

SCHEDULES

SIXTH SCHEDULE

Section 34.

APPLICATION OF COMPENSATION PROVISIONS TO SPECIAL CASES

Changes in right of occupation, or division of ownership of holding

- 1 (1) Subject to the next following paragraph, where a compulsory rights order comprises the whole or part of a holding to which section seventeen of this Act applies, and at any time on or after the operative date and before the end of the period of occupation an act or event occurs whereby—
- (a) one person becomes the person who is for the time being entitled to occupy part of that holding or who would be so entitled if the order had not been made, and
 - (b) another person becomes the person who is for the time being entitled to occupy another part of that holding or who would be so entitled if the order had not been made,
- the following provisions of this paragraph shall have effect.
- (2) As from the occurrence of that act or event, each of those parts of the holding shall be treated, for the purposes of sections seventeen to nineteen of this Act, as if it were a separate holding, and were a holding to which section seventeen of this Act applied:
- Provided that no compensation shall be payable by virtue of section seventeen of this Act in respect of land which (in accordance with the preceding provisions of this sub-paragraph) is to be treated as a separate holding, but does not include any of the land comprised in the compulsory rights order.
- 2 Where a compulsory rights order comprises the whole or part of a holding to which section seventeen of this Act applies, and at any time on or after the operative date and before the end of the period of occupation a new tenancy is created which comprises the holding or any part thereof, that tenancy shall be disregarded for the purposes of sections seventeen to twenty of this Act, and for the purposes of the preceding paragraph, and the provisions of those sections and of that paragraph shall apply as if that tenancy had not been created.
- 3 (1) Where by virtue of section seventeen of this Act compensation is payable for any year in respect of a holding to which that section applies (or to which, in accordance with the preceding provisions of this Schedule, it is to be treated as applying), and the person entitled to that compensation is not the person who was entitled to occupy the holding on the operative date (in this paragraph referred to as "the original occupier") and is not a person who has become entitled to the relevant interest in the holding—
- (a) on or after the death of the original occupier, in accordance with the disposition of the original occupier's estate effected by his will, or the law relating to intestacy, or the combination of his will and that law, or
 - (b) under an agreement which was made for valuable consideration by the person entitled to the compensation and was in force immediately before the

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operative date, or under a disposition creating or transferring the relevant interest in the holding in pursuance of such an agreement,

the compensation payable to him for that year shall not include any sum assessed in accordance with the provisions of section nineteen of this Act.

- (2) In this paragraph "the relevant interest", in relation to a person entitled to compensation for any year in respect of a holding, means the interest in or right over the holding by virtue of which he is entitled to that compensation ; " will " includes a codicil; and " disposition", where the reference is to a disposition creating or transferring an interest, does not include any provision contained in a will, but, with that exception, includes any conveyance, assignment, lease or other assurance.
- 4 (1) The provisions of this paragraph shall have effect where a compulsory rights order comprises the whole or part of a holding to which section twenty-one of this Act applies, and at the end of the period of occupation one person is the owner of part of that holding and another person is the owner of another part thereof.
- (2) For the purposes of sections twenty-one to twenty-three of this Act, each of those parts of the holding shall be treated as if it were a separate holding, and were a holding to which section twenty-one of this Act applied:

Provided that no compensation shall be payable by virtue of any of those sections in respect of land which (in accordance with the preceding provisions of this subparagraph) is to be treated as a separate holding, but does not include any of the land comprised in the compulsory rights order.

- 5 The provisions of paragraphs 1 to 4 of this Schedule shall (with the necessary modifications) have effect in relation to a holding to which section twenty-nine of this Act applies as they have effect in relation to a holding to which sections seventeen and twenty-one of this Act apply.
- 6 In the following paragraphs of this Schedule, any reference to a holding, in relation to any provisions of Part II of this Act, includes a reference to land which, in accordance with any of the preceding paragraphs of this Schedule, is to be treated as if it were a separate holding for the purposes of those provisions.

