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SCHEDULES

SCHEDULE 1

Sections 13 and 14.

[^{F1}PART I]

Textual Amendments

- F1** Cross heading inserted by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 25 para. 9\(1\)](#) (3) except where a notice to treat has been served before 13.11.1980

Actual or Prospective Development relevant for purposes of Sections 13 & 14

DESCRIPTION OF DEVELOPMENT

<i>Case</i>	<i>Development</i>
1. Where the acquisition is for purposes involving development of any of the land authorised to be acquired.	Development of any of the land authorised to be acquired, other than the relevant land, being development for any of the purposes for which any part of the first-mentioned land (including any part of the relevant land) is to be acquired.
2. Where any of the relevant land forms part of an area defined in the current development plan as an area of comprehensive development.	Development of any land in that area, other than the relevant land, in the course of the development or redevelopment of the area in accordance with the plan.
3. Where on the date of service of the notice to treat any of the relevant land forms part of an area designated as the site of a new town by an order under [^{F2} the New Towns (Scotland) Act 1968].	Development of any land in that area, other than the relevant land, in the course of the development of that area as a new town.
[^{F3} 3A. Where on the date of service of the notice to treat any of the relevant land forms part of an area designated as an extension of the site of a new town by an order under the ^{M1} New Towns Act 1946 becoming operative after the date of the commencement of the ^{M2} New Towns Act 1966.	Development of any land included in that area, other than the relevant land, in the course of the development of that area as part of a new town.]

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4. Where any of the relevant land forms part of an area to which a town development scheme under Part II of the

Development of any land in that area, other than the relevant land, in the course of the execution of the scheme.

M3

Housing and Town Development (Scotland) Act 1957 relates, being a scheme which is in operation on the date of service of the notice to treat.

[
F4

4A. Where any of the relevant land forms part of an area designated as an urban development area by an order under section 134 of the

M4

Local Government, Planning and Land Act 1980.

Development of any land other than the relevant land, in the course of the development or redevelopment of that area as an urban development area.]

Textual Amendments

F2 Words substituted by virtue of [New Towns \(Scotland\) Act 1968 \(c. 16\)](#), [Sch. 9 para. 5](#)

F3 [Para. 3A](#) inserted by [New Towns Act 1966 \(c. 44\)](#), [Sch. Pt. II](#), para. 4

F4 [Para. 4A](#) inserted by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [s. 145\(1\)](#)

Marginal Citations

M1 1946 c. 68.

M2 1966 c. 44.

M3 1957 c. 38.

M4 1980 c. 65.

[^{F5}PART II]

SPECIAL PROVISION AS TO NEW TOWNS

Textual Amendments

F5 [Pt. II](#) added by [Local Government, Planning and Land Act 1980 \(c. 65\)](#), [Sch. 25 para. 9\(1\)\(3\)](#) except where a notice to treat has been served before 13.11.1980

- 5 (1) This paragraph applies where, before the date of service of the notice to treat for the purposes of a compulsory acquisition (the relevant acquisition), the land has been disposed of by an authority or body in circumstances where paragraph 3 or 3A of this Schedule would have applied if (at the time of the disposal) the authority or body had been compulsorily acquiring the land.
- (2) in that case, paragraphs 3 and 3A shall not apply for the purposes of the relevant acquisition.

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[^{F6}PART III]

SPECIAL PROVISIONS AS TO URBAN DEVELOPMENT AREAS

Textual Amendments

F6 Pt. III added by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 145\(4\)](#)

- 6 For the avoidance of doubt it is hereby declared—
- (a) that, in assessing in the circumstances described in paragraph 4A in the first column of Part I of this Schedule the increase or diminution in value to be left out of account by virtue of section 13 of this Act no increase or diminution of value is to be excluded from being left out of account; and
 - (b) that, in assessing in those circumstances the increase in value to be taken into account by virtue of section 14 of this Act, no increase in value is to be excluded from being taken into account,
- merely because it is attributable—
- (i) to any development of land which was carried out before the area was designated as an urban development area;
 - (ii) to any development or prospect of development of land outside the urban development area;
 - (iii) to any development or prospect of development of land by an authority, other than the acquiring authority, possessing compulsory purchase powers.
- 7 Paragraph 6 of this Schedule shall have effect in relation to any increase or diminution in value to be left out of account by virtue of any rule of law relating to the assessment of compensation in respect of compulsory acquisition as it has effect in relation to any increase or diminution in value to be left out of account by virtue of section 13 of this Act.

