

## SCHEDULES.

### FIRST SCHEDULE

Section 1.

#### PROCEDURE FOR AUTHORISING COMPULSORY PURCHASES.

##### PART I

###### *Purchases by local authorities.*

- 1 A compulsory purchase order authorising a compulsory purchase by a local authority (hereafter in this Schedule referred to as the "acquiring authority") in a case falling within subsection (1) of section one of this Act shall be made by the local authority and submitted to and confirmed by the authority having power under the enactment in question to authorise the purchase (hereafter in this Schedule referred to as the "confirming authority") in accordance with the following provisions of this Schedule.
- 2 The compulsory purchase order shall be in the prescribed form and shall describe by reference to a map the land to which it applies.
- 3 (1) Before submitting the order to the confirming authority the acquiring authority shall—
  - (a) in two successive weeks publish in one or more local news papers circulating in the locality in which the land comprised in the order is situated a notice in the prescribed form stating that the order has been made and is about to be submitted for confirmation and the purpose for which the land is required, describing the land, naming a place within the locality where a copy of the order and the map referred to therein may be inspected, and specifying the time (not being less than twenty-one days from the first publication of the notice) within which and the manner in which objections to the order can be made;
  - (b) except in so far as the confirming authority directs that this provision shall not have effect in any particular case, serve on every owner, lessee and occupier (except tenants for a month or any period less than a month) of any land comprised in the order a notice in the prescribed form stating the effect of the order and that it is about to be submitted for confirmation, and specifying the time (not being less than twenty-one days from the service of the notice) within which and the manner in which objections thereto can be made;
  - (c) in the case of any land with respect to which a direction is given under head (b) of this sub-paragraph, affix to some conspicuous object or objects on the land a notice or notices in the prescribed form addressed to "the owners and any occupiers" of the land (describing it) containing the particulars specified in the said head (b):

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Provided that no direction under head (b) of this sub-paragraph shall have effect in relation to an owner, lessee or occupier being a local authority or statutory undertakers or the National Trust.

- (2) Where under this paragraph any notice is required to be served on an owner of land, and the land is ecclesiastical property, a like notice shall be served on the Ecclesiastical Commissioners.
  - (3) In this paragraph the expression " ecclesiastical property" means land belonging to any ecclesiastical benefice, or -being or forming part of a church subject to the jurisdiction of the bishop of any diocese or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction.
- 4
- (1) If no objection is duly made by any such owner, lessee or occupier as aforesaid or if all objections so made are withdrawn, the confirming authority, upon being satisfied that the proper notices have been published and served, may, if the authority thinks fit, confirm the order with or without modifications.
  - (2) If any objection duly made as aforesaid is not withdrawn, the confirming authority shall, before confirming the order, either cause a public local inquiry to be held or afford to any person by whom any objection has been duly made as aforesaid and not withdrawn an opportunity of appearing before and being heard by a person appointed by the confirming authority for the purpose, and, after considering the objection and the report of the person who held the inquiry or the person appointed as aforesaid, may confirm the order either with or without modifications.
  - (3) If any person by whom an objection has been made avails himself of the opportunity of being heard, the confirming authority shall afford to the acquiring authority, and to any other persons to whom it appears to the confirming authority expedient to afford it, an opportunity of being heard on the same occasion.
  - (4) Notwithstanding anything in the two last foregoing sub-paragraphs, the confirming authority may require any person who has made an objection to state in writing the grounds thereof, and may disregard the objection for the purposes of this paragraph if the confirming authority is satisfied that the objection relates exclusively to matters which can be dealt with by the tribunal by whom the compensation is to be assessed.
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- The order as confirmed by the confirming authority shall not, unless all persons interested consent, authorise the acquiring authority to purchase compulsorily any land which the order would not have authorised that authority so to purchase if it had been confirmed without modification.
- 6
- As soon as may be after the order has been confirmed the acquiring authority shall publish in one or more local newspapers circulating in the locality in which the land comprised in the order is situated a notice in the prescribed form describing the land, stating that the order has been confirmed and naming a place where a copy of the order as confirmed and of the map referred to therein may be inspected at all reasonable hours, and shall serve a like notice and a copy of the order as confirmed on any persons on whom notices with respect to the land comprised in the order were required to be served under paragraph 3 of this Schedule.

