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SCHEDULES . .

THIRD SCHEDULE

Section 25.

PART I

PROVISIONS AS TO THE COMPULSORY ACQUISITION OF LAND.

- 1 A compulsory purchase order shall be in the prescribed form and shall describe by reference to a map the land to which it applies, and shall incorporate, subject to the modifications hereinafter mentioned and any necessary adaptations—
 - (a) the Lands Clauses Acts (except sections ninety-two and one hundred and twenty-seven to one hundred and thirty-two of the Lands Clauses Consolidation Act, 1845);
 - (b) the Acquisition of Land (Assessment of Compensation) Act, 1919; and
 - (c) sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845.
- 2 A compulsory purchase order in respect of land forming the site of a highway which has been stopped up under a provision contained in a scheme shall not be submitted to the Minister after the expiration of twelve months from the date on which the highway was stopped up.
- 3 The modifications, subject to which the Lands Clauses Acts and the Acquisition of Land (Assessment of Compensation) Act, 1919, shall be incorporated in the order are as follows :—
 - (i) The arbitrator shall not take into account any building erected or any improvement or alteration made or any interest in land created after the date on which notice of the order having been made is published in accordance with the provisions of this Schedule if, in the opinion of the arbitrator, the erection of the building or the making of the improvement or alteration or the creation of the interest in respect of which a claim is made was not reasonably necessary and was carried out with a view to obtaining compensation or increased compensation;
 - (ii) No person shall be required to sell a part only of any house, building or manufactory, or of any land which forms part of a park or garden belonging to a house, if he is willing and able to sell the whole of the house, building, manufactory, park or garden unless the arbitrator determines that in the case of a house, building or manufactory such part as is proposed to be taken can be taken without material detriment to the house, building or manufactory, or, in the case of a park or garden, that such part as aforesaid can be taken without seriously affecting the amenity or convenience of the house, and, if he so determines, he shall award compensation in respect of any loss due to the severance of the part so proposed to be taken, in addition to the value of that part, and thereupon the party interested shall be required to sell to the responsible authority that part of the house, building, manufactory, park or garden;

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- (iii) Where the land to which the order relates is land forming the site of a highway which has been stopped up under a provision contained in a scheme, any compensation payable shall be assessed on the basis that the land could not lawfully be used in any manner which, if the highway had not been stopped up, would have interfered with the right of the public to use that highway; and
- (iv) Where any land to which an order relates is glebe land or other land belonging to an ecclesiastical benefice, the order shall provide that sums agreed upon or awarded for the purchase of the land, or to be paid by way of compensation for damage to be sustained by reason of severance or injury affecting the land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners, to be applied by them as money paid to them upon a sale, under the provisions of the Ecclesiastical Leasing Acts, of land belonging to a benefice.
- 4 Before submitting the order to the Minister the responsible authority shall—
- (a) publish in a local newspaper a notice in the prescribed form stating the fact of such an order having been made and describing the area comprised therein and naming a place where a copy of the order and of the map referred to therein may be seen at all reasonable hours; and
- (b) serve on every owner, lessee and occupier (except tenants for a month or a less period than a month) of any land to which the order relates, a notice in the prescribed form stating the effect of the order and that it is about to be submitted to the Minister for confirmation, and specifying the time within and the manner in which objections thereto may be made.
- 5 If no objection is duly made by any of the persons upon whom notices are required to be served, or if all objections so made are withdrawn, the Minister may, if he thinks fit, confirm the order with or without modification, but in any other case he shall, before confirming the order, cause a local inquiry to be held, and shall consider any objection not withdrawn and the report of the person who held the inquiry, and may then confirm the order either with or without modification :
- Provided that—
- (i) the Minister may require any person who has made an objection to state in writing the grounds thereof, and may confirm the order without causing a local inquiry to be held if he is satisfied that every objection duly made relates exclusively to matters which can be dealt with by the arbitrator by whom the compensation is to be assessed;
- (ii) the order as confirmed by the Minister shall not, unless all persons interested consent, authorise the responsible authority to purchase compulsorily any land which the order would not have authorised them so to purchase if it had been confirmed without modification.
- 6 For the purposes of this Schedule a notice may be served—
- (i) by registered post or by delivery to or at the residence of the person to whom it is addressed; or
- (ii) if the responsible authority are unable after reasonable enquiry to ascertain the name and address of the person upon whom' it should be served, by addressing it to him—
- (a) by name, if his name is known; or
- (b) if his name is not known, by the description of " owner" or " occupier " of the premises (naming them) to which it relates,

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and by delivering it to some person on the premises, or, if there is no person on the premises to whom it can be delivered, by affixing it or a copy thereof to some conspicuous part of the premises.