Provisions as to assessment of profit or loss under s. 19

- 7 For the purposes of section nineteen of this Act, the period preceding the operative date of a compulsory rights order, shall, in relation to a particular holding, be taken to be such period (either longer or shorter than four years) immediately preceding that date as may be agreed, or determined by the Lands Tribunal, to be appropriate, if it is shown that, in the case of that holding, a period of four years immediately preceding that date would be inappropriate for the purposes of that section.
- 8 (1) Where a person is entitled to compensation for any year in respect of a holding by virtue of section seventeen of this Act, then in so far as it is shown that—
- (a) reasonable opportunities were open to him (apart from the occupation and use of any part of the holding not comprised in the order) to mitigate any loss of profit from the holding by augmenting his income for that year in other ways, and
 - (b) those opportunities would not have been open to him if he had continued to be in occupation of the entirety of the holding,
- the amount of any profit assessed for that year under subsection (1) of section nineteen of this Act shall be reduced by the amount by which he has augmented his

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income for that year by availing himself of those opportunities, or by which he might reasonably have been expected to augment his income for that year if he had availed himself of those opportunities, as the case may be.

- (2) For the purposes of this paragraph no account shall be taken of any opportunities of which the person in question has not availed himself (notwithstanding that they were opportunities of the kind described in the preceding sub-paragraph) in so far as they would have involved his engaging (whether as an employed person or otherwise) in a substantially different occupation from that in which he was engaged during the period preceding the operative date of the order.
- (3) Paragraph (a) of subsection (8) of section nineteen of this Act, and the last preceding paragraph, shall apply for the purposes of this paragraph as they apply for the purposes of that section.
- 9 (1) Where a person is entitled to compensation for any year in respect of a holding by virtue of section seventeen of this Act, and he has received any compensation—
- (a) by virtue of section twenty-six of this Act, in respect of any improvements carried out on land comprised in that holding, being improvements of a description specified in Part I or Part VI of the Fourth Schedule to this Act, or
 - (b) by virtue of section twenty-seven of this Act, in respect of a forced sale of any property kept on or used for the purposes of that holding, or removed from that holding, as the case may be,
- the amount of any profit assessed for that year under subsection (1) of section nineteen of this Act shall be reduced by the amount of the income from that compensation which is attributable to that year.
- (2) For the purposes of the preceding sub-paragraph, the income from any compensation which is attributable to any year—
- (a) in a case where the compensation is shown to have been invested by the recipient thereof, shall be taken to be the amount of income accruing in respect of that year from the property representing the compensation, and
 - (b) in any other case, shall be taken to be an amount equal to the income which would have accrued for that year from property representing the compensation if it had been invested in securities bearing interest at the rate for the time being in force for the purposes of section thirty-five of this Act.
- (3) In this paragraph any reference to Part I or Part VI of the Fourth Schedule to this Act includes a reference to that Part as varied by any order made under section twenty-six or section twenty-eight of this Act.
- 10 The provisions of paragraphs 8 and 9 of this Schedule shall have effect (with the necessary modifications) in relation to any compensation payable under paragraph 4 of the Fifth Schedule to this Act, and to any compensation received by virtue of paragraph 5 or paragraph 6 of that Schedule, as those provisions have effect in relation to compensation to which a person is entitled by virtue of section seventeen of this Act, and to compensation received by virtue of section twenty-six or twenty-seven of this Act.
- 11 In paragraphs 7 to 9 of this Schedule, references to sections seventeen, nineteen and twenty-seven of this Act shall include references to the provisions of those sections as applied by section twenty-nine of this Act.

