

THE PUBLIC GENERAL ACTS OF 1967

Land Commission Act 1967

1967 CHAPTER 1

An Act to provide for the establishment of a Land Commission, to make provision as to the finances of the Commission and to confer on the Commission powers to acquire, manage and dispose of land; to impose a betterment levy in respect of land; to make further provision as to compensation in respect of land acquired by authorities possessing compulsory purchase powers; to amend section 28 of, and Schedule 2 to, the Finance Act 1931; and for purposes connected with the matters aforesaid. [1st February 1967]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

CONSTITUTION AND FINANCES OF LAND COMMISSION

The Land Commission.

1.—(1) There shall be established a body of Commissioners to be called the Land Commission (in this Act referred to as "the Commission") who, on and after such day as may be appointed for the purposes of this section by an order made by the Ministers (in this Act referred to as "the first appointed day"), shall perform the functions assigned to the Commission by this Act.

(2) The provisions of Schedule 1 to this Act shall have effect with respect to the Commission.

(3) The Commission—

(*a*) in the performance of their functions under Part II of this Act shall comply with such directions, whether of a general or a specific character, and

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(*b*) in the performance of their other functions under this Act shall comply with such directions of a general character,

as may be given to them by the appropriate Minister or Ministers.

(4) The functions of the Commission, and of their officers and servants, shall be performed on behalf of the Crown.

1957 c. 20.

(5) In Part II of Schedule 1 to the House of Commons Disqualification Act 1957 (bodies of which all members are disqualified under that Act) in its application to the House of Commons of the Parliament of the United Kingdom there shall be inserted at the appropriate point in alphabetical order the entry: "The Land Commission".

Land Acquisition and Management Fund.

2.—(1) There shall be established under the control of the Commission a fund to be called the Land Acquisition and Management Fund (in this Part of this Act referred to as "the fund") into which the Commission shall pay—

(*a*) all sums received by them in consideration of any disposition of an interest in land made by the Commission;

(*b*) all other sums received by them by virtue of their ownership of any interest in land;

(*c*) any sum required to be paid into the fund by virtue of any provision of Part II of this Act; and

(*d*) all sums received by them in pursuance of the next following section.

(2) All expenses incurred by the Commission in the performance of their functions under Part II of this Act, other than administrative expenses, shall be paid out of the fund.

(3) There shall be paid out of the fund into the Exchequer such sums as may from time to time be estimated, in accordance with directions given by the Treasury, to represent—

(*a*) administrative expenses incurred by the Commission in the performance of their functions under Part II of this Act, and

(*b*) expenses incurred by government departments (except the Postmaster General) in the provision of premises, facilities or services for the Commission, in so far as the provision of any such premises, facilities or services is attributable to the functions of the Commission under Part II of this Act.

(4) The Ministers may at any time, with the consent of the Treasury, direct the payment out of the fund into the Exchequer of any sum comprised in the fund which appears to them to be surplus to the requirements of the fund.

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(5) Where an interest in land is acquired by the Commission (whether compulsorily or by agreement) any expenses incurred by the Commission in connection with the assessment of levy (in accordance with Part III of this Act) in respect of the disposition of that interest to the Commission shall, for the purposes of this Part of this Act, be treated as included among the administrative expenses incurred by the Commission in acquiring that interest.

Advances out of Consolidated Fund.

3.—(1) Subject to the following provisions of this section, the Treasury may from time to time advance out of the Consolidated Fund to the Commission, for the purposes of the fund, such sums as the Commission may request.

(2) The aggregate amount outstanding by way of principal in respect of sums advanced to the Commission under this section shall not at any time exceed £45 million, or such larger sum, not exceeding £75 million, as the Ministers may by order made with the consent of the Treasury direct.

(3) The Treasury may, for the purpose of providing any sums to be advanced under this section out of the Consolidated Fund or any part of such sums, or of providing for the replacement of sums so advanced, raise money in any manner in which they are authorised to raise money under the National Loans Act 1939; and any securities created and issued for that purpose shall be deemed for all purposes to have been created and issued under that Act. 1939 c. 117.

(4) Any sums advanced to the Commission under this section shall be repaid by the Commission out of the fund into the Exchequer in such manner and at such times, and with interest thereon at such rates, as the Treasury may direct.

(5) All sums paid into the Exchequer under the last preceding subsection shall be issued out of the Consolidated Fund at such times as the Treasury may direct, and shall be applied by the Treasury as follows, that is to say—

(*a*) so much of those sums as represents principal shall be applied in redeeming or paying off debt of such description as the Treasury think fit; and

(*b*) so much of those sums as represents interest shall be applied towards meeting such part of the annual charges for the National Debt as represents interest.

(6) No order shall be made under this section unless a draft of the order has been laid before the Commons House of Parliament and approved by a resolution of that House.

General financial provisions.

4.—(1) All expenses incurred by the Commission in consequence of this Act, except—

(*a*) such expenses as by virtue of section 2(2) of this Act are to be paid out of the fund, and

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(*b*) the principal amount of any sum which the Commission are required to refund under Part III of this Act,

shall be defrayed out of moneys provided by Parliament.

(2) Subject to the next following subsection, all sums received by the Commission by virtue of this Act, except such sums as are specified in section 2(1) of this Act, shall be paid into the Exchequer.

(3) Where the Commission are required to refund any sum under Part III of this Act, they may deduct the principal amount of that sum from the sums falling to be paid into the Exchequer under the last preceding subsection; and the Commission may retain any amount deducted by virtue of this subsection.

(4) There shall be defrayed out of moneys provided by Parliament any expenses incurred by any government department (except the Postmaster General) in the provision of premises, facilities or services for the Commission, not being expenses required by or under any other enactment to be defrayed in some other manner.

Reports and accounts of Commission.

5.—(1) The Commission shall, at such time in each year as the Ministers may with the approval of the Treasury direct, send to the Ministers a report on the performance of their functions during the preceding financial year.

(2) Any such report shall set out any direction given to the Commission under this Part of this Act during the financial year to which the report relates, except any direction in respect of which there has been notified to the Commission the opinion of the appropriate Minister or Ministers that it should be omitted in the interests of national security.

(3) The Ministers shall lay before each House of Parliament a copy of every report sent to them under this section.

(4) The Commission shall in respect of each financial year prepare, in such form as the Treasury may direct, an account showing—

(*a*) the sums required by section 2 or section 3 of this Act to be paid into and out of the fund, and

(*b*) the sums received by the Commission by virtue of Part III of this Act,

and shall send the account to the Comptroller and Auditor General not later than the end of November following the financial year to which it relates; and the Comptroller and Auditor General shall examine, certify and report on the account and lay copies of it, together with his report, before each House of Parliament.

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ACQUISITION, MANAGEMENT AND DISPOSAL OF LAND

Acquisition

General powers of acquisition.

6.—(1) Subject to the following provisions of this Part of this Act, on and after the first appointed day the Commission shall have power to acquire by agreement, or, on being authorised to do so in accordance with the following provisions of this Part of this Act, shall have power to acquire compulsorily, any land which in their opinion is land suitable for material development.

(2) Where the Commission exercise their powers under the preceding subsection in relation to any land, the Commission shall have power to acquire by agreement, or, on being authorised to do so in accordance with the following provisions of this Part of this Act, shall have power to acquire compulsorily, any land contiguous or adjacent to that land which in their opinion is required for the purpose of executing works for facilitating the development or use of the first-mentioned land.

(3) The Commission shall not have power by virtue of subsection (1) of this section to acquire any land compulsorily unless, on the date on which the compulsory purchase order authorising the acquisition is made, one or more of the following conditions is fulfilled in relation to that land, that is to say—

(*a*) planning permission for the carrying out of material development of the land is for the time being in force and the whole or part of the development authorised by that planning permission has not been carried out;

(*b*) in the current development plan, or in any proposals submitted to the planning Minister by a local planning authority for altering or adding to that plan, the land is defined or otherwise indicated in any such manner, or is allocated for purposes of any such description, as may be prescribed for the purposes of this subsection;

(*c*) the land is designated by the current development plan as subject to compulsory acquisition;

(*d*) the land forms part of an area designated as the site of a new town by an order made, or having effect as if made, under the New Towns Act 1965, or, as respects Scotland, under the New Towns Act 1946; 1965 c. 59. 1946 c. 68.

(*e*) the land is, or forms part of, an area which has been declared to be a clearance area by a resolution under section 42 of the Housing Act 1957, or under section 34 of the Housing (Scotland) Act 1966, which is for the time being in force. 1957 c. 56. 1966 c. 49.

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(4) Without prejudice to the last preceding subsection, the Commission shall not have power by virtue of subsection (1) of this section, in pursuance of a compulsory purchase order made before such day as the Ministers may by order appoint for the purposes of this subsection (in this Act referred to as " the second appointed day "), to acquire any land compulsorily except for one of the following purposes, that is to say—

(*a*) securing the carrying out at an early date of material development which, in the opinion of the Commission, ought to be so carried out;

(*b*) securing that the land is developed as a whole, or as part of an area which, in the opinion of the Commission, ought to be developed as a whole;

(*c*) making the land available for development or use by, or for the purposes of, a person or body of persons who could be authorised to acquire it compulsorily for that development or use;

(*d*) disposing of the land in accordance with the provisions of section 18 of this Act.

(5) Where the last preceding subsection applies to a compulsory acquisition, and the purpose of the acquisition is that which is specified in paragraph (*c*) of that subsection, the power of the Commission mentioned in that subsection shall not be exercisable except—

(*a*) with the approval of the Minister concerned, if the purpose is to make the land available for development or use by, or for the purposes of, a Minister, or

(*b*) in any other case, with the approval of the person or body of persons who could be authorised to acquire the land compulsorily as mentioned in that paragraph, or, in default of such approval, with the approval of the Minister who could authorise that person or body so to acquire the land.

(6) No order shall be made appointing a day for the purposes of subsection (4) of this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

(7) In relation to planning permission granted on an outline application (that is to say, an application for planning permission subject to subsequent approval on any matters) the reference in subsection (3)(*a*) of this section to the development authorised by the planning permission shall be construed as including all development for which planning permission was granted on that application either with or without any requirement as to subsequent approval.

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Compulsory purchase orders: normal procedure.

7.—(1) Subject to the following provisions of this section and to section 8 of this Act, the Acquisition of Land Act shall apply to any compulsory acquisition by the Commission under the powers conferred by the last preceding section as it applies to a compulsory acquisition by a Minister in a case falling within section 1(1) of that Act:

Provided that, in relation to any compulsory acquisition by the Commission,—

(*a*) in section 1 of that Act any reference to Schedule 1 to that Act, and

(*b*) in Part IV of that Schedule any reference to that Act or that Schedule,

shall be construed as a reference to that Act or Schedule (as the case may be) as modified by or under this Part of this Act.

(2) If any objection to a compulsory purchase order prepared in draft by the Commission is duly made and is not withdrawn, the Commission shall give notice to that effect to the Minister whose authority is required in accordance with the next following subsection, and—

(*a*) the order shall not be made unless that Minister authorises the Commission to make it, and, if such authority is given, the order shall be made in the form of the draft order except in so far as that Minister requires or authorises the draft to be modified, and

(*b*) sub-paragraphs (2) to (4) of paragraph 4 of Schedule 1 to the Acquisition of Land Act, and paragraph 5 of that Schedule, shall apply in relation to the order subject to the following modifications (instead of those specified in paragraph 7(4) of that Schedule), that is to say, as if any reference to the confirming authority were a reference to that Minister and any reference to confirming the order were a reference to authorising the Commission to make it.

(3) The Minister whose authority is required in relation to a compulsory purchase order in the circumstances mentioned in the last preceding subsection—

(*a*) where in accordance with paragraph (*a*) of subsection (5) of the last preceding section the approval of a Minister is required, is that Minister;

(*b*) where in accordance with paragraph (*b*) of the said subsection (5) the approval of a Minister is required, or would have been required in default of approval by the person or body mentioned in that paragraph, is that Minister; and

(*c*) in any other case, is the planning Minister.

(4) So much of Schedule 1 to the Acquisition of Land Act, or of any regulations made under that Act, as requires a notice relating to a compulsory purchase order to specify the purpose

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for which the land is required, or for which it is authorised to be compulsorily purchased, shall, in relation to any such notice published or served by the Commission on or after the second appointed day, be construed as requiring the notice to specify the reasons for which the Commission propose to acquire the land.

(5) The notice of the making by the Commission of a compulsory purchase order which is required by paragraph 6 of Schedule 1 to the Acquisition of Land Act (as applied by subsection (1) of this section) to be published and served—

(*a*) shall contain such a statement of the effect of sections 9 and 10 of this Act as may be prescribed by regulations made under that Act, and

(*b*) shall include a notification to the effect that every person who, if a general vesting declaration were made in respect of all the land comprised in the order, would be entitled to claim compensation in respect of any such land or any interest in such land is invited to give information to the Commission, in the form prescribed by those regulations, with respect to his name and address and the land and interest in question.

Compulsory purchase orders: special procedure.

8.—(1) If at any time within the period of five years beginning with the first appointed day it appears to the appropriate Minister or Ministers that it is necessary in the public interest to enable the Commission to obtain authority for the compulsory acquisition of land by a simplified procedure, the appropriate Minister or Ministers may by an order made before the end of that period direct that the provisions of Schedule 2 to this Act shall have effect in relation to any compulsory purchase order authorising an acquisition to which the order under this subsection applies.

(2) Subject to subsection (6) of this section, an order under the preceding subsection shall not apply to any acquisition under a compulsory purchase order unless notice that the compulsory purchase order has been prepared in draft is (in accordance with paragraph 3 of Schedule 1 to the Acquisition of Land Act as applied by section 7(1) of this Act) first published before the end of the period specified in the preceding subsection.

(3) An order under subsection (1) of this section shall not apply to any acquisition of land of a description specified in section 1(2) of the Acquisition of Land Act (land belonging to local authorities etc.).

(4) An order under subsection (1) of this section shall specify a class of acquisitions (which may be defined by reference to the locality of the land, the development proposed to be carried out on the land, the use to which it is to be put, the period within which the acquisition is to take place, or any other considerations), and, subject to subsections (2), (3) and (6) of

this section, shall apply to all acquisitions by the Commission which fall within the class so specified. PART II

(5) Any statutory instrument containing an order under subsection (1) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) The Ministers may by order direct that the preceding provisions of this section shall have effect as if for the period of five years specified in subsection (1) of this section (or, if that period has previously been extended under this subsection, for that period as so extended) there were substituted such longer period as may be specified in the order:

Provided that no order shall be made under this subsection unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

General vesting declarations.

9.—(1) Where a compulsory purchase order authorising the Commission to acquire any land has come into operation, the Commission may execute in respect of any of the land which they are authorised to acquire by the compulsory purchase order a declaration in the prescribed form vesting the land in themselves as from the end of such period as may be specified in the declaration (not being less than twenty-eight days) from the date on which the service of notices required by subsection (3) of this section is completed.

(2) A declaration under this section (in this Act referred to as a " general vesting declaration ") shall not be executed before the end of the period of two months beginning with the date of the first publication (under paragraph 6 of Schedule 1 to the Acquisition of Land Act as applied by section 7(1) of this Act) of notice of the making of the compulsory purchase order, or such longer period, if any, as may be prescribed by that order:

Provided that, with the consent in writing of every occupier of any of the land specified in the declaration, the Commission may execute a general vesting declaration before the end of that period of two months, or of the longer period so prescribed, as the case may be.

(3) As soon as may be after executing a general vesting declaration, the Commission shall serve—

(*a*) on every occupier of any of the land specified in the declaration (other than land in which there subsists a minor tenancy or a long tenancy which is about to expire), and

(*b*) on every other person who has given information to the Commission with respect to any of that land in pursuance of the invitation published and served under section 7(5) of this Act,

a notice in the prescribed form specifying the land and stating the effect of the declaration.

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(4) For the purposes of this Act, a certificate by the Commission that the service of notices required by the last preceding subsection was completed on a date specified in the certificate shall be conclusive evidence of the fact so stated.

(5) In the application of this section to Scotland a general vesting declaration shall contain a particular description of the lands affected or a description by reference of those lands in the manner provided by section 61 of the Conveyancing (Scotland) Act 1874.

1874 c. 94.

Effect of general vesting declaration. 1961 c. 33. 1965 c. 56.

10.—(1) At the end of the period specified in a general vesting declaration under this Act, the provisions of the Land Compensation Act 1961 (as modified by Schedule 2 to the Acquisition of Land Act) and of the Compulsory Purchase Act 1965 shall apply as if, on the date on which the declaration was made, a notice to treat had been served on every person on whom, under section 5 of the last-mentioned Act (on the assumption that they required to take the whole of the land specified in the declaration and had knowledge of all the parties referred to in that section) the Commission could have served such a notice, other than—

(*a*) any person entitled to an interest in the land in respect of which such a notice had actually been served before the end of that period, and

(*b*) any person entitled to a minor tenancy or a long tenancy which is about to expire.

