

SCHEDULES

SCHEDULE 1

Articles 3 and 6

ACQUISITION OF LAND AND RIGHTS

PART 1

ACQUISITION OF LAND

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>	<i>(3)</i> <i>Purpose for which land may be acquired</i>
Metropolitan Borough of Sandwell	1 to 8, 10 to 15, 18, 20, 21, 26, 28 to 30, 32 to 34, 39, 42, 52 to 59, 61 to 72, 74, 75a, 77, 80 to 83, 90 to 93b, 94a, 95, 97 to 100, 103 to 105, 107 to 116, 118, 119, 126 to 128, 130 to 134 and 140	Construction, operation and maintenance of the authorised works
	31	Construction, operation and maintenance of the authorised works including landscaping and pedestrian access
	35	Landscaping, pedestrian and vehicular access and diversion of public footpath FP82
	38	Widening of footway
	96	Working site and construction compound, turning head, electricity substation and park and ride site
	117	Pedestrian access

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<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>	<i>(3)</i> <i>Purpose for which land may be acquired</i>
Metropolitan Borough of Dudley	141 to 145, 147, 148, 148a, 150 to 157, 161, 163, 171, 178 to 181, 183 to 193, 195, 196, 198, 201, 202, 204, 207 to 224, 232 to 236, 238 to 246, 248 to 250, 254, 254b, 263 to 267, 272, 273, 275, 277, 279, 282 to 289, 293, 294, 297 to 306, 308 to 311, 313 to 315, 318 to 326, 328, 330 to 334, 336, 339 to 346, 348 to 354	Construction, operation and maintenance of the authorised works
	162	Provision of turning head
	203, 205 and 206	Working site and construction compound and park and ride site
	290 and 291	Landscaping and pedestrian access

PART 2

ACQUISITION OF RIGHTS ONLY

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>	<i>(3)</i> <i>Purpose for which rights may be acquired</i>
Metropolitan Borough of Sandwell	84, 94, 136, 138 and 139	Access for construction and maintenance of authorised tramway and related works
Metropolitan Borough of Dudley	225 to 230, 237, 260, 260a, 268 to 271, 274, 276, 278, 280, 281, 327 and 337	Access for construction and maintenance of authorised tramway and related works

(1) Area	(2) Number of land shown on the deposited plans	(3) Purpose for which rights may be acquired
	247, 251 to 253, 254a, 254d, 254e, 254f, 255, 257, 259 and 261	Access for construction and maintenance of authorised tramway and related works including working space

SCHEDULE 2

Article 6

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASING ENACTMENTS FOR CREATION OF NEW RIGHTS

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.

2.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the following modification set out in sub-paragraph (2).

(2) For section 5A (5A) (relevant valuation date) of the 1961 Act substitute—

“(5A) If—

- (a) the acquiring authority enter on land for the purposes of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act (as modified by paragraph 5(5) of Schedule 2 to the Midland Metro (Wednesbury to Brierley Hill Land Acquisition) Order 2020 (“the 2020 Order”);
- (b) the acquiring authority is subsequently required by a determination under paragraph 12 of Schedule 2A to the 1965 Act (as substituted by paragraph 5(8) of Schedule 2 to the 2020 Order) to acquire an interest in the land; and
- (c) the acquiring authority enter on and takes possession of that land,

the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right.”

3.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(1) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 (measure of compensation in case of severance) of the 1965 Act as substituted by paragraph 5(3)—

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

Application of Part 1 of the 1965 Act

(1) 1973 c. 26.

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4. Part 1 (compulsory purchase under Acquisition of Land Act 1946) of the 1965 Act, as applied by article 4 (application of Part 1 of the 1965 Act) to the acquisition of land under article 3 (power to acquire land), applies to the compulsory acquisition of new rights under article 6(1) (power to acquire new rights)—

- (a) with the modifications specified in paragraph 5, and
- (b) with such other modifications as may be necessary.

5.—(1) The modifications referred to in paragraph 4(a) are as follows.

(2) References in the 1965 Act to land are, in appropriate contexts, 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.

(3) For section 7 (measure of compensation in case of severance) of the 1965 Act substitute—

“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 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.”.

(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)—

- section 9(4) (failure of owners to convey);
- paragraph 10(3) of Schedule 1 (owners under incapacity);
- paragraph 2(3) of Schedule 2 (absent and untraced owners), and
- paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified so as to secure that, as against persons with interests in 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.

(5) Section 11(2) (powers of entry) of the 1965 Act is modified so as to secure that, where the acquiring authority has served notice to treat in respect of any right as well as the notice of entry required by subsection (1) of that section (as it applies to a compulsory acquisition under article 4), it has power, exercisable in the same circumstances and subject to the same conditions, to enter for the purpose of exercising that right; and sections 11A(3) (powers of entry: further notices of entry), 11B(4) (counter-notice requiring possession to be taken on specified date), 12(5) (penalty for unauthorised entry) and 13(6) (refusal to give possession to acquiring authority) of that Act are modified accordingly.

(6) Section 20(7) (tenants at will, etc.) of the 1965 Act 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

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- (2) Section 11 was amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No. 1) and S.I. 2009/1307.
 - (3) Section 11A was inserted by section 186(3) of the Housing and Planning Act 2016 (c.22).
 - (4) Section 11B was inserted by section 187(2) of the Housing and Planning Act 2016 (c.22).
 - (5) Section 12 was amended by section 56(2) of, and Part 1 of Schedule 9 to, the Courts Act 1971 (c. 23) and paragraph 4 of Schedule 16 to the Housing and Planning Act 2016.
 - (6) Section 13 was amended by sections 62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).
 - (7) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 and S.I. 2009/1307.

under this Order of the land, but taking into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right in question.

