

SCHEDULES

SCHEDULE 5

Sections 13, 26.

ASSESSMENT OF COMPENSATION TO STATUTORY UNDERTAKERS

PART I

Measure of compensation

- 1 (1) Where statutory undertakers are entitled to compensation as mentioned in section 13 or section 26(7) of this Act, the amount of the compensation shall (subject to paragraph 2 below) be an amount calculated in accordance with the following provisions of this paragraph.
- (2) The said amount, subject to sub-paragraph (3) below, shall be the aggregate of the following amounts, that is to say—
 - (a) the amount of any expenditure reasonably incurred in acquiring land, providing apparatus, erecting buildings or doing work for the purpose of any adjustment of the carrying on of the undertaking rendered necessary by the proceeding giving rise to compensation;
 - (b) whichever of the following is applicable, namely—
 - (i) where such an adjustment is made, the estimated amount of any decrease in net receipts from the carrying on of the undertaking pending the adjustment, in so far as the decrease is directly attributable to the proceeding giving rise to compensation, together with such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking in the period after the adjustment has been completed, in so far as the decrease is directly attributable to the adjustment, or
 - (ii) where no such adjustment is made, such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking which is directly attributable to the proceeding giving rise to compensation;
 - (c) where the compensation is under section 26(7) of this Act, and is in respect of the imposition of a requirement to remove apparatus, the amount of any expenditure reasonably incurred by the statutory undertakers in complying with the requirement, reduced by the value after removal of the apparatus removed.
- (3) Where any such adjustment as is mentioned in sub-paragraph (2)(a) above is made, the aggregate amount mentioned in that sub-paragraph shall be reduced by such amount (if any) as appears to the tribunal to be appropriate to offset—
 - (a) the estimated value of any property (whether moveable or heritable) belonging to the statutory undertakers and used for the carrying on of their undertaking which, in consequence of the adjustment, ceases to be so used,

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in so far as the value of the property has not been taken into account under sub-paragraph (2)(c) above, and

- (b) the estimated amount of any increase in net receipts from the carrying on of the undertaking in the period after the adjustment has been completed, in so far as that amount has not been taken into account under sub-paragraph (2) (b) above and is directly attributable to the adjustment.

and by any further amount which appears to the tribunal to be appropriate having regard to any increase in the capital value of heritable property belonging to the statutory undertakers which is directly attributable to the adjustment, allowance being made for any reduction made under head (b) of this sub-paragraph.

- (4) References in this paragraph to a decrease in net receipts shall be construed as references to the amount by which a balance of receipts over expenditure is decreased, or a balance of expenditure over receipts is increased, or, where a balance of receipts over expenditure is converted into a balance of expenditure over receipts, as references to the aggregate of the two balances; and references to an increase in net receipts shall be construed accordingly.
- (5) In this paragraph “proceeding giving rise to compensation” means the particular action (that is to say, the acquisition, the extinguishment of a right or the imposition of a requirement) in respect of which compensation falls to be assessed, as distinct from any development or project in connection with which that action may have been taken.

Exclusion of paragraph 1 at option of statutory undertakers

- 2 (1) Where statutory undertakers are entitled to compensation in respect of a compulsory acquisition, the statutory undertakers may by notice in writing under this paragraph elect that the compensation shall be ascertained in accordance with the enactments (other than rule (5) of the rules set out in section 12 of the ^{M1}Land Compensation (Scotland) Act 1963) which would be applicable apart from paragraph 1 above, and if the undertakers so elect the compensation shall be ascertained accordingly.
- (2) An election under this paragraph may be made either in respect of the whole of the land comprised in the compulsory acquisition in question or in respect of any part of that land.
- (3) Any notice under this section shall be given to the acquiring authority before the end of the period of two months from the date of service of notice to treat in respect of the interest of the statutory undertakers.

Marginal Citations

M1 1963 c. 51(28:2).

Procedure for assessing compensation where paragraph 1 applies

- 3 Where the amount of any such compensation as is mentioned in paragraph 1(1) above falls to be ascertained in accordance with the provisions of the said paragraph 1, the compensation shall, in default of agreement, be assessed by the arbitration of the tribunal.

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- 4 In this Part of this Schedule, “the tribunal” means the tribunal constituted in accordance with the provisions of Part II of this Schedule.

PART II

Tribunal for assessment of compensation

- 5 (1) The tribunal for the assessment of compensation referred to in Part I of this Schedule shall consist of four persons, namely—
- (a) an advocate or solicitor of not less than seven years’ standing appointed by the Lord President of the Court of Session to act as chairman;
 - (b) two persons appointed by the Secretary of State as persons having special knowledge and experience of the valuation of land and of civil engineering respectively; and
 - (c) for each claim coming before the tribunal, a person selected by the appropriate Minister, as a person having special knowledge and experience of statutory undertakings of the kind carried on by the claimant, from the members of a panel appointed by appropriate Ministers of persons appearing to them to have such knowledge and experience of statutory undertakings.
- (2) The Treasury may pay out of moneys provided by Parliament to the members of the tribunal such remuneration (whether by way of salaries or by way of fees), and such allowances, as the Treasury may determine.
- (3) For the purposes of any proceedings arising before the tribunal the provisions of sections 3, 5 and 39 of the Land Compensation (Scotland) Act 1963 shall apply as they apply to proceedings on a question referred to the official arbiter under section 2 of that Act, but with the substitution, in sections 5 and 39 of that Act, for references to the acquiring authority, of references to the person from whom the compensation is claimed.

Changes to legislation:

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