(2) At the end of the period specified in a general vesting declaration under this Act, the land specified in the declaration, together with the right to enter upon and take possession of it, shall vest in the Commission as if the circumstances in which under Part I of the Compulsory Purchase Act 1965 an acquiring authority have any power to execute a deed poll (whether for vesting land or any interest in land in themselves or for extinguishing the whole or part of any rent-service, rentcharge, chief or other rent, or other payment or incumbrance) had arisen in respect of all the land and all interests therein, and the Commission had duly exercised that power accordingly at the end of that period.

(3) Where any land specified in a general vesting declaration is land in which there subsists a minor tenancy or a long tenancy which is about to expire—

(*a*) the right of entry conferred by this section shall not be exercisable in respect of that land unless, after serving a notice to treat in respect of that tenancy, the Commission have served upon every occupier of any of the land in which the tenancy subsists a notice stating that, at the end of such period as is specified in the notice

(not being less than fourteen days) from the date on which the notice is served, they intend to enter upon and take possession of such land as is specified in the notice, and that period has expired, and PART II

(*b*) the vesting of the land in the Commission shall be subject to the tenancy until that period expires, or the tenancy comes to an end, whichever first occurs.

(4) In the application of this section to Scotland—

(*a*) for the reference in subsection (1) to the provisions of the Land Compensation Act 1961 and of the Compulsory Purchase Act 1965 there shall be substituted a reference to the provisions of the Lands Clauses Acts and of section 6 of the Railways Clauses Consolidation (Scotland) Act 1845 (both as incorporated by Schedule 2 to the Acquisition of Land Act) and of the Land Compensation (Scotland) Act 1963; 1961 c. 33. 1965 c. 56. 1845 c. 33 1963 c. 51.

(*b*) for the reference in that subsection to section 5 of the Compulsory Purchase Act 1965 there shall be substituted a reference to section 17 of the Scottish Act of 1845;

(*c*) for the reference in subsection (2) to Part I of the Compulsory Purchase Act 1965 there shall be substituted a reference to the Scottish Act of 1845, and for the reference in that subsection to executing a deed poll there shall be substituted a reference to expeding a notarial instrument, and for the words "rent-service, rentcharge, chief or other rent" there shall be substituted the words "feu-duty, ground annual or rent".

(5) In relation to land in Scotland, at the end of the period specified in a general vesting declaration, or if a notice of objection to severance is served under Schedule 3 to this Act, when that notice has been disposed of in accordance with the provisions of that Schedule, that declaration, if still being proceeded with or, as the case may be, that declaration as altered under paragraph 12 of that Schedule, shall be recorded in the General Register of Sasines, and on being so recorded shall have the same effect as a conveyance registered in accordance with section 80 of the Scottish Act of 1845.

(6) The supplementary provisions contained in Schedule 3 to this Act shall have effect for the purposes of this section.

Registration and revocation of compulsory purchase orders.

11.—(1) A compulsory purchase order made by the Commission in respect of land in England or Wales shall be registered in the register of local land charges by the proper officer of the council of each local authority area in which the land to which the order relates, or any part of that land, is situated.

(2) A compulsory purchase order made by the Commission in respect of land in Scotland shall, as soon as may be after

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the order becomes operative, be recorded in the General Register of Sasines.

(3) A compulsory purchase order made by the Commission may be revoked by the Commission in respect of all or any part of the land comprised in the order; but any such revocation shall not affect—

(*a*) the previous operation of the order or anything done thereunder before the revocation, or

(*b*) any right or liability accrued or incurred before the revocation, or

(*c*) the institution, continuance or enforcement after the revocation of any proceedings or remedy in respect of any such right or liability.

(4) As soon as may be after revoking an order in respect of any land under this section, the Commission shall serve notice of the revocation on any persons on whom notices with respect to the land were served under Schedule 1 to the Acquisition of Land Act in connection with the order; and in the case of land in Scotland the Commission shall also cause notice of the revocation to be recorded in the General Register of Sasines.

(5) Where a compulsory purchase order is made by the Commission in respect of land in England or Wales, it shall be the duty of the Commission, as soon as may be after—

(*a*) the order is made, or

(*b*) in consequence of any proceedings the order is quashed in respect of all or any part of the land comprised in the order, or

(*c*) the order is revoked by the Commission in respect of all or any part of that land, or

1965 c. 56.

(*d*) by virtue of section 4 of the Compulsory Purchase Act 1965 the powers exercisable in pursuance of the order cease to be exercisable in respect of all or any part of that land,

to give notice of the event in question to the proper officer of any council by whom the order is required to be registered under subsection (1) of this section, and to furnish him with all such information relating to the order, or to the event in question, as is needed to enable him to perform any duties imposed on him by rules made under section 15(6) of the Land Charges Act 1925.

1925 c. 22.

(6) In this section "local authority area" means a county borough, a London borough, a county district and the City of London.

Management and disposal

General powers of management.

12.—(1) The Commission shall have the general function of managing and turning to account land for the time being held by them; and in the performance of that function the Commission, subject to the following provisions of this section, may

execute any building, engineering or other works in, on, over or under any land where they are of the opinion that it is expedient to do so with a view to the subsequent disposal of that land or any other land.

(2) Notwithstanding anything in the preceding subsection, the Commission shall not, except with the consent of the appropriate Minister or Ministers, execute on land to be disposed of by them for housing purposes any works for the provision of housing accommodation or for purposes connected therewith.

(3) Any consent required by the last preceding subsection may be given by the appropriate Minister or Ministers either in respect of all land in Great Britain (or in England and Wales, or in Scotland, as the case may be) or in respect of particular land or land in a particular area, and may be given either in respect of housing accommodation generally or in respect of housing accommodation of a particular description, and (without prejudice to the preceding provisions of this subsection) may be given either subject to or free from any conditions or limitations.

(4) A local authority shall have power to enter into an agreement with the Commission whereby the local authority will, as agents of the Commission, perform any service or execute any works which the Commission could perform or execute by virtue of this section; and, if any such agreement is made, the local authority may perform any service or execute any works in accordance with the agreement.

(5) Nothing in this section shall be construed as authorising, on the part of the Commission or a local authority, any act or omission which apart from this section would be actionable at the suit of any person on any grounds other than a limitation imposed by law on the capacity of the Commission or that local authority by virtue of its constitution.

Application of building and planning controls.

13.—(1) Notwithstanding anything in section 1(4) of this Act, building byelaws, building regulations and building standards regulations shall have effect in relation to the Commission, and to land held or occupied by the Commission, as if the functions of the Commission were not performed on behalf of the Crown.

(2) In the application of section 199 of the Act of 1962 (exercise of powers in relation to Crown land) to land in which there is for the time being an interest belonging to the Commission—

(*a*) paragraph (*b*) of subsection (1) of that section, except in so far as it relates to restrictions or powers imposed or conferred by any of the provisions of sections 159 to 162 of that Act (which relate to statutory undertakers), shall have effect as if that interest were held otherwise than by or on behalf of the Crown;

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(*b*) paragraphs (*a*) and (*b*) of subsection (2) of that section shall not apply, unless the land is Crown land apart from the interest belonging to the Commission;

(*c*) if the land is Crown land apart from the interest belonging to the Commission, the appropriate authority, for the purpose of giving any consent required for the purposes of paragraph (*a*) or paragraph (*b*) of subsection (2) of that section, shall be determined as if there were no interest belonging to the Commission in that land; and

(*d*) subsection (3) of that section shall apply as if any development carried out by or on behalf of the Commission were not development carried out by or on behalf of the Crown.

(3) In the application of section 83 of the Scottish Act of 1947 (exercise of powers in relation to Crown land) to land in which there is for the time being an interest belonging to the Commission—

(*a*) paragraph (*b*) of subsection (2) of that section, except in so far as it relates to restrictions or powers imposed or conferred by any of the provisions of Schedule 5 to that Act (which relates to statutory undertakers), shall have effect as if that interest were held otherwise than by or on behalf of the Crown;

(*b*) paragraphs (*a*) and (*b*) of subsection (3) of that section shall not apply, unless the land is Crown land apart from the interest belonging to the Commission;

(*c*) if the land is Crown land apart from the interest belonging to the Commission, the appropriate authority, for the purpose of giving any consent required for the purposes of paragraph (*a*) or paragraph (*b*) of subsection (3) of that section, shall be determined as if there were no interest belonging to the Commission in that land; and

(*d*) subsection (5) of that section shall apply as if any development carried out by or on behalf of the Commission were not development carried out by or on behalf of the Crown.

(4) In the application of this section to England and Wales, "building byelaws" means any byelaws made under section 61 of the Public Health Act 1936 (byelaws as to buildings and sanitation) and includes any other enactment which, being either a byelaw or an enactment contained in a local or private Act, relates—

1936 c. 49.

(*a*) to matters with respect to which byelaws can be made under that section (or could be so made if that section extended to the whole of England and Wales), or

(*b*) to the level, width or construction of new streets or provision for the sewerage of such streets,

" building regulations " has the meaning assigned to it by section 4(1) of the Public Health Act 1961, and " Crown land " has the meaning assigned to it by section 199(6) of the Act of 1962. 1961 c. 64.

(5) In the application of this section to Scotland, " building regulations " has the meaning assigned to it by section 208 of the Housing (Scotland) Act 1966, " building standards regulations " has the meaning assigned to it by section 3 of the Building (Scotland) Act 1959, except that it includes any corresponding provision made by or under any local enactment, and " Crown land " has the meaning assigned to it by section 83(1) of the Scottish Act of 1947. 1966 c. 49. 1959 c. 24.

Power to override easements and other rights in England and Wales.

14.—(1) Subject to subsections (2) and (3) of this section, the following provisions of the Act of 1962, namely—

(*a*) section 81 (power to override easements and other rights over land acquired for planning purposes), and

(*b*) sections 164 and 165 (power to extinguish rights of statutory undertakers over such land), and section 170(2) and 171 so far as applicable for the purposes of sections 164 and 165,

shall apply to land which has been acquired by the Commission (whether by agreement or compulsorily) as they apply to land which has been acquired by a local authority under section 68 of that Act.

(2) Section 81 of that Act shall not apply to the doing of any act by a person deriving title under the Commission (other than a Minister, local authority, statutory undertakers or the National Coal Board) unless the act was done with the approval in writing of the Commission.

(3) The Commission may serve a notice under subsection (1) of section 164 of that Act notwithstanding that they have disposed of the land to which the notice relates; and any power of removal and disposal of apparatus conferred by section 164 or 165 of that Act may, where the power becomes exercisable after the Commission have disposed of the land in question, be exercised by the person for the time being entitled to occupy the land as well as by the Commission.

(4) In construing the Compulsory Purchase Act 1965 as applied by virtue of section 7(1) or section 10(1) of this Act— 1965 c. 56.

(*a*) references to the execution of the works shall be construed as including references to any erection, construction or carrying out of buildings or works authorised by section 81 of the Act of 1962 as applied by this section, and

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1965 c. 56.

(*b*) in relation to the erection, construction or carrying out of any buildings or works so authorised, references in section 10 of the Compulsory Purchase Act 1965 to the acquiring authority shall be construed as references to the person by whom the buildings or works in question are erected, constructed or carried out.

(5) In subsection (1)(*b*) of this section any references to particular provisions of the Act of 1962 shall be construed as including references to those provisions as applied in relation to the National Coal Board by regulations made under section 204 of that Act.

Power to override servitudes and other rights in Scotland.

15.—(1) Subject to subsections (2) and (3) of this section, the following provisions of the Scottish Act of 1945, namely—

(*a*) section 21 (power to override servitudes and other rights over land acquired for planning purposes), and

(*b*) section 24 (power to extinguish rights of statutory undertakers over such land) and Schedule 4 so far as applicable for the purposes of section 24,

shall apply to land which has been acquired by the Commission (whether by agreement or compulsorily) as they apply to land which has been acquired by a local planning authority under section 35 of the Scottish Act of 1947.

(2) The said section 21 shall not apply to the doing of any act by a person deriving title under the Commission (other than a Minister, local authority, statutory undertakers or the National Coal Board) unless the act was done with the approval in writing of the Commission.

(3) The Commission may serve a notice under subsection (1) of the said section 24 notwithstanding that they have disposed of the land to which the notice relates; and any power of removal and disposal of apparatus conferred by the said section 24 may, where the power becomes exercisable after the Commission have disposed of the land in question, be exercised by the person for the time being entitled to occupy the land as well as by the Commission.

(4) In construing the Lands Clauses Acts as applied by virtue of section 7(1) or section 10(1) of this Act, references to the execution of the works shall be construed as including references to any erection, construction or carrying out of buildings or works authorised by section 21 of the said Act of 1945 as applied by this section.

(5) In subsection (1)(*b*) of this section the references to provisions of the Scottish Act of 1945 shall be construed as including references to those provisions as applied in relation to the National Coal Board by regulations made under section 86 of the Scottish Act of 1947.

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General power of disposal.

16.—(1) Subject to the provisions of this section, and to directions under section 1 of this Act, the Commission may make such dispositions of land held by them, or of interests in or rights over such land, as appear to them to be expedient in the public interest.

(2) Except where so required or authorised by any such directions or by section 18 of this Act, the Commission shall not sell, lease or otherwise dispose of any land, or any interest in or right over land, except for the best consideration in money or money's worth which can reasonably be obtained.

(3) Nothing in the last preceding subsection shall be construed—

(*a*) as restricting the discretion of the Commission as to the parcels in which any land is to be disposed of, or as to the apportionment of the consideration for any disposition or any part of that consideration between different parts of the land disposed of, or

(*b*) as preventing the Commission from disposing of part of an area of land at a consideration less than that mentioned in the last preceding subsection, with a view to disposing of the whole or any part of the remainder of that area for a consideration greater than that which might otherwise have been obtainable, or

(*c*) as restricting the discretion of the Commission to reserve any right or privilege over or in relation to any land disposed of, or to dispose of land subject to any covenants, conditions or restrictions.

(4) In determining for the purposes of this section whether the consideration to be given by a person for any disposition is the best that can reasonably be obtained, the Commission may take into account as part of that consideration any benefit conferred on them by improvements which have been or are proposed to be carried out, whether by that person or any other person, and whether on the land to which the disposition relates or on any other land, and which have been or are to be so carried out without cost to the Commission.

(5) The Commission may dispose of land or interests in or rights over land in accordance with this section for any purpose, notwithstanding that the land was originally acquired by them for some other purpose; but where land was acquired by them compulsorily in pursuance of a compulsory purchase order made before the second appointed day, and was so acquired for the purpose specified in section 6(4)(*c*) of this Act, the Commission shall not dispose of the land for other purposes except with the consent of the Minister who authorised the Commission to make the compulsory purchase order or whose authority to make

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the order would have been required if an objection to the order had been made and not withdrawn.

(6) Where the Commission dispose of land in Scotland to any person for the erection of a church or other building for religious worship or buildings ancillary thereto, then, unless the parties otherwise agree, such disposal shall be by way of feu.

Crownhold

General provisions as to crownhold.

17.—(1) With a view to making land available for development and use for any particular purpose, while retaining for the benefit of the Crown any element of value which may be or become attributable to the prospect of any development of that land (whether by way of redevelopment or otherwise) for any other purpose, the Commission may dispose of the land by way of a disposition to which this section applies.

(2) This section applies to any disposition made by the Commission which—

(*a*) consists of a conveyance on sale of the fee simple, of the grant of a feu or of the grant of a tenancy, and states that the interest thereby conveyed or granted is to be held by way of crownhold, and

(*b*) contains such covenants on the part of the purchaser, feuar or tenant restricting the carrying out of development or clearing of land as, in the opinion of the Commission, are necessary for retaining the element of value referred to in the preceding subsection, those covenants being expressed to be made (or, in Scotland, undertaken) by the purchaser, feuar or tenant as crownholder;

and any such disposition is in this Act referred to as a "crownhold disposition".

(3) Any covenant which in pursuance of subsection (2)(*b*) of this section or in pursuance of the next following section is contained in a crownhold disposition and is expressed to be made (or, in Scotland, undertaken) by the purchaser, feuar or tenant as crownholder, is in this Act referred to as a "crownhold covenant"; and any interest in land which, having been conveyed or granted to a person by such a disposition, is for the time being held (whether by that person or by a successor in title of his) subject to a crownhold covenant which continues to have effect, is in this Act referred to as a "crownhold interest".

Concessionary crownhold dispositions.

18.—(1) Where land is disposed of by way of a crownhold disposition and the land is to be used for the provision of housing accommodation to be occupied—

(*a*) by the purchaser, feuar or tenant, or

(*b*) by persons for whom such accommodation is to be provided by the purchaser, feuar or tenant in accordance with arrangements approved by the Commission, PART II

the disposition may (notwithstanding section 16(2) of this Act) be made for a consideration less than the best which could reasonably be obtained.

(2) Where a crownhold disposition is made in the exercise of the power conferred by the preceding subsection, the disposition shall be made in accordance with the following provisions of this section; and any crownhold disposition so made is in this Act referred to as a "concessionary crownhold disposition".

