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SCHEDULES

SECOND SCHEDULE

ACQUISITION OF HOUSES AS BEING UNFIT FOR HUMAN HABITATION

PART II

Provisions for Scotland

- 1 (1) The provisions of this paragraph shall have effect in relation to any compulsory acquisition, being—
- (a) an acquisition under Part III of the Scottish Act of 1947, or
 - (b) an acquisition under section thirteen of the Housing and Town Development (Scotland) Act, 1957, or
 - (c) an acquisition in pursuance of Part IV of this Act, or
 - (d) an acquisition of land within the area designated by an order under section one of the New Towns Act, 1946, as the site of a new town, or
 - (e) an acquisition by a development corporation or a local highway authority or the Secretary of State under the New Towns Act, 1946, or under any enactment as applied by any provision of that Act,
- and being (in any such case) an acquisition where the land in question comprises a house which, in the opinion of an appropriate local authority, is unfit for human habitation and not capable at reasonable expense of being rendered fit for human habitation.
- (2) The local authority may make and submit to the Minister an order, in such form as may be prescribed by regulations made under section one hundred and seventy-two of the Act of 1950, declaring the house to be in the state referred to in the preceding sub-paragraph ; and if—
- (a) that order is confirmed by the Minister, either before or concurrently with the confirmation of a compulsory purchase order for the acquisition of the land, or
 - (b) in a case where the acquisition is in pursuance of a notice to treat deemed to have been served in consequence of the service of a notice under section seventeen of the Scottish Act of 1947 or the provisions of that section as applied by or under any other enactment, or in consequence of the service of a notice under subsection (4) of section six of the New Towns Act, 1946, or under Part IV of this Act, the order is made before the date on which the notice to treat is deemed to have been served and is subsequently confirmed by the Minister,
- the provisions of subsection (2) of section thirty-six of the Act of 1950, and the provisions of section forty of that Act as read with section twenty of the Housing and Town Development (Scotland) Act, 1957 (which relate to certain payments in respect of houses purchased or demolished under the Act of 1950) shall apply as if

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the house had been purchased under Part III of the Act of 1950 as being in the state referred to in the preceding sub-paragraph, and as if any reference in those sections to the local authority were a reference to the acquiring authority.

- (3) Before submitting to the Minister an order under this paragraph, the local authority by whom the order was made shall serve on every owner, and (so far as it is reasonably practicable to ascertain such persons) on the superior of, and the holder of every heritable security over, the land or any part thereof, a notice in such form as may be prescribed as mentioned in the last preceding sub-paragraph, stating the effect of the order and that it is about to be submitted to the Minister for confirmation, and specifying the time within which, and the manner in which, objection thereto can be made.
 - (4) If no objection is duly made by any of the persons on whom notices are required to be served, or if all objections so made are withdrawn, the Minister may, if he thinks fit, confirm the order; but in any other case he shall, before confirming the order, consider any objection not withdrawn, and shall, if either the person by whom the objection was made or the local authority so desires, afford to that person and the authority an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose.
 - (5) Subsection (2) of section one hundred and eighty-four of the Act of 1950 shall have effect in determining for the purposes of this paragraph whether a house is fit for human habitation as it has effect in so determining for the purposes of that Act.
 - (6) In this paragraph " appropriate local authority " means a local authority who, in relation to the area in which the land in question is situated, are a local authority for the purposes of the provisions of Part III of the Act of 1950 relating to clearance areas.
- 2 (1) The provisions of this paragraph shall have effect in relation to any compulsory acquisition to which section one of this Act applies where—
- (a) the relevant land consists of or includes the whole or part of a house (in this paragraph referred to as " the relevant house ") and, on the date of the making of the compulsory purchase order in pursuance of which the acquisition is effected, the person then entitled to the relevant interest was, in right of that interest, in occupation of the relevant house or part thereof as a private dwelling, and
 - (b) that person either continues, on the date of service of the notice to treat, to be entitled to the relevant interest, or, if he has died before that date, continued to be entitled to that interest immediately before his death, and
 - (c) the acquisition is under the Act of 1950, in such circumstances that any of the following provisions of that Act, that is to say, subsection (2) of section twelve, subsection (4) of section seventeen, and subsection (2) of section thirty-six (which relate to compensation at site value) have effect in relation to the acquisition, or is an acquisition in connection with which an order is made and confirmed under the last preceding paragraph in respect of the relevant house.

In the following provisions of this paragraph any reference to "the dwelling" is a reference to so much of the relevant house as the person referred to in head (a) of this sub-paragraph occupied as therein mentioned.

