraph (1) of paragraph 2 of this Schedule applies, shall for the purposes of this Part of this Schedule be treated collectively as a single pledge made at the time when the last of those pledges was made.
- (3) Where a development charge covered by a pledge to the Central Land Board was determined in respect of land consisting of, or forming part of, the area of a claim holding—
- (a) which was not comprised in the pledge, but
  - (b) whose holder immediately before the time of completion was the person who would, apart from the pledge, have been liable to pay the unpaid balance of the development charge,
- then, for the purposes of this Part of this Schedule, that claim holding shall be deemed to have been comprised in the pledge.
- (4) In this Part of this Schedule (but without prejudice to the Operation of paragraph 10 of the Tenth Schedule to this Act) references to the determination of a development charge in respect of any land are references to a determination of the Central Land Board that the charge was payable in (respect of the carrying out of operations in, on, over or under that land, or in respect of the use of that land.

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- (5) For the purposes of this Part of this Schedule (but without prejudice to the operation of paragraph 10 of the Tenth Schedule to this Act) the amount of a development charge.—
- (a) in a case where the Central Land Board determined that amount as a single capital payment, shall be taken to have been the amount of that payment, and
  - (b) in a case where the Board determined that amount otherwise than as a single capital payment, shall be taken to have been the amount of the single capital payment which would have been payable if the Board had determined the amount as such a payment;
- and references in this Part of this Schedule to the unpaid balance of a development charge are references to the amount of the charge, if no sum was actually paid to the Board on account of the charge, or if any sum was so paid, are references to the amount of the charge reduced by the amount or aggregate amount of the sum or sums so paid, other than any sum paid by way of interest.
- (6) In relation to the pledging of a claim holding to the Central Land Board, references in this Part of this Schedule to a development charge covered by the pledge are references to a development charge the payment of which was secured, or partly secured, by the pledge, or, as the case may be, which was agreed to be set off against any payment which might become payable by reference to that claim holding.
- (7) References in this Part of this Schedule to a mortgage of a claim holding do not include a mortgage which was subsequently discharged.
- 2 (1) Where a claim holding was pledged to the Central Land Board in accordance with the special arrangements relating to owners of single house plots, that claim holding shall, subject to the next following sub-paragraph, be deemed to have been extinguished as from the time when it was pledged to the Board.
- (2) Where a claim holding (in this sub-paragraph referred to as “the original holding”) was pledged as mentioned in the preceding sub-paragraph, but was so pledged by reference to a plot of land which did not extend to the whole of the area of the original holding, the preceding sub-paragraph shall not apply, but there shall be deemed to have been substituted for the original holding, as from the time of the pledge, a claim holding with an area consisting of so much of the area of the original holding as was not comprised in that plot of land, and with a value equal to that fraction of the value of the original holding which then attached to so much of the area of the original holding as was not comprised in that plot.
- 3 Without prejudice to the last preceding paragraph, where a pledge to the Central Land Board comprised one or more claim holdings, and the unpaid balance of the development charge covered by the pledge, or (if more than one) the aggregate of the unpaid balances of the development charges so covered, was equal to or greater than the value of the claim holding, or the aggregate value of the claim holdings, as the case may be, the holding or holdings shall be deemed to have been extinguished as from the time of the pledge.
- 4 Where a pledge to the Central Land Board comprised only a single claim holding with an area of which every part either consisted of, or formed part of, the land in respect of which some development charge covered by the pledge was determined, and the last preceding paragraph does not apply, the value of that claim holding shall be deemed to have been reduced, as from the time of the pledge, by the unpaid balance of the development charge covered by the pledge, or (if more than one)

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by the aggregate of the unpaid balances of all the development charges covered by the pledge.