(3) The disposition shall specify a sum as being the amount by which the consideration is reduced in the exercise of that power; and in calculating that sum,—

(*a*) where the disposition consists of the grant of a tenancy and a reduced rent is reserved by the disposition, account shall be taken of the difference between the capital value of the right during the tenancy to receive that rent and the capital value of a right during the tenancy to receive the rent which would have been reserved apart from subsection (1) of this section, and

(*b*) where the disposition consists of the grant of a feu and a reduced feu-duty is specified by the disposition, account shall be taken of the difference between the capital value of the right to receive that feu-duty and the capital value of a right to receive the feu-duty which would have been specified apart from subsection (1) of this section.

(4) The disposition shall also contain the following covenants on the part of the purchaser, feuar or tenant, which shall be expressed to be made (or, in Scotland, undertaken) by him as crownholder, that is to say—

(*a*) a covenant that no tenancy of the land comprised in the disposition (in this section referred to as "the crownhold land") or of any part of that land shall be granted except with the consent in writing of the Commission; and

(*b*) such a covenant as appears to the Commission to be requisite for securing that, in the event of any proposal to sell the crownhold interest in that land, or in part of that land, or to feu or dispose of by way of contract of ground annual that land or part of that land, the Commission will have a right of pre-emption in accordance with the following provisions of this section.

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(5) The right of pre-emption under such a covenant as is mentioned in paragraph (*b*) of the last preceding subsection shall be such that—

(*a*) where the disposition proposed to be made by the person for the time being entitled to the crownhold interest in the whole or part of the crownhold land is to extend to all the land in which he has that interest, the right of pre-emption will be exercisable in respect of the whole of the last-mentioned land, and

(*b*) where that disposition is to comprise only part of the land in which that person has the crownhold interest, the right of pre-emption will, at the option of the Commission, be exercisable either in respect of that part or in respect of the whole of the last-mentioned land.

(6) The price to be paid, on the exercise of such a right of pre-emption in respect of the whole or part of the crownhold land, shall be a sum equal to (and, in default of agreement, to be determined in the like manner as) the compensation which would be payable by the Commission in respect thereof if—

(*a*) the covenant conferring the right of pre-emption were broken, and

(*b*) on such date as may be determined in accordance with the covenant, the Commission executed a vesting declaration in respect of the crownhold interest in the crownhold land or in that part of it, as the case may be, in the exercise of the power conferred by section 21 of this Act.

Enforcement of crownhold covenants.

19.—(1) Crownhold covenants shall not be enforceable by any means other than those provided by sections 20 and 21 of this Act.

(2) A crownhold covenant contained in a disposition relating to land other than registered land—

1925 c. 22.

(*a*) may be registered under section 10 of the Land Charges Act 1925 as a restrictive covenant, if apart from this subsection it would not be registrable under that section as a restrictive covenant or as an estate contract, and

(*b*) subject to the provisions of section 13 of that Act, shall be binding upon every successor of the covenantor, if apart from this subsection it would not be binding upon every such successor.

(3) Where a crownhold covenant is contained in a disposition relating to registered land,—

(*a*) notice of the covenant may be registered under section 59(2) of the Land Registration Act 1925 as a land charge (other than a local land charge) within the

meaning of that Act, if apart from this subsection notice of the covenant would not be so registrable, and the provisions of that Act as to land charges shall apply accordingly, and

(*b*) where notice of the covenant has been so registered, the covenant shall be binding upon every successor of the covenantor, if apart from this subsection it would not be binding upon every such successor.

(4) As respects land in Scotland, where a disposition containing a crownhold covenant, being a disposition which it is lawful to record in the General Register of Sasines, is so recorded, and in the case of any such disposition which is not so recordable, the crownhold covenant shall be binding upon every successor of the covenantor and shall be repeated or validly referred to in any disposition conveying any such interest as is mentioned in paragraph (*a*) or paragraph (*b*) of the next following subsection.

(5) In subsections (2) to (4) of this section "successor of the covenantor", in relation to a crownhold disposition, means a person, other than the covenantor, who is for the time being entitled—

(*a*) to the crownhold interest, either in the whole or in part of the land comprised in the disposition, or

(*b*) to an interest consisting of a tenancy (whether of the whole or of part of that land) which has been created (directly or indirectly) out of the crownhold interest.

(6) Section 84 of the Law of Property Act 1925 (power to discharge or modify restrictive covenants affecting land) shall not have effect in relation to any crownhold covenant; and section 19 of the Landlord and Tenant Act 1927 (covenants not to assign etc. without licence or consent) shall not have effect in relation to any crownhold covenant contained in a concessionary crownhold disposition. 1925 c. 20. 1927 c. 36.

(7) The rule against perpetuities and any enactment relating to that rule shall not apply to any right conferred by, or exercisable in relation to, a crownhold covenant, if apart from this subsection it would apply to any such right.

(8) Where any such interest as is mentioned in paragraph (*a*) or paragraph (*b*) of subsection (5) of this section is acquired (whether compulsorily or by agreement) by an authority possessing compulsory purchase powers, other than the Commission, nothing in the enactment which authorises that acquisition, or in any other enactment conferring powers on that authority, shall be construed as relieving that authority from the obligation to comply with any crownhold covenant to which that interest is subject.

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(9) In the application of this section to Scotland—

(*a*) subsections (2), (3), (6) and (7) shall not apply; and

(*b*) notwithstanding any change in the proprietorship of the *dominium utile* or of the *dominium directum* of land subject to any crownhold covenant, the right by agreement to vary or revoke such a covenant shall remain vested solely in the Commission.

Notice of breach of crownhold covenant.

20.—(1) Where it appears to the Commission that a crownhold covenant contained in a crownhold disposition has been broken, the Commission may serve a notice under this section on any one or more of the following persons, that is to say—

(*a*) any person for the time being entitled to the crownhold interest, either in the whole or in part of the land comprised in the disposition (in this section referred to as " the crownhold land "), and

(*b*) any person entitled to an interest consisting of a tenancy (whether of the whole or of part of the crownhold land) which has been created (directly or indirectly) out of the crownhold interest.

(2) A notice served on any person under the preceding subsection shall—

(*a*) specify the covenant and the matters in respect of which it is alleged by the Commission that the covenant has been broken;

(*b*) state that, after the end of such period (not being less than six weeks from the date of service of the notice) as may be specified in the notice, the Commission propose to execute a vesting declaration under the next following section in respect of that person's interest in the crownhold land, unless before the end of that period he serves on the Commission a counter-notice under the next following subsection; and

(*c*) state whether (in the circumstances specified in the last preceding paragraph) the Commission propose to execute such a vesting declaration in respect of the whole of the land in which that person's interest subsists or in respect only of a part of that land specified in the notice, as being the part in relation to which the covenant is alleged by the Commission to have been broken.

(3) Any person on whom a notice is served under subsection (1) of this section may, before the end of the period specified in the notice in accordance with paragraph (*b*) of the

last preceding subsection, serve on the Commission a counter-notice objecting to the notice on such one or more of the following grounds as may be specified in the counter-notice, that is to say—

(*a*) that the crownhold covenant specified in the notice under subsection (1) of this section has not been broken as alleged in the notice;

(*b*) that, if that covenant has been so broken, the breach does not relate to any part of the crownhold land in which the person serving the counter-notice has an interest;

(*c*) that in the circumstances he ought to be relieved against the execution of a vesting declaration under the next following section in respect of his interest.

(4) Where a person has served a counter-notice under the last preceding subsection and that counter-notice has not been withdrawn, the Commission shall not execute a vesting declaration under the next following section in respect of his interest except with the leave of the county court, or, in Scotland, of the sheriff; and on any application for such leave—

(*a*) where the grounds of objection specified in the counter-notice consist of or include that which is specified in paragraph (*a*) or paragraph (*b*) of the last preceding subsection, the court or sheriff shall not grant leave unless satisfied that the objection on those grounds is not well-founded, and

(*b*) without prejudice to the preceding paragraph, where the grounds of objection specified in the counter-notice consist of or include that which is specified in paragraph (*c*) of the last preceding subsection, the court or sheriff, if having regard to the conduct of the parties and to all the other circumstances it appears to the court or sheriff to be just and equitable to do so, may refuse to grant leave, either unconditionally or on such terms (as to costs, expenses, damages or otherwise) as the court or sheriff thinks fit.

Compulsory acquisition in pursuance of notice under s. 20.

21.—(1) Where the Commission have served on any person a notice under the last preceding section in respect of such an interest as is mentioned in paragraph (*a*) or paragraph (*b*) of subsection (1) of that section, then, subject to the following provisions of this section and, where an order has been made by the county court or the sheriff under subsection (4) of that section, subject to the provisions of that order, the Commission may execute a vesting declaration under this section in respect of that interest at any time before the end of the period of six

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months after the date applicable in accordance with the next following subsection.

(2) That date is the date of the occurrence of whichever of the following events last occurs, that is to say—

(*a*) the period specified in the notice in accordance with subsection (2)(*b*) of the last preceding section expires without a counter-notice having been served under subsection (3) of that section;

(*b*) a counter-notice so served is withdrawn;

(*c*) an application for leave under subsection (4) of that section is determined by the county court or the sheriff;

(*d*) an appeal against the decision of the county court or the sheriff on such an application, and any further appeal against the decision on such an appeal, is determined or is abandoned or otherwise ceases to have effect or the time for bringing any such appeal or further appeal expires without its having been brought.

(3) A vesting declaration under this section in respect of an interest in land shall be in the prescribed form; and, where such a declaration is executed,—

(*a*) the interest to which it relates shall vest in the Commission on such date as is specified in that behalf in the declaration, and

(*b*) if it relates to land in Scotland, the declaration shall, as soon as may be after that date, be recorded in the General Register of Sasines.

(4) Where the notice under the last preceding section stated that, in the circumstances specified in subsection (2)(*b*) of that section, the Commission proposed to execute a vesting declaration in respect only of part of the land in which the interest in question subsists, any vesting declaration made under this section in pursuance of that notice shall not extend beyond that part of the land, and the last preceding subsection shall have effect accordingly.

1961 c. 33.
1963 c. 51.

(5) Any reference in the Land Compensation Act 1961 or in the Land Compensation (Scotland) Act 1963 to the compulsory acquisition of land, or of an interest in land, shall be construed as including a reference to the execution of a vesting declaration under this section in respect of an interest in land; and (subject to the following provisions of this section) those Acts shall apply in relation to the execution of such a declaration as if the Commission had been authorised to acquire that interest compulsorily under the preceding provisions of this Part of this Act and had served notice to treat in respect of that interest on the date of execution of the declaration.

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(6) For the purpose of assessing compensation in accordance with those Acts in respect of an interest in land vested in the Commission by a vesting declaration under this section—

(*a*) no account shall be taken of any increase in the value of that interest which is attributable to the carrying out of development in contravention of a crownhold covenant, or to any prospect of carrying out any such development, and

(*b*) in a case where immediately before the execution of the declaration that interest is subject to a right of pre-emption conferred on the Commission by a concessionary crownhold disposition in accordance with section 18(4)(*b*) of this Act, no account shall be taken of any diminution of the value of that interest which is attributable to that right,

and no compensation shall be paid for damage sustained by reason that the land in which that interest subsists is severed from other land held therewith, or for disturbance or any other matter not directly based on the value of land or of an interest in land.

(7) Where, immediately before the execution of a vesting declaration under this section in respect of a crownhold interest, that interest is subject to a right of pre-emption conferred on the Commission by a concessionary crownhold disposition in accordance with section 18(4)(*b*) of this Act, then—

(*a*) if the declaration extends to the whole of the land in which that interest subsists, the compensation which would, apart from this subsection, be payable in respect of that interest shall be reduced by the sum specified in the disposition in accordance with section 18(3) of this Act, and

(*b*) in any other case, that compensation shall be reduced by so much of that sum as, on a proper apportionment of that sum as between the land comprised in the declaration and the remainder of the land comprised in the disposition, is attributed to the land comprised in the declaration.

(8) Where the last preceding subsection has effect in relation to a crownhold interest, and a vesting declaration under this section (whether it is the same declaration as that executed in respect of that interest or a different declaration) is executed in respect of such a tenancy as is mentioned in section 20(1)(*b*) of this Act, then, if the amount which in accordance with the last preceding subsection falls to be deducted from the compensation

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mentioned in that subsection exceeds the amount of that compensation, the amount of the excess shall be ascertained, and—

(*a*) if the tenancy extends to the whole of the land in which the crownhold interest subsists, the compensation which would, apart from this subsection, be payable in respect of the tenancy shall be reduced by the amount of the excess so ascertained, and

(*b*) in any other case, that compensation shall be reduced by so much of the amount of that excess as, on a proper apportionment of that amount as between the land comprised in the tenancy and the remainder of the land in which the crownhold interest subsists, is attributed to the land comprised in the tenancy.

Supplementary provisions

Owner's right to require Commission to elect.

22.—(1) Where, by a planning decision made on or after the second appointed day, planning permission is granted for the carrying out of material development of any land, any person entitled to a material interest in that land, or in part of that land, may, within three months from the date of the planning decision, serve on the Commission a notice in the prescribed form—

(*a*) specifying the land in which that interest subsists (in this section referred to as " the specified land "), and the planning decision in consequence of which the notice is served, and

(*b*) requiring the Commission to elect whether or not to acquire the specified land.

(2) Within three months after the date on which a person (in this section referred to as " the owner ") has served on the Commission a notice under the preceding subsection, the Commission shall serve on him a counter-notice stating either that they do or that they do not propose to acquire the specified land:

Provided that a counter-notice under this section stating that the Commission do not propose to acquire the specified land may, if the Commission think fit, be expressed to be subject to the condition that the development for which the planning permission was granted is begun or completed within such period as may be specified in the counter-notice or to such other conditions as may be so specified.

(3) Where a counter-notice under this section states that the Commission propose to acquire the specified land, then—

(*a*) that land shall, for the purposes of section 6(1) of this Act, be deemed to be land which, in the opinion of the Commission, is suitable for material development, and

(*b*) unless before the end of the period of twelve months from the date of service of the counter-notice the Commission have entered into a binding contract to purchase the owner's interest in that land, the Commission shall before the end of that period prepare in draft a compulsory purchase order for the acquisition of that land under this Part of this Act.

(4) Where the Commission are required to serve a counter-notice under this section and either—

(*a*) they serve a counter-notice stating unconditionally that they do not propose to acquire the specified land, or

(*b*) they serve a counter-notice stating that they do not propose to acquire that land but the counter-notice is expressed to be subject to one or more conditions, and those conditions are complied with, or

(*c*) the Commission do not serve a counter-notice as required by this section,

the Commission shall not have power to acquire the specified land, or any part of that land, compulsorily in pursuance of a compulsory purchase order made before the end of the period of five years from the date of service of the counter-notice or (in a case falling within paragraph (*c*) of this subsection) from the date on which the time allowed for serving the counter-notice expired.

(5) Where under this section the Commission serve a counter-notice stating that they propose to acquire the specified land, and have not, before the end of the period of twelve months from the date of service of the counter-notice, entered into a binding contract to purchase the owner's interest in that land, then, unless notice that a compulsory purchase order for the acquisition of that land has been prepared in draft by the Commission has (in accordance with paragraph 3 of Schedule 1 to the Acquisition of Land Act as applied by section 7(1) of this Act) been first published before the end of that period, subsection (4) of this section shall have effect as if the Commission had served a counter-notice stating unconditionally that they do not propose to acquire the specified land.

(6) In this section "material interest", in relation to any land comprised in a planning decision, means an interest which—

(*a*) is either the fee simple or a tenancy of which not less than twenty years remain unexpired at the date of the planning decision, and

(*b*) is not in reversion expectant (whether immediately or not) on the termination of a tenancy of which more than fifty years remain unexpired at that date.

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Compulsory purchase order comprising house unfit for human habitation.
1961 c. 33.
1963 c. 51.

23.—(1) Schedule 2 to the Land Compensation Act 1961 shall be amended by inserting at the end of paragraph 2(1)(*f*) the words " or

(*g*) an acquisition by the Land Commission under the Land Commission Act 1967 ".

(2) Schedule 2 to the Land Compensation (Scotland) Act 1963 shall be amended by inserting at the end of paragraph 1(1)(*e*) the words " or

(*f*) an acquisition by the Land Commission under the Land Commission Act 1967 ".

(3) In relation to any acquisition by the Commission under this Act, paragraph 2(2) of Schedule 2 to the said Act of 1961, and paragraph 1(2) of Schedule 2 to the said Act of 1963, shall each have effect as if, for any reference to the confirmation of a compulsory purchase order, there were substituted a reference to whichever of the following events first occurs, that is to say—

(*a*) a compulsory purchase order is made by the Commission;

(*b*) authority to make a compulsory purchase order is given to the Commission under section 7(2) of this Act.

Recovery of compensation overpaid.

