

Status: Point in time view as at 06/11/2012.

Changes to legislation: There are currently no known outstanding effects for the Compulsory Purchase Act 1965, SCHEDULE 1. (See end of Document for details)

SCHEDULES

SCHEDULE 1 **E+W**

Sections 2 and 3.

PERSONS WITHOUT POWER TO SELL THEIR INTERESTS

Modifications etc. (not altering text)

C1 Sch. 1 applied (with modifications) (3.6.1999) by S.I. 1999/1555, art. 5(4), Sch. 1 paras. 3-9

Preliminary

- 1 (1) The provisions of this Schedule have effect subject to section 42(7) of the ^{M1}Law of Property Act 1925 (which provides that if on a compulsory purchase title could have been made without payment into court, title shall be made in that way unless the purchaser otherwise elects).
- (2) The provisions of this Schedule—
- (a) have effect as if references to disabilities did not include references to disabilities of infants, married women or lunatics or defectives, and
 - [^{F1}(b) do not have effect in relation to a person who lacks capacity (within the meaning of the Mental Capacity Act 2005) for the purposes of this Act if—
 - (i) there is a donee of an enduring power of attorney or lasting power of attorney (within the meaning of the 2005 Act), or a deputy appointed for the person by the Court of Protection, and
 - (ii) the donee or deputy has power in relation to the person for the purposes of this Act.]

Textual Amendments

F1 Sch. 1 para. 1(2)(b) substituted (1.10.2007) by Mental Capacity Act 2005 (c. 9), s. 68(1), Sch. 6 para. 12 (with ss. 27-29, 62); S.I. 2007/1897, art. 2(1)(d)

Marginal Citations

M1 1925 c. 20.

Power to sell and convey to the acquiring authority

- 2 (1) It shall be lawful for all persons who are seised or possessed of or entitled to any of the land subject to compulsory purchase, or any estate or interest in any of that land, to sell and convey or release it to the acquiring authority, and to enter into all necessary agreements for the purpose.
- (2) Subject to paragraph 1 of this Schedule, the foregoing subparagraph applies in particular—
- (a) to corporations,

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- (b) to tenants in tail or for life,
 - (c) to trustees for charitable or other purposes, and
 - (d) to persons for the time being entitled to the receipt of the rents and profits of any of the land (whether in possession or subject to any lease for years or any less interest).
- (3) Subject to paragraph 1 of this Schedule, the powers conferred by this paragraph on any person, other than a lessee for a term of years, or for any less interest, may be exercised not only on behalf of himself and his successors, but also for and on behalf of every person entitled in reversion, remainder or expectancy after him, or in defeasance of his estate.
- (4) Trustees for a cestui que trust under any disability may exercise the powers conferred by this paragraph on behalf of that cestui que trust to the same extent that the cestui que trust could have exercised those powers if he had not been under any disability.

Additional powers of entering into transactions with acquiring authority

- 3 The following powers, that is—
- (a) any power conferred on a lord of the manor by Schedule 4 to this Act, and
 - (b) any power of releasing land from any rent, charge or incumbrance, or of agreeing to the apportionment of any rent, charge or incumbrance under sections 14 to 20 of this Act.
- may lawfully be exercised by any person enabled under the last foregoing paragraph to sell and convey or release land to the acquiring authority.

Valuation on purchase by agreement

- 4 (1) Subject to this paragraph, the compensation to be paid for any land to be purchased from a person under any disability or incapacity who has no power to sell or convey the land except under this Schedule, or for any permanent damage or injury to any such land, shall be determined by the valuation of two surveyors, one of whom shall be nominated by the acquiring authority, and the other by the other party.
- (2) If the two surveyors cannot agree on a valuation, two justices of the peace may, on the application of either party, and after notice to the other party, nominate a third surveyor to make the valuation instead of the two other surveyors.
- (3) Each of the two surveyors or, as the case may be, the third surveyor shall annex to any valuation made by him a declaration in writing signed by him of the correctness of the valuation.
- (4) No valuation need be made under this paragraph if the compensation has been determined [^{F2}by the Upper Tribunal] in pursuance of the provisions of this Act or under paragraph 1 of Schedule 2 to this Act.
- (5) In this paragraph “surveyor” means an able practical surveyor.

Textual Amendments

- F2** Words in [Sch. 1 para. 4\(4\)](#) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 71](#) (with [Sch. 5](#))

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Sale in consideration of rentcharge

- 5
- (1) On a sale under section 24(1)(b) of this Act the amount of the rentcharge shall be settled in accordance with the last foregoing paragraph, but subject to the following provisions of this paragraph.
 - (2) The amount of the rentcharge shall not be less than five-fourths of the average net annual rent received by the persons beneficially interested in the land in question in the last seven years.
 - (3) A charge of five per cent. on the gross amount of any compensation estimated or fixed under this Act by way of compensation for any damage that may be done to the land shall be added to and form part of the rentcharge.
 - (4) No fine or premium, or consideration in the nature of a fine or premium, shall be paid or taken in respect of the land sold or damaged, other than the rentcharge.
 - (5) The rentcharge shall remain on the same trusts and for the same purposes as those on and for which the rents and profits of the land stood settled or assured at or immediately before the conveyance of the land.

