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## SCHEDULES

### SCHEDULE 2

Section 6(5).

#### ACQUISITION OF LAND BY CORPORATION

##### PART I

###### POWERS OF ACQUISITION

- 1 The Secretary of State may authorise the Corporation to purchase compulsorily any land in Great Britain which they require for or in connection with the exercise and performance of their functions under any enactment.
- 2 In paragraph 1 above " land" includes any right over land; and the power of the Secretary of State under that paragraph includes power to authorise the acquisition of rights over land by creating new rights as well as acquiring existing ones.
- 3 (1) This paragraph applies to land which, for the purposes of the Acquisition of Land (Authorisation Procedure) Act 1946 or of the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947, is or forms part of a common, open space or fuel or field garden allotment.  
  
(2) Where for any purpose the Corporation have acquired, or propose to acquire, any land to which this paragraph applies, or any right over any such land, and other land is required for the purpose of being given in exchange for the land or right in question, the Secretary of State may authorise the Corporation to purchase that other land compulsorily, or they may acquire it by agreement.

##### PART II

###### PROCEDURE, COMPENSATION ETC. (ENGLAND AND WALES)

###### *Application of Acquisition of Land (Authorisation Procedure) Act 1946 generally*

- 4 The Acquisition of Land (Authorisation Procedure) Act 1946 (hereafter referred to as " the Act of 1946 ") shall apply to the compulsory purchase by the Corporation of land or rights in England or Wales as if the Corporation were a local authority within the meaning of that Act, and as if this Act had been in force immediately before the commencement of that Act.

###### *New rights: general adaptation of Act of 1946 and Compulsory Purchase Act 1965*

- 5 The Act of 1946 and the Compulsory Purchase Act 1965 (hereafter referred to as " the Act of 1965 ") shall have effect with the modifications necessary to make them apply to the Corporation's compulsory acquisition of a right in England or Wales by the creation of a new right as they apply to the compulsory acquisition of land, so that, in appropriate contexts, references in those Acts to land are to be read as

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referring, or as including references, to the right acquired or to be acquired, or to land over which the right is, or is to be, exercisable, according to the requirements of the particular context.

*New rights: specific adaptations of Act of 1946*

- 6 Without prejudice to the generality of paragraph 5 above, Part III of Schedule 1 to the Act of 1946 (requirement of special parliamentary procedure, and other special provisions, in the case of acquisition of certain descriptions of land) shall apply in relation to the Corporation's compulsory acquisition of a right in England or Wales by the creation of a new right with the modifications specified in paragraphs 7 to 10 below.
- 7 In paragraph 9 of that Schedule (compulsory purchase affecting land of local authorities, statutory undertakers or National Trust) for references to the compulsory purchase of land there shall be substituted references to the compulsory acquisition of rights over land.
- 8 In paragraph 10 of that Schedule (land of statutory undertakers)—
- (a) for the words " land comprised in the order " there shall be substituted the words " land over which a right is to be acquired by virtue of the order ",
  - (b) for the words " purchase of " there shall be substituted the words " acquisition of a right over ",
  - (c) for the words " it can be purchased and not replaced " there shall be substituted the words " the right can be acquired ", and
  - (d) for sub-paragraph (ii) there shall be substituted the following:—
    - “(ii) that any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of other land belonging to, or available for acquisition by, them”.
- 9 (1) In paragraph 11 of that Schedule (common land, open spaces, etc.) the following shall be substituted for sub-paragraph (1):
- “(1) In so far as a compulsory purchase order authorises the acquisition of a right over land forming part of a common, open space or fuel or field garden allotment, it shall be subject to special parliamentary procedure unless the Secretary of State is satisfied—
  - (a) that the land, when burdened with that right, will be no less advantageous to those persons in whom it is vested and other persons, if any, entitled to rights of common or other rights, and to the public, than it was before ; or
  - (b) that there has been or will be given in exchange for the right additional land which will as respects the persons in whom there is vested the land over which the right is to be acquired, the persons, if any, entitled to rights of common or other rights over that land, and the public, be adequate to compensate them for the disadvantages which result from the acquisition of the right, and that the additional land has been or will be vested in the persons in whom there is vested the land over which the right is to be acquired, and subject to the like rights, trusts and incidents as attach to that land apart from the compulsory purchase order ; or

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- (c) that the land affected by the right to be acquired does not exceed 250 square yards in extent, and that the giving of other land in exchange for the right is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,

and certifies accordingly.”.

- (2) In the said paragraph 11, in sub-paragraph (3), the following shall be substituted for the words from " and for discharging " to the end—

“and for discharging the land over which any right is to be acquired from all rights, trusts and incidents to which it has previously been subject so far as their continuance would be inconsistent with the exercise of that right”.

- 10 In paragraph 12 of that Schedule, for the words " the purchase of" there shall be substituted the words " the acquisition of a right over " .

*Restriction on application of paragraphs 5 to 10 above*

- 11 So much of paragraph 5 above as relates to the Act of 1946, and paragraphs 6 to 10 above, shall not apply to any compulsory purchase to which, by virtue of section 12 or 13 of the Gas Act 1965 as amended by paragraph 14(2) of Schedule 6 to this Act, Part I of Schedule 4 to that Act applies.

*New rights: specific adaptations of Act of 1965*

- 12 Without prejudice to the generality of paragraph 5 above, Part I of the Act of 1965 shall apply in relation to the Corporation's compulsory acquisition of a right in England or Wales by the creation of a new right with the modifications specified in paragraphs 13 to 18 below.