24.—(1) The provisions of this section shall have effect where, after the Commission have made a general vesting declaration under this Act in respect of any land, a person claims compensation in respect of the acquisition by the Commission of an interest in any land by virtue of the declaration, and the Commission pay compensation in respect of that interest.

(2) If it is subsequently shown—

(*a*) that the land, or the claimant's interest in it, was subject to an incumbrance which was not disclosed in the particulars of his claim, and

(*b*) that by reason of that incumbrance the compensation paid exceeded the compensation to which the claimant was entitled in respect of that interest,

the Commission may recover the amount of the excess from the claimant.

(3) If, in a case falling within subsection (1) of this section, it is subsequently shown that the claimant was not entitled to the interest in question, either in the whole or in part of the land to which the claim related, the Commission may recover from him an amount equal to the compensation paid, or to so much of that compensation as, on a proper apportionment thereof, is attributable to that part of the land, as the case may be.

(4) Any question arising under this section—

(*a*) as to the amount of the compensation to which the claimant was entitled in respect of an interest in land, or

(*b*) as to the apportionment of any compensation paid,

shall be referred to and determined by the Lands Tribunal; and, in relation to the determination of any such question, the provisions of section 2 of the Land Compensation Act 1961 shall apply, subject to any necessary modifications. 1961 c. 33.

(5) Subject to the last preceding subsection, any amount recoverable by the Commission under this section shall be recoverable as a simple contract debt in any court of competent jurisdiction.

(6) Any sum recovered under this section shall be paid into the Land Acquisition and Management Fund.

(7) In the application of this section to Scotland, in subsection (4) for the reference to section 2 of the Land Compensation Act 1961 there shall be substituted a reference to section 9 of the Land Compensation (Scotland) Act 1963, and in subsection (5) the words "as a simple contract debt" shall be omitted. 1963 c. 51.

Exemption from stamp duty

25.—(1) Stamp duty shall not be charged on any instrument to which the Commission is a party, if—

(*a*) it is an instrument falling within any of the specified entries in the first column of the table contained in section 15(2)(*d*) of the Stamp Act 1891 and the Commission is the person described in the corresponding entry in the second column of that table, or 1891 c. 39.

(*b*) it is a contract or agreement (whether under seal or in writing) for the conveyance or assignment to the Commission of a legal or equitable estate or interest in land.

(2) Stamp duty shall not be charged on any duplicate or counterpart of an instrument to which the Commission is a party if that instrument—

(*a*) is an instrument falling within any of the specified entries in the first column of the table referred to in paragraph (*a*) of the preceding subsection but the Commission is not the person described in the corresponding entry in the second column of that table, or

(*b*) is a contract or agreement (whether under seal or in writing) for the grant of a tenancy by the Commission

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or for the conveyance or assignment by the Commission of a legal or equitable estate or interest in land.

(3) Stamp duty shall not be charged on any vesting declaration made by the Commission.

(4) Where an instrument would have been chargeable with stamp duty but for subsection (1) of this section, and is exempt from duty by virtue of that subsection, the exemption shall not extend to any duplicate or counterpart of that instrument, and any such duplicate or counterpart shall be chargeable with stamp duty accordingly as if the instrument had been chargeable with duty:

1891 c. 39.

Provided that section 72 of the Stamp Act 1891 (provision as to duplicates and counterparts) shall not have effect in relation to any such duplicate or counterpart.

1895 c. 16.

(5) Section 12 of the Finance Act 1895 (collection of stamp duty in cases of property vested by Act or purchased under statutory power) shall not apply to any instrument which is exempt from duty under the preceding provisions of this section.

1910 c. 8.

(6) Subsection (5) of section 74 of the Finance (1909-10) Act 1910 (whereby certain conveyances may be deemed to be voluntary dispositions for purposes of stamp duty) shall not apply to any disposition made by the Commission by reason only that it is made in the exercise of the power conferred by section 18(1) of this Act.

(7) In this section " the specified entries " means the following entries, that is to say " bond, covenant, or instrument of any kind whatsoever ", " conveyance on sale ", and " lease or tack ".

Interpretation of Part II.

26.—(1) In this Part of this Act, and in Schedules 1 to 3 to this Act, the following expressions have the meanings hereby respectively assigned to them, that is to say—

1946 c. 49.
1947 c. 42.

" the Acquisition of Land Act " means the Acquisition of Land (Authorisation Procedure) Act 1946, or, as respects Scotland, the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947;

" crownhold disposition " and other expressions relating to crownhold have the meanings assigned to them by sections 17 and 18 of this Act;

" the current development plan ", in relation to any land, means a development plan comprising that land, in the form in which (whether as originally approved or made or as for the time being amended) that plan is for the time being in force; and

" general vesting declaration " has the meaning assigned to it by section 9(2) of this Act. PART II

(2) In section 6 of this Act " land " includes any interest in or right over land, and the definitions of " land " in the Acquisition of Land Act and in Part I of the Compulsory Purchase Act 1965, and, as respects Scotland, in the Lands Clauses Acts, as applied respectively by any of the provisions of this Part of this Act, shall be construed accordingly. 1965 c. 56.

(3) In sections 9 and 10 of this Act " minor tenancy " means a tenancy for a year or from year to year or any lesser interest, and " long tenancy which is about to expire ", in relation to a general vesting declaration, means a tenancy granted for an interest greater than a minor tenancy, but having at the date of the declaration a period still to run which is not more than the specified period (that is to say, such period, longer than one year, as may for the purposes of this subsection be specified in the declaration in relation to the land in which the tenancy subsists); and in determining for the purposes of this subsection what period a tenancy still has to run at the date of a general vesting declaration it shall be assumed—

(*a*) that the tenant will exercise any option to renew the tenancy, and will not exercise any option to terminate the tenancy, then or thereafter available to him, and

(*b*) that the landlord will exercise any option to terminate the tenancy then or thereafter available to him.

PART III

BETTERMENT LEVY

Charge of levy

General provisions as to betterment levy.

27.—(1) A levy, to be called " betterment levy " (in this Act referred to as " levy "), shall, subject to and in accordance with the following provisions of this Part of this Act, be charged where the development value, or part of the development value, of land is realised on or after the first appointed day.

(2) For the purposes of this Part of this Act the development value of any land, or part of that value, shall be taken to be so realised in the cases distinguished as Cases A to F respectively in the following table, and so referred to in the following provisions of this Part of this Act.

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TABLE

Case	Description of Case
A.	Where the land is disposed of by way of any such disposition as is mentioned in section 29(1) of this Act which is made on or after the first appointed day.
B.	Where the land is disposed of by way of any such disposition as is mentioned in section 30(1) of this Act which is made on or after the first appointed day.
C.	Where the carrying out of a project of material development of the land is begun on or after the first appointed day.
D.	Where such a right to compensation as is mentioned in section 33(1) of this Act accrues in respect of the land on or after the first appointed day.
E.	Where the land is the subject of any such disposition as is mentioned in section 34(1) of this Act which is made on or after the first appointed day.
F.	On the occurrence on or after the first appointed day of such other acts or events relating to the land as are designated for the purposes of this Case by or under section 35 of this Act.

(3) Any act or event described in that table, whereby in accordance with the last preceding subsection the development value, or part of the development value, of land is taken to be realised on or after the first appointed day, is in this Part of this Act referred to as a " chargeable act or event ".

Rate of levy.

28.—(1) Where levy is to be charged in accordance with the last preceding section, it shall be charged at the prescribed rate.

(2) In this section, and in sections 29 to 35 of this Act, " the prescribed rate ", in relation to charging levy in respect of a chargeable act or event, means such rate as may be prescribed by an order which—

(*a*) is made under this section by the Ministers with the consent of the Treasury, and

(*b*) is in force at the date which is the relevant date in relation to that chargeable act or event.

(3) No order shall be made under this section unless a draft of the order has been laid before the Commons House of Parliament and approved by a resolution of that House.

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Levy in Case A.

29.—(1) This section applies to dispositions of any of the following descriptions, that is to say—

(*a*) a conveyance on sale of the fee simple;

(*b*) the grant of a feu or the creation of a ground annual;

(*c*) an assignment on sale of a tenancy granted, renewed or extended for a term of years certain of not less than seven years;

(*d*) an assignment which is notified in accordance with the following provisions of this Part of this Act and is an assignment on sale of a tenancy granted, renewed or extended for a term of years certain of less than seven years.

(2) Where levy is to be charged in respect of a disposition to which this section applies, it shall be charged at the prescribed rate on the net development value of the relevant interest, calculated in accordance with the following provisions of this section.

(3) For the purpose of assessing levy in respect of such a disposition, the market value of the relevant interest, the base value of that interest, and the amount of any expenditure on improvements or ancillary rights in so far as it has increased the development value of that interest, shall be ascertained in accordance with Parts I and V of Schedule 4 to this Act and with such other provisions of the relevant Schedules as are applicable in the circumstances.

(4) There shall then be calculated the amount by which the market value of the relevant interest exceeds the base value of that interest; and that amount, reduced by the amount of any expenditure on improvements or ancillary rights in so far as it has increased the development value of that interest, shall for the purpose mentioned in the last preceding subsection be taken to be the net development value of the relevant interest.

(5) In this Part of this Act, for the purpose of assessing levy in respect of a disposition to which this section applies,—

(*a*) " the relevant land " means the land comprised in the disposition;

(*b*) " the relevant interest " means the interest which is conveyed or assigned by the disposition in so far as that interest subsists in the relevant land;

(*c*) " the grantor " means the person in whom, immediately before the disposition is made, the relevant interest is vested, and " the grantee " means the person to whom that interest is conveyed or assigned by the disposition; and

(*d*) " the relevant date " means the date of the disposition.

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Levy in Case B.

30.—(1) This section applies to dispositions of either of the following descriptions, that is to say—

(*a*) a disposition granting a tenancy for a term of years certain of not less than seven years;

(*b*) a disposition which is notified in accordance with the following provisions of this Part of this Act and is a disposition granting a tenancy for a term of years certain of less than seven years.

(2) Where levy is to be charged in respect of a disposition to which this section applies, it shall be charged at the prescribed rate on the net development value realised by the disposition, calculated in accordance with the following provisions of this section.

(3) For the purpose of assessing levy in respect of such a disposition, the amount of the consideration for the disposition, the base value realised by the disposition, and the amount of any expenditure on improvements or ancillary rights in so far as it has increased the development value realised by the disposition, shall be ascertained in accordance with Parts II and V of Schedule 4 to this Act and with such other provisions of the relevant Schedules as are applicable in the circumstances

(4) There shall then be calculated the amount by which the consideration for the disposition exceeds the base value realised by the disposition; and that amount, reduced by the amount of any expenditure on improvements or ancillary rights in so far as it has increased the development value realised by the disposition, shall for the purpose mentioned in the last preceding subsection be taken to be the net development value realised by the disposition.

(5) In this Part of this Act, for the purpose of assessing levy in respect of a disposition to which this section applies,—

(*a*) " the relevant land " means the land comprised in the tenancy;

(*b*) " the grantor " means the person by whom the tenancy is granted and " the grantee " means the person to whom it is granted; and

(*c*) " the relevant date " means the date of the disposition.

Levy in Case C.

31.—(1) Where levy is to be charged in respect of a project of material development falling within Case C, the levy—

(*a*) shall be chargeable in respect of any assessable interest in the relevant land, or in part of that land, and, where charged in respect of two or more such interests, shall (subject to subsection (4) of this section) be charged separately in respect of each of them, and

(*b*) where charged in respect of any such interest, shall be charged at the prescribed rate on the net development value of that interest, calculated in accordance with the following provisions of this section.

(2) For the purpose of assessing levy in Case C, the market value of the relevant interest, the base value of that interest, and the amount of any expenditure on improvements or ancillary rights in so far as it has increased the development value of that interest, shall be ascertained in accordance with Parts III and V of Schedule 4 to this Act and with such other provisions of the relevant Schedules as are applicable in the circumstances.

(3) There shall then be calculated the amount by which the market value of the relevant interest exceeds the base value of that interest; and that amount, reduced by the amount of any expenditure on improvements or ancillary rights in so far as it has increased the development value of that interest, shall for the purpose of assessing levy in Case C be taken to be the net development value of the relevant interest.

(4) For the purpose of assessing levy in respect of two or more assessable interests by virtue of which a person is the developing owner in relation to the relevant project, the Commission and the developing owner may enter into an agreement whereby those interests shall be treated as if they had merged into one interest immediately before the relevant date, and the provisions of subsections (2) and (3) of this section and of the relevant Schedules shall apply subject to such modifications as the agreement may provide in that behalf.

(5) In this Part of this Act, for the purpose of assessing levy in Case C in respect of any interest in land in connection with a project of material development,—

(*a*) "the relevant interest" means that interest, in so far as it subsists in the relevant land;

(*b*) "the relevant project" means that project;

(*c*) "the relevant land" means the land comprised in the relevant project; and

(*d*) "the relevant date" means the date on which the carrying out of the relevant project is begun.

Assessable interests in Case C.

32.—(1) Subject to the following provisions of this section, for the purpose of assessing levy in Case C an interest in the relevant land, or in part of that land, is an assessable interest if it fulfils the following conditions, that is to say—

(*a*) that it is subsisting at the relevant date;

(*b*) that it is either the fee simple or a tenancy, not being a minor tenancy; and

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(*c*) that it is not in reversion expectant (whether immediately or not) on the termination of a tenancy of which at the relevant date more than ninety-eight years remain unexpired.

(2) Where a tenancy (other than a minor tenancy) of the relevant land, or part of that land, which is not in existence at the relevant date is to be granted in pursuance of a contract fulfilling the conditions specified in the next following subsection, then (subject to the following provisions of this section) for the purpose of assessing levy in Case C that tenancy—

(*a*) shall be treated as if it were an interest subsisting at the relevant date in the relevant land or in that part of the relevant land, as the case may be, and

(*b*) shall be an assessable interest in the relevant land, or in that part of the relevant land, as the case may be.

(3) The conditions referred to in the last preceding subsection, in relation to a contract, are—

(*a*) that it is in existence at the relevant date and is an enforceable contract under which the prospective tenant has been, or at a time specified in or to be determined in accordance with the contract can be, required to take the tenancy in question, and

(*b*) that it is either unconditional or (if it is subject to conditions) is not conditional upon the carrying out of the relevant project.

(4) Notwithstanding anything in the preceding provisions of this section, a tenancy of part (but not the whole) of the relevant land shall not be an assessable interest for the purpose of assessing levy in Case C if the assessable interest, or one of the assessable interests, by virtue of which a person is the developing owner in relation to the relevant project is in reversion expectant (whether immediately or not) on the termination of that tenancy.

(5) Subject to the next following subsection, in this Part of this Act "developing owner", in relation to a project of material development, means any person who, in respect of every part of the land comprised in the project, fulfils one or other of the following conditions, that is to say—

(*a*) that on the date on which the carrying out of the project is begun he is entitled to an interest fulfilling the conditions specified in subsection (1) of this section;

(*b*) that on that date he is under an enforceable contract to purchase such an interest, or, being an authority possessing compulsory purchase powers, has before

that date served (and has not before that date withdrawn) a notice to treat for the compulsory acquisition of such an interest;

(*c*) that on that date he is under a contract, fulfilling the conditions specified in subsection (3) of this section, to take a tenancy, other than a minor tenancy;

and for the purposes of this subsection it is immaterial whether a person fulfils the same condition specified in this subsection in relation to every part of that land comprised in the project or fulfils different conditions so specified in relation to different parts of that land.

(6) Where in accordance with the last preceding subsection two or more persons would each be the developing owner in relation to the land comprised in a project of material development, then for the purposes of this Part of this Act that one of those persons who, as against the other or others of them, is entitled to possession of the part of that land on which the first specified operation comprised in the project is carried out shall be the developing owner in relation to the project.

(7) In this Part of this Act any reference to an assessable interest by virtue of which a person is the developing owner in relation to a project of material development is a reference to any interest in the relevant land, or in part of that land,—

(*a*) to which the developing owner is entitled as mentioned in paragraph (*a*) of subsection (5) of this section, or

(*b*) in respect of which the developing owner is under a contract, or has served, and not withdrawn, a notice to treat, as mentioned in paragraph (*b*) of that subsection, or

(*c*) which is a tenancy in respect of which the developing owner is under a contract as mentioned in paragraph (*c*) of that subsection.

Levy in Case D.

33.—(1) This section applies to any right to compensation under Part VII of the Act of 1962, under Part II of the Scottish Act of 1947, or under Part IV of the Scottish Act of 1954, in respect of—

(*a*) an order under section 27 of the Act of 1962 or under section 19 of the Scottish Act of 1947 revoking or modifying planning permission, or

(*b*) a planning decision whereby planning permission is refused, or is granted subject to conditions other than those previously imposed by a development order, in the circumstances mentioned in section 119(1) of the Act of 1962 or in section 20(3) of the Scottish Act of 1947, or

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(*c*) an order under section 28 of the Act of 1962 or under section 24 of the Scottish Act of 1947 requiring a use of land to be discontinued, or imposing conditions on the continuance thereof, or requiring any buildings or works on land to be altered or removed,

in so far as it is a right to compensation for depreciation of the value of an interest in land.

