

## SCHEDULES

### SCHEDULE 6

Article 16(3)

Modification of compensation and compulsory purchase enactments for creation of new rights

### PART 1

#### Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order 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.

#### Commencement Information

**I1** (p01747) Sch. 6 Pt. 1 para. 1 in force at 31.12.2014, see [art. 1](#)

2.—(1) Without prejudice to the generality of paragraph 1, the Land Compensation Act 1973<sup>(1)</sup> has effect subject to the modifications set out in sub-paragraphs (2) and (3).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4—

- (a) for the words “land is acquired or taken” there are substituted the words “a right over land is purchased from or imposed on”; and
- (b) for the words “acquired or taken from him” there are substituted the words “over which the right is exercisable”.

(3) In section 58(1) (determination of material detriment where part of house etc. proposed for compulsory acquisition), as it applies to determinations under section 8 of the 1965 Act as substituted by paragraph 5—

- (a) for the word “part” in paragraphs (a) and (b) there are substituted the words “a right over land consisting”;
- (b) for the word “severance” there are substituted the words “right over the whole of the house, building or manufactory or of the house and the park or garden”;
- (c) for the words “part proposed” there are substituted the words “right proposed”; and
- (d) for the words “part is” there are substituted the words “right is”.

#### Commencement Information

**I2** (p01747) Sch. 6 Pt. 1 para. 2 in force at 31.12.2014, see [art. 1](#)

<sup>(1)</sup> 1973 c.26.

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## PART 2

### Application of the 1965 Act

1.—(1) The 1965 Act has effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land are 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), Part 1 of the 1965 Act applies in relation to the compulsory acquisition under this Order of a right by the creation of a new right with the modifications specified in the following provisions of this Schedule.

#### Commencement Information

**I3** (p01747) Sch. 6 Pt. 2 para. 1 in force at 31.12.2014, see [art. 1](#)

2. For section 7 of the 1965 Act (measure of compensation) there is substituted the following section—

“7. In assessing the compensation to be paid by the acquiring authority under this Act, regard must 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 to be imposed 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 the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act.”

#### Commencement Information

**I4** (p01747) Sch. 6 Pt. 2 para. 2 in force at 31.12.2014, see [art. 1](#)

3. For section 8 of the 1965 Act (provisions as to divided land) there is substituted the following section—

“8.—(1) Where in consequence of the service on a person under section 5 of this Act of a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”)—

- (a) a question of disputed compensation in respect of the purchase of the right would apart from this section fall to be determined by the Upper Tribunal (“the tribunal”); and
- (b) before the tribunal has determined that question the tribunal is satisfied that the person has an interest in the whole of the relevant land and is able and willing to sell that interest and—
  - (i) where that land consists of a house, building or manufactory, that the right cannot be purchased without material detriment to that land; or
  - (ii) where that land consists of such a park or garden, that the right cannot be purchased without seriously affecting the amenity or convenience of the house to which that land belongs,

the Hornsea One Offshore Wind Farm Order 2014 (“the Order”), in relation to that person, ceases to authorise the purchase of the right and is instead deemed to authorise the purchase of that person’s interest in the whole of the relevant land including, where the land consists of such a park or garden, the house to which it belongs, and the notice is deemed to have been served in respect of that interest on such date as the tribunal directs.

(2) Any question as to the extent of the land in which the Order is deemed to authorise the purchase of an interest by virtue of subsection (1) is to be determined by the tribunal.

(3) Where the Order is deemed by virtue of subsection (1) to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of six weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made; but nothing in this subsection prejudices any other power of the authority to withdraw the notice.”.

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**Commencement Information**

**I5** Sch. 6 para. 3 in force at 31.12.2014, see [art. 1](#)

4. The following provisions of the 1965 Act (which state 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) (failure 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);

are modified so 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 or which is to be imposed is vested absolutely in the acquiring authority.

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**Commencement Information**

**I6** Sch. 6 para. 4 in force at 31.12.2014, see [art. 1](#)

5. Section 11 of the 1965 Act (powers of entry) is so modified as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right, it has power, exercisable in equivalent circumstances and subject to equivalent conditions to those provided for in that section, to enter for the purpose of exercising that right; and sections 12 (penalty for unauthorised entry) and 13 (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

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**Commencement Information**

**I7** Sch. 6 para. 5 in force at 31.12.2014, see [art. 1](#)

6. Section 20 of the 1965 Act (protection for interests of tenants at will, etc.) applies with the modifications necessary to secure that persons with such interests in land 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 this Order 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.

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**Commencement Information**

**18** Sch. 6 para. 6 in force at 31.12.2014, see [art. 1](#)

7. Section 22 of the 1965 Act (interests omitted from purchase) is modified so as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired, subject to compliance with that section as respects compensation.

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**Commencement Information**

**19** Sch. 6 para. 7 in force at 31.12.2014, see [art. 1](#)

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**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

- Order modified by [S.I. 2016/471 art. 4Sch.](#)

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- art. 2(6) inserted by [S.I. 2015/1280 Sch.](#)