- 13 For section 7 of that Act (measure of compensation) there shall be substituted the following:—

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

- 14 For section 8(1) of that Act (protection for vendor against severance of house, garden, etc.) there shall be substituted the following:—

“(1) No person shall be required to grant any right over part only—

(a) of any house, building or manufactory ; or

(b) of a park or garden belonging to a house,

if he is willing to sell the whole of the house, building, manufactory, park or garden, unless the Lands Tribunal determines that—

- (i) in the case of a house, building or manufactory, the part over which the right is proposed to be acquired can be made subject to that right without material detriment to the house, building or manufactory ; or

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- (ii) in the case of a park or garden, the part over which the right is proposed to be acquired can be made subject to that right without seriously affecting the amenity or convenience of the house ;  
and if the Lands Tribunal so determine, the Tribunal shall award compensation in respect of any loss due to the acquisition of the right, in addition to its value; and thereupon the party interested shall be required to grant to the acquiring authority that right over that part of the house, building, manufactory, park or garden.
- (1A) In considering the extent of any material detriment to a house, building or manufactory, or any extent to which the amenity or convenience of a house is affected, the Lands Tribunal shall have regard not only to the right which is to be acquired over the land, but also to any adjoining or adjacent land belonging to the same owner and subject to compulsory purchase.”
- 15 The following provisions of that Act (being provisions stating the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land):—  
section 9(4) (refusal by owners to convey);  
Schedule 1, paragraph 10(3) (owners under incapacity);  
Schedule 2, paragraph 2(3) (absent and untraced owners) ; and  
Schedule 4, paragraphs 2(3) and 7(2) (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 compulsorily acquired is vested absolutely in the acquiring authority.
- 16 Section 11 of that 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 for unauthorised entry) and 13 (entry on sheriff's warrant in the event of obstruction) shall be modified correspondingly.
- 17 Section 20 of that Act (protection for interests of tenants at will, etc.) 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 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.
- 18 Section 22 of that Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue entitled to exercise the right acquired, subject to compliance with that section as respects compensation.
- New rights: compensation*
- 19 The enactments in force in England and Wales with respect to compensation for the compulsory purchase of land shall apply with the necessary modifications as respects compensation in the case of the Corporation's compulsory acquisition of a

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right by the creation of a new right as they apply to compensation on the compulsory purchase of land and interests in land.

### PART III

#### PROCEDURE, COMPENSATION ETC. (SCOTLAND)

##### *Application of Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 generally*

- 20 The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (hereafter referred to as " the Act of 1947 ") shall apply to the compulsory purchase by the Corporation of land or rights in Scotland as if the Corporation were a local authority within the meaning of that Act, and as if this Act had been in force immediately before the commencement of that Act.

##### *New rights: general application of Act of 1947 and incorporated enactments*

- 21 The enactments incorporated with this Act by virtue of Part I of Schedule 2 to the Act of 1947 and that Act shall have effect with the modifications necessary to make them apply to the Corporation's compulsory acquisition of a right in Scotland in the manner described in paragraph 5 of this Schedule.

##### *New rights: specific adaptations of Act of 1947*

- 22 Paragraphs 6, 7, 8, 9(1) (so far as relating to the acquisition of a right over land forming part of a common or open space) and 10 of this Schedule shall apply for the adaptation of the Act of 1947 as they apply for the adaptation of the Act of 1946 with the substitution in paragraph 6 of " Scotland " for England and Wales and in paragraph 7 of " The National Trust for Scotland " for National Trust.
- 23 Paragraph 16 of this Schedule shall have effect in relation to that Act with the substitution of a reference to paragraph 3(1) of the Second Schedule to that Act for the reference to section 11 of the Act of 1965, and with the omission of the words from " and sections " to the end of the paragraph.
- 24 For paragraph 4 of the Second Schedule to that Act (protection for owner against severance of property) there shall be substituted the provisions substituted by paragraph 14 of this Schedule for section 8(1) of the Act of 1965, and any reference in those provisions to the Lands Tribunal shall be construed as a reference to the Lands Tribunal for Scotland.

##### *Restrictions on application of paragraphs 21 and 22 above*

- 25 So much of paragraph 21 above as relates to the Act of 1947, and paragraph 22 above, shall not apply to any compulsory purchase to which, by virtue of section 12 or 13 of the Gas Act 1965 as amended by paragraph 14(2) of Schedule 6 to this Act, Part I of Schedule 4 to that Act applies.

##### *New rights: specific adaptations of Lands Clauses Consolidation (Scotland) Act 1845*

- 26 For section 61 of the Lands Clauses Consolidation (Scotland) Act 1845 (estimation of compensation) there shall be substituted the following:—

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“61 In estimating the purchase money or compensation to be paid by the promoters of the undertaking in the Special Act, in any of the cases aforesaid, regard shall 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 of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the Special Act.”

27 The following provisions of that Act (being provisions stating the effect of a notarial instrument or of a disposition executed in various circumstances where there is no conveyance by persons with interests in the land):—

section 74 (failure by owner to convey);

section 76 (refusal to convey or show title or owner cannot be found);

section 98 (vesting of common land),

shall be so modified as to secure that, as against persons with interests in the land over which the right is to be compulsorily acquired such right is vested absolutely in the promoters of the undertaking.

28 Paragraph 17 of this Schedule shall have effect in relation to that Act with the substitution of a reference to sections 114 and 115 thereof for the reference to section 20 of the Act of 1965.

29 Paragraph 18 of this Schedule shall have effect in relation to that Act with the substitution of a reference to sections 117 and 118 thereof for any reference to section 22 of the Act of 1965.

*New rights: compensation*

30 Paragraph 19 of this Schedule shall have effect in relation to Scotland with the substitution of " Scotland " for England and Wales.

31 This Part of this Schedule shall extend to Scotland only.