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Assessment of annual compensation otherwise than by reference to letting from year to year

12 (1) Where compensation is payable by virtue of section seventeen of this Act in respect of a holding which consists of or includes—

- (a) land which, immediately before the operative date of the compulsory rights order in question, was used for a purpose for which land would not normally be let from year to year, or
- (b) land in respect of which, immediately before the operative date, there was in force permission granted under Part III of the Act of 1947 for the land to be used for such a purpose,

subsections (2) to (4) of section eighteen of this Act shall not apply, and for the purposes of that section, and for the purposes of paragraph (b) of subsection (1) of section nineteen of this Act, and (where applicable) for the purposes of subsection (3) of the said section nineteen, the annual value of the land for any year shall be determined in accordance with regulations made by the Minister under this paragraph.

- (2) Any regulations made under this paragraph may include provisions specifying purposes which, in relation to the provisions of this paragraph, are to be treated as purposes for which land would not normally be let from year to year.
- (3) In this paragraph any reference to any of the provisions of sections seventeen to nineteen of this Act includes a reference to that provision as applied by section twenty-nine of this Act.

13 (1) Where any land to which section thirty-two of this Act applies in relation to a compulsory rights order is—

- (a) land which, immediately before the operative date of the order, was used for a purpose for which land would not normally be let from year to year, or
- (b) land in respect of which, immediately before the operative date, there was in force permission granted under Part III of the Act of 1947 for the land to be used for such a purpose,

subsection (3) of that section shall not apply, and for the purposes of subsection (2) of that section annual value shall be determined in accordance with regulations made by the Minister under this paragraph.

- (2) Sub-paragraph (2) of the last preceding paragraph shall apply for the purposes of this paragraph as it applies for the purposes of that paragraph.

Valuation of property otherwise than by reference to sale in open market

14 (1) This paragraph applies to any provision of this Act under which compensation is to be assessed by reference to the value which any property would have if it were offered for sale.

- (2) For the purposes of the application of any such provision to property of a kind not normally the subject of sales in the open market, the Minister may make regulations providing for value to be ascertained by reference to such matters as may be specified in the regulations.

Woodlands

15 The Minister may by regulations make provision for modifying or adapting any of the provisions of this Act relating to compensation in respect of compulsory

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rights orders in their application to land which, immediately before the operative date of such an order, or the date of entry thereunder, was used as woodlands, or as woodlands of a particular description specified in the regulations.

*Terminal compensation in respect of agricultural
land qualifying for compensation under s. 26*

- 16 (1) The provisions of this paragraph shall have effect where compensation under section twenty-six of this Act is payable in respect of any improvements or other matters, and the land in relation to which that compensation is payable constitutes or forms part of a holding to which section twenty-one of this Act applies.
- (2) Section twenty-two of this Act shall apply in relation to that holding as if any reference in that section to the condition in which the land was immediately before the date of entry (in so far as any such reference is applicable to the land referred to in the preceding sub-paragraph) were a reference to the condition in which that land would have been, immediately before the date of entry, if those improvements or other matters had not been carried out, or had not applied to that land, as the case may be.
- (3) Section twenty-three of this Act shall apply in relation to the holding as if, for the value mentioned in paragraph (c) of subsection (2) of that section, there were substituted the value which, at the end of the period of occupation, a freehold interest in the holding would have if—
- (a) those improvements or other matters had not been carried out, or had not applied to the land in question, as the case may be, but
 - (b) in all other respects the entirety of the holding were in the state in which it was immediately before the date of entry.
- (4) Subsection (4) of section twenty-three of this Act shall apply for the purpose of computing value as mentioned in the last preceding sub-paragraph as it applies for the purpose of computing the values referred to in that subsection.