- 5 (1) The provisions of this paragraph shall have effect in the case of a pledge of one or more claim holdings to the Central Land Board to which neither paragraph 3 nor paragraph 4 of this Schedule applies.
- (2) Any claim holding comprised in the pledge with an area of which every part either consisted of, or formed part of, the land in respect of which some development charge covered by the pledge was determined shall be allocated to the development charge in question, or (if more than one) to those development charges collectively.
- (3) Any claim holding comprised in the pledge with an area part of which did, and part of which did not, consist of, or form part of, such land as is mentioned in the last preceding sub-paragraph shall be treated as if, at the time of the pledge, the claim holding (in this sub-paragraph referred to as “the parent holding”) had been divided into two separate claim holdings, that is to say—
- (a) a claim holding with an area consisting of so much of the area of the parent holding as consisted of, or formed part of, such land as is mentioned in the last preceding sub-paragraph, and with a value equal to that fraction of the value of the parent holding which then attached to that part of the area of the parent holding, and
  - (b) a claim holding with an area consisting of the residue of the area of the parent holding, and with a value equal to that fraction of the value of the parent holding which then attached to the residue of the area of the parent holding,
- and the claim holding referred to in head (a) of this sub-paragraph shall be allocated to the development charge in question, or (if more than one) to those development charges collectively.
- (4) Paragraph 3 or paragraph 4 of this Schedule shall then apply in relation to each claim holding (if any) allocated in accordance with sub-paragraph (2) or sub-paragraph (3) of this paragraph to any development charge, or to any development charges collectively, as if the pledge had comprised only that claim holding and had covered only that development charge or those development charges.
- (5) If, after the application of the preceding provisions of this paragraph, there remains outstanding any claim holding not allocated in accordance with those provisions, or any claim holding which (having been so allocated) is deemed to have been reduced in value but not extinguished, an amount equal to the aggregate of—
- (a) the unpaid balance of any development charge covered by the pledge to which no claim holding was so allocated, and
  - (b) the amount (if any) by which the value of any claim holding so allocated which is deemed to have been extinguished falls short of the unpaid balance of the development charge, or the aggregate of the unpaid balances of the development charges, to which it was so allocated,
- shall be treated as having been deducted from the value of the claim holding so remaining outstanding, or (if more than one) as having been deducted rateably from the respective values of those claim holdings, and the value of any such holding shall be deemed to have been reduced accordingly as from the time of the pledge.

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## PART II

### *Adjustment by reference to payments in respect of war-damaged land*

- 6 (1) The provisions of this Part of this Schedule shall have effect where a payment under the scheme has become, or becomes, payable in respect of an interest in land, and a claim holding related (or would, apart from this Part of this Schedule, have related) to the like interest in the whole or part of that land, with or without any other land.
- (2) In this Part of this Schedule “the scheme ” means the scheme made under section fifty-nine of the Act of 1947, “the date of the scheme ” means the twelfth day of December, nineteen hundred and forty-nine, and “payment under the scheme ” means a payment which has become, or becomes, payable by virtue of the scheme.
- (3) In relation to any payment under the scheme “the payment area ”, in this Part of this Schedule, means the land in respect of which the payment became or becomes payable, and references to the amount of the payment shall be construed as references to the principal amount thereof, excluding any interest payable thereon in accordance with subsection (3) of section sixty-five of the Act of 1947.
- 7 If the payment area is identical with the area of the claim holding, then—
- (a) in the case of a payment of an amount equal to the value of the claim holding, the claim holding shall be deemed to have been extinguished as from the date of the scheme ;
  - (b) in the case of a payment of an amount less than the value of the claim holding, the value of the claim holding shall be deemed to have been reduced, as from the date of the scheme, by the amount of the payment.
- 8 (1) If the payment area forms part of the area of the claim holding, the holding (in this paragraph referred to as “the parent holding ”) shall be treated, as from the date of the scheme, as having been divided into two claim holdings, that is to say—
- (a) a claim holding with an area consisting of that part of the area of the parent holding which constituted the payment area, and with a value equal to that fraction of the value of the parent holding which attached to that part of the area of the parent holding, and
  - (b) a claim holding with an area consisting of the residue of the area of the parent holding, and with a value equal to that fraction of the value of the parent holding which attached to the residue of the area of the parent holding.
- (2) Where the preceding sub-paragraph applies, the last preceding paragraph shall have effect in relation to the claim holding referred to in head (a) of the preceding sub-paragraph as if it were the parent holding.
- 9 If the payment area includes the area of the claim holding together with other land, paragraph 7 of this Schedule shall apply as if—
- (a) the payment area had been identical with the area of the claim holding, but
  - (b) the amount of the payment had been so much of the actual amount thereof as might reasonably be expected to have been attributed to the area of the claim holding if, under the scheme, the authority determining the amount of the payment had been required (in accordance with the same principles as applied to the determination of that amount) to apportion it between the area of the claim holding and the rest of the payment area.
- 10 If the payment area includes part of the area of the claim holding together with other land not comprised in the area of the claim holding—