(2) Where levy is to be charged in respect of a right to compensation to which this section applies, it shall be charged at the prescribed rate on the amount of the compensation, reduced by the appropriate deduction (if any) calculated in accordance with the following provisions of this section.

(3) For the purpose of assessing levy in respect of such a right to compensation, the following matters shall be ascertained in accordance with Parts IV and V of Schedule 4 to this Act and with such other provisions of the relevant Schedules as are applicable in the circumstances, that is to say—

(*a*) the amount of the compensation;

(*b*) the base value of the relevant interest;

(*c*) the amount of any expenditure on improvements or ancillary rights in so far as it has increased the development value of that interest; and

(*d*) the restricted value of that interest after the depreciation.

(4) There shall then be calculated the amount (if any) by which the aggregate of the value and amount specified respectively in paragraphs (*b*) and (*c*) of the last preceding subsection exceeds the value specified in paragraph (*d*) of that subsection; and the amount of that excess (if any) shall be the appropriate deduction for the purposes of subsection (2) of this section.

(5) In this Part of this Act, for the purpose of assessing levy in respect of a right to compensation to which this section applies,—

(*a*) "the relevant interest" means the interest in respect of which the right to compensation accrues, and "the relevant land" means the land in which that interest subsists;

(*b*) "the relevant order or decision" means the order or planning decision in consequence of which the right to compensation accrues; and

(*c*) "the relevant date" means the date by reference to which, in accordance with the provisions of Part VII of the Act of 1962, or of Part II of the Scottish Act of 1947 and of Part IV of the Scottish Act of 1954, the compensation falls to be assessed.

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Levy in Case E.

34.—(1) This section applies to any disposition which, not being comprised in, or made in consideration of, a disposition to which section 29 or section 30 of this Act applies, is made for valuable consideration and is a disposition—

(*a*) granting an easement, or

(*b*) releasing or modifying an easement or a restrictive right,

and is notified to the Commission in accordance with the following provisions of this Part of this Act.

(2) Where levy is to be charged in respect of a disposition to which this section applies, it shall be charged at the prescribed rate on the amount of the consideration for the disposition, reduced by the appropriate deduction (if any) calculated in accordance with the following provisions of this section.

(3) For the purpose of assessing levy in respect of such a disposition, the following matters shall be ascertained in accordance with Parts IV and V of Schedule 4 to this Act and with such other provisions of the relevant Schedules as are applicable in the circumstances, that is to say—

(*a*) the amount of the consideration for the disposition;

(*b*) the base value of the relevant interest;

(*c*) the amount of any expenditure on improvements or ancillary rights in so far as it has increased the development value of that interest; and

(*d*) the restricted value of that interest after the disposition.

(4) There shall then be calculated the amount (if any) by which the aggregate of the value and amount specified respectively in paragraphs (*b*) and (*c*) of the last preceding subsection exceeds the value specified in paragraph (*d*) of that subsection; and the amount of that excess (if any) shall be the appropriate deduction for the purposes of subsection (2) of this section.

(5) In this Part of this Act, for the purpose of assessing levy in respect of a disposition to which this section applies,—

(*a*) " the relevant interest " means the interest in the relevant land which the grantor has at the relevant date;

(*b*) " the relevant land ", in relation to a disposition granting an easement, means the land over which the easement is granted, together with so much of any associated land as is incidentally affected by the disposition, and, in relation to a disposition releasing or modifying an easement, means all such land in which the

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grantor has an interest at the relevant date as immediately before that date is land to which the benefit of the easement is annexed, together with so much of any associated land as is incidentally affected by the disposition;

(*c*) "the relevant land", in relation to a disposition releasing or modifying a restrictive right, means all such land in which the grantor has an interest at the relevant date as is land to which the benefit of the restrictive right is annexed immediately before that date;

(*d*) "the grantor" means the person granting the easement or releasing or modifying the easement or restrictive right, and "the grantee" means the person in whose favour it is granted, released or modified, as the case may be; and

(*e*) "the relevant date" means the date of the disposition.

(6) For the purposes of the application of this section to a disposition granting, releasing or modifying an easement—

(*a*) land shall be taken to be associated with the land over which the easement is granted or to which the benefit of the easement is annexed (in this paragraph referred to as "the land principally affected") if it is land which immediately before the relevant date is held by the grantor with the land principally affected and he is entitled in the same capacity to his interest in that land and to his interest in the land principally affected; and

(*b*) so much of any such associated land as is land in which the value of the grantor's interest is depreciated by the disposition shall be taken to be land incidentally affected by the disposition.

Levy in Case F.

35.—(1) Regulations made under this section may specify descriptions of dispositions to which subsection (2), subsection (3) or subsection (4) of this section applies and provide that the making on or after the date of approval by the resolution mentioned in subsection (7) of this section, but not before the first appointed day, of a disposition of any description so specified—

(*a*) if notified to the Commission in accordance with the regulations, or

(*b*) (in the case of a disposition of any description in relation to which the regulations so provide) whether it is so notified or not,

shall constitute an act or event designated for the purposes of Case F, as mentioned in section 27(2) of this Act.

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(2) This subsection applies to any disposition which (not being a disposition to which section 29, section 30 or section 34 of this Act applies) is made for valuable consideration and fulfils either or both of the following conditions, that is to say,—

(*a*) that it renews or extends a tenancy;

(*b*) that it varies the terms and conditions of a tenancy by releasing or modifying a covenant or agreement whereby the development of any land comprised in the tenancy is restricted.

(3) This subsection applies to any disposition which (not being a disposition to which section 29, section 30 or section 34 of this Act or the last preceding subsection applies) is made for valuable consideration and is a disposition granting to a government department, statutory undertakers or any other body a right to place, construct or maintain a main, pipe, cable, wire or other apparatus in, on, over or under land; and for the purposes of this section any instrument whereby such a right is compulsorily acquired by a government department, statutory undertakers or any other body shall be treated as a disposition granting that right for valuable consideration.

(4) This subsection applies to any disposition which (not being a disposition to which section 29, section 30 or section 34 of this Act applies) is made for valuable consideration and fulfils any one or more of the following conditions, that is to say—

(*a*) that it waives or modifies an obligation on a vassal imposed by a superior or mid-superior;

(*b*) that it imposes an augmentation of feu-duty;

(*c*) that it conveys the estate or interest of the proprietor of the *dominium directum* or of the creditor in a contract of ground annual.

(5) Regulations made under this section may specify enactments (other than those specified in section 33 of this Act) under which a right to compensation for depreciation of the value of an interest in land can accrue, and provide that the accrual on or after the first appointed day of a right to compensation under an enactment so specified, in so far as it is a right to compensation for such depreciation,—

(*a*) if notified to the Commission in accordance with the regulations, or

(*b*) (in the case of a right accruing under an enactment in relation to which the regulations so provide) whether it is so notified or not,

shall constitute an act or event designated for the purposes of Case F, as mentioned in section 27(2) of this Act.

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(6) Where levy is to be charged in respect of—

(*a*) a disposition of a description specified by regulations made in accordance with subsection (1) of this section, or

(*b*) a right to compensation under an enactment specified by regulations made in accordance with subsection (5) of this section,

the levy shall be charged at the prescribed rate on an amount determined in such manner as may be prescribed by the regulations.

(7) Regulations made under this section shall be of no effect unless they are approved by a resolution of the Commons House of Parliament.

Liability to pay levy.

36.—(1) Where levy is chargeable in respect of a chargeable act or event, and, in accordance with the following provisions of this Part of this Act, a notice of assessment of levy has been served in respect of that act or event and has resulted in an operative assessment of levy, the following provisions of this section shall have effect for determining the person who is liable to pay levy in respect thereof.

(2) Where the chargeable act or event consists of a disposition falling within Case A, Case B or Case E, then, subject to the next following subsection, the grantor shall be liable to pay the whole of the levy in accordance with the assessment, that is to say, the principal amount of the levy and all interest accruing from time to time on that amount, whether the principal amount is payable as a single capital sum or whether that amount and interest thereon are payable by instalments or otherwise.

(3) If in the case of any such disposition (whether in accordance with a provision contained in the disposition or otherwise) the whole or part of the consideration for the disposition is payable to a person other than the grantor, as being a person with whom the grantor, or a predecessor in title of the grantor, entered into a contract to convey or assign the relevant interest to that person, then—

(*a*) on a request in writing made by that person and by the grantor, the Commission may apportion the principal amount of the levy between them in such shares as the Commission may determine to be appropriate, and each of them shall be liable to pay so much of the principal amount as is so apportioned to him, together with interest on that part of the principal amount;

(*b*) if no such apportionment is made, that person and the grantor shall be jointly and severally liable to pay the whole of the levy as mentioned in subsection (2) of this section.

(4) Where levy is chargeable in Case C—

(*a*) the person (if any) who is the developing owner in relation to the relevant project shall be liable to pay the levy in respect of every assessable interest in the relevant land, or in part of that land, by virtue of which he is the developing owner;

(*b*) subject to the preceding paragraph, the person who on the relevant date is entitled to any assessable interest in the relevant land, or in part of that land, shall be liable to pay the levy in respect of that interest.

(5) In Case D the person liable to pay the levy is the person to whom the right to compensation accrues.

(6) In Case F the person liable to pay the levy is such person as may be prescribed by the regulations made under section 35 of this Act.

Notification of chargeable acts or events

Notification in Cases A and B.

37.—(1) Where on or after the first appointed day any land is disposed of by way of any such disposition as is mentioned in paragraphs (*a*) to (*c*) of section 29(1) of this Act, or in paragraph (*a*) of section 30(1) of this Act, the grantee shall notify the disposition in accordance with the following provisions of this section.

(2) Where on or after the first appointed day any land is disposed of by way of—

(*a*) an assignment on sale of a tenancy granted, renewed or extended for a term of years certain of less than seven years, or

(*b*) a disposition granting a tenancy for a term of years certain of less than seven years,

the grantee may, if (having regard to the provisions of Schedule 5 to this Act) he thinks fit, notify the disposition in accordance with the following provisions of this section.

(3) Provision shall be made by regulations as to the manner in which dispositions are to be, or may be, notified under this section.

(4) Without prejudice to the generality of the last preceding subsection, the regulations shall provide that any steps required or authorised by the regulations to be taken in relation to a

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disposition shall be taken within thirty days after the date of the disposition or such extended period as the Commission may in any particular case allow; and for the purposes of this Part of this Act a disposition shall not be taken to be notified under this section unless those steps have been taken before the end of that period of thirty days or any such extended period.

Notification in Case C.

38.—(1) No person who is entitled to a material interest in the land comprised in a project of material development, or in part of that land, or who (not being so entitled) is the developing owner in relation to the project, shall—

(*a*) begin on or after the first appointed day to carry out the project, or

(*b*) (except as provided by the next following section) cause or permit any other person to begin to carry it out on or after that day,

unless the appropriate person has, in accordance with the following provisions of this section, served on the Commission notice of intention to carry out the project.

(2) A notice under this section—

(*a*) shall not have effect if it is served more than twelve months before the date on which the carrying out of the project is begun, and

(*b*) shall not have effect if it is served less than six weeks before that date, unless planning permission authorising the carrying out of the whole of the project is in force at the time when the notice is served.

(3) The appropriate person to serve a notice under this section in respect of a project of material development is the person (if any) who is the developing owner in relation to the project.

(4) Subject to the last preceding subsection, any person who, on the date on which the carrying out of a project of material development is begun, will be entitled to a material interest in the land comprised in the project, or in part of that land, may apply to the Commission to designate a person to be the appropriate person for the purpose of serving a notice under this section in respect of the project; and the Commission, if satisfied—

(*a*) that on that date no person will be the developing owner in relation to the project, and

(*b*) that in the special circumstances of the case it is reasonable for the carrying out of the project to begin without a developing owner,

may designate a person to be the appropriate person accordingly.

(5) Any notice served under this section in respect of a project of material development shall contain the prescribed particulars,

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that is to say, such particulars as may be prescribed with respect to all or any of the following matters:—

(*a*) any planning permission in accordance with which the project is to be carried out;

(*b*) the land which is intended to be comprised in the project, the nature and scope of the project and the date on which it is proposed to begin to carry it out;

(*c*) (where the person serving the notice is the developing owner in relation to the project) every interest, contract or notice to treat by virtue of which he is the developing owner;

(*d*) any other interests subsisting in the land which is to be comprised in the project and the persons entitled to those interests respectively;

(*e*) any contract for disposing of any interest in that land to which the person serving the notice is a party; and

(*f*) any other matters appearing to the appropriate Minister or Ministers to be relevant for the purpose of assessing levy in Case C.

(6) In this section "material interest", in relation to a project of material development, means an interest which—

(*a*) is either the fee simple or a tenancy (not being a minor tenancy), and

(*b*) is not in reversion expectant (whether immediately or not) on the termination of a tenancy of which, on the date on which the carrying out of the project is begun, more than ninety-eight years remain unexpired.

Supplementary provisions as to notification in Case C.

39.—(1) Where the carrying out of a project of material development is begun without the service of a notice under the last preceding section, a person who is not the developing owner in relation to the project shall not be taken to have contravened that section by reason only that he caused or permitted the developing owner to begin to carry out the project.

(2) Where under the last preceding section a person serves a notice of intention to carry out a project of material development, then if—

(*a*) the notice does not specify any such planning permission as is mentioned in subsection (5)(*a*) of that section, and

(*b*) the Commission are not satisfied that planning permission authorising the carrying out of the project will be granted before the date specified in the notice as the date on which it is proposed to begin to carry it out,

the Commission may, at any time before the end of the period of one month beginning with the date of service of the notice, serve on that person a counter-notice rejecting the notice.

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(3) Where such a counter-notice is served, subsection (1) of the last preceding section shall have effect as if the notice under that section had not been served.

Notification in Case D.

40.—(1) Where on or after the first appointed day there accrues to any person a right to compensation to which section 33 of this Act applies, and the compensation is paid, the authority by whom it is paid shall, within thirty days after the date on which the compensation is paid, serve notice on the Commission in accordance with the next following subsection.

(2) Any notice served under this section in respect of a right to compensation shall contain the prescribed particulars, that is to say, such particulars as may be prescribed with respect to all or any of the following matters:—

(*a*) the interest in respect of which the right to compensation has accrued, the land in which that interest subsists, and the person entitled to that interest;

(*b*) the enactment by virtue of which the right to compensation has accrued;

(*c*) the relevant order or decision;

(*d*) the amount of the compensation and the date on which it was paid;

(*e*) how much of the compensation is in respect of depreciation of the value of the interest in land in respect of which the right has accrued;

(*f*) any other matters appearing to the appropriate Minister or Ministers to be relevant for the purpose of assessing levy in Case D.

Notification in Case E.

41.—(1) Where any such disposition as is mentioned in so much of section 34(1) of this Act as precedes the reference to notification is made on or after the first appointed day, the grantee may, if (having regard to the provisions of Part V of Schedule 4 to this Act) he thinks fit, serve notice on the Commission in respect of the disposition.

(2) Any notice served under this section in respect of a disposition shall contain the prescribed particulars, that is to say, such particulars as may be prescribed with respect to all or any of the following matters:—

(*a*) the relevant land and the relevant interest;

(*b*) the effect of the disposition and the consideration given for it;

(*c*) in the case of a disposition granting an easement, the land in which at the date of the disposition the grantee had an interest and which was land to which immediately after the disposition the benefit of the easement

was annexed or was land held with land to which that benefit was then annexed;

(*d*) in the case of any other disposition, the land (if any) in which at the date of the disposition the grantee had an interest and which was land which immediately before that date was subject to the easement or restrictive right in question;

(*e*) any other matters appearing to the appropriate Minister or Ministers to be relevant for the purpose of assessing levy in Case E.

(3) A notice under this section in respect of a disposition shall not have effect unless it is served within thirty days after the date of the disposition or such extended period as the Commission may in any particular case allow.

(4) In this section "the relevant land", in relation to a disposition, means the land which in relation to that disposition constitutes the relevant land (as defined by section 34 of this Act) if notice in respect of the disposition is served under this section, and "the relevant interest" and "the grantee" have corresponding meanings.

Notification in Case F.

42. Any regulations made under section 35 of this Act shall make provision for requiring or enabling notice to be given of any act or event of a description to which the regulations apply, including provision as to—

(*a*) the person by whom such a notice is to be or may be served;

(*b*) the manner in which, and the time within which, any such notice is to be or may be served; and

(*c*) any other matters appearing to the appropriate Minister or Ministers to be relevant for the purpose of assessing levy in respect of acts or events of that description.

Power for Commission to require further information and documents.

43.—(1) In any case where (whether in consequence of the service of a notice under this Part of this Act or not) it appears to the Commission that a chargeable act or event has occurred, the Commission may serve a notice under this subsection on any person who appears to them to have been entitled, either immediately before or immediately after that act or event, to an interest in the land which, for the purpose of assessing levy in respect of that act or event, would be the relevant land.

