

SCHEDULES

SCHEDULE 19

Section 250.

COMPULSORY ACQUISITION OF RIGHTS : MODIFICATION OF 1946 AND 1965 ACTS

PART I

ADAPTATION OF 1946 ACT, SCHEDULE 1, PART III

- 1 In paragraphs 2 to 4 below, " the Schedule " means Schedule 1 to the Act of 1946; and in relation to compulsory acquisition of rights by virtue of section 250 of this Act that Schedule applies with the modifications made by those paragraphs.
- 2 In paragraph 9 of the Schedule (compulsory purchase order to be subject to special parliamentary procedure in certain cases) for references to compulsory purchase of land substitute references to compulsory acquisition of rights over land.
- 3 In paragraph 10 of the Schedule (land of statutory undertakers)—
 - (a) for " land comprised in the order" substitute " land over which a right is to be acquired by virtue of the order ";
 - (b) for " purchase of " substitute " acquisition of a right over ";
 - (c) for " it can be purchased and not replaced " substitute " the right can be acquired ";
 - (d) for sub-paragraph (ii) substitute the following—
 - “(ii) that any detriment to the carrying on of the undertaking, in consequence of the acquisition of the right, can be made good by the undertakers by the use of other land belonging to, or available for acquisition by, them”.
- 4 (1) in paragraph 11 of the Schedule (common land, open spaces, etc.) substitute the following for sub-paragraph (1)—
 - “(1) In so far as a compulsory purchase order authorises the acquisition of a right over land forming part of a common, open space or fuel or field garden allotment, it shall be subject to special parliamentary procedure unless the Secretary of State is satisfied—
 - (a) that the land, when burdened with that right, will be no less advantageous to those persons in whom it is vested and to the persons, if any, entitled to rights of common or other rights, and to the public, than it was before; or
 - (b) that there has been or will be given in exchange for the right additional land which will as respects the persons in whom there is vested the land over which the right is to be acquired, the persons, if any, entitled to rights of common or other rights over that land, and the public, be adequate to compensate them for the disadvantages which result from the acquisition of the right, and

Status: This is the original version (as it was originally enacted).

that the additional land has been or will be vested in the persons in whom there is vested the land over which the right is to be acquired, and subject to the like rights, trusts and incidents as attach to that land apart from the compulsory purchase order; or

- (c) that the land affected by the right to be acquired does not exceed 250 square yards in extent or the right is required in connection with the widening or drainage of an existing highway or in connection partly with the widening and partly with the drainage of such a highway, and that the giving of other land in exchange for the right is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,

and certifies accordingly.”.

- (2) In the said paragraph 11, in sub-paragraph (3), substitute the following for the words from " and for discharging " to the end—

“and for discharging the land over which any right is to be acquired from all rights, trusts and incidents to which it has previously been subject so far as their continuance would be inconsistent with the exercise of that right”.

PART II

ADAPTATION OF 1965 ACT, PART I

- 5 In relation to a compulsory acquisition of a right by virtue of section 250 of this Act, the Act of 1965 applies with the modifications made by paragraphs 6 to 11 below.

- 6 For section 7 of the Act (measure of compensation) substitute the following:—

“7 In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent (if any) to which the value of the land over which the right is to be acquired is depreciated by the acquisition of the right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”.

- 7 For section 8(1) of the Act (protection for vendor against severance of house, garden, etc.) substitute the following—

“(1) No person shall be required to grant any right over part only—

- (a) of any house, building or manufactory; or
 (b) of a park or garden belonging to a house,

if he is willing to sell the whole of the house, building, manufactory, park or garden, unless the Lands Tribunal determines that—

- (i) in the case of a house, building or manufactory, the part over which the right is proposed to be acquired can be made subject to that right without material detriment to the house, building or manufactory; or
 (ii) in the case of a park or garden, the part over which the right is proposed to be acquired can be made subject to that right without seriously affecting the amenity or convenience of the house ;

and if the Lands Tribunal so determine, the Tribunal shall award compensation in respect of any loss due to the acquisition of the right, in addition to its value; and thereupon the party interested shall be required to grant to the acquiring authority that right over that part of the house, building, manufactory, park or garden.

(1A) In considering the extent of any material detriment to a house, building or manufactory, or any extent to which the amenity or convenience of a house is affected, the Lands Tribunal shall have regard not only to the right which is to be acquired over the land, but also to any adjoining or adjacent land belonging to the same owner and subject to compulsory purchase.”.

8 The following provisions of the Act (being provisions stating the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land)—

section 9(4) (refusal by owners to convey);

Schedule 1, paragraph 10(3) (owners under incapacity);

Schedule 2, paragraph 2(3) (absent and unbraced owners); and

Schedule 4, paragraphs 2(3) and 7(2) (common land),

are so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

9 Section 11 of the Act (powers of entry) is so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on sheriff's warrant in the event of obstruction) are modified correspondingly.

10 Section 20 of the Act (protection for interests of tenants at will, etc.) applies with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right in question.

11 Section 22 of the Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) is so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue entitled to exercise the right acquired, subject to compliance with that section as respects compensation.