Application of compensation payable in respect of interest of person under disability

- 6
- (1) This paragraph applies to the compensation in respect of any land or interest in land purchased by the acquiring authority from a person who has no power to sell or convey it except under this Schedule, and compensation in respect of any permanent damage to any such land.
 - (2) Subject to this Schedule the compensation shall be paid into court and shall remain until applied to one or more of the following purposes on an order of the High Court, that is—
 - (a) in the discharge of any debt or incumbrance affecting the land, or affecting other land settled therewith on the same or the like trusts or purposes, or
 - (b) in the purchase of other land to be conveyed, limited and settled upon like trusts and purposes, and in the same manner, as the land stood settled in respect of which the compensation was paid, or
 - (c) if the compensation was paid in respect of any buildings taken or injured by the proximity of the works, in removing or replacing the buildings, or substituting other buildings, in such manner as the High Court may direct, or
 - (d) in payment to any party becoming absolutely entitled to the compensation.
 - (3) If, before compensation is applied under sub-paragraph (2) of this paragraph, it is dealt with under section 6 of the ^{M2}Administration of Justice Act 1965, the annual proceeds thereof shall be paid to the person who would for the time being have been entitled to the rents and profits of the land in respect of which the compensation was paid.
 - (4) An order of the High Court under this paragraph may be made on the application of the person who would have been entitled to the rents and profits of the land in respect of which the compensation is paid.
 - (5)

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Textual Amendments

F3 Sch. 1 para. 6(5) repealed by Statute Law (Repeals) Act 1974 (c. 22), s. 1, **Sch. Pt. III**

Modifications etc. (not altering text)

C2 Para. 6 modified by Agriculture (Miscellaneous Provisions) Act 1968 (c. 34), s. 13(3), Sch. 3 paras. 4, 5

Marginal Citations

M2 1965 c. 2.

Alternative method of disposing of compensation between £200 and £20

- 7 (1) If the amount of the compensation exceeds twenty pounds but does not exceed two hundred pounds, it may, with the approval of the acquiring authority, instead of being paid into court under the last foregoing paragraph, be paid to two trustees approved by the acquiring authority and nominated by the person entitled to the rents or profits of the land in respect of which the compensation is paid by a nomination in writing signed by him.
- (2) The compensation paid to the trustees, and the income arising from it, shall be applied by the trustees in accordance with the last foregoing paragraph, except that it shall not be necessary to obtain any order of the High Court for that purpose, and the compensation until so applied may be invested in government or real securities.

Modifications etc. (not altering text)

C3 Para. 7 modified by Agriculture (Miscellaneous Provisions) Act 1968 (c. 34), s. 13(3), Sch. 3 paras. 4, 5

Compensation not exceeding £20

- 8 If the compensation does not exceed twenty pounds, it shall be paid to the person entitled to the rents and profits of the land in respect of which it is payable, for his own use and benefit.

Modifications etc. (not altering text)

C4 Para. 8 modified by Agriculture (Miscellaneous Provisions) Act 1968 (c. 34), s. 13(3), Sch. 3 paras. 4, 5

Sums payable under contract with persons not absolutely entitled

- 9 (1) All sums of money exceeding twenty pounds payable by the acquiring authority in respect of the taking, using or interfering with any land under a contract or agreement with any person who is not entitled to dispose of the land absolutely for his own benefit shall be paid into court or to trustees in accordance with paragraphs 6 and 7 of this Schedule, and it shall not be lawful for any such person to retain to his own use—
- (a) any part of any sums agreed or contracted to be paid for or in respect to the taking, using or interfering with any of the land, or
 - (b) any part of the sums agreed or contracted to be paid in lieu of bridges, tunnels or other accommodation works.

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- (2) All such money shall be deemed to have been contracted to be paid for and on account of the several parties interested in the land, whether in possession or in remainder, reversion or expectancy.
- (3) Notwithstanding the last foregoing sub-paragraph, the High Court or, as the case may be, the trustees under paragraph 7 of this Schedule may if they think fit allot to any tenant for life, or to a tenant for any other partial or qualified estate, for his own use, a part of the sums of money paid into court or to trustees under this Schedule as compensation for any injury, inconvenience or annoyance which he may have sustained independently of the actual value of the land, and of the damage occasioned to the land held therewith, by reason of the taking of the land and the execution of the works.

Conveyance of the land or interest

- 10 (1) When the compensation agreed or awarded in respect of the land has been paid into court under the foregoing provisions of this Schedule, the owner of the land (including all parties who are by this Schedule enabled to sell or convey the land) shall, when required to do so by the acquiring authority, duly convey the land or interest to the acquiring authority, or as they direct.
- (2) If there is a failure to comply with the foregoing sub-paragraph, or a failure to adduce a good title to the land to the satisfaction of the acquiring authority, it shall be lawful for the acquiring authority to execute a deed poll containing a description of the land, and reciting its acquisition by the acquiring authority, the names of the parties from whom it was purchased, the amount of compensation paid into court and the default.
- (3) On execution of the deed poll all the estate and interest in the land belonging to, or capable of being sold and conveyed by, any person as between whom and the acquiring authority the compensation was agreed or awarded and paid into court shall vest absolutely in the acquiring authority, and as against all such persons and all parties on behalf of whom they are enabled by this Schedule to sell and convey, the acquiring authority shall be entitled to immediate possession of the land.

Modifications etc. (not altering text)

- C5** Para. 10 modified by [Agriculture \(Miscellaneous Provisions\) Act 1968 \(c. 34\), s. 13\(3\), Sch. 3 paras. 4, 5](#)
- C6** [Sch. 1 para. 10\(3\)](#) modified (31.3.1994) by [1994 c. iv, s. 17, Sch. 2 para. 3](#)
- C7** [Sch. 1 para. 10\(3\)](#) applied (with modifications) (22.10.1991) by [Greater Manchester \(Light Rapid Transit System\) Act 1991 \(c. xvi\), s. 13, Sch. para.3.](#)
- [Sch. 1 para. 10\(3\)](#) applied (with modifications) (7.3.1995) by [S.I. 1995/519, art. 23\(3\), Sch. 4 para. 6\(b\)](#)

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