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SCHEDULES

SCHEDULE 4

SCHEDULES A AND D: ALLOWANCES FOR BETTERMENT LEVY

PART I

PREMIUMS ETC.

- 1 (1) Subject to paragraph 5 of this Schedule, for the purposes of section 80(1) of this Act (taxation of premium on grant of lease), the amount of any premium payable to the landlord shall be reduced by the amount of any betterment levy charged on the premium, and that reduction shall be made before the reduction under the said section 80(1) depending upon the length of the lease.
- (2) In applying subsection (6) of the said section 80 (premiums payable by instalments: claim for treatment as rent) to a premium which falls to be reduced under sub-paragraph (1) above (looking at the fraction by which it is reduced before any reduction depending on the length of the lease), a reduction by that fraction shall be made in the amount of each instalment.
- (3) For the purposes of sub-paragraph (1) above, the amount of betterment levy charged on a premium is the principal amount of the betterment levy under Case B charged in respect of the grant of the lease, reduced by applying the fraction
- $$\frac{A}{B}$$
- (if less than unity) where—
- A is the capital value of the premium payable to the landlord as brought into account under paragraph 7 of Schedule 4 to the Land Commission Act 1967, and
- B is the aggregate amount of consideration as computed for the purposes of charging betterment levy.
- (4) Sub-paragraphs (1) and (3) above shall also apply as respects any amounts brought into section 80(1) of this Act as a premium by subsection (2) of that section (landlord's benefit from tenant's obligation to carry out work on premises) so far as the benefit to the landlord is brought into account under the said paragraph 7 of Schedule 4 to the Land Commission Act 1967 ; and references to premiums in this paragraph shall be construed accordingly.
- (5) For the purposes of sub-paragraph (1) above, the amount of betterment levy charged on any sum brought into the said section 80(1) as a premium by subsection (4) of that section (consideration for the variation or waiver of the terms of a lease) is the principal amount of the betterment levy under Case E or Case F charged in respect of the disposition for which that sum is consideration, but subject to a proportionate reduction as under sub-paragraph (3) above where the sum forms part only of the consideration brought into account in assessing the betterment levy in respect of the

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disposition, and where the levy is under Case F, subject to such adjustments of the consideration so brought into account as may be appropriate ; and references to a premium in this paragraph shall be construed accordingly.

2 Subject to paragraph 5 of this Schedule, any taxable amount under section 81 or 82 of this Act (assignment of lease at undervalue, and sale with right to reconveyance) shall be reduced by so much of the principal amount of any betterment levy under Case A charged on the assignment or sale on which the charge to tax arises as is attributable to the said taxable amount, and that reduction shall be made before any reduction under the said section 81 depending on the length of the lease, or any reduction under the said section 82 depending on the time between the sale and a subsequent reconveyance.

3 Any reduction to be effected under any of the provisions of paragraphs 1 and 2 above shall be disregarded in arriving at "the amount chargeable on the superior interest" in section 83 of this Act (premiums paid, etc: deduction from premiums and rents received) and " the amount chargeable " in section 134 of this Act (allowance of trading deduction where premium etc. paid).

4 (1) Where for the purposes of Part III of the Land Commission Act 1967 a notice of assessment of betterment levy results in an operative assessment of levy, it shall become final and conclusive for the purposes of this Part of this Schedule, but subject to any adjustment under section 54 or 55 of that Act (mistake of fact and further notice of assessment of levy), or under any other provision of that Act.

(2) Where betterment levy is chargeable in respect of land part only of which is the relevant land for the purposes of the charge to tax under Schedule A or Case VI of Schedule D, or where part of the consideration for a disposition is payable to a person other than the grantor in the circumstances mentioned in section 36(3) of the Land Commission Act 1967, the levy shall be apportioned in such manner as may be appropriate in the circumstances.

(3) Any question arising in any appeal against an assessment to tax as to the application of the preceding provisions of this Part of this Schedule shall be determined on a reference to the Lands Tribunal.

(4) The Land Commission shall afford to the inspector and to the Lands Tribunal such information as they may require for the purpose of this Part of this Schedule.

(5) In relation to land in Scotland, for any reference in this paragraph to the Lands Tribunal there shall be substituted a reference to the Lands Tribunal for Scotland:

Provided that until sections 1 to 3 of the Lands Tribunal Act 1949 come into force as regards Scotland, this sub-paragraph shall have effect as if for the reference to the Lands Tribunal for Scotland there were substituted a reference to a person selected from the panel of referees appointed under Part I of the Finance (1909-1910) Act 1910.