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- (a) paragraph 8 of this Schedule shall apply as if the part of the payment area comprised in the area of the claim holding had been the whole of the payment area, and
- (b) the last preceding paragraph shall apply as if the part of the area of the claim holding comprised in the payment area had been the whole of the area of the claim holding.

### PART III

#### *Adjustment in cases of partial disposition of claim holdings*

- 11 The provisions of this Part of this Schedule shall have effect where, by virtue of a disposition of part of the benefit of an established claim, not being a mortgage made otherwise than by way of assignment (in this Part of this Schedule referred to as “the relevant disposition”), different persons became entitled to different parts of the benefit of that established claim.
- 12 As from the date of the relevant disposition, each of those different parts shall be treated as having constituted a separate claim holding.
- 13 The area and value of any such separate claim holding at any time after the relevant disposition shall be taken to have been such as may, in the requisite manner, be or have been determined to be just and appropriate in all the circumstances.
- 14 In the last preceding paragraph the reference to determination in the requisite manner of the area and value of a claim holding is a reference to the determination thereof on the occasion of an apportionment affecting that holding which fell or falls to be made for any of the purposes of the Act of 1954, of Part VI of this Act or of this Schedule, being a determination made—
- (a) by the authority making that apportionment, or
  - (b) where, under the Act of 1954 or Part VI of this Act, that authority's findings were or are referred to the Lands Tribunal, by that Tribunal,
- having regard in particular to the principles mentioned in the next following paragraph.
- 15 (1) The said principles are those set out in the following provisions of this paragraph.
- (2) The aggregate of the values of all claim holdings representing parts of the benefit of the same established claim must not exceed the amount of the established claim.
  - (3) Subject to the last preceding sub-paragraph, where a claim holding representing part only of the benefit of an established claim was pledged to the Central Land Board, otherwise than as mentioned in paragraph 2 of this Schedule, and by virtue of Part I of this Schedule the value of that claim holding is deemed to have been reduced by reference to an amount due by way of development charge, the value of that holding at the time of the pledge is not to be taken to have been less than the amount credited for the purposes of the pledge by reference to the holding.
  - (4) In the case of the claim holding representing the part of the benefit of an established claim which was the subject of the relevant disposition, if it was not a claim holding to which sub-paragraph (5) of this paragraph applies.—
    - (a) the area of that claim holding is to be taken to be the claim area of that established claim, less the area of any claim holding to which the said

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sub-paragraph (5) applies which represents part of the benefit of the same established claim, and

- (b) the value of the claim holding immediately after the relevant disposition is, subject to sub-paragraphs (2) and (3) of this paragraph, to be taken to have been that part of the amount of the established claim to which the holder purported to become entitled under the terms of the relevant disposition.