## PART II

### *Purchases by Ministers.*

- 7 (1) A compulsory purchase order authorising a compulsory purchase by a Minister in a case falling within subsection (1) of section one of this Act shall be prepared in draft and made by the Minister in accordance with the following provisions of this Schedule.
- (2) The order shall describe by reference to a map the land to which it applies.
- (3) Subject as aforesaid, the form of the order shall be such as the Minister may determine.
- (4) Paragraphs 3 to 6 of this Schedule shall have effect in relation to the order with the substitution, for references to the confirming authority and to the acquiring authority, of references to the Minister, and, for references to an order submitted and to the confirmation of an order of references to an order as prepared in draft and to the making of an order, and with the omission in sub-paragraph (3) of paragraph 4 of the reference to the acquiring authority, so however that the publication and service or affixing of notices required by paragraph 3 shall be effected as soon as may be after the draft of the order has been prepared, and the provisions of that paragraph as to the notice thereby required shall apply subject to such modifications of the form of the notice as appear to the Minister to be requisite.

## PART III

### *Special provisions as to certain descriptions of land.*

- 8 The following provisions of this Part of this Schedule shall have effect in the case of land of the descriptions specified in subsection (2) of section one of this Act.
- 9 A compulsory purchase order shall, in so far as it authorises the compulsory purchase of land which is the property of a local authority, or has been acquired by statutory undertakers, not being a local authority, for the purposes of their undertaking, or of land belonging to the National Trust which is held by the Trust inalienably, be subject to special parliamentary procedure in any case where an objection to the order has been duly made by the local authority or statutory undertakers or the National Trust, as the case may be, and has not been withdrawn.
- 10 Where a compulsory purchase order has been submitted or prepared and the land comprised in the order includes land which has been acquired by statutory undertakers for the purposes of their undertaking, then if on a representation made to the appropriate Minister before the expiration of the time within which objections to the order can be made the appropriate Minister is satisfied—
- (a) that any of the said land is used for the purposes of the carrying on of their undertaking, or
  - (b) that an interest in any of the said land is held for those purposes,
- the compulsory purchase order shall not be confirmed or made so as to authorise the compulsory purchase of any land as to which the appropriate Minister is satisfied as aforesaid except land as to which he is satisfied that its nature and situation are such—

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- (i) that it can be purchased and not replaced without serious detriment to the carrying on of the undertaking, or
  - (ii) that if purchased it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on thereof,
- and certifies accordingly.
- 11 (1) In so far as a compulsory purchase order authorises the purchase of any land forming part of a common, open space or fuel or field garden allotment, the order shall be subject to special parliamentary procedure unless the Minister of Agriculture and Fisheries (in the case of a common or of a fuel or field garden allotment) or the Minister of Town and Country Planning (in the case of an open space not being a common or such an allotment) is satisfied—
- (a) that there has been or will be given in exchange for such land other land, not being less in area and being equally advantageous to the persons, if any, entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the persons in whom the land purchased was vested, and subject to the like rights, trusts and incidents as attach to the land purchased, or
  - (b) that the land is required for the widening of an existing highway and that the giving in exchange of other land 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) Where it is proposed to give a certificate under this paragraph, the Minister having jurisdiction to give the certificate shall give public notice of his intention so to do, and—
- (a) after affording opportunity to all persons interested to make representations and objections in relation thereto, and
  - (b) after causing a public local inquiry to be held in any case where it appears to him to be expedient so to do, having regard to any representations or objections made,
- the said Minister may, after considering any representations and objections made and, if an inquiry has been held, the report of the person who held the inquiry, give the certificate.
- (3) A compulsory purchase order may provide for vesting land given in exchange as mentioned in sub-paragraph (1) of this paragraph in the persons, and subject to the rights, trusts and incidents, therein mentioned, and for discharging the land purchased from all rights, trusts and incidents to which it was previously subject,
- 12 A compulsory purchase order, in so far as it authorises the purchase of land being, or being the site of, an ancient monument or other object of archaeological interest, shall be subject to special parliamentary procedure unless the Minister of Works certifies that the acquiring authority has entered into an undertaking with the Minister to observe such conditions as to the use of the land as in his opinion are requisite having regard to the nature thereof.
- 13 As soon as may be after the giving of a certificate under this Part of this Schedule, the local authority or Minister by whom the compulsory purchase order was submitted or prepared shall publish in one or more local newspapers circulating

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in the locality in which the land comprised in the order is situated a notice in the prescribed form stating that the certificate has been given.

