

## SCHEDULE

Section 3(5).

### MODIFICATION OF THE LANDS CLAUSES ACTS

- 1 The department acquiring the land or interest therein shall be deemed to be the promoters of the undertaking, and this Act shall be deemed to be the special Act.
- 2 The provisions as to the sale of superfluous land and as to access to the special Act shall not apply.
- 3 All questions of disputed compensation shall be settled by an arbitrator or referee or the Commission, as the case may require (hereinafter referred to as the arbitration tribunal).
- 4 No allowance shall be made on account of the acquisition being compulsory.
- 5 Where a portion only of any factory or other building is required the owners and other persons interested in such building may, notwithstanding anything in the Lands Clauses Acts, be required to sell and convey the portions only of the building so required, if the Commission are of opinion that such portions can be severed from the remainder of the properties without material detriment thereto, and in such case compensation shall be paid for the portions required, and for any damage suffered by the owners or other parties interested in the building by severance or otherwise.
- 6 In determining the amount of compensation, the value of the land acquired shall be taken to be the value which the land would have had at, the date of the notice to treat if it had remained in the condition in which it was at the commencement of the present war, without regard to any enhancement or depreciation in the value which may be attributable directly or indirectly to any buildings, works, or improvements, erected, constructed, or made on, 'over or under the land, or any adjoining or neighbouring land for purposes connected with the present war wholly or partly at the expense of the State, or, with the consent of the occupying department, at the expense of any person not being a person interested in the land :  
Provided that—
  - (a) where any such building, work, or improvement was erected, constructed, or made in pursuance of an agreement with any person interested in the land, the consideration given by such person shall be taken into account in assessing the compensation payable in respect of such interest ;
  - (b) where by virtue of an agreement with any Government department any person interested in the land is entitled as between himself and that department to the benefit of any such building, work, or improvement, the value attributable to such building, work, or improvement shall be taken into account in assessing the compensation payable in respect of such interest ;
  - (c) where, since the commencement of the present war, any person interested in the land has himself erected, constructed, or made any building, work, or improvement, or has contributed to the expense thereof, or has committed any act depreciating the value of the land, the value attributable to his expenditure or the depreciation in value attributable to such act shall be taken into account in assessing the compensation payable in respect of such interest.
- 7 In determining the amount of compensation the arbitration tribunal shall also take into account the amount (if any) of any compensation paid or other payment received in respect of the previous occupation of the land so far as such

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

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compensation or payment was payable in respect of matters other than the mesne profits of the land.

8 Where the surface of the land is acquired without the mines and minerals lying thereunder, the provisions of sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845, shall apply subject to this modification, that for the purpose of section seventy-eight of that Act "prescribed" shall mean "prescribed by the arbitration tribunal."

9 Where by reason of the erection, construction, or making of any such buildings, works, or improvements as aforesaid or the maintenance thereof, or by reason of the user of the land, any interest in the land has become or might become forfeited or liable to forfeiture, the compensation shall be determined as if no such forfeiture or liability to forfeiture had arisen or might arise.

10 The Lord Chancellor may make rules fixing a scale of costs to be applicable on an arbitration under this Act, and the arbitration tribunal may, notwithstanding anything in the Lands Clauses Acts, determine the amount of costs, and shall have power to disallow as costs in the arbitration the costs of any witness whom they consider to have been called unnecessarily, and any other costs which they consider to have been caused or incurred unnecessarily, and, if they think the circumstances such as to justify them in so doing, to order that each of the parties shall bear their own costs.

11 There may be contained in the award of the arbitration tribunal a finding that the claimant, after having been requested in writing by the department by whom the land or interest therein is to be acquired so to do, has failed to deliver to such department within a reasonable time a statement in writing of the amount claimed, together with any information in his possession which may be reasonably required to enable such department to make a proper offer, and, where such a finding is contained in the award, the provisions of the Lands Clauses Acts as to costs of arbitrations shall apply as if such department had offered the same sum or a greater sum than that found to be due by the award :

Provided that this provision shall not apply unless the written request for information contained a notice of the effect of this provision.

12 The provisions of this Schedule shall apply to Scotland subject to the following modifications:—

- (a) For the reference to mesne profits there shall be substituted a reference to profits :
- (b) For the reference to sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845, there shall be substituted a reference to sections seventy to seventy-eight of the Railways Clauses Consolidation (Scotland) Act, 1845, and for the reference to section seventy-eight of the former Act there shall be substituted a reference to section seventy-one of the latter Act :
- (c) " The Court of Session " and " Act of Sederunt " shall be substituted for " the Lord Chancellor " and " rules " respectively.

13 The provisions of this Schedule shall apply to Ireland with the substitution of a reference to the Lord Chancellor of Ireland for the reference to the Lord Chancellor.