[^{F7}SCHEDULE 2

ACQUISITION OF HOUSES WHICH DO NOT MEET THE TOLERABLE STANDARD

Textual Amendments

F7 Sch. 2 substituted by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\), ss. 335, 339\(2\), Sch. 23 para. 10\(2\)](#)

Acquisitions to which this Schedule applies

- 1 (1) This Schedule applies to a compulsory acquisition of a description mentioned in subparagraph (2) where the land in question comprises a house which, in the opinion of the appropriate local authority does not meet the tolerable standard.
- (2) The compulsory acquisitions referred to are—
- (a) an acquisition under [^{F8}Part VIII of the Town and Country Planning (Scotland) Act 1997 or sections 42 to 47 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997], or

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- (b) an acquisition under section 13 of the Housing and Town Development (Scotland) Act ^{M5}1957, or
- (c) an acquisition in pursuance of [^{F9}Part V of the Town and Country Planning (Scotland) Act 1997 or sections 28 to 33 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997], or
- (d) an acquisition of land within the area designated by an order under section 1 of the New Towns (Scotland) Act ^{M6}1968 as the site of a new town, or
- (e) an acquisition by a development corporation or a local roads authority or the Secretary of State under the New Towns (Scotland) Act 1968 or under any enactment as applied by any provision of that Act, or
- (f) an acquisition by means of an order under section 141 of the Local Government, Planning and Land Act 1980 vesting land in an urban development corporation; or
- (g) an acquisition by such a corporation under section 142 of that Act.

Textual Amendments

- F8** Words in Sch. 2 para. 1(2)(a) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), Sch. 2 para. 9(10)(a)(i)
F9 Words in Sch. 2 para. 1(2)(c) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), Sch. 2 para. 9(10)(a)(ii)

Modifications etc. (not altering text)

- C1** Para. 1(2) modified by Land Commission Act 1967 (c. 1), s. 23(3) and Local Government, Planning and Land Act 1980 (c. 65), s. 141, Sch. 27 para. 26

Marginal Citations

- M5** 1957 c.38 (123:4).
M6 1968 c.16 (123:4).

Procedure

- 2 (1) The local authority may make and submit to the Secretary of State an order, in such form as may be prescribed by regulations made under section 330 of the Housing (Scotland) Act 1987, declaring that the house does not meet the tolerable standard and if—
- (a) that order is confirmed by the Secretary of State, either before or concurrently with the confirmation of a compulsory purchase order for the acquisition of the land, or
 - (b) in a case where the acquisition is in pursuance of a notice to treat deemed to have been served in consequence of the service of a notice under [^{F10}section 90 of the Town and Country Planning (Scotland) Act 1997] or the provisions of that section as applied by or under any other enactment or in consequence of the service of a notice under section 11 of the New Towns (Scotland) Act 1968 or under [^{F11}section 101 of the Town and Country Planning (Scotland) Act 1997], the order is made before the date on which the notice to treat is deemed to have been served and is subsequently confirmed by the Secretary of State,
- section 305 and paragraph 12(2) and (3) of Schedule 8 to the Housing (Scotland) Act 1987 (which relate respectively to payments in respect of certain well-maintained houses under Part XV and to compensation for compulsory acquisition under Part IV of the Housing (Scotland) Act 1987) shall apply as if the house had been purchased

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under Part IV as not meeting the tolerable standard, and as if any reference in that section and paragraph to the local authority were a reference to the acquiring authority.

- (2) Before submitting to the Secretary of State an order under this paragraph, the local authority by whom the order was made shall serve on every owner, and (so far as it is reasonably practicable to ascertain such persons) on ^{F12}... the holder of every heritable security over, the land or any part thereof, a notice in such form as may be prescribed as mentioned in the last preceding sub-paragraph, stating the effect of the order and that it is about to be submitted to the Secretary of State for confirmation, and specifying the time within which, and the manner in which, objection thereto can be made.
- (3) If no objection is duly made by any of the persons on whom notices are required to be served, or if all objections so made are withdrawn, the Secretary of State may, if he thinks fit, confirm the order; but in any other case he shall, before confirming the order, consider any objection not withdrawn, and shall, if either the person by whom the objection was made or the local authority so desires, afford to that person and the authority an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (4) Section 86 of the Housing (Scotland) Act 1987 shall have effect in determining for the purposes of this paragraph whether a house meets the tolerable standard as it has effect in so determining for the purposes of that Act.
- (5) In this paragraph “appropriate local authority” means a local authority who, in relation to the area in which the land in question is situated, are a local authority for the purposes of the provisions of Part IV of the Housing (Scotland) Act 1987 relating to housing action areas; and “owner,” in relation to any land, includes any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking and includes also a lessee under a lease the unexpired period of which exceeds three years.