PART II

RESTRICTIONS ON ACQUISITION OF LAND.

- 1 The Minister shall not confirm an order for the compulsory purchase of any land which is the site of an ancient monument or other object of archaeological interest, unless he is satisfied that the monument or object is not being properly protected, preserved and maintained and that its acquisition by the responsible authority is necessary for securing its protection or preservation and maintenance.
- 2 The Minister shall not confirm an order for the compulsory purchase of any land which belongs to any local authority within the meaning of the Local Loans Act, 1875, or to any statutory undertakers unless the land is required for the widening of an existing highway and the authority or undertakers consent :

Provided that such consent shall not be unreasonably withheld, and any question whether or not consent is unreasonably withheld shall be decided by the Minister, but the Minister, before giving his decision as to whether or not the consent of any undertakers is unreasonably withheld, shall, where any Government department other than the Ministry of Health are concerned with the functions of the undertakers, consult with the Secretary of State or other Minister in charge of that department, and shall, if the undertakers so desire, afford them an opportunity of appearing before and being heard by one or more persons appointed for the purpose by the Minister and the Secretary of State or other Minister acting jointly.
- 3 The Minister shall not confirm an order for the compulsory purchase of any land forming the site of a highway which has been stopped up under a provision contained in a scheme if any person who, under section one hundred and twenty-eight of the Lands Clauses Consolidation Act, 1845, is, or would upon a disposition thereof be, entitled to a right of pre-emption in respect of the land, has given notice of his desire to purchase the land, or if a right of pre-emption under the said section has been exercised in respect of the land.
- 4 (i) Where a scheme or an order made in connection with a scheme authorises the acquisition or appropriation of any land forming part of any common, open space, or allotment, the scheme or order, so far as it relates to the acquisition or appropriation of such land, shall be provisional only, and shall not have effect unless and until it is confirmed by Parliament, except—
 - (a) where the scheme provides for giving in exchange for such land other land, not being less in area, certified by the Minister, after consultation with the Minister of Agriculture and Fisheries, to be equally advantageous to the persons, if any, entitled to rights of common or other rights and to the public; or
 - (b) where such land is required for the widening of an existing highway and the Minister, after consultation with the Minister of Agriculture and Fisheries, declares that the giving in exchange of other land is unnecessary either in the interests of the persons, if any, entitled to rights of common or other rights, or of the public.

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- (ii) Before giving any such certificate, or making any such declaration, the Minister shall give public notice of the proposed exchange, or of his intention to make the declaration, and shall afford opportunity to all persons interested to make representations and objections in relation thereto, and shall, if necessary, cause a local inquiry to be held on the subject.
- (iii) Where any scheme authorises such an exchange as aforesaid, it shall provide for vesting the land given in exchange in the persons in whom the common, open space or allotment was vested, subject to the same rights, trusts, and incidents as attached to the common, open space or allotment, and for discharging the part of the common, open space or allotment acquired or appropriated from all rights, trusts, and incidents to which it was previously subject.
- (iv) For the purposes of this Part of this Schedule the expression " common " includes any land subject to be enclosed under the Inclosure Acts, 1845 to 1882, and any town or village green; the expression " open space" means any land laid out as a public garden, or used for the purposes of public recreation, and any disused burial ground; and the expression " allotment " means any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act; and for the purposes of paragraph 2 of this Part of this Schedule the expression " highway " shall not include a bridge by which a highway is carried over or under any railway, canal or navigable waterway, or the approaches to any such bridge, or the road carried by any such bridge and approaches.