

SCHEDULES

SCHEDULE 6

PROVISIONS AS TO EXISTING OPERATORS AND SERVICES ON MAKING OF ORDER UNDER S. 19(1)

Conditional right to revoke consent

- 10 (1) Notwithstanding anything in the foregoing provisions of this Schedule, but subject to sub-paragraph (2) of this paragraph, the Executive may at any time by notice in writing to the existing operator concerned revoke as from a date specified in the notice, not being less than nine months after the date of the notice, any consent granted by the Executive under this Schedule; and any such notice shall specify a date, not being less than six months after the date of the Executive's notice, by which any notice by the operator under sub-paragraph (2) of this paragraph must be served on the Executive.
- (2) Where a notice under sub-paragraph (1) of this paragraph is served on any operator, the operator may at any time not later than the date specified for the purpose in the Executive's notice serve on the Executive a notice in writing either—
- (a) requiring the Executive to pay to the operator compensation computed in accordance with paragraph 11 of this Schedule in respect of—
 - (i) any diminution in the value of the assets of the operator's relevant business ; and
 - (ii) any expenditure, other than payment of income tax (including surtax), capital gains tax or corporation tax, incurred in winding up his relevant business or any part thereof,which the operator shows to be attributable to the revocation ; or
 - (b) requiring the Executive to purchase the operator's relevant business at a price computed in accordance with paragraph 12 of this Schedule ;
- and, subject to any modification agreed between the operator and the Executive, the Executive shall comply with any such requirement duly made.
- (3) In this paragraph and the said paragraphs 11 and 12—
- " assets " means assets of any description and, subject to the provisions of the said paragraph 12, includes goodwill;
 - " relevant business " in relation to an operator means so much of a business or undertaking of the operator as relates to the provision of road passenger transport services.
- 11 (1) The amount of compensation payable in pursuance of a requirement under paragraph 10(2)(a) of this Schedule in respect of the diminution in value of the assets of the operator's relevant business shall be an amount equal to the difference between their market value immediately before the revocation in question and their market value immediately after that revocation.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (2) No compensation shall be paid in pursuance of such a requirement as aforesaid in respect of any expenditure incurred in winding up the whole or part of the operator's relevant business in so far as that expenditure is taken into account in computing the amount of compensation payable to him under sub-paragraph (1) of this paragraph.
- (3) In this paragraph " market value ", in relation to any assets, means the amount which they would have fetched if sold in the open market by a willing seller to a willing buyer.
- 12 The price payable for an operator's relevant business in pursuance of a requirement under paragraph 10(2)(b) of this Schedule shall be the sum (not being less than the amount, if any, by which the value of the assets comprised therein, other than goodwill, exceeds the aggregate of the liabilities of that business) which the relevant business might have been expected to realise if—
- (a) the consent in question had not been revoked ; and
 - (b) the relevant business had been sold as a going concern on the date when the revocation took effect in the open market by a willing seller to a willing buyer.
- 13 (1) The amount of any compensation in pursuance of a requirement under sub-paragraph (a), or the price of any purchase in pursuance of a requirement under sub-paragraph (b), of paragraph 10(2) of this Schedule, if not agreed between the Executive and the operator within six months of the service by the operator of his notice under the said paragraph 10(2), shall be determined by an arbitrator (or in Scotland an arbiter) appointed on the application of either party by the Minister.
- (2) Where any such amount or price falls to be determined in Scotland by an arbiter—
- (a) the arbiter shall have the like powers for securing the attendance of witnesses and the production of documents, and with regard to the swearing of witnesses on oath and the awarding of expenses, as if the arbitration were under a submission ;
 - (b) the arbiter may, and if so directed by the Court of Session shall, state a case for the opinion of that Court on any question of law arising in the proceedings ; and
 - (c) any award of the arbiter may be recorded in the Books of Council and Session for execution, and may be enforced accordingly.