Textual Amendments

- F10** Words in Sch. 2 para. 2(1)(b) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 9(10)(b)(i)**
- F11** Words in Sch. 2 para. 2(1)(b) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 9(10)(b)(ii)**
- F12** Words in **Sch. 2 para. 2(2)** repealed (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), sch. 12 para. 25(8), **sch. 13 Pt. 1** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

Modifications etc. (not altering text)

- C2** Sch. 2 para. 2(1)(a) modified by **Housing (Scotland) Act 1987** (c. 26, SIF 61), ss. 77(3)(4), 335, **Sch. 6 para. 10**

Amount of compensation

- 3 (1) Where in relation to a compulsory acquisition, section 120(2) to (4) or paragraph 12(2) and (3) of Schedule 8 to the Housing (Scotland) Act 1987 (which relate respectively to the compensation to be paid on the compulsory acquisition of closed houses, and of houses not meeting the tolerable standard) apply (whether by virtue of that Act or of an order under paragraph 2 of this Schedule) and-

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- (a) the relevant land consists of or includes the whole or part of a house (in this paragraph referred to as "the relevant house") and, on the date of the making of the compulsory purchase order in pursuance of which the acquisition is effected, the person then entitled to the relevant interest was, in right of that interest, in occupation of the relevant house or part thereof as a private dwelling, and
- (b) that person either continues, on the date of service of the notice to treat, to be entitled to the relevant interest, or, if he has died before that date, continued to be entitled to that interest immediately before his death,

the following provisions of this paragraph shall apply in relation to the acquisition; and in those provisions "the dwelling" means so much of the relevant house as the said person occupied as aforesaid.

- (2) Subject to the next following sub-paragraph, the amount of the compensation payable in respect of the acquisition of the relevant interest shall not in any event be less than the gross annual value of the dwelling.
- (3) Where a payment falls to be made under section 304 or 305 of the Housing (Scotland) Act 1987 to the person entitled to the relevant interest, and that payment is attributable to the relevant house, any reference in the last preceding sub-paragraph to the amount of the compensation payable in respect of the acquisition of the relevant interest shall be construed as a reference to the aggregate of that amount and of the amount of the payment.
- (4) For the purposes of this paragraph the gross annual value of the dwelling shall be determined as follows-
 - (a) if the dwelling constitutes the whole of the relevant house, the gross annual value of the dwelling shall be taken to be the value which, on the date of service of the notice to treat, is shown in the valuation roll then in force as the gross annual value of that house for rating purposes;
 - (b) if the dwelling is only part of the relevant house, an apportionment shall be made of the gross annual value of the relevant house for rating purposes, as shown in the valuation roll in force on the date of service of the notice to treat, and the gross annual value of the dwelling shall be taken to be the amount which, on such an apportionment, is properly attributable to the dwelling.
- (5) Any reference in this paragraph to the compensation payable in respect of the acquisition of the relevant interest shall be construed as excluding so much (if any) of that compensation as is attributable to disturbance or to severance or injurious affection.
- (6) Nothing in this paragraph shall affect the amount which is to be taken for the purposes of section 20 of this Act (which relates to the consideration payable for the discharge of land from feu-duty and incumbrances) as the amount of the compensation payable in respect of the acquisition of the relevant interest.
- (7) In the application of this paragraph to any lands and heritages whose net annual value is ascertained under subsection (8) of section 6 of the Valuation and Rating (Scotland) Act 1956 (and for which there is therefore no gross annual value shown in the valuation roll)-
 - (a) in sub-paragraph (2) above, for the word 'gross' there shall be substituted the words '1.25 times the net'; and
 - (b) in sub-paragraph (4) above, for the word 'gross', wherever it occurs, there shall be substituted the word 'net'.

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Interpretation

- 4 This Schedule shall be construed as one with Parts IV and XV of the Housing (Scotland) Act 1987.]

F13F13 SCHEDULES 3

Textual Amendments

- F13 Sch. 3 repealed by Land Commission Act 1967 (c. 1), s. 101, Sch. 17

F13

[F14] THIRD SCHEDULE

APPLICATION OF PART V TO CERTAIN CASES

Textual Amendments

- F14 Sch. 3 (paras. 1-8) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 28:2), s. 77, Sch. 16 para.2 (with s. 84(5)); S.I. 1991/2092, art.3

F15 *Disturbance, severance and injurious affection*

Textual Amendments

- F15 Sch. 3 (paras. 1-8) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 28:2), s. 77, Sch. 16 para.2 (with s. 84(5)); S.I. 1991/2092, art. 3

- F16₁ Subject to paragraph 2 of this Schedule, any reference in section 31 of this Act to the principal amount of any compensation shall be construed as including any sum attributable to disturbance, severance or injurious affection.

