

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: Land Compensation Act 1961, THIRD SCHEDULE is up to date with all changes known to be in force on or before 16 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### FIXED THIRD SCHEDULE

#### APPLICATION OF PART IV TO CERTAIN CASES

##### Editorial Information

- X1** The text of Sch. 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

##### Textual Amendments

- F1** Sch. 3 repealed by [Land Commission Act 1967 \(c. 1\)](#), [Sch. 17](#) except in relation to compulsory acquisition or sale in pursuance of notices to treat served or contracts made before 1.1.1967

#### *Disturbance, severance and injurious affection*

- 1 Subject to paragraph 2 of this Schedule, any reference in section twenty-three of this Act to the principal amount of any compensation shall be construed as including any sum attributable to disturbance, severance or injurious affection.
- 2 If the person entitled to the compensation under the said section twenty-three—
- (a) was, at the time of the compulsory acquisition or sale mentioned in subsection (1) of that section, entitled to an interest in land held with the land acquired or purchased ; but
  - (b) is, at the time of the planning decision in question, no longer entitled to that interest, either in respect of the whole or in respect of part of that land;
- any reference in the said section twenty-three to the principal amount of any compensation or the amount of the purchase price shall be construed as excluding so much of the compensation or purchase price as was or would have been attributable to severance or injurious affection of that land or, as the case may be, of that part.

#### *Increase in value of contiguous or adjacent land*

- 3 In determining for the purposes of the said section twenty-three the difference between the principal amount of the compensation specified in subsection (2) of that section and the principal amount of the compensation or the amount of the purchase price mentioned in subsection (1) of that section, in a case where—
- (a) the compensation or the purchase price was or would have been reduced (whether by virtue of section seven of this Act or otherwise) by reason of an increase in the value of an interest in contiguous or adjacent land ; but
  - (b) at the time of the planning decision the person entitled to the compensation under the said section twenty-three is not entitled to the said interest or is entitled thereto only as respects part of the contiguous or adjacent land,
- the amount specified in the said subsection (2) and the principal amount or purchase price mentioned in the said subsection (1) shall be calculated as if the circumstances

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by reason of which it was or would have been so reduced had not existed, or, as the case may be, as if the interest in the contiguous or adjacent land had subsisted only in that part thereof.

#### *Mortgaged land*

- 4 Subject to the provisions of this Schedule relating to settled land, where, in a case falling within subsection (1) of section twenty-three of this Act, the interest in land which was acquired or sold was subject to a mortgage, any reference (however expressed) in section twenty-three or section twenty-four of this Act to the person entitled to the compensation or purchase price shall be construed as a reference to the person who, subject to the mortgage, was entitled to that interest, and not as a reference to the mortgagee.
- 5 For the purposes of the application of section twenty-three of this Act, and of the provisions of this Schedule other than this paragraph, to a case falling within the preceding paragraph, any reference to the principal amount of the compensation which was or would have been payable in respect of any compulsory acquisition shall be construed as a reference to the principal amount of the compensation which would have been payable if the interest in question had not been subject to a mortgage.
- 6 No compensation shall be payable by virtue of section twenty-three of this Act in respect of a compulsory acquisition or sale by agreement, where the interest acquired or sold was the interest of a mortgagee (as distinct from an interest subject to a mortgage).

#### *Settled land*

- 7 (1) Where, in a case falling within subsection (1) of section twenty-three of this Act, the interest in land which was acquired or sold was subject to a settlement, and accordingly the compensation or purchase price was payable to the trustees of that settlement, any reference (however expressed) in section twenty-three or section twenty-four of this Act to the person entitled to the compensation or purchase price shall be construed as a reference to the trustees for the time being of the settlement.
- (2) Where sub-paragraph (1) of this paragraph applies, subsection (4) of section twenty-three of this Act shall not apply.
- (3) Any compensation paid to the trustees of the settlement by virtue of section twenty-three of this Act in respect of a compulsory acquisition or sale by agreement shall be applicable by the trustees as if it were proceeds of the sale of the interest acquired or sold.
- (4) In this paragraph "settlement" means a settlement within the meaning of the Settled Land Act, 1925, or a trust for sale within the meaning of the Law of Property Act, 1925.

#### *Interpretation*

- 8 References in this Schedule to sections twenty-three and twenty-four of this Act include references to those sections as applied by section twenty-five or twenty-six of this Act, and references to the time of any planning decision shall be construed accordingly. Section 40.

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