
Status: Point in time view as at 01/10/2010.

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SCHEDULES

SCHEDULE 9

Section 155.

MODIFICATION OF COMPENSATION PROVISIONS ETC. IN RELATION TO THE CREATION OF NEW RIGHTS

Compensation enactments

- 1 Subject to the following provisions of this Schedule, the enactments for the time being in force with respect to compensation for the compulsory purchase of land shall apply with the necessary modifications as respects compensation in the case of a compulsory acquisition under section 155 of this Act of a right by the creation of a new right as they apply as respects compensation on the compulsory purchase of land and interests in land.

Adaptation of the Compulsory Purchase Act 1965

- 2 The Compulsory Purchase Act 1965 (in the following provisions of this Schedule referred to as “the 1965 Act”) shall have effect with the modifications necessary to make it apply to the compulsory acquisition under section 155 of this Act of a right by the creation of a new right as it applies to the compulsory acquisition under that section of land, so that, in appropriate contexts, references in that Act to land are to be read (according to the requirements of the particular context) as referring to, or as including references to—
- (a) the right acquired or to be acquired; or
 - (b) the land over which the right is or is to be exercisable.
- (2) Without prejudice to the generality of sub-paragraph (1) above, Part I of the 1965 Act shall apply in relation to the compulsory acquisition under section 155 of this Act of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

Section 7 of the 1965 Act

- 3 For section 7 of the 1965 Act (measure of compensation) there shall be substituted the following section—
- “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.”

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Section 8 of the 1965 Act

- 4 For subsection (1) of section 8 of the 1965 Act (protection for vendor against severance of house, garden, etc.) there shall be substituted the following subsections—

- “(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 [^{F1}Upper 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 [^{F2}Upper Tribunal so determines], 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 the 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 [^{F3}Upper 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.”

Textual Amendments

- F1** Words in [Sch. 9 para. 4](#) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order (S.I. 2009/1307), art. 5(1)(2), {Sch. 1 para. 222(a)(i)} (with Sch. 5)
- F2** Words in [Sch. 6 para. 4](#) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order (S.I. 2009/1307), art. 5(1)(2), {Sch. 1 para. 222(a)(ii)} (with Sch. 5)
- F3** Words in [Sch. 9 para. 4](#) substituted (1.6.2009) by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order (S.I. 2009/1307), art. 5(1)(2), {Sch. 1 para. 222(b)} (with Sch. 5)

Effect of deed poll

- 5 The following provisions of the 1965 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), that is to say—

- (a) section 9(4) (refusal by owners to convey);
- (b) paragraph 10(3) of Schedule 1 (owners under incapacity);
- (c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and
- (d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

shall be 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.

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Section 11 of the 1965 Act

- 6 Section 11 of the 1965 Act (powers of entry) shall be 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 warrant in the event of obstruction) shall be modified correspondingly.

Section 20 of the 1965 Act

- 7 Section 20 of the 1965 Act (protection for interests of tenants at will etc.) shall apply 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 under section 155 of this Act 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.

Section 22 of the 1965 Act

- 8 Section 22 of the 1965 Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) shall be 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.

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