Provisions as to compensation under s. 32

- 17 (1) No compensation shall be payable under subsection (2) of section thirty-two of this Act for any year for which the interest of the owner of the relevant land is held subject to, and with the benefit of, a tenancy which was subsisting immediately before the operative date of the compulsory rights order in question, unless the rent payable under that tenancy for that year is a rent which is subject to a liability to be reduced in consequence of that order or of anything done in the exercise of rights conferred by that order, or is a rent which has been so reduced in pursuance of such a liability.
- (2) For the purposes of the preceding sub-paragraph the rent payable under a tenancy shall be taken to be subject to a liability to be reduced as therein mentioned if, under the terms and conditions of the tenancy or under any enactment applicable thereto, the tenant is entitled to require that rent to be so reduced, or is entitled to require the question whether the rent should be so reduced, or generally what rent should be payable under the tenancy, to be referred to arbitration or to any court or tribunal; and the reference in that sub-paragraph to a rent which has been so reduced in pursuance of such a liability shall be construed accordingly.
- 18 (1) No compensation shall be payable under subsection (2) of the said section thirty-two for any year for which the owner of the relevant land is entitled to compensation

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under subsection (2) of section thirty-one of this Act in respect of a right to which this paragraph applies.

- (2) This paragraph applies to any right which fulfils the following conditions, that is to say.—
- (a) that it is a right restrictive of the use of the whole or part of the land comprised in the compulsory rights order in question ;
 - (b) that the benefit of the right is annexed to the relevant land, or to that land together with other land, or (if the benefit of the right is not so annexed) that the right is exercisable by a person who is the owner of the relevant land ; and
 - (c) that the exercise of the right, in relation to any land comprised in the order, could (apart from the order) have prevented that land from being used for the purposes which, in relation to the authorisation referred to in the order, constitute the authorised purposes.
- 19 In paragraphs 17 and 18 of this Schedule any reference to the relevant land shall be construed in accordance with subsection (2) of section thirty-two of this Act.

Restricted lettings, and easements and similar rights

- 20 This paragraph applies to the following rights, that is to say.—
- (a) any right conferred by a letting of land, or a licence to occupy land, in pursuance of an agreement made (whether the agreement expressly so provides or not) in contemplation of the use of the land only for grazing or mowing during some specified period of the year;
 - (b) any easement or similar right over land.
- 21 For the purposes of the following provisions of this Act, that is to say, subsections (2) and (3) of section seventeen, subsection (2) of section twenty-one, subsection (1) of section twenty-nine, and the provisions of subsection (3) of section seventeen as applied by subsection (2) of section twenty-nine, any right to which the last preceding paragraph applies shall be disregarded; and, in relation to any land which is subject to any such right, those provisions shall apply as if that right had not been conferred, reserved or otherwise acquired, as the case may be.
- 22 (1) Where in accordance with the provisions of section seventeen of this Act (as modified by the last preceding paragraph) any land constitutes a holding to which that section applies, and, during any year for which compensation is payable in respect of that holding by virtue of that section, any land comprised in the holding is subject to any right to which paragraph 20 of this Schedule applies, the provisions of the next following sub-paragraph shall have effect as to the assessment under section nineteen of this Act of profit or loss for that year in respect of that holding.
- (2) Any profit or loss required to be so assessed under subsection (1) of section nineteen of this Act, and (if the remainder of the holding referred to in subsection (3) of that section includes any of the land which is subject to the right in question) any profit or loss required to be so assessed for that year under subsection (3) of that section, shall be assessed on the basis of an occupation of the holding, or of the remainder of the holding, as the case may be.—
- (a) subject to that right, in so far as it would (if the compulsory rights order had not been made) have been exercisable during the year in question in relation to land comprised in the holding, or in the remainder of the holding, as the case may be, but