- 14 In the case of land falling within two or more of the preceding paragraphs of this Part of this Schedule a compulsory purchase order shall be subject to special parliamentary procedure if required to be subject thereto by any of the said paragraphs.

#### PART IV

*Validity and date of operation of compulsory purchase orders and certificates.*

- 15 (1) If any person aggrieved by a compulsory purchase order desires to question the validity thereof, or of any provision contained therein, on the ground that the authorisation of a compulsory purchase thereby granted is not empowered to be granted under this Act or any such enactment as is mentioned in subsection (1) of section one of this Act, or if any person aggrieved by a compulsory purchase order or a certificate under Part III of this Schedule desires to question the validity thereof on the ground that any requirement of this Act or of any regulation made thereunder has not been complied with in relation to the order or certificate, he may, within six weeks from the date on which notice of the confirmation or making of the order or of the giving of the certificate is first published in accordance with the provisions of this Schedule in that behalf, make an application to the High Court, and on any such application the Court—
- (a) may by interim order suspend the operation of the compulsory purchase order or any provision contained therein, or of the certificate, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings;
  - (b) if satisfied that the authorisation granted by the compulsory purchase order is not empowered to be granted as aforesaid, or that the interests of the applicant have been substantially prejudiced by any requirement of this Schedule or of any regulation made thereunder not having been complied with, may quash the compulsory purchase order or any provision contained therein, or the certificate, either generally or in so far as it affects any property of the applicant.
- (2) Except by leave of the Court of Appeal, no appeal shall lie to the House of Lords from a decision of the Court of Appeal under the last foregoing sub-paragraph
- 16 Subject to the provisions of the last foregoing paragraph, a compulsory purchase order or a certificate under Part III of this Schedule shall not, either before or after it has been confirmed, made or given, be questioned in any legal proceedings whatsoever, and shall become operative on the date on which notice is first published as mentioned in the last foregoing paragraph.
- 17 This Part of this Schedule shall not apply to an order which is confirmed by Act of Parliament under section six of the Statutory Orders (Special Procedure) Act, 1945, but except as aforesaid shall have effect in relation to a compulsory purchase order to which that Act applies as if in sub-paragraph (1) of paragraph 15 for the reference to the date on which notice of the confirmation or making of the order is first published in accordance with the provisions of this Schedule in that behalf there were substituted a reference, to the date on which the order becomes operative

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under the Statutory Orders (Special Procedure) Act, 1945, and as if in paragraph 16 the words from " and shall become operative " to the end were omitted.

## PART V

### *General.*

- 18        Anything required or authorised by this Schedule to be prescribed shall be prescribed by regulations made by the Minister of Health.
- 19        (1) Any notice or other document required or authorised to be served under this Schedule may be served on any person either by delivering it to him, or by leaving it at his proper address, or by post, so however that the document shall not be duly served by post unless it is sent by registered letter.
- (2) Any such document required or authorised to be served upon an incorporated company or body shall be duly served if it is served upon the secretary or clerk of the company or body.
- (3) For the purposes of this paragraph and of section twenty-six of the Interpretation Act, 1889, the proper address of any person upon whom any such document as aforesaid is to be served shall, in the case of the secretary or clerk of any incorporated company or body, be that of the registered or principal office of the company or body, and in any other case be the last known address of the person to be served :
- Provided that where the person to be served has furnished an address for service, his proper address for the purposes aforesaid shall be the address furnished.
- (4) If the Minister having jurisdiction to confirm or make the order in connection with which the document is to be served is satisfied that reasonable inquiry has been made and that it is not practicable to ascertain the name or address of an owner, lessee or occupier of land on whom any such document as aforesaid is to be served, the document may be served by addressing it to him by the description of " owner ", " lessee " or " occupier " of the land (describing it) to which it relates, and by delivering it to some person on the premises or, if there is no person on the premises to whom it may be delivered, by affixing it or a copy of it to some conspicuous part of the premises.