(2) A notice under the preceding subsection shall require the person on whom it is served, within such time as may be specified in the notice, to furnish to the Commission information and documents of any description specified in the notice, as being a description of information or documents appearing

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to the Commission to be relevant for the purpose of determining—

(*a*) whether a chargeable act or event has occurred;

(*b*) if so, whether levy should be assessed in respect of it; and

(*c*) if levy should be so assessed, what would be the amount of the levy and who would be liable to pay it.

(3) Without prejudice to the preceding provisions of this section, where notice of intention to carry out a project of material development, specifying the land which is to be comprised in the project, has been served on the Commission under section 38 of this Act, the Commission may serve on any person appearing to them to be entitled to an interest in that land a notice requiring him—

(*a*) to inform the Commission whether his interest in the land is a tenancy, and, if so, to state the name and address of his landlord or the person to whom he pays rent in respect of the tenancy; and

(*b*) to inform the Commission whether his interest in the land is in reversion expectant (whether immediately or not) on the termination of one or more tenancies, and, if so, to give particulars of those tenancies, including the names and addresses of the tenants.

Assessment of levy

Notice of assessment of levy.

44.—(1) Subject to the following provisions of this section, in any case where (whether in consequence of the service of a notice under this Part of this Act or not) it appears to the Commission that a chargeable act or event has occurred, and that levy is or may be chargeable in respect of it, or, in relation to a project of material development falling within Case C, is or may be chargeable in respect of an interest in the land comprised in the project, the Commission may serve a notice under this section (in this Part of this Act referred to as a " notice of assessment of levy ").

(2) Where the Commission serve a notice of assessment of levy, the notice—

(*a*) shall be served on the person (or, if more than one, each of the persons) who, if the notice results in an operative assessment of levy, will be liable to pay the levy in accordance with section 36 of this Act, or

(*b*) if the notice relates to a part of the levy apportioned in accordance with paragraph (*a*) of subsection (3) of that section, shall be served on the person who, if the notice results in an operative assessment of levy, will be liable to pay that part of the levy.

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(3) Subject to the next following subsection, a notice of assessment of levy in respect of a chargeable act or event shall not have effect if it is served more than six years after the relevant date.

(4) The last preceding subsection shall not have effect in relation to the service of a notice of assessment of levy on any person if it is proved that he, or any other person acting on his behalf and with his knowledge or consent,—

(*a*) in any notice served, or information furnished, under this Part of this Act in relation to the chargeable act or event in question, has knowingly or recklessly made a statement which is false in a material particular, or

(*b*) in connection with any such notice, or the furnishing of any such information, has produced or furnished to the Commission a document which, to the knowledge of the person producing or furnishing it, has been wilfully falsified,

or if, in a case of omission to notify a chargeable act or event, or to serve notice of intention to carry out a project of material development, the omission was due to wilful default.

Contents of notice of assessment.

45.—(1) A notice of assessment of levy shall—

(*a*) indicate the chargeable act or event to which it relates;

(*b*) specify the amount appearing to the Commission to be the principal amount of the levy payable in respect of that act or event, or, where the notice is served in Case C, the principal amount of the levy payable in respect of the interest in land to which the notice relates; and

(*c*) specify a date (not being earlier than two months from the date of service of the notice) as the date on which the levy is charged.

(2) A notice of assessment of levy may also, if the Commission think fit, state either or both of the following, that is to say—

(*a*) that, if the person on whom the notice is served so requests in writing, collection of the levy or part of it will be postponed to such future time as may be determined in accordance with the notice;

(*b*) that, if that person so requests in writing, the levy (or, if collection of part of it is postponed, the remainder of the levy) will be payable by instalments of capital and interest combined determined in accordance with the provisions of sections 50 and 51 of this Act and (subject to those provisions) in accordance with the provisions of the notice.

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(3) Every notice of assessment of levy shall state that the levy will become chargeable in accordance with the notice unless, before the end of the period of two months beginning with the date of service of the notice or such extended period as the Commission may in any particular case allow, the person on whom the notice is served (or, where in accordance with section 44 of this Act the notice is served on two or more persons, one of those persons) has served on the Commission a counter-notice under the next following section.

Objection to notice of assessment.

46.—(1) Any person on whom a notice of assessment of levy is served may serve on the Commission a counter-notice objecting to the notice.

(2) Any such counter-notice shall be served before the end of the period of two months beginning with the date of service of the notice of assessment of levy or such extended period as the Commission may in any particular case allow.

(3) Any such counter-notice shall state the grounds on which the person serving it objects to the notice of assessment of levy.

(4) If those grounds consist of or include a claim that the principal amount of levy properly chargeable is less than the principal amount specified in the notice, the counter-notice shall include a statement of the amount alleged by the person serving the counter-notice to be the principal amount of levy properly chargeable.

Reference of objection to Lands Tribunal.

47.—(1) Where a person (in this Part of this Act referred to as "the objector") has served a counter-notice under section 46 of this Act objecting to a notice of assessment of levy, then, at any time when the notice of assessment of levy has not been withdrawn or otherwise ceased to have effect and before it has resulted in an operative assessment of levy, either the objector or the Commission may require the objection to be referred to the Lands Tribunal.

(2) Subject to the next following section, on any such reference the Lands Tribunal shall consider the matters to which the objection relates and may either uphold or (subject to the next following subsection) vary or discharge the notice of assessment of levy, as the Tribunal may determine to be appropriate.

(3) The Lands Tribunal—

(*a*) shall not vary a notice of assessment of levy in respect of any matter specified in the notice in accordance with section 45(1)(*c*) or section 45(2) of this Act; and

(*b*) subject to the provisions of section 73 of this Act, shall not vary such a notice by increasing the principal amount of levy specified in it. PART III

(4) Where a notice of assessment of levy has been varied by the Lands Tribunal, and the notice does not contain any such provision as is mentioned in subsection (2) of section 45 of this Act, or contains a provision in accordance with one (but not both) of the paragraphs of that subsection, the Commission may, if they think fit, serve on the objector a further notice amending the notice of assessment of levy (as varied by the Tribunal) by adding a provision in accordance with that subsection, or a provision in accordance with the other paragraph of that subsection, as the case may be.

Settling of objection by agreement.

48.—(1) Where a counter-notice objecting to a notice of assessment of levy has been served under section 46 of this Act, the Commission and the objector may, at any time before the objection has been referred to and determined by the Lands Tribunal, agree in writing that the notice of assessment of levy shall be treated as confirmed, or as varied in a particular manner, or as withdrawn.

(2) Subject to the following provisions of this section, where an agreement is made as mentioned in the preceding subsection, then—

(*a*) notwithstanding anything in the last preceding section, the objection shall not be referred to the Lands Tribunal, or if it has been so referred, it shall not be determined by the Tribunal;

(*b*) if in accordance with the agreement the notice of assessment of levy is to be treated as varied in a particular manner, the notice shall have effect subject to that variation;

(*c*) if in accordance with the agreement the notice of assessment of levy is to be treated as withdrawn, the notice shall cease to have effect.

(3) Where, at any time before the objection has been referred to and determined by the Lands Tribunal, the objector serves on the Commission a notice withdrawing the counter-notice objecting to the notice of assessment of levy—

(*a*) the objection, notwithstanding anything in the last preceding section, shall not be referred to the Lands Tribunal, or if it has been so referred, shall not be determined by the Tribunal, and

(*b*) the notice of assessment of levy shall be treated as confirmed on the date of service of the notice under this subsection.

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Operative assessment of levy.

49.—(1) For the purposes of this Part of this Act a notice of assessment of levy which has not ceased to have effect (whether on being withdrawn or treated as withdrawn or on being discharged by the Lands Tribunal) shall be taken to have resulted in an operative assessment of levy on the occurrence of whichever of the following events last occurs, that is to say—

(*a*) the latest time within which a counter-notice objecting to the notice can be served expires;

(*b*) the Commission and the objector, in pursuance of subsection (1) of the last preceding section, make an agreement that the notice shall be treated as confirmed, or as varied in a particular manner;

(*c*) the notice is treated as confirmed in pursuance of subsection (3) of the last preceding section;

(*d*) a reference to the Lands Tribunal relating to an objection to the notice is finally determined.

(2) A reference to the Lands Tribunal shall, for the purposes of this Part of this Act, be taken to be finally determined on the occurrence of whichever of the following events last occurs after the Tribunal has given a decision on that reference, that is to say—

(*a*) the time within which the Tribunal may be required to state and sign a case for the decision of the Court of Appeal or the Court of Session with respect to that decision of the Tribunal expires without such a requirement having been made;

(*b*) in pursuance of such a requirement, such a case is stated and signed and the Court of Appeal or the Court of Session, or, if there is an appeal to the House of Lords, that House, gives a decision on that case;

(*c*) the proceedings on a case so stated and signed are abandoned or otherwise disposed of without a decision being given on it;

(*d*) an appeal against the decision of the Court of Appeal or the Court of Session on such a case is abandoned or otherwise ceases to have effect or the time for bringing any such appeal expires without its having been brought;

(*e*) in compliance with any directions given by the Court of Appeal, the Court of Session or the House of Lords in proceedings relating to such a case, the Tribunal varies (or, as the case may be, further varies) the notice of assessment of levy.

(3) Where in accordance with subsection (1) of this section a notice of assessment of levy has resulted in an operative

assessment of levy, any reference in the following provisions of this Part of this Act to the assessment— PART III

(*a*) in a case where, on a reference to the Lands Tribunal the notice has been upheld by the Tribunal, is a reference to the provisions of the notice as so upheld;

(*b*) in a case where, on such a reference, the notice has been varied by the Tribunal, is a reference to the provisions of the notice as so varied, together (if the Commission have exercised the power conferred by section 47(4) of this Act) with any provision added in the exercise of that power;

(*c*) in a case where the notice has been varied by agreement in pursuance of the last preceding section, is a reference to the provisions of the notice as so varied; and

(*d*) in any other case, is a reference to the provisions of the notice as served.

Payment of, and security for, levy

When levy accrues due.

50.—(1) Where a notice of assessment of levy has resulted in an operative assessment of levy, then, subject to the following provisions of this section, the principal amount of the levy in accordance with the assessment shall accrue due on the date applicable in accordance with subsection (2) or subsection (3) of this section.

(2) Subject to the next following subsection, the date referred to in the preceding subsection is the date specified in the assessment as the date on which the levy is charged.

(3) Where the notice of assessment of levy has resulted in an operative assessment of levy in consequence of its being upheld or varied on a reference to the Lands Tribunal, and the period of thirty days beginning with the date on which that reference is finally determined expires after the date which would be applicable in accordance with the last preceding subsection, the date on which that period expires shall be the date applicable for the purposes of subsection (1) of this section.

(4) Where in pursuance of any provision contained in the assessment by virtue of section 45(2) or section 47(4) of this Act collection of the levy or part of it is postponed, the principal amount of the levy, or of that part of it, as the case may be, shall accrue due at the time determined in accordance with that provision.

(5) Where in accordance with a request made in pursuance of any such provision the levy or part of it is payable by instalments,—

(*a*) the period over which the instalments are calculated shall be a period beginning with the date specified in the assessment as the date on which the levy is charged, and

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(*b*) where subsection (3) of this section applies, any instalments payable in respect of any part of that period which precedes the date applicable in accordance with that subsection shall accrue due on the last-mentioned date, or, if the request is made after that date, shall be taken to have accrued due on that date.

(6) Any sum which, in accordance with this section, accrues due on any date in respect of levy shall on that date become payable to the Commission by the person liable to pay the levy.

Interest on levy and payments on account.

51.—(1) Subject to the following provisions of this section, where a notice of assessment of levy has resulted in an operative assessment of levy, interest shall be payable to the Commission on the principal amount of the levy, or on so much of that amount as remains unpaid from time to time, and—

(*a*) shall be calculated over the period from the date specified in the assessment as the date on which the levy is charged to the date of payment, and

(*b*) shall be payable at the rate prevailing from time to time during that period.

(2) The Treasury may by order prescribe the rate of interest for the purposes of this section; and any reference in this section to the rate prevailing at any time is a reference to the rate prescribed by such an order which is in force at that time.

(3) If, in accordance with a request made in pursuance of a provision contained in the assessment by virtue of section 45(2) or section 47(4) of this Act, the levy or part of it is payable by instalments of capital and interest combined, then in calculating those instalments interest on the principal amount of the levy, or on that part of it, as the case may be, shall be calculated from the date specified in the assessment as the date on which the levy is charged, and shall be so calculated at the rate prevailing at that date.

(4) Regulations made for the purposes of this section may provide that, in such cases and subject to such conditions as may be prescribed, interest payable by virtue of this section shall be waived or shall be reduced to such extent as may be determined in accordance with the regulations.

(5) Any person on whom a notice of assessment of levy is served and who has served or intends to serve a counter-notice under this Part of this Act objecting to that notice may, on or before the date specified in the notice as the date on which the levy is charged, pay to the Commission a sum on account of the levy.

(6) The payment of a sum under the last preceding subsection shall be without prejudice to the counter-notice and shall not

affect the determination of any objection to the notice of assessment of levy. PART III

(7) Where a person has paid a sum under subsection (5) of this section—

(*a*) no interest shall be payable on so much of the principal amount of the levy as is equal to that sum;

(*b*) if the notice of assessment of levy does not result in an operative assessment of levy, the Commission shall refund that sum to him;

(*c*) if the notice results in an operative assessment of levy, but the sum paid under subsection (5) of this section exceeds the principal amount of the levy in accordance with the assessment, the Commission shall refund to him a sum equal to the amount of the excess.

(8) Where the Commission are required to refund a sum by virtue of the last preceding subsection, they shall refund it with interest, calculated over the period from the date on which the payment under subsection (5) of this section was made to the date of payment by the Commission, at the rate prevailing from time to time during that period.

(9) Any statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

Security for levy in case of postponement or payment by instalments.

52.—(1) Where a notice of assessment of levy has resulted in an operative assessment of levy, and in pursuance of any provision contained in the assessment by virtue of section 45(2) or section 47(4) of this Act the person on whom the notice was served requests—

(*a*) that collection of the levy or part of it may be postponed, or

(*b*) that the levy or part of it may be payable by instalments,

the Commission may require him to give such security as may appear to the Commission reasonably sufficient to ensure the payment with interest of so much of the principal amount of the levy as will remain unpaid, or for the payment of the instalments, as the case may be, and to defray any administrative or other expenses (including stamp duty) incurred by the Commission in connection with the giving of any such security.

(2) If a person who has made such a request as is mentioned in subsection (1) of this section fails to comply with any requirement imposed under that subsection, the Commission may refuse the request; and in that event the provisions of sections 50 and 51 of this Act shall apply as if the request had not been made.

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Proceedings for recovery of levy.

53.—(1) Any sum payable to the Commission by way of levy (including any sum payable by way of interest on the principal amount of any levy) shall be recoverable by the Commission as a simple contract debt in any court of competent jurisdiction.

(2) In the application of the preceding subsection to Scotland, the words " as a simple contract debt " shall be omitted.

Provisions for relief and for further assessment

Relief in respect of mistake of fact.

54.—(1) Where a notice of assessment of levy has resulted in an operative assessment of levy, and a person who has paid levy payable in accordance with the assessment alleges that the assessment was excessive by reason of some mistake of fact in any document served or produced, or information furnished, in pursuance of this Part of this Act, he may, at any time before the end of the period of six years beginning with the date of service of the notice of assessment of levy, make an application in writing to the Commission for relief.

(2) On any such application the Commission shall inquire into the matter and shall give by way of repayment or otherwise such relief in respect of the mistake as is reasonable and just.

(3) Where the Commission have determined an application under this section, they shall give notice of their decision to the applicant.

(4) At any time before the end of the period of thirty days beginning with the date on which notice of a decision under the last preceding subsection is served on him, the applicant may appeal against the decision to the Lands Tribunal; and, if the Tribunal allows the appeal, the Tribunal shall vary the notice of assessment of levy by reducing the principal amount of the levy to such extent as the Tribunal may determine to be appropriate.

(5) Where the Tribunal varies a notice of assessment of levy as mentioned in the last preceding subsection, the Commission shall give by way of repayment or otherwise such relief as is requisite for giving effect to the decision of the Tribunal.

Further notice of assessment of levy.

55.—(1) Subject to the provisions of subsections (3) and (4) of section 44 of this Act, if at any time after the service of a notice of assessment of levy in respect of a chargeable act or event (whether that notice has resulted in an operative assessment of levy or not) it appears to the Commission that by reason of any circumstances to which this section applies the principal amount of levy specified in the notice was less than the principal amount properly chargeable in accordance with this Part of this Act, the Commission may serve a further notice of assessment of levy in respect of that act or event.

(2) This section applies to the following circumstances, that is to say—

(*a*) a mistake of fact made in connection with the original notice of assessment of levy;

(*b*) a clerical or mathematical error in any calculation made in connection with that notice;

(*c*) the discovery by the Commission of any fact which was not known to them at the time when that notice was served.

