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SCHEDULES

SECOND SCHEDULE

PAYMENTS IN RESPECT OF UNFIT HOUSES

PART II

PAYMENTS TO OWNER-OCCUPIERS AND OTHERS IN RESPECT OF UNFIT HOUSES PURCHASED OR DEMOLISHED

Private dwellings

- 4 (1) This paragraph shall have effect where at any time before the thirteenth day of December, nineteen hundred and sixty-five, a house has been purchased at site value in pursuance of a compulsory purchase order made by virtue of Part II or Part III of this Act or has been vacated in pursuance of—
- (a) a demolition order under Part II of this Act, or
 - (b) a closing order under the proviso to subsection (1) of section seventeen of this Act, or
 - (c) a clearance order.
- (2) If on the thirteenth day of December, nineteen hundred and fifty-five, the house was wholly or partly occupied as a private dwelling by (or by a member of the family of) a person who acquired an interest in that house by purchase for value on or after the first day of September, nineteen hundred and thirty-nine, and before—
- (a) the said thirteenth day of December, nineteen hundred and fifty-five, or
 - (b) the date when the relevant proceedings leading to the purchase or vacation of the house were begun,
- whichever was the earlier, and at the date when the house was purchased compulsorily or, as the case may be, vacated that person or a member of his family was entitled to an interest in the house, the local authority by whom the order in question was made shall make in respect of that interest a payment of the amount hereinafter specified.
- (3) Where a person ceased to occupy a house or part of a house not more than one year before the said thirteenth day of December, nineteen hundred and fifty-five, by reason only of a posting in the course of his duties as a member of the armed forces of the Crown or of a change in the place of his employment or occupation, the last foregoing sub-paragraph shall have effect as if that person had occupied that house or part on that day in like manner as immediately before he ceased to occupy it.
- (4) The amount of any payment made under this paragraph in respect of an interest shall be an amount equal to its full compulsory purchase value less the compensation which was or would have been payable in respect of the interest in connection with the compulsory purchase of the house at site value :

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Provided that any amount which would otherwise be payable under this sub-paragraph shall be reduced by so much, if any, of that amount as may reasonably be attributed to any part of the house occupied for any purposes other than those of a private dwelling at the date of the making of the compulsory purchase order, demolition or closing order or clearance order.

- (5) Any question arising under the proviso to the last foregoing sub-paragraph as to the purposes for which any part of a house was occupied shall be determined by the Minister, and subject thereto the amount of any payment in respect of an interest under this paragraph shall be determined (in default of agreement), and any such payment shall be dealt with, as if it were compensation payable in respect of a compulsory purchase of the interest under Part III of this Act:

Provided that, in relation to an interest which, at the date when the house was purchased compulsorily or, as the case may be, vacated, was held by virtue of an agreement to purchase by instalments, this sub-paragraph shall have effect as if the words " and any such payment shall be dealt with " were omitted therefrom, and the payment shall be made to the person entitled to the interest at the said date.

- (6) For the purposes of this paragraph the relevant proceedings leading to the purchase or vacation of the house shall be deemed to have been begun—
- (a) in the case of a house comprised in an area declared as a clearance area, on the date when the area was so declared,
 - (b) in the case of a house authorised by an order confirmed by the Minister under subsection (3) of section fifty-seven of this Act to be purchased compulsorily as being unfit for human habitation and not capable at reasonable expense of being rendered so fit, on the date when the order was made,
 - (c) in the case of a house purchased compulsorily under section twelve of this Act after the court, in allowing an appeal against a notice requiring the execution of works to that house, has found that the house cannot be rendered fit for human habitation at a reasonable expense, on the date when that notice was served,
 - (d) in the case of a house purchased compulsorily under section twenty-nine of this Act, on the date when notice of the determination do purchase was served in pursuance of section nineteen of this Act,
 - (e) in the case of a house vacated in pursuance of a demolition order or closing order, the date when the order was made.
- (7) In this paragraph " family ", in relation to any person, means the husband or wife, the children over eighteen years of age and the parents of that person.

- 5 (1) Where a payment falls to be made under the last foregoing paragraph in respect of any person's interest in a house and at the date when the house was purchased compulsorily or, as the case may be, vacated, that interest was the subject of a mortgage or other charge or an agreement to purchase by instalments, either party to the mortgage, charge or agreement may apply to the county court who, after giving to the other party to the mortgage, charge or agreement an opportunity of being heard, may, if the court thinks fit, make an order—
- (a) in the case of a house which has been purchased compulsorily, discharging or modifying any outstanding liabilities of the person aforesaid by virtue of any bond, covenant or other obligation with respect to the debt secured by the mortgage or charge or by virtue of the agreement, or

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(b) in the case of a house vacated in pursuance of a demolition order, closing order or clearance order, discharging or modifying the terms of the mortgage, charge or agreement,

and in either case either unconditionally or subject to such terms and conditions, including conditions with respect to the payment of money, as the court may think just and equitable to impose.

(2) In determining in any case what order, if any, to make under this paragraph, the court shall have regard to all the circumstances of the case, and in particular in the case of a mortgage or charge—

(a) to whether the mortgagee or person entitled to the benefit of the charge acted reasonably in advancing the principal sum on the terms of the mortgage or charge, and

(b) to the extent to which the house may have become unfit for human habitation owing to any default on the part of the mortgagor or person entitled to the interest charged in carrying out any obligation under the terms of the mortgage or charge with respect to the repair of the house,

or, in the case of an agreement to purchase by instalments, to how far the amount already paid by way of principal, or, where the house has been purchased compulsorily, the aggregate of that amount and so much, if any, of the compensation in respect of the compulsory purchase as falls to be paid to the vendor, represents an adequate price for the purchase; and for the purposes of paragraph (a) of this sub-paragraph the mortgagee or person entitled to the benefit of the charge shall be deemed to have acted unreasonably if, at the time when the mortgage or charge was made, he knew or ought to have known that in all the circumstances of the case the terms of the mortgage or charge did not afford sufficient security for the principal sum advanced.