

*Status: Point in time view as at 16/02/2004.*

*Changes to legislation: There are currently no known outstanding effects for the Civil Aviation Act 1982, Part III. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 7

#### PROVISIONS RELATING TO CERTAIN ORDERS UNDER PART II

##### **Modifications etc. (not altering text)**

**C1** Schs. 7–10 extended with modifications by [Airports Act 1986 \(c. 31, SIF 9\)](#), s. 59(3)(4)

#### **PART III**

- 10 (1) 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 for the diminution from the appropriate person; and the provisions of the Land Compensation Act shall have effect accordingly.
- (2) In this paragraph “the appropriate person” has the same meaning as in paragraph 5 above.
- 11 (1) Where any interest in land is subject to a mortgage or, in Scotland, to a heritable security—
- (a) any compensation payable under the preceding 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 or heritable security;
  - (b) a claim for any such compensation may be made by any mortgagee of the interest or, in Scotland, by any creditor in a heritable security of the interest, but without prejudice to the making of a claim by the person entitled to the interest;
  - (c) a mortgagee or, in Scotland, a creditor in a heritable security 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 or heritable security may be paid to such of the claimants as the Secretary of State 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.
- (2) In this paragraph—
- “mortgage” includes an equitable charge and any other encumbrance, and includes a sub-mortgage, and the expression “mortgagee” shall be construed accordingly;
- “heritable security” means a heritable security within the meaning of the <sup>M1</sup>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.

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#### Marginal Citations

**M1** 1924 c. 27.

- 12 (1) Where the order provides for the creation of any easement or servitude over land in England and Wales or Scotland 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 in accordance with the special provisions of Part II 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 preceding paragraphs of this Schedule.
- (2) Compensation recoverable by virtue of sub-paragraph (1) above shall be recoverable—
- (a) from the Secretary of State in the case of an order made otherwise than in favour of <sup>[F1]</sup>the CAA or a licence holder;
  - (b) from the CAA in the case of an order made in favour of the CAA.
  - <sup>[F2]</sup>(c) from the licence holder in the case of an order made in favour of a licence holder.]

#### Textual Amendments

- F1** Words in Sch. 7 para. 12(2)(a) substituted (1.4.2001) by 2000 c. 38, s. 36, Sch. 4 para. 16(2)(a) (with s. 106); S.I. 2001/869, art. 2
- F2** Sch. 7 para. 12(2)(c) inserted (1.4.2001) by 2000 c. 38, s. 36, Sch. 4 para. 16(4) (with s. 106); S.I. 2001/869, art. 2

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