(7) Section 22 (interests omitted from purchase) of the 1965 Act (as modified by article 4(7) 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.

(8) For Schedule 2A to the 1965 Act substitute—

“SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND NOT IN NOTICE TO TREAT

Introduction

1. This Schedule applies where an acquiring authority serve a notice to treat in respect of a right over the whole or part of a house, building or factory.

2. In this Schedule “house” includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory (“the owner”) may serve a counter-notice requiring the authority to purchase the owner’s interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving the counter-notice the acquiring authority must decide whether to—

- (a) withdraw the notice to treat,
- (b) accept the counter-notice, or
- (c) refer the counter-notice to the Upper Tribunal.

6. The acquiring authority must serve notice of its decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served (“the decision period”).

7. If the authority decides to refer the counter-notice to the Upper Tribunal it must do so within the decision period.

8. If the authority does not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the acquiring authority serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in the house, building or factory.

Determination by Upper Tribunal

10. On a referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right would—

- (a) in the case of a house, building or factory, cause material detriment to the house, building or factory, or

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(b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

- (a) the effect of the acquisition of the right,
- (b) the proposed use of the right, and
- (c) if the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the acquiring authority ought to be required to take.

13. If the Upper Tribunal determines that the acquiring authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner’s interest in that land.

14.—(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal makes its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph it must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

(3) Any dispute as to the compensation is to be determined by the Upper Tribunal.”

SCHEDULE 3

Article 7

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Number of land shown on the deposited plans</i>	<i>(3)</i> <i>Purpose for which temporary possession may be taken</i>
Metropolitan Borough of Sandwell	9, 16 and 19	Construction access and working space; works for retention of flood storage during construction
	22, 23, 24, 25 and 27	Construction access and working space, temporary diversion of public footpath and possible right of way on foot
	36, 37, 40, 41, 43, 44 to 51, 60, 73, 75, 76, 78, 79, 84 to 89, 94, 101, 102, 106, 120, 122 to 125, 129, 135, 136, 138 and 139	Working site, construction access and working space

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(1) Area	(2) Number of land shown on the deposited plans	(3) Purpose for which temporary possession may be taken
	137	Construction access and works including works to existing footpath
Metropolitan Borough of Dudley	149, 170, 173, 175, 182, 197, 199, 200, 254c, 256, 258, 268 to 271, 274, 276, 278, 280, 281, 292, 295, 296, 307, 316, 329, 338 and 347	Working site, construction access and working space
	165 and 169	Landscaping
	167, 168, 170, 172 and 174	Remodelling of bus station
	312 and 317	Construction access and safeguarding works to existing railway

SCHEDULE 4

Article 12

PROVISIONS RELATING TO STATUTORY UNDERTAKERS, ETC.

Apparatus of statutory undertakers, etc., on land acquired

1. Subject to the following provisions of this Schedule, sections 271 to 274(8) (extinguishment of rights of statutory undertakers etc.) of the 1990 Act apply in relation to any land which has been acquired under this Order, or which is held by the Executive and is appropriated or used (or about to be used) by it for the purposes of the authorised works or for purposes connected with the authorised works; and all such other provisions of that Act as apply for the purposes of those provisions (including sections 275 to 278, which contain provisions consequential on the extinguishment of any rights under sections 271 and 272, and sections 279(2) to (4), 280 and 282(9) which provide for the payment of compensation) have effect accordingly.

2. In the provisions of the 1990 Act, as applied by paragraph 1—

- (a) references to the appropriate Minister are references to the Secretary of State;
- (b) references to the purpose of carrying out any development with a view to which land was acquired or appropriated are references to the purpose of carrying out authorised works; and

(8) Sections 272 to 274 were amended by paragraph 103(1) and (2) of Schedule 17 to the Communications Act 2003 (c. 21).

(9) Section 279(3) was amended by paragraph 103(1) and (2), and section 280 was amended by paragraph 104, of Schedule 17 to the Communications Act 2003. Sections 280 and 282 were amended by S.I. 2009/1307.

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(c) references to land acquired or appropriated as mentioned in section 271(1) of the 1990 Act are references to land acquired, appropriated or used as mentioned in paragraph (1).

3. Where any apparatus of public utility undertakers or of an operator of an electronic communications code network is removed in pursuance of a notice or order given or made under section 271, 272 or 273 of the 1990 Act, as applied by paragraph 1, any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the Executive compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

4. Paragraph 3 does not apply in the case of the removal of a public sewer but where such a sewer is removed in pursuance of such a notice or order as is mentioned in that paragraph, any person who is—

- (a) the owner or occupier of premises the drains of which communicated with that sewer; or
- (b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the Executive compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer communicate with any other public sewer or with a private sewage disposal plant.

5. The provisions of the 1990 Act mentioned in paragraph 1, as applied by that paragraph, do not have effect in relation to apparatus as respects which Part 3 of the New Roads and Street Works Act 1991⁽¹⁰⁾ applies.

6. In this Schedule—

“electronic communications code” means the code set out in Schedule 3A to the Communications Act 2003⁽¹¹⁾;

“electronic communications code network” means an electronic communications network within the meaning of the Communications Act 2003 to which the electronic communications code applies; and

“public utility undertakers” has the same meaning as in the Highways Act 1980⁽¹²⁾.

⁽¹⁰⁾ 1991 c. 22.

⁽¹¹⁾ 2003 c. 21; Schedule 3A was inserted by section 4(2) of, and Schedule 1 to the Digital Economy Act 2017 (c. 30).

⁽¹²⁾ 1980 c. 66.