(3) The principal amount of levy specified in a notice served in pursuance of this section shall be the amount appearing to the Commission to be the amount required to make good the deficiency, after taking into account the principal amount specified in the original notice and in any previous notice served under this section and any relief (whether by way of repayment or otherwise) given or required to be given in respect of the levy in question.

(4) Subject to the last preceding subsection, the provisions of this Part of this Act relating to notices of assessment of levy shall have effect in relation to notices served in pursuance of this section as they have effect in relation to notices of assessment of levy served under those provisions apart from this section.

Exemptions

56.—(1) No levy shall be chargeable— Local authorities and other bodies.

(*a*) in Case A, Case B, or Case E, where the grantor is a body to whom this section applies;

(*b*) in Case D, where the person to whom the right to compensation accrues is a body to whom this section applies; or

(*c*) in Case F, where the person prescribed by the regulations as the person liable to pay the levy is a body to whom this section applies.

(2) In connection with any project of material development, no levy shall be chargeable in Case C in respect of—

(*a*) any assessable interest in the land comprised in the project, or in part of that land, which on the date on which the carrying out of the project is begun is vested in a body to whom this section applies, or

(*b*) any other assessable interest by virtue of which such a body is the developing owner in relation to the project,

but without prejudice to the charging of levy in respect of any other interest in that land or part of that land.

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(3) Where a body to whom this section applies is the developing owner in relation to a project of material development of land, and on the date when the carrying out of the project of material development is begun either—

(*a*) no assessable interest in the land is vested in any person other than a body to whom this section applies, or

(*b*) if any assessable interest in the land is so vested, that interest is such an interest as is mentioned in paragraph (*b*) of the last preceding subsection,

the requirements of section 38 of this Act shall not apply in relation to that project.

(4) This section applies to the following bodies, that is to say—

(*a*) any local authority;

(*b*) any development corporation established under the New Towns Act 1965 or under the enactments repealed by that Act, or, as respects Scotland, under the New Towns Act 1946;

1965 c. 59.

1946 c. 68.

(*c*) the Commission for the New Towns;

(*d*) the Highlands and Islands Development Board;

(*e*) the Housing Corporation;

(*f*) any housing society (as defined by section 1(7) of the Housing Act 1964);

1964 c. 56.

(*g*) the Scottish Special Housing Association;

(*h*) the United Kingdom Atomic Energy Authority.

Charities.

57.—(1) No levy shall be chargeable in respect of a chargeable act or event not falling within Case C, where immediately before the relevant date—

(*a*) in Case A, or in any of Cases D to F, the relevant interest, or

(*b*) in Case B, the interest out of which the tenancy in question is created,

fulfils one or other of the conditions specified in the next following subsection.

(2) Those conditions, in relation to an interest in land, are—

(*a*) that at the time in question the interest is held by or in trust for a charity and forms part of the permanent endowment of the charity;

(*b*) that at the time in question the interest is held by or in trust for a charity and that the land in which the interest subsists has been used wholly or mainly for the purposes of a charity for a period of not less than a year and, if it has ceased to be used wholly or

mainly for the purposes of a charity, it has not since the end of that period been appropriated to non-charitable purposes.

(3) In Case C, where on the date on which the carrying out of the project in question is begun an assessable interest in the land comprised in the project, or in part of that land, is held by or in trust for a charity and either—

(*a*) one or other of the conditions specified in the last preceding subsection is fulfilled in relation to that interest, or

(*b*) the project is to be carried out wholly or mainly for the purposes of the charity,

no levy shall be chargeable in respect of that interest, but without prejudice to the charging of levy in respect of any other interest in that land or part of that land.

(4) For the purposes of this section land shall be taken to have been appropriated to non-charitable purposes since the end of such a period as is mentioned in subsection (2)(*b*) of this section if at any time since the end of that period it has been used wholly or mainly for purposes other than those of a charity and that use has continued for more than five years.

(5) For the purposes of this section—

(*a*) a charity shall be taken to have a permanent endowment unless all property held for the purposes of the charity may be expended for those purposes without distinction between capital and income; and

(*b*) an interest in land held by or in trust for a charity shall be taken to form part of its permanent endowment if, on a sale of that interest, the net proceeds of sale would be subject to a restriction on their being so expended.

(6) In this section "charity" means any institution or other organisation established for charitable purposes only, and "organisation" includes any persons administering a trust; and, as respects Scotland, "charitable" shall be construed in the same way as if it were contained in the Income Tax Acts.

Statutory undertakers and National Coal Board.

58.—(1) No levy shall be chargeable in respect of a chargeable act or event falling within any of the Cases other than Case C, where—

(*a*) in Case A or in any of Cases D to F the relevant interest, or in Case B the interest out of which the tenancy in question is created, is vested in statutory undertakers immediately before the relevant date, and

(*b*) the relevant land either is operational land of those undertakers immediately before that date or has for

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a period of not less than a year been operational land of those undertakers, or of other statutory undertakers from whom they derive title, and, since it ceased to be such operational land, has not before the relevant date been appropriated to other purposes.

(2) In Case C, where at the relevant date the relevant land is operational land of statutory undertakers, or has for a period of not less than a year been such operational land and, since it ceased to be such operational land, has not before the relevant date been appropriated to other purposes, no levy shall be chargeable in respect of—

(*a*) any assessable interest in that land, or in part of that land, which on the relevant date is vested in statutory undertakers, or

(*b*) any other assessable interest by virtue of which statutory undertakers are the developing owner in relation to the project,

but without prejudice to the charging of levy in respect of any other interest in that land or part of that land.

(3) For the purposes of this section any question whether any land is or was at any time operational land of statutory undertakers shall be determined by the Minister who, in relation to those undertakers, is the appropriate Minister as defined by section 221(1) of the Act of 1962, or, as respects Scotland, by section 113(1) of the Scottish Act of 1947.

(4) For the purposes of this section land shall be taken to have been appropriated to other purposes if at any time since it ceased to be operational land of statutory undertakers, and before the relevant date, it has been used for any purpose and that use has continued for more than five years.

(5) The preceding provisions of this section shall have effect in relation to the National Coal Board as they have effect in relation to statutory undertakers, but as if in those provisions—

(*a*) any reference to statutory undertakers were a reference to that Board;

(*b*) any reference to operational land were a reference to land of any description prescribed for the purposes of this subsection, and

(*c*) in subsection (3) of this section, for the words from " the Minister who " to the end of the subsection, there were substituted the words " the Minister of Power ".

(6) Any regulations made for the purposes of subsection (5)(*b*) of this section shall be made jointly by the appropriate Minister or Ministers and the Minister of Power

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Housing associations

59.—(1) No levy shall be chargeable in respect of a chargeable act or event not falling within Case C, where immediately before the relevant date—

(*a*) in Case A, or in any of Cases D to F, the relevant interest, or

(*b*) in Case B, the interest out of which the tenancy in question is created,

is held by or in trust for a housing association, and a certificate under this section is issued in respect of that act or event.

(2) In Case C, where on the date on which the carrying out of the project in question is begun an interest in the land comprised in the project, or in part of that land, is held by or in trust for a housing association, and a certificate under this section is issued in respect of the chargeable act or event to which that project relates, no levy shall be chargeable in respect of that interest, but without prejudice to the charging of levy in respect of any other interest in that land or part of that land.

(3) The power to issue certificates under this section—

(*a*) where the relevant land is in England (excluding Monmouthshire), shall be exercisable by the Minister of Housing and Local Government, and

(*b*) where the relevant land is in Scotland or in Wales (including Monmouthshire), shall be exercisable by the Secretary of State;

and any such certificate shall certify that, in the opinion of the Minister issuing the certificate, it is in the circumstances of the case in the public interest that the provisions of subsection (1) or subsection (2) of this section, as the case may be, should have effect in relation to the chargeable act or event to which the certificate relates.

(4) In this section "housing association", in relation to England and Wales, has the meaning assigned to it by section 189(1) of the Housing Act 1957, and in relation to Scotland has the meaning assigned to it by section 208 of the Housing (Scotland) Act 1966:

1957 c. 56.
1966 c. 49.

Provided that (whether in relation to England and Wales or to Scotland) it does not include any charity as defined by section 57(6) of this Act.

Exemption from levy in Case C shortly after disposition falling within Case A or Case B.

60.—(1) The grantee under a disposition falling within Case A or Case B may apply to the Commission for a direction under this section in respect of any project of material development which is intended to be carried out in accordance with planning permission in force at the date of the disposition.

(2) An application under this section shall be made by the service on the Commission of a notice which shall specify the

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disposition to which it relates and contain the prescribed particulars, that is to say, such particulars as may be prescribed for the purposes of this section with respect to all or any of the matters specified in section 38(5) of this Act; but a notice containing such an application shall not have effect unless it is served within thirty days after the date of the disposition or such extended period as the Commission may in any particular case allow.

(3) Where an application under this section is made with respect to a project of material development, then if it appears to the Commission that the project will have begun to be carried out before the end of the period of two years beginning with the date of the disposition, and that the project will extend to the whole of the land comprised in the disposition, the Commission may, if they think fit, give a direction that if—

(*a*) the carrying out of the project is begun before the end of that period, and

(*b*) no project of material development of the land, or part of the land, comprised in the disposition, other than the project to which the application relates, begins to be carried out before the end of that period,

no levy in Case C will be chargeable in respect of the project to which the application relates.

(4) Where the Commission give a direction under this section, they shall furnish a copy of the direction to the person who made the application; and, if the conditions specified in the direction are fulfilled, no levy in Case C shall be charged in respect of the project to which the direction relates.

(5) Section 38 of this Act shall not have effect in relation to a project of material development in respect of which a direction is given under this section; but, in relation to such a project, the provisions of this Part of this Act, other than that section and this section, shall have effect as if the application were a notice under that section.

Exemption for single family dwelling-house built on land acquired before 23rd September 1965.

61.—(1) Where a person (in this section referred to as "the owner") serves notice under section 38 of this Act in respect of a project of material development, and—

(*a*) the project consists exclusively of the building of a single dwelling-house intended as the only or main residence of the owner or of a person specified in the notice who at the date of service of the notice is an adult member of his family, and

(*b*) the interest which the owner has at that date in the land to which the notice relates is an interest which immediately before 23rd September 1965 was vested in him, and

(*c*) in the notice under section 38 of this Act, the owner claims exemption under this section in respect of the project,

then, subject to the following provisions of this section, no levy shall be charged in connection with that project in respect of the owner's interest, but without prejudice to the charging of levy in respect of any other interest in the land comprised in the project or any part of that land.

(2) At any time after the service of a notice claiming exemption under this section, but before the project in question has begun to be carried out, the owner may by a subsequent notice amend the original notice by substituting another adult member of his family for the person specified in the original notice.

(3) Subsection (1) of this section shall not have effect if—

(*a*) before the service of the notice referred to in that subsection the owner had previously served a notice under section 38 of this Act claiming exemption under this section in respect of another project of material development, whether of the same land or not, or

(*b*) the person specified in the notice referred to in subsection (1) of this section (or, if another person is substituted for that person under the last preceding subsection, that other person) is not the first occupier of the dwelling-house built under the project, or, where he is the first occupier of it, he does not continue to occupy it for at least six months or (where he dies after having occupied it for less than six months) until his death.

(4) Where a person serves two or more notices under section 38 of this Act claiming exemption under this section, and those notices are served at the same time, the Commission may give a direction specifying one of those notices and directing that paragraph (*a*) of the last preceding subsection shall apply as if the other notice or notices had been served after the notice so specified.

(5) For the purposes of this section a person is an adult member of the owner's family at any time if, at that time, that person is—

(*a*) the owner's wife or husband, or

(*b*) a son or daughter of the owner, or of the owner's wife or husband, who has attained the age of eighteen, or

(*c*) the father or mother of the owner, or of the owner's wife or husband;

and in this subsection any reference to a person's son or daughter includes a reference to any stepson or stepdaughter, any

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illegitimate son or daughter, and any adopted son or daughter, of that person.

(6) In this section any reference to the building of a dwelling-house shall be construed as including a reference to the construction or laying out of any garage, outhouse, garden, yard, court, forecourt or other appurtenance for occupation with, and for the purposes of, the dwelling-house.

Limited exemption for builders and developers of residential property.

62.—(1) Where under section 38 of this Act a person who is a builder or developer of residential property (in this section referred to as " the builder or developer ") serves notice of intention to carry out a project of material development to which this section applies, and the land comprised in the project fulfils the conditions as to planning permission specified in subsection (3) of this section, and—

(*a*) he is the developing owner in relation to the project, and

(*b*) in respect of every part of the land comprised in the project he would have fulfilled one or other of the conditions specified in section 32(5) of this Act if the carrying out of the project had been begun on 23rd September 1965,

then, subject to the following provisions of this section, no levy in Case C shall be charged in connection with the project in respect of any assessable interest by virtue of which he is the developing owner in relation to the project.

(2) This section applies to any project of material development which consists exclusively of the provision of housing accommodation or is a project in respect of which the Commission are satisfied—

(*a*) that the principal purpose of the project is the provision of housing accommodation, and

(*b*) that, in so far as the project consists of the erection or construction of buildings or works not comprised in the provision of housing accommodation, the erection or construction of those buildings or works is subsidiary to the principal purpose of the project and will be of benefit to persons living in any houses, flats or other dwellings which are to be provided in pursuance of the project.

(3) The conditions as to planning permission referred to in subsection (1) of this section are that in respect of the whole of the land comprised in the project either—

(*a*) planning permission for the carrying out of material development was in force immediately before 23rd September 1965, or

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(*b*) such planning permission was granted on or after that date by the planning Minister on an appeal under section 23 of the Act of 1962 or section 14 of the Scottish Act of 1947 from a decision of the local planning authority made (or, for the purposes of the appeal, treated as made) before that date.

(4) For the purposes of the application of the last preceding subsection to planning permission granted on an outline application (that is to say, an application for planning permission subject to subsequent approval on any matters) any requirement as to subsequent approval shall be disregarded.

(5) Regulations made for the purposes of this section may provide that subsection (1) of this section shall not have effect unless, before the end of such period (not being less than six months) from the first appointed day as may be prescribed, the builder or developer serves on the Commission a notice containing such particulars as may be prescribed for the purpose of indicating to the Commission that a question of exemption under this section is likely to arise.

(6) The operation of subsection (1) of this section in relation to any such interest as is therein mentioned in the land comprised in the project, or in any part of that land, shall not affect the charging of levy in respect of any other interest in that land or in any part of that land.

(7) In this section "builder or developer of residential property" means any person who, immediately before 23rd September 1965, was carrying on a business which—

(*a*) consisted wholly or mainly of the carrying out of building operations, or of building and engineering operations, and included the building of houses, flats or other dwellings, or

(*b*) consisted wholly or mainly of building, or arranging for the building of, houses, flats or other dwellings and (in the capacity of owner of the fee simple or of holder of a tenancy of the land comprising the houses, flats or other dwellings) of selling, feuing or letting them.

(8) In this section "the provision of housing accommodation" means the building of one or more houses, flats or other dwellings and the execution of all or any of the following works, that is to say—

(*a*) the provision of roads, drains or other services ancillary to all or any of those houses, flats or other dwellings, including the provision of common services and parts in a building containing two or more flats or other dwellings, and

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(*b*) the construction or laying out of any garage, outhouse, garden, yard, court, forecourt or other appurtenance for occupation with, or for the purposes of, all or any of those houses, flats or other dwellings;

and in this section any reference to the building of houses, flats or other dwellings includes a reference to the conversion of the whole or any part of a building into one or more houses, flats or other dwellings.

Provision for further exemptions.

63.—(1) The Ministers may by order direct that no levy shall be charged in such circumstances falling within any of Cases A to F as may be specified in the order.

(2) No order shall be made under this section unless a draft of the order has been laid before the Commons House of Parliament and approved by a resolution of that House.

(3) Any exemption conferred by virtue of this section shall be without prejudice to the operation of sections 56 to 62 of this Act.

Special provisions as to projects of material development

Meaning of "project of material development" and provisions relating thereto.

64.—(1) In this Part of this Act "project of material development" means any project or scheme in pursuance of which any material development is, or is to be, carried out.

(2) Any reference in this Part of this Act to a project of material development of any land is a reference to a project of material development which comprises that land, with or without other land.

(3) In this Part of this Act "specified operation" means any of the following, that is to say—

(*a*) any work of construction in the course of the erection of a building;

(*b*) the digging of a trench which is to contain the foundations, or part of the foundations, of a building;

(*c*) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in the last preceding paragraph;

(*d*) any operation in the course of laying out or constructing a road or part of a road;

(*e*) any change in the use of any land, where that change constitutes material development.

(4) For the purposes of this Part of this Act the carrying out of a project of material development shall be taken to begin, or (as the case may be) to have begun, on the earliest date on which any specified operation comprised in the project begins, or (as the case may be) began, to be carried out.

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What is comprised in a project of material development.

