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## SCHEDULES

### TENTH SCHEDULE

Section 65.

#### ORDERS FOR THE COMPULSORY PURCHASE OF LAND IN NORTHERN IRELAND UNDER S. 19 (2)

#### PART I

##### *Provisions as to the Compulsory Acquisition of Land*

- 1 A compulsory purchase order shall be in the prescribed form and shall describe, by reference to a map the land to which the order applies, and shall incorporate, subject to the modifications hereinafter mentioned and any necessary adaptations,—
- (a) the Lands Clauses Acts, except section ninety-two and sections one hundred and twenty-seven to one hundred and thirty-two of the Lands Clauses Consolidation Act, 1845;
  - (b) the Acquisition of Land (Assessment of Compensation) Act, 1919; and
  - (c) sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845.
- 2 The modifications subject to which the Lands Clauses Acts and the Acquisition of Land (Assessment of Compensation) Act, 1919, shall be incorporated in a compulsory purchase order are as follows:—
- (a) the arbitrator shall not take into account any building erected, or any improvement or alteration made, or any interest in land created, after the date on which notice of the order having been made is published in accordance with this Part of this Schedule, if in the opinion of the arbitrator, the erection of the building, or the making of the improvement or alteration, or the creation of the interest, in respect of which a claim is made was not reasonably necessary and was carried out with a view to obtaining compensation or increased compensation;
  - (b) no person shall be required to sell a part only of any house, building or manufactory, or of any land which forms part of a park or garden belonging to a house, if he is willing and able to sell the whole of the house, building, manufactory, park or garden, unless the arbitrator determines—
    - (i) in the case of a house, building or manufactory, that such part as is proposed to be taken can be taken without material detriment to the house, building or manufactory, or
    - (ii) in the case of a park or garden, that such part as aforesaid can be taken without seriously affecting the amenity or convenience of the house;
- and if he so determines, he shall award compensation in respect of any loss due to the severance of the part proposed to be taken, in addition to the value of that part, and thereupon the party interested shall be required to

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- sell to the local authority that part of the house, building, manufactory, park or garden.
- 3 Before submitting a compulsory purchase order to the Minister, the local authority by which the order was made shall—
- (a) publish in a newspaper circulating in the district of the local authority a notice in the prescribed form stating that the order has been made and describing the area to which it applies, and naming a place where a copy of the order and of the map referred to therein may be seen at all reasonable hours, and
  - (b) serve on every owner, lessee and occupier (except tenants for a period not exceeding one month) of any land to which the order relates, a notice in the prescribed form stating the effect of the order and that it is about to be submitted to the Minister for confirmation, and specifying the time within which, and the manner in which, objections to the order may be made.
- 4 If no objection to a compulsory purchase order is duly made by any of the persons upon whom notices are required by the last foregoing paragraph to be served, or if all such objections so made are withdrawn, the Minister may, if he thinks fit, confirm the order with or without modification, but in any other case he shall, before confirming the order, cause a local inquiry to be held and consider any objection not withdrawn and the report of the person who held the inquiry, and may then confirm the order with or without modification :
- Provided that—
- (a) the Minister may require any person who made an objection to state in writing the grounds thereof, and may confirm the order without causing a local inquiry to be held, if he is satisfied that every objection duly made relates exclusively to matters which can be dealt with by the arbitrator by whom the compensation is to be assessed; and
  - (b) the order as confirmed by the Minister shall not, unless all persons interested consent, authorise the local authority to purchase any land which the order would not have authorised them to purchase if it had been confirmed without modification.
- 5 (1) Where the Minister causes a local inquiry to be held under the last foregoing paragraph, the provisions of sections two hundred and nine, two hundred and ten, two hundred and twelve and two hundred and thirteen of the Public Health (Ireland) Act, 1878, shall apply with the substitution of the Minister for the Ministry of Health and Local Government for Northern Ireland.
- (2) The costs in relation to the inquiry, not exceeding five guineas a day, shall be paid by the parties concerned in the inquiry, or by such of them and in such proportions as the Minister may direct, and the Minister may certify the amount of the costs incurred, and any sum so certified and directed by the Minister to be paid by any such party shall be a debt to the Crown from that party.
- 6 For the purposes of this Part of this Schedule a notice may be served—
- (a) by registered post or by delivery to, or at the residence of, the person to whom it is addressed; or
  - (b) if the local authority is unable, after reasonable inquiry, to ascertain the name and address of the person upon whom the notice should be served, by addressing it to him—
    - (i) by name, if his name is known, or

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(ii) if his name is not known, by the description of " owner " or " occupier " of the premises (naming them) to which the notice relates,

and by delivering the notice to some person on the premises, or, if there is no person on the premises to whom it can be delivered, by affixing it or a copy thereof to some conspicuous part of the premises.

## PART II

### *Restrictions on Acquisition of Land*

1 The Minister shall not confirm a compulsory purchase order authorising the purchase of any land which is the site of an ancient monument or other object of archaeological interest or which forms part of any common, open space or allotment or which belongs to the council of a county, county borough or urban or rural district, or the commissioners of a town, or is held by any statutory undertakers for the purposes of their undertaking, and shall not confirm a compulsory purchase order authorising the purchase of any forest, plantation or area of woodland, except after consultation with the Ministry of Agriculture for Northern Ireland.

2 In this Part of this Schedule—

- (a) the expression " common" includes any town or village green;
- (b) the expression " open space " means any land laid out as a public garden or used for the purposes of public recreation, and any disused burial ground; and
- (c) the expression " allotment" means any allotment set out as a fuel allotment or a field garden allotment under an Inclosure Act.

## PART III

### *Validity and date of operation of Compulsory Purchase Orders*

1 As soon as may be after a compulsory purchase order has been confirmed by the Minister, the local authority by which the order was made shall publish in a newspaper circulating in the district of the local authority a notice in the prescribed form stating that the order has been so confirmed, and naming a place where a copy of the order and of any map therein referred to may be seen at all reasonable hours, and shall serve a like notice on every person who, having given notice of his objection to the order, appeared at the local inquiry in support of his objection.

2 If any person aggrieved by a compulsory purchase order desires to question the validity of the order, or of any provision contained therein, on the ground that it is not within the powers of this Act, or that any requirement of this Act or of any regulation made thereunder has not been complied with in relation to the order, he may, within six weeks after the date on which notice of the confirmation of the order is published in accordance with the last foregoing paragraph, make an application for the purpose to the High Court, and upon any such application the court—

- (a) may by interim order suspend the operation of the order in question or of any provision contained therein, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings, and

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- (b) if satisfied that the order in question or any provision contained therein is not within the powers of this Act, or that the interests of the applicant have been substantially prejudiced by any requirement of this Act or of any regulation made thereunder not having been complied with, may quash the order or any provision contained therein, either generally or in so far as it affects any property of the applicant.
- 3 Subject to the foregoing provisions of this Part of this Schedule, a compulsory purchase Order shall not, either before or after it has been confirmed, be questioned in any legal proceedings whatsoever, and shall become operative at the expiration of six weeks from the date on which notice of the confirmation of the order is published in accordance with this Schedule.
- 4 Except by leave of the Court of Appeal no appeal shall lie to the House of Lords from a decision of the Court of Appeal under this Part of this Schedule.

#### **PART IV**

##### *Regulations*

The Minister may make regulations prescribing anything which may be prescribed for the purposes of this Schedule.