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SCHEDULES

FIRST SCHEDULE

Sections 24, 25 and 30 and 2nd and 3rd
Schedules.

PROVISIONS RELATING TO CERTAIN ORDERS UNDER PART III

PART I

- 1 Before making the order, the Minister—
 - (a) shall publish in one or more newspapers circulating in the district in which the land is situated; and
 - (b) shall serve on every owner, lessee and occupier of any of the land and upon every local authority within whose area any of the land is situated; a notice stating that the Minister proposes to make the order and the effect thereof, and specifying the time (not being less than twenty-eight days from the service of the notice) within which, and the manner in which, objections to the making of the order may be made.
- 2 If no objection is duly made by any such local authority, owner, lessee or occupier as aforesaid or if all objections so made are withdrawn, the Minister may, if he thinks fit, make the order.
- 3 If any objection duly made as aforesaid is not withdrawn, the Minister shall, before making the order, either cause a public local inquiry to be held or afford to any person by whom any objection has been duly made as aforesaid and not withdrawn an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose, and after considering the objection and the report of the person who held the inquiry or the person appointed as aforesaid, may, if he thinks fit, make the order.
- 4 Notwithstanding anything in the two last foregoing paragraphs, the Minister may require any person who has made an objection to state in writing the grounds thereof, and may disregard the objection for the purposes of those paragraphs if he is satisfied that the objection relates exclusively to matters which can be dealt with by the tribunal by whom the compensation is to be assessed.
- 5 Immediately after the order has been made, the Minister shall publish in one or more newspapers circulating in the district in which the land is situated a notice stating that the order has been made, and naming a place where a copy of the order may be seen at all reasonable hours, and shall serve a like notice on every person who, having duly objected to the order, has not withdrawn his objection.

PART II

- 6 If any person aggrieved by the order desires to question the validity thereof, or of any provision contained therein, on the ground that it is not within the powers of the Minister or that any requirement of this Act has not been complied with in relation

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to the order, he may, within six weeks from the time when notice that the order has been made is first published in accordance with the requirements of this Act, make an application to the High Court; and on any such application the Court—

- (a) may by interim order suspend the operation of the order or of any provision contained therein, either generally or in so far as it affects the applicant, until the final determination of the proceedings ; and
- (b) if satisfied that the order or any provision contained therein is not within the powers of the Minister, or that the interests of the applicant have been substantially prejudiced by any requirement of this Act not having been complied with, may quash the order or any provision contained therein, either generally or in so far as it affects the applicant.

7 Subject to the provisions of the last foregoing paragraph, the order shall not, either before or after it has been made, be questioned in any legal proceedings whatsoever, and shall become operative on the expiration of six weeks from the date on which notice of the making of the order is first published in accordance with the requirements of this Act.

8 This Part of this Schedule shall not apply to an order which is confirmed by Act of Parliament under section six of the Statutory Orders (Special Procedure) Act, 1945, but except as aforesaid shall have effect in relation to an order to which that Act applies as if in paragraph 6, for the reference to the time when notice that the order has been made is first published in accordance with the requirements of this Act, there were substituted a reference to the time when the order becomes operative under the said Act of 1945, and as if in paragraph 7 the words from " and shall become operative " to the end were omitted.

PART III

9 Any person having an interest in land the value of which is diminished in consequence of the coming into operation of the order shall be entitled to recover compensation from the Minister for the diminution, and the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, shall have effect accordingly.

10 Where the order comes into operation before the expiration of two years from the end of the war period, Part VIII of the Requisitioned Land and War Works Act, 1945 (which provides for adjustments of compensation for the purpose of eliminating changes in value due to the exercise of emergency powers) shall apply in relation to any compensation payable under the foregoing provisions of this Schedule as it applies where compensation is payable on the acquisition of an easement over land by virtue of Part II of that Act:

Provided that for the purposes of this paragraph subsection (5) of section forty-one of the said Act of 1945 shall have effect as if for the reference therein to the date of the notice to treat there were substituted a reference to the date on which the order comes into operation.

In this paragraph the expression " war period " has the same meaning as it has in section forty of the said Act of 1945.

11 Where any interest in land is subject to a mortgage—

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- (a) any compensation payable under the foregoing provisions of this Schedule in respect of the diminution in the value of the interest shall be assessed as if the interest were not subject to the mortgage;
- (b) a claim for any such compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;
- (c) a mortgagee shall not be entitled to claim compensation under the said provisions in respect of his interest as such; and
- (d) the compensation payable in respect of the interest subject to the mortgage may be paid by the Minister to such of the claimants as he thinks proper, and shall be applied by that claimant in such manner as the parties interested may agree, or, in default of such agreement, as may be determined by arbitration.

In this paragraph the expression " mortgage " includes an equitable charge and any other encumbrance, and includes a sub-mortgage, and the expression " mortgagee " shall be construed accordingly.

- 12 Where the order provides for the creation of any easement over land held by a statutory undertaker for the purposes of the carrying on of his undertaking, or of any right in or in relation to such land, the undertaker shall be entitled to recover compensation from the Minister in accordance with the special provisions of Part III of this Act relating to statutory undertakers in any case in which those provisions apply, and shall not, in any such case, be entitled to recover compensation under the foregoing paragraphs of this Schedule.

This paragraph shall not apply to Northern Ireland.

PART IV

- 13 In the application of this Schedule to Scotland—
- (a) in paragraph 8, for the words " section six of the Statutory Orders (Special Procedure) Act, 1945," there shall be substituted the words " subsection (4) of section two as read with section ten of the Statutory Orders (Special Procedure) Act, 1945, or under section six of that Act " ; and
 - (b) for references to a mortgage and to a mortgagee there shall be substituted respectively references to a heritable security and to a creditor in a heritable security; and in paragraph 11 for the words from " In this paragraph " to the end of the paragraph there shall be substituted the words—

“In this paragraph the expression ' heritable security' means a heritable security within the meaning of the Conveyancing (Scotland) Act, 1924, exclusive of a security by way of ground annual and a real burden ad factum praestandum, but inclusive of a security constituted by ex facie absolute disposition.”