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- (b) with the benefit of any rent which (if the order had not been made) would have been payable for that year in respect of the exercise of that right in relation to any such land, and
 - (c) in all other respects, on the terms and in the circumstances specified in subsection (1) or subsection (3) of that section, as the case may be.
 - (3) For the purposes of the last preceding sub-paragraph it shall be assumed that the manner and extent of the exercise of the right in question, during the year for which the profit or loss is required to be assessed, is such as it might reasonably have been expected to be during that year if the compulsory rights order had not been made.
 - (4) Where the preceding provisions of this paragraph have effect in relation to the assessment of compensation for any year in accordance with section nineteen of this Act, and in respect of the right in question, in so far as it relates to land comprised in the holding, any rent is payable for that year (notwithstanding the compulsory rights order) to the person entitled to that compensation, the amount of that compensation (calculated apart from this sub-paragraph) shall be reduced by the amount of that rent.
 - (5) In the preceding provisions of this paragraph any reference to section seventeen of this Act includes a reference to section twenty-nine of this Act, and any reference to section nineteen of this Act includes a reference to the provisions of that section as applied by section twenty-nine of this Act.
 - (6) In this paragraph " rent " includes any sums payable in respect of the exercise of a right to which paragraph 20 of this Schedule applies.
- 23 Where the whole or part of the land comprised in a compulsory rights order is subject to any such right as is mentioned in sub-paragraph (a) of paragraph 20 of this Schedule, and in any year in which that right subsists, being any such year as is mentioned in subsection (2) of section thirty-one of this Act, the exercise of that right is prevented or injuriously affected by reason of the order or of anything done in the exercise of rights conferred by the order, the said subsection (2) shall have effect in relation to that right as if it were an easement to which that section applies.
- 24 Any agreement for the letting of land or the grant of a licence in respect of land, where, before the agreement was entered into, the letting or grant was approved by the Minister of Agriculture, Fisheries and Food for the purposes of section two of the Act of 1948 (which relates to the effect of certain lettings and licences to occupy agricultural land, but excepts lettings and licences approved by the said Minister from the operation of the section) shall be treated for the purposes of section seventeen of this Act as conferring a right to occupy the land to which the agreement relates, if apart from this paragraph it would not be treated as conferring such a right.
- 25 Where the whole or part of a holding to which section seventeen of this Act applies consists of land occupied under a letting or licence approved by the Minister of Agriculture, Fisheries and Food for the purposes of section two of the Act of 1948, and—
- (a) by the agreement under which the land was let or the licence granted a right to use the land for specified purposes was reserved to the person letting the land or granting the licence, as the case may be;
 - (b) the exercise of that right is prevented or injuriously affected by reason of the compulsory rights order or of anything done in the exercise of rights conferred by the order; and
 - (c) that right does not constitute an easement or similar right,

subsection (2) of section thirty-one of this Act shall have effect in relation to that right as if it were an easement to which that section applies

Apportionment of annual compensation in respect of parts of a year

26 (1) Where, in consequence of any such act or event as is mentioned in paragraph 1 of this Schedule, a part of a holding is to be treated as a separate holding as mentioned in that paragraph (or in that paragraph as applied by paragraph 5 of this Schedule), and that act or event occurs during the course of the year beginning with the operative date of the compulsory rights order in question, or in the course of a year beginning with an anniversary of that date, the provisions of Part II of this Act, and the provisions of this Schedule other than this sub-paragraph, shall apply—

- (a) in relation to the entirety of the holding, with respect to the part of that year ending with that act or event, and
- (b) in relation to each of those separate holdings, with respect to the part of that year after that act or event,

as if any reference in those provisions to a year included a reference both to the part of that year ending with that act or event and to the part of that year after that act or event.

(2) Where in consequence of any act or event occurring on or after the operative date of a compulsory rights order and before the end of the period of occupation, other than any such act or event as is mentioned in the preceding sub-paragraph,—

- (a) one person would (apart from this sub-paragraph) be entitled to compensation for any year in respect of a holding if that act or event had occurred before the beginning of that year, and
- (b) another person would (apart from this sub-paragraph) be entitled to compensation for that year in respect of the holding if that act or event had occurred after the end of that year,

the provisions of Part II of this Act, and the provisions of this Schedule other than this sub-paragraph, shall apply as if any reference to a year included a reference both to the part of that year ending with that act or event and to the part of that year after that act or event.