- (2) Subject to the next following sub-paragraph, if the amount of the compensation payable in respect of the acquisition of the relevant interest would, apart from this paragraph, be less than the gross annual value of the dwelling, the amount of the

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compensation payable in respect of the acquisition of that interest shall be an amount equal to the gross annual value of the dwelling.

- (3) Where a payment falls to be made under section forty of the Act of 1950 to the person entitled to the relevant interest, and that payment is attributable to the relevant house, any reference in the last preceding sub-paragraph to the amount of the compensation payable in respect of the acquisition of the relevant interest shall be construed as a reference to the aggregate of that amount and of the amount of the payment.
 - (4) For the purposes of this paragraph the gross annual value of the dwelling shall be determined as follows:—
 - (a) if the dwelling constitutes the whole of the relevant house, the gross annual value of the dwelling shall be taken to be the value which, on the date of service of the notice to treat, is shown in the valuation roll then in force as the gross annual value of that house for rating purposes ;
 - (b) if the dwelling is only part of the relevant house, an apportionment shall be made of the gross annual value of the relevant house for rating purposes, as shown in the valuation roll in force on the date of service of the notice to treat, and the gross annual value of the dwelling shall be taken to be the amount which, on such an apportionment, is properly attributable to the dwelling.
 - (5) Any reference in this paragraph to the compensation payable in respect of the acquisition of the relevant interest shall be construed as excluding so much (if any) of that compensation as is attributable to disturbance or to severance or injurious affection.
 - (6) Nothing in this paragraph shall affect the amount which is to be taken for the purposes of section sixty-two of the Scottish Act of 1954 (which relates to the consideration payable for the discharge of land from feu duty and other incumbrances) as the amount of the compensation payable in respect of the acquisition of the relevant interest.
- 3 Paragraph 3 of the Fourth Schedule to the Act of 1950 (which makes special provision as to the assessment of compensation in the case of premises which are purchased under that Act otherwise than at site value, but are in a state of defective sanitation or not in reasonably good repair) shall cease to have effect, except for the purpose of assessing compensation (where applicable) in respect of compulsory acquisitions to which section one of this Act does not apply.
- 4 (1) Where, in the case of a compulsory acquisition to which section one of this Act applies,—
 - (a) the acquisition is under the Act of 1950, in such circumstances that any of the following provisions of that Act, that is to say, subsection (2) of section twelve, subsection (4) of section seventeen, and subsection (2) of section thirty-six (which relate to compensation at site value) have effect in relation to the acquisition, or is an acquisition in connection with which an order is made and confirmed under paragraph 1 of this Part of this Schedule, and
 - (b) the relevant land consists of or includes a hereditament, or part of a hereditament, which has sustained war damage, and any of that damage has not been made good at the date of service of the notice to treat,there shall be added to the compensation which, apart from this paragraph, would be payable in respect of the acquisition an amount calculated in accordance with the next following sub-paragraph.

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- (2) The said amount shall be an amount equal to the value, as at the date of service of the notice to treat, of the prospective right to receive such payment (if any) under the War Damage Act, 1943, in respect of that hereditament or part of a hereditament, as might reasonably have been expected to become payable if the relevant land had not been compulsorily acquired.
- (3) In this paragraph " hereditament" has the same meaning as in the War Damage Act, 1943.
- 5 (1) Where a local authority have before the commencement of this Act made and submitted to the Minister an order under paragraph 8 of the Fifth Schedule to the Town and Country Planning (Scotland) Act, 1945 (which contains provisions similar to those of paragraph 1 of this Part of this Schedule), but the Minister has not confirmed that order before the commencement of this Act, sub-paragraphs (2), (4) and (5) of paragraph 1 of this Part of this Schedule shall apply in relation to that order as if—
- (a) the order had been made under paragraph 1 of this Part of this Schedule, and
 - (b) the reference in sub-paragraph (4) of paragraph 1 of this Part of this Schedule to persons on whom notices are required to be served were a reference to persons on whom notices are required to be served under sub-paragraph (2) of the said paragraph 8.
- (2) Any reference in paragraph 2 or paragraph 4 of this Part of this Schedule to an order made and confirmed under paragraph 1 of this Part of this Schedule shall be construed as including a reference to an order—
- (a) made and confirmed under the said paragraph 8, or
 - (b) made under the said paragraph 8 and confirmed under the provisions of paragraph 1 of this Part of this Schedule applied by the preceding sub-paragraph.
- (3) In this paragraph any reference to the said paragraph 8 includes a reference to the provisions of that paragraph as extended or applied by or under any other enactment.
- 6 In this Part of this Schedule " Act of 1950 " means the Housing (Scotland) Act, 1950, and "house" has the meaning assigned to it by section one hundred and eighty-four of that Act.
- 7 This Part of this Schedule shall apply to Scotland only.