Textual Amendments

- F16 Sch. 3 (paras. 1-8) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 28:2), s. 77, Sch. 16 para.2 (with s. 84(5)); S.I. 1991/2092, art. 3

- F17₂ If the person entitled to the compensation under section 31 of this Act—
- (a) was, at the time of the compulsory acquisition or sale mentioned in subsection (1) of that section, entitled to an interest in other land contiguous or adjacent to 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;

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any reference in section 31 of this Act 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.

Textual Amendments

F17 Sch. 3 (paras. 1-8) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 77, [Sch. 16 para.2](#) (with s. 84(5)); S.I. 1991/2092, [art.3](#)

^{F18}Increase in value of contiguous or adjacent land

Textual Amendments

F18 Sch. 3 (paras. 1-8) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 77, [Sch. 16 para.2](#) (with s. 84(5)); S.I. 1991/2092, [art.3](#)

^{F19}₃ In determining for the purposes of section 31 of this Act 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 14 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 section 23 of this Act is not entitled to the interest or is entitled to it only as respects part of the contiguous or adjacent land,

the amount specified in section 31(2) and the principal amount or purchase price mentioned in section 31(1) shall be calculated as if the circumstances 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 of the land.

Textual Amendments

F19 Sch. 3 (paras. 1-8) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 77, [Sch. 16 para.2](#) (with s. 84(5)); S.I. 1991/2092, [art. 3](#)

^{F20}Land held subject to heritable security

Textual Amendments

F20 Sch. 3 (paras. 1-8) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 77, [Sch. 16 para.2](#) (with s. 84(5)); S.I. 1991/2092, [art. 3](#)

^{F21}₄ Subject to the provisions of this Schedule relating to settled land, where, in a case falling within section 31(1) of this Act, the interest in land which was acquired or sold was subject to a heritable security, any reference (however expressed) in

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section 31 or section 32 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 heritable security, was entitled to that interest, and not as a reference to the heritable creditor.

Textual Amendments

F21 Sch. 3 (paras. 1-8) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 77, [Sch. 16 para.2](#) (with s. 84(5)); S.I. 1991/2092, [art.3](#)

^{F22}5 For the purposes of the application of section 31 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 heritable security.

Textual Amendments

F22 Sch. 3 (paras. 1-8) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 77, [Sch. 16 para.2](#) (with s. 84(5)); S.I. 1991/2092, [art. 3](#)

^{F23}6 No compensation shall be payable by virtue of section 31 of this Act in respect of a compulsory acquisition or sale by agreement where the interest acquired or sold was the interest of a heritable creditor (as distinct from an interest subject to a heritable security).

Textual Amendments

F23 Sch. 3 (paras. 1-8) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 77, [Sch. 16 para.2](#) (with s. 84(5)); S.I. 1991/2092, [art. 3](#)

^{F24}*Land held in trust*

Textual Amendments

F24 Sch. 3 (paras. 1-8) inserted (25.9.1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 28:2\)](#), s. 77, [Sch. 16 para.2](#) (with s. 84(5)); S.I. 1991/2092, [art.3](#)

^{F25}7 (1) Where, in a case falling within section 31(1) of this Act, the interest in land which was acquired or sold was subject to a trust, and accordingly the compensation or purchase price was payable to the trustees of that trust, any reference (however expressed) in section 31 or section 32 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 trust.

(2) Where sub-paragraph (1) of this paragraph applies, section 31(4) of this Act shall not apply.

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- (3) Any compensation paid to the trustees of the trust by virtue of section 31 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 “trust” has the same meaning as in the Trusts (Scotland) Act 1921.

Textual Amendments

F25 Sch. 3 (paras. 1-8) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 28:2), s. 77, Sch. 16 para.2 (with s. 84(5)); S.I. 1991/2092, art.3

^{F26} Interpretation

Textual Amendments

F26 Sch. 3 (paras. 1-8) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 28:2), s. 77, Sch. 16 para.2 (with s. 84(5)); S.I. 1991/2092, art.3

- ^{F27}g References in this Schedule to sections 31 and 32 of this Act include references to those sections as applied by section 33 or 34 of this Act, and references to the time of any planning decision shall be construed accordingly.]

Textual Amendments

F27 Sch. 3 (paras. 1-8) inserted (25.9.1991) by Planning and Compensation Act 1991 (c. 34, SIF 28:2), s. 77, Sch. 16 para.2 (with s. 84(5)); S.I. 1991/2092, art.3

^{F28} SCHEDULES 4

Textual Amendments

F28 Sch. 4 repealed by Statute Law (Repeals) Act 1974 (c. 22), Sch. Pt. XI

F28

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