- (5) Where any person who was entitled to a claim holding representing part only of the benefit of an established claim—

- (a) at any time while so entitled was also entitled to the interest in land to which the established claim related in so far as that interest subsisted in part only of the claim area, and
- (b) became entitled to both that holding and that interest in such circumstances that the authority making the apportionment in question or the Lands Tribunal, as the case may be, were or are satisfied that the holding and the interest were intended to relate to one another,

the area of that claim holding is to be taken to be that part of the claim area, and the value of the holding immediately after the relevant disposition (however that or any other disposition affecting the holding was expressed, but subject to sub-paragraphs (2) to (4) of this paragraph) is to be taken to have been an amount equal to so much of the amount of the established claim as might reasonably be expected to have been attributed to that part of the claim area if the authority determining the amount of that established claim had been required to apportion it, in accordance with the same principles as applied to its determination, between that part and the residue of the claim area.

- 16 Paragraph 1 of this Schedule shall apply for the purposes of this Part of this Schedule as it applies for the purposes of Part I thereof.

#### PART IV

##### *Adjustment in respect of payments under Part I of Act of 1954*

- 17 The provisions of this Part of this Schedule shall have effect where, by virtue of Part I of the Act of 1954, a payment became or becomes payable in respect of a claim holding.

- 18 Subject to the following provisions of this Part of this Schedule, if either—
  - (a) the principal amount of the payment was or is not less than the value of the claim holding, or
  - (b) the payment (whatever its amount) became or becomes payable under Case D (that is to say, by virtue of section eight of the Act of 1954, which related to cases where a claim holding had been disposed of for valuable consideration),

the claim holding shall be deemed to have been extinguished ; and if the principal amount of the payment (not being a payment under Case D) was or is less than the value of the claim holding, the value of that holding shall be deemed to have been reduced by the principal amount of the payment.

- 19 The last preceding paragraph shall apply where two or more payments under Part I of the Act of 1954 were or are payable in respect of the same claim holding, with the

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substitution, for references to the principal amount of the payment, of references to the aggregate of the principal amounts of the payments.

- 20 (1) Where one or more relevant acts or events have occurred in relation to a claim holding (in this paragraph referred to as “the parent holding”) and any such act or event did not extend to the whole of the area of the parent holding, then, for the purposes of the preceding provisions of this Part of this Schedule, and for the purposes of Part V of this Schedule and of Part VI of this Act.—
- (a) the parent holding shall be treated as having been divided, immediately before the time of completion, into as many separate claim holdings, with such areas, as may be necessary to ensure that, in the case of each holding, either any relevant act or event extending to the area of that holding extended to the whole thereof or no relevant act or event extended to the area of that holding ;
  - (b) the value of each of the separate holdings respectively shall be taken to have been that fraction of the value of the parent holding which then attached to the part of the area of the parent holding constituting the area of the separate holding ; and
  - (c) the portion of the amount of any payment under Part I of the Act of 1954 which, by the authority determining that amount, was or is apportioned to the area of any of the separate claim holdings shall be taken to have been a payment payable under the said Part I in respect of that claim holding.
- (2) In this paragraph “relevant act or event”, in relation to a claim holding, means an act or event whereby, in accordance with the provisions of Part I of the Act of 1954, one or more payments became or become payable in respect of that claim holding.
- 21 For the purposes of this Part of this Schedule—
- (a) a payment shall be treated as having become payable notwithstanding that the right to receive the payment was extinguished by subsection (2) of section fourteen of the Act of 1954 (which enabled the Central Land Board to set off payments against liabilities in respect of development charges);
  - (b) any reduction of the principal amount of a payment by virtue of that subsection shall be disregarded ; and
  - (c) where in accordance with subsection (3) of section fourteen or subsection (6) of section fifty-eight of the Act of 1954 (which provided for cases of failure to apply for a payment within the appropriate period) an amount was determined as being the principal amount of a payment to which a person would have been entitled as mentioned in those subsections respectively, that payment shall be treated as if it had become due and as if the principal amount thereof had been the amount so determined.
- 22 (1) Where in accordance with the preceding provisions of this Part of this Schedule a claim holding is deemed to have been extinguished or the value of a claim holding is deemed to have been reduced, the extinguishment or reduction, as the case may be, shall be deemed to have had effect immediately before the time of completion.
- (2) References in this Part of this Schedule to the value of a claim holding are references to the value thereof immediately before the time of completion.