(3) For the purposes of the application of the provisions of Part II of this Act, or of the provisions of this Schedule other than this sub-paragraph, to a compulsory rights order which has effect only for part of a year, or for one or more complete years followed by part of another year, any reference in those provisions to a year shall be construed as including a reference to that part of a year.

(4) In the application of any of the said provisions to a part of a year, in accordance with the preceding provisions of this paragraph, any reference to annual value, or to any other amount which is required to be assessed by reference to a year, shall be construed as a reference to so much of the annual value for (that year, or of the amount in question assessed by reference to that year, as (on a rateable apportionment of that value or amount as between different parts of that year) is properly attributable to that part of that year,

27 Sub-paragraphs (2) to (4) of the last preceding paragraph shall have effect (with the necessary modifications) in relation to compensation under paragraph 4, paragraph 5 or paragraph 12 of the Fifth Schedule to this Act as they have effect in relation to annual compensation in respect of a holding to which section seventeen of this Act applies.

- 28 (1) Where, in the case of land to which section thirty-two of this Act applies in relation to a compulsory rights order, a person is the owner of that land for part, but not the whole, of a year, subsection (2) of that section shall apply as if any reference to a year included a reference to that part of a year.
- (2) The preceding sub-paragraph shall have effect without prejudice to the operation of sub-paragraph (3) of paragraph 26 of this Schedule, where the said sub-paragraph (3) is applicable ; and sub-paragraph (4) of that paragraph shall have effect in relation to the preceding sub-paragraph as it has effect in relation to sub-paragraphs (1) to (3) of that paragraph.

Concurrent compulsory rights orders

- 29 The Minister may by regulations make provision for modifying or adapting any of the provisions of this Act relating to compensation in respect of compulsory rights orders in their application to land which—
- (a) constitutes or forms part of the land comprised in a compulsory rights order, or, in relation to a compulsory rights order, forms part of a holding to which section seventeen or section twenty-nine of this Act applies, or is land to which section thirty-two of this Act applies, and
- (b) at any time after the operative date of that order, and before the end of the period of occupation thereunder, constitutes or forms part of the land comprised in another Compulsory rights order, or, in relation to another such order, forms part of a holding to which section seventeen or section twenty-nine of this Act applies, or is land to which section thirty-two of this Act applies.

Compensation in respect of limited compulsory rights orders

- 30 (1) In respect of a compulsory rights order which provides that its operation shall be limited as mentioned in subsection (1) of section eight of this Act, the provisions of Part II of this Act shall apply subject to the following provisions of this paragraph.
- (2) In so far as the operation of the order extends to an easement or similar right in respect of the whole or part of the land comprised in the order, or to a right restrictive of the use of the whole or part of that land, the provisions of section thirty-one of this Act shall have effect with respect to that easement or right, but not with respect to any easement or right to which the operation of the order does not extend.
- (3) In so far as the operation of the order extends to the interest or rights created or conferred by a mining lease or order conferring working rights in respect of minerals in or under the land comprised in the compulsory rights order or part thereof, the provisions of section thirty-three of this Act and of the Fifth Schedule thereto shall have effect with respect to that interest or those rights, but not with respect to any interest or rights created or conferred by a mining lease or order conferring working rights to which the compulsory rights order does not extend.
- (4) Subject to sub-paragraphs (2) and (3) of this paragraph, none of the provisions of Part II of this Act (except subsection (4) of section twenty-three in so far as it applies for the purposes of section thirty-one of this Act) shall have effect in relation to the order.

Application to Scotland

- 31 In the application of this Schedule to Scotland, for references to Part I of the Fourth Schedule to this Act there shall be substituted references to Part IV of that Schedule, excluding paragraph 21 thereof, and for references to Part III of the Act of 1947 there shall be substituted references to Part II of the Scottish Act of 1947, and for references to an agreement for the letting of land, to the Minister of Agriculture, Fisheries and Food, and to section two of the Act of 1948, there shall be substituted respectively references to a lease, to the Secretary of State, and to section two of the Scottish Act of 1949.