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SCHEDULES

SCHEDULE 4

ACQUISITION OF LAND WITHIN LIMITS SHOWN ON DEPOSITED PLANS

PART III

SUPPLEMENTARY PROVISIONS

Acquisition of part only of certain properties

- 11 (1) Where—
- (a) a notice to treat under Part I of the Compulsory Purchase Act 1965, as applied to the acquisition of land under section 4(1) above, is served in respect of land forming part only of a house, building or factory or part only of land consisting of a house with a park or garden, and
 - (b) a copy of this paragraph is served with the notice to treat,
- the following provisions of this paragraph, with paragraph 12 below, shall apply instead of section 8(1) of the Compulsory Purchase Act 1965.
- (2) The person on whom the notice to treat is served (“the owner”) may within the period of 21 days beginning with the day on which the notice to treat is served on him, serve on the Secretary of State a counter-notice objecting to the sale of the part (“the land subject to the notice to treat”) and stating that he is willing and able to sell the whole (“the land subject to the counter-notice”).
 - (3) If no counter-notice is served under sub-paragraph (2) above, the owner shall be required to sell the land subject to the notice to treat.
 - (4) If a counter-notice is served under sub-paragraph (2) above and the Secretary of State agrees to take the land subject to the counter-notice, the notice to treat shall be deemed to be a notice to treat in addition for the remainder of the land subject to the counter-notice.
 - (5) If a counter-notice is served under sub-paragraph (2) above and the Secretary of State does not agree to take the land subject to the counter-notice, the question as to what land the owner is to be required to sell shall be referred to the Lands Tribunal.
 - (6) If, on a reference under sub-paragraph (5) above, the Lands Tribunal determine that the land subject to the notice to treat can be taken—
 - (a) without material detriment to the remainder of the land subject to the counter-notice, and
 - (b) where the land subject to the notice to treat consists of or includes garden only land, without seriously affecting the amenity and convenience of the relevant house,the owner shall be required to sell the land subject to the notice to treat.

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- (7) If, on such a reference, the Lands Tribunal determine that only part of the land subject to the notice to treat can be taken as mentioned in sub-paragraph (6) above, the notice to treat shall, subject to sub-paragraph (8) below, be deemed to be a notice to treat for that part.
- (8) Where the land subject to the notice to treat is not land which consists of or includes garden only land, sub-paragraph (7) above shall only have effect to deem the notice to treat to be a notice to treat for land which does consist of or include garden only land if the Lands Tribunal determine that that land can be taken without seriously affecting the amenity and convenience of the relevant house.
- (9) If, on such a reference, the Lands Tribunal determine—
- (a) that none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice, but
 - (b) that the material detriment is confined to part of the remainder of that land, then, except where sub-paragraph (10) below applies, the notice to treat shall be deemed to be a notice to treat in addition for the land to which the material detriment is confined.
- (10) If, in a case where the land subject to the notice to treat consists of or includes garden only land, the Lands Tribunal determine on such a reference that none of the land subject to the notice to treat can be taken without seriously affecting the amenity or convenience of the relevant house, the notice to treat shall be deemed to be a notice to treat in addition for the remainder of the land subject to the counter-notice.
- (11) If, on such a reference, the Lands Tribunal determine—
- (a) that none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice, and
 - (b) that the material detriment is not confined to part of the remainder of that land,
- the notice to treat shall be deemed to be a notice to treat in addition for the remainder of the land subject to the counter-notice.
- (12) For the purposes of this paragraph, the land subject to the notice to treat consists of or includes garden only land if it consists of the whole or part of a park or garden belonging to a house or if it includes the whole or part of such a park or garden but does not include the house (“the relevant house”) or any part of it.

Modifications etc. (not altering text)

- C1** Sch. 4 para. 11 applied (with modifications) (19.2.1999) by [S.I. 1999/537](#), [art. 13\(1\)](#), [Sch. 3 para. 1-8](#)
 Sch. 4 para. 11 applied (with modifications) (22.3.2001) by [S.I. 2001/1451](#), [art. 15\(1\)](#), [Sch. 3 paras. 1\(d\), 3\(5\)](#)

- 12 (1) Where under paragraph 11 above a notice to treat is deemed by virtue of a determination of the Lands Tribunal to be a notice to treat for less land or more land than that specified in the notice, the Secretary of State may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice.

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- (2) If the Secretary of State withdraws a notice to treat under sub-paragraph (1) above, he shall pay the person on whom the notice was served compensation for any loss or expense occasioned to that person by the giving and withdrawal of the notice, such compensation to be determined in case of dispute by the Lands Tribunal.
- (3) Where under paragraph 11 above a person is required to sell part only of a house, building or factory or of land consisting of a house with a park or garden, the Secretary of State shall pay him compensation for any loss sustained by him due to the severance of that part in addition to the value of the interest acquired.
- (4) A notice to treat shall have the effect which it is deemed to have under paragraph 11(4), (9), (10) or (11) above whether or not the additional land is, apart from that provision, land which the Secretary of State is authorised to acquire compulsorily under this Part of this Act.

Modifications etc. (not altering text)

- C2** Sch. 4 para. 12 applied (with modifications) (19.2.1999) by [S.I. 1999/537](#), art. 13(1), [Sch. 3 para. 1-8](#)
Sch. 4 para. 12 applied (with modifications) (22.3.2001) by [S.I. 2001/1451](#), art. 15(1), [Sch. 3 para. 1\(d\)](#)

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