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## PART V

### *Adjustment in respect of compensation under Part V of Act of 1954*

- 23 Where compensation under Part V of the Act of 1954 became or becomes payable by reference to a claim holding, then (subject to the following provisions of this Part of this Schedule) for "the purposes of Part VI of this Act—
- (a) if the principal amount of the compensation was or is equal to the value of the claim holding at the time of completion (ascertained apart from this Part of this Schedule) the claim holding shall be deemed to have been extinguished immediately before that time;
  - (b) if the principal amount of the compensation was or is less than the value of the claim holding at that time (ascertained apart from this Part of this Schedule) the value of the claim holding shall be deemed to have been reduced immediately before that time by the principal amount of the compensation.
- 24 Where compensation became or becomes payable as mentioned in the last preceding paragraph, and at any time an amount became or becomes recoverable in respect thereof under section twenty-nine of the Act of 1954, as applied by section forty-six of that Act, or under section one hundred and thirteen of this Act as applied by paragraph 27 of the Fourteenth Schedule thereto to compensation under Part V of the Act of 1954, then, for the purposes of Part VI of this Act, the last preceding paragraph shall have effect as from that time as if the principal amount of that compensation had been reduced by a sum equal to seven-eighths of the amount which so became or becomes recoverable.
- 25 Where, in the case of a claim holding (in this paragraph referred to as "the parent holding"), compensation under Part V of the Act of 1954 became or becomes payable in respect of depreciation of the value of an interest in land by one or more planning decisions or orders, and any such decision or order did not extend to the whole of the area of the parent holding, then, both for the purposes of the preceding provisions of this Part of this Schedule and for the purposes of Part VI of this Act.—
- (a) the parent holding shall be treated as having been divided immediately before the time of completion into as many separate claim holdings, with such areas, as may be necessary to ensure that, in the case of each holding, either any such decision or order extending to the area of that holding extended to the whole thereof or no such decision or order extended to the area of that holding ;
  - (b) the value of each of the separate holdings respectively shall be taken to have been that fraction of the value of the parent holding which then attached to the part of the area of the parent holding constituting the area of the separate holding; and
  - (c) the portion of the amount of any such compensation which, by the authority determining that amount, was or is apportioned to the area of any of the separate claim holdings shall be taken to have been compensation payable under Part V of the Act of 1954 in respect of that claim holding.



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## PART VI

### *Supplementary provisions*

- 26 Where in accordance with any of the provisions of this Schedule a part of the benefit of an established claim constituted a separate claim holding, the interest in land to which that claim holding related—
- (a) if the established claim related to the fee simple of the claim area, shall be taken to have been the fee simple of the area of the claim holding ;
  - (b) if the established claim related to a leasehold interest, shall be taken to have been that leasehold interest in so far as it subsisted in the area of the claim holding.
- 27 Where in accordance with any of the provisions of this Schedule a claim holding (in this paragraph referred to as “the parent holding ”) is to be treated as divided into two or more claim holdings, a person who was the holder of one of those holdings shall be treated as having been the holder thereof at any time when he was the holder of the parent holding.
- 28 Expressions used in this Schedule and in Part VI of this Act have the same meanings in this Schedule as in that Part of this Act.
- 29 In this Schedule “the holder ”, in relation to a claim holding, means the person for the time being entitled to the holding, or, in the case of a holding subject to a mortgage made otherwise than by way of assignment, means the person who would for the time being have been entitled to the holding if it had not been mortgaged, and “the time of completion ” means the time when, in accordance with section ninety-two of this Act, the adjustment of claim holdings is deemed to have been completed.