65.—(1) Subject to the following provisions of this section, in determining for the purposes of this Part of this Act what is at any time comprised in a project of material development—

(*a*) all the development (whether material development or not) which is to be, or has before that time been, carried out in pursuance of the project, and all operations in the course of the clearing of land which are to be, or have before that time been, so carried out, shall be taken to be comprised in the project, and

(*b*) all land which is to be, or has before that time been, developed or cleared in pursuance of the project (but no other land) shall be taken to be land comprised in the project.

(2) Notwithstanding anything in the preceding subsection, but subject to the following provisions of this section, where notice of intention to carry out a project of material development has been served under section 38 of this Act, and no counter-notice rejecting that notice has been served under section 39(2) of this Act, then for the purposes of this Part of this Act—

(*a*) no land which does not form part of the land specified in the notice in accordance with section 38(5)(*b*) of this Act shall be taken to be land comprised in the project, and

(*b*) no development which does not fall within the nature and scope of the project as specified in the notice shall be taken to be development comprised in the project.

(3) Where a project of material development consists of or includes the erection of one or more buildings, the land comprised in the project shall be taken to include the site of any garage, outbuilding, garden, yard, court, forecourt or other appurtenance which is to be, or has been, constructed or laid out for occupation with, and for the purposes of, that building or those buildings, as the case may be, if any such site would not be comprised in the project apart from this subsection.

(4) In the case of a project of material development which does not include any development other than a change in the use of the whole or part of a hereditament, the land comprised in the project shall for the purposes of this Part of this Act be taken to be that hereditament.

(5) Subject to the next following subsection, in this section " hereditament ", in relation to a project of material development, means the aggregate of the land which at the relevant date forms the subject of a single entry in the valuation list for the time being in force for a rating area.

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(6) Where any land is on the boundary between two or more rating areas and accordingly—

(*a*) different parts of that land form the subject of different entries in the valuation list for the time being in force for those areas respectively, but

(*b*) if the whole of the land had been in one of those areas, it would have formed the subject of a single entry in the valuation list for that area,

the Commission may direct that the whole of that land shall be treated for the purposes of the last preceding subsection as if it formed the subject of a single entry in the valuation list for a rating area.

(7) In the application of this section to Scotland, for references to a valuation list and a rating area there shall be substituted respectively references to a valuation roll and a valuation area.

Variation of project.

66.—(1) The provisions of this section shall have effect where a project of material development is carried out with a variation so as to include material development which is not comprised in the project in accordance with the last preceding section (in this section referred to as " the additional development ").

(2) If the variation is such as to include material development of other land not comprised in the project in accordance with the last preceding section, the additional development, including so much of it (if any) as relates to the land comprised in the project in accordance with that section, shall for the purposes of this Part of this Act be taken to constitute a separate project of material development; and the provisions of this Part of this Act applicable to projects of material development shall have effect accordingly.

(3) In any other case, for the purposes of this Part of this Act the additional development shall not be taken to constitute a project of material development unless either—

(*a*) notice of intention to carry out the additional development, as constituting a separate project of material development, is served on the Commission under section 38 of this Act, or

(*b*) the Commission serve a notice stating that the additional development appears to them to be so substantial as to constitute a separate project of material development.

(4) A notice under paragraph (*b*) of the last preceding subsection may be served on any person who appears to the Commission to be—

(*a*) the developing owner in relation to the project, or

(*b*) entitled (otherwise than as developing owner) to an interest in the land comprised in the project, or in part of that land, which is either the fee simple or a tenancy (not being a minor tenancy) and is not in reversion expectant (whether immediately or not) on the termination of a tenancy of which, at the date of service of the notice, more than ninety-eight years remain unexpired.

(5) Where notice of intention to carry out the additional development is served as mentioned in paragraph (*a*) of subsection (3) of this section, then for the purposes of this Part of this Act the additional development shall be taken to constitute a separate project of material development; and where notice in respect of the additional development is served as mentioned in paragraph (*b*) of that subsection, then—

(*a*) for the purposes of this Part of this Act the additional development shall be taken to constitute a separate project of material development unless, on an objection to a notice of assessment of levy served in respect of it, it is agreed by the Commission, or it is determined by the Lands Tribunal, that it ought not to be treated as such a separate project, but

(*b*) no person shall be taken to have contravened section 38 of this Act by reason only that no notice of intention to carry out the additional development was served under that section.

Project of material development begun but not completed before first appointed day.

67.—(1) The provisions of this section shall have effect in relation to any project of material development (in this section referred to as " the larger project ") where—

(*a*) the carrying out of the project was begun before the first appointed day but is not completed before that day;

(*b*) one or more specified operations comprised in the project (in this section referred to as " the existing operations ") began before the first appointed day to be carried out on part of the land comprised in the project, but no specified operation has before that day begun to be carried out on the remainder of that land; and

(*c*) the carrying out of the project on the remainder of that land is not authorised by any planning permission in force on that day which authorises any of the existing operations to be carried out.

(2) If the existing operations, or some of those operations, are authorised by one or more planning permissions in force on the

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first appointed day, then for the purposes of this Part of this Act—

(*a*) so much of the larger project as relates to land comprised in that planning permission or those planning permissions, together with so much (if any) of that project as relates to any other land on which any of the existing operations began to be carried out before that day, shall be taken to constitute a separate project of material development which began to be carried out before that day, and

(*b*) the remainder of the larger project shall be taken to constitute one or more other separate projects of material development which did not begin to be carried out before that day.

(3) If none of the existing operations is authorised by planning permission in force on the first appointed day, then for the purposes of this Part of this Act—

(*a*) so much of the larger project as relates to land on which any of those operations began to be carried out before that day shall be taken to constitute a separate project of material development which began to be carried out before that day, and

(*b*) the remainder of the larger project shall be taken to constitute one or more other separate projects of material development which did not begin to be carried out before that day.

(4) For the purposes of subsections (2) and (3) of this section no account shall be taken of any planning permission which does not authorise the carrying out of material development.

(5) In relation to any such separate project of material development as is mentioned in paragraph (*b*) of subsection (2) or paragraph (*b*) of subsection (3) of this section, the provisions of this Part of this Act (other than this section) shall apply as they apply in relation to any other project of material development which begins to be carried out on or after the first appointed day.

Project of material development begun in contravention of s. 38.

68.—(1) Where it appears to the Commission that the carrying out of a project of material development has been begun in such circumstances as to contravene section 38 of this Act, the Commission may serve a notice under this section on any person who appears to them to have contravened that section in respect of that project.

(2) A notice under this section shall indicate the circumstances in which it appears to the Commission that section 38 of this Act has been contravened.

(3) Where the carrying out of a project of material development is begun without the service of a notice under section 38 of this Act, but a notice in respect of it is served under this section or under section 66(3)(*b*) of this Act, then, in determining at any time for the purposes of section 65 of this Act what development is to be carried out in pursuance of the project after that time, regard shall be had in particular to—

(*a*) the nature and scope of the project as indicated by the development so far as it has proceeded up to that time, on the assumption that the development will be completed in accordance with the way in which it has been begun, and

(*b*) any planning permission for the time being in force which authorises any such development to be carried out.

(4) Where a notice relating to any land is served under this section or under section 66(3)(*b*) of this Act, section 43(3) of this Act shall have effect in relation to that land as if it had been specified in a notice under section 38 of this Act as the land to be comprised in a project of material development.

Relief in respect of estate duty, capital gains tax and corporation tax.

Allowance or deduction in certain cases.

69. The provisions of Schedules 7 and 8 to this Act shall have effect in the cases specified in those Schedules respectively.

Assessment of levy where relief may be applicable.

70.—(1) Where for the purpose of assessing levy in connection with a chargeable act or event—

(*a*) an allowance under Schedule 7 to this Act is or may be required to be made, but no certificate relevant to the assessment of the levy has been issued under Part III of that Schedule, or

(*b*) the appropriate deduction under Schedule 8 to this Act is or may be required to be made, but no certificate as to the amount of that deduction has been issued under Part IV of that Schedule,

the Commission may serve a notice of assessment of levy which does not take account of that allowance or deduction.

(2) Where an objection to a notice of assessment of levy (on whatever grounds the objection is made) is referred to the Lands Tribunal under section 47 of this Act, the Tribunal—

(*a*) shall not postpone a decision on that reference by reason only that the notice does not take account of any such allowance or deduction, if no such certificate as is

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referred to in paragraph (*a*) or paragraph (*b*) of the preceding subsection (as the case may be) has been issued as therein mentioned, and

(*b*) shall not discharge the notice for that reason.

(3) Where the last preceding subsection applies, then if before the Lands Tribunal gives a decision on the reference in question—

(*a*) a certificate relevant to the assessment of the levy is issued under Part III of Schedule 7 to this Act, or

(*b*) a certificate under Part IV of Schedule 8 to this Act is issued indicating that a deduction under that Schedule is required to be made,

that certificate, and the application in pursuance of which it was issued, shall, for the purposes of section 47(2) of this Act, be included among the matters which the Tribunal is required to consider on that reference.

(4) In this and the next following section any reference to the issue of a certificate under Part III of Schedule 7 to this Act shall be construed as including a reference to the issue of a certificate in pursuance of any regulations made under Part IV of that Schedule.

Revision of assessment on issue of certificate as to allowance or deduction.

71.—(1) The provisions of this section shall have effect where—

(*a*) a notice of assessment of levy has resulted in an operative assessment of levy, and

(*b*) in consequence of the issue of a certificate under Part III of Schedule 7 or Part IV of Schedule 8 to this Act the principal amount of levy specified in the assessment falls to be reconsidered, with a view to its being either reduced or increased.

(2) Any person who has paid, or would be liable to pay, levy payable in accordance with the assessment may, at any time before the end of the period of six years beginning with the date of service of the notice of assessment of levy, make an application in writing to the Commission for relief.

(3) If, on any application under the last preceding subsection, the Commission find that, by reason of the matters to which the application relates,—

(*a*) an allowance or deduction under one of those Schedules falls to be made and was not taken into account in the assessment, or

(*b*) such an allowance or deduction taken into account in the assessment falls to be increased,

and that accordingly the assessment was excessive or no levy was properly chargeable, the Commission shall give, by way of repayment or otherwise, such relief as is appropriate in the circumstances.

(4) Subsections (3) to (5) of section 54 of this Act shall have effect in relation to any application under subsection (2) of this section as they have effect in relation to an application under that section, as if in those subsections any reference to varying the notice of assessment of levy by reducing the principal amount of the levy included a reference to discharging that notice and giving such consequential directions as the Lands Tribunal may determine to be appropriate.

(5) If the certificate is a revised certificate issued under paragraph 32 of Schedule 8 to this Act, and in accordance with that certificate a deduction previously taken into account in the assessment falls to be reduced, section 55 of this Act shall apply as if the circumstances in which the deduction falls to be so reduced were circumstances to which that section applies.

(6) In this section any reference to a deduction previously taken into account in the assessment includes a reference to a deduction in respect of which relief has already been given under subsection (3) or subsection (4) of this section ; and any reference to reducing the principal amount of the levy specified in the assessment shall, where the appropriate reduction would be equal to, or would exceed, that principal amount, be construed as a reference to cancelling it.

Other special cases

Acquisition under compulsory powers.

72.—(1) For the purposes of this Part of this Act any instrument (whether executed before or after the passing of this Act) whereby, on the compulsory acquisition of an interest in land by an authority possessing compulsory purchase powers, the interest became or becomes vested in the acquiring authority (whether immediately on the execution of that instrument or on a date or at the end of a period specified therein)—

(*a*) shall be deemed to have been, or to be, a conveyance on sale (or, if the interest was or is a tenancy, an assignment on sale) of that interest to the acquiring authority by the person in whom, immediately before the execution of the instrument, that interest was vested, and

(*b*) shall be deemed to have been, or to be, a disposition of that interest made by that person on the date on which, by virtue of that instrument, the interest vested or vests in the acquiring authority ;

and any compensation payable in respect of the acquisition of that interest by the acquiring authority shall, for the purposes of

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this Part of this Act, be deemed to have been, or to be, consideration payable in respect of such a disposition.

(2) Where a disposition of an interest in land to an authority possessing compulsory purchase powers constitutes a chargeable act or event falling within Case A, then, for the purpose of assessing levy in respect of that act or event, the relevant date shall not be the date of the disposition, but—

(*a*) in the case of an acquisition in pursuance of a notice to treat, shall be the date of service of that notice, and

(*b*) in any other case, shall be the date of the agreement in pursuance of which the disposition is made.

(3) Where, on the compulsory acquisition of an interest in land, the compensation is not paid until after the interest vests in the acquiring authority, section 37(4) and (subject to the next following subsection) section 44(3) of this Act shall apply with the substitution, for any reference to the date of the disposition or to the relevant date, of a reference to the date on which the compensation is paid.

(4) Where any compensation payable in respect of the compulsory acquisition of an interest in land is paid into court, and is subsequently ordered to be paid out of court, section 44(3) of this Act shall apply with the substitution, for the reference to the relevant date, of a reference to the date on which the compensation or a share of it is paid out of court in respect of that interest.

(5) The provisions of Schedule 9 to this Act shall have effect in relation to acquisitions by authorities possessing compulsory purchase powers.

Levy on acquisitions by Commission.

73.—(1) In relation to any disposition which is—

(*a*) an assignment on sale to the Commission of a tenancy granted, renewed or extended for a term of years certain of less than seven years, or

(*b*) a disposition granting to the Commission a tenancy for a term of years certain of less than seven years, or

(*c*) a disposition in favour of the Commission granting an easement or releasing or modifying an easement or a restrictive right,

section 29(1)(*d*), section 30(1)(*b*) or section 34(1) of this Act (as the case may be) shall have effect as if the reference to notification in accordance with the provisions of this Part of this Act were omitted.

(2) Section 37 of this Act shall not apply to any disposition on the acquisition of an interest in land (whether compulsorily or

by agreement) by the Commission; and for the purpose of assessing levy in Case A in respect of such a disposition "the grantor" means the person in whom the relevant interest is vested on the relevant date (as specified in section 72(2) of this Act).

(3) The provisions of Schedule 10 to this Act shall have effect in relation to any such disposition as is mentioned in the last preceding subsection.

(4) Where a notice of assessment of levy served in respect of the compulsory acquisition of an interest in land by the Commission has resulted in an operative assessment of levy—

(*a*) the amount of compensation which would be payable in respect of the acquisition apart from this section shall be determined;

(*b*) there shall be deducted from that amount the principal amount of the levy in accordance with the assessment; and

(*c*) the amount of compensation payable by the Commission in respect of the acquisition shall be the amount ascertained under paragraph (*a*) as reduced under paragraph (*b*) of this subsection.

(5) Where a notice of assessment of levy served in respect of the acquisition by the Commission of an interest in land by agreement has resulted in an operative assessment of levy—

(*a*) the purchase price shall first be determined as if this section had not been enacted;

(*b*) there shall be deducted from that price as so determined the principal amount of the levy in accordance with the assessment; and

(*c*) the price paid by the Commission shall be the purchase price determined under paragraph (*a*) as reduced under paragraph (*b*) of this subsection.

(6) If one or more further notices of assessment of levy in respect of the acquisition are served under section 55 of this Act (including that section as applied by Schedule 10 to this Act), or if relief (whether by way of repayment or otherwise) is given or required to be given in respect of the levy in question, any reference in subsection (4)(*b*) or subsection (5)(*b*) of this section to the principal amount of the levy in accordance with the assessment shall be construed as a reference to the total principal amount of levy payable in respect of the acquisition as agreed or determined under this Part of this Act.

(7) For the purposes of the provisions of this Part of this Act (except subsections (4) and (5) of this section) in their application to any acquisition of an interest in land by the Commission, any reference to the compensation or purchase price

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shall be construed as a reference to the compensation or price determined in accordance with paragraph (*a*) of subsection (4) or paragraph (*a*) of subsection (5) of this section, as the case may be.

(8) Subject to the last preceding subsection, the provisions of section 72 of this Act and of Schedule 9 to this Act shall apply in relation to acquisitions by the Commission as they apply in relation to acquisitions by any other authority possessing compulsory purchase powers.

Application of Part III to minerals.

74.—(1) Regulations made for the purposes of this section may provide that in relation to land which has been, or after the passing of this Act is or is to be, the subject of—

(*a*) a disposition relating wholly or partly to minerals of any description specified in the regulations, or

(*b*) development consisting of or including the winning and working of minerals of any such description, or

(*c*) a right to compensation to which section 33 of this Act applies, where that right accrues wholly or partly in respect of minerals of any such description,

the provisions of this Part of this Act shall have effect subject to such exceptions and modifications, and together with any such additional provisions, as may be specified in the regulations.

(2) Regulations made for the purposes of this section shall be of no effect unless they are approved by a resolution of the Commons House of Parliament.

Application of Part III to Crown land.

75.—(1) The provisions of this Part of this Act shall have effect in relation to any private interest in Crown land, and in relation to any person entitled to such an interest, as if the land were not Crown land.

(2) In the application of the preceding subsection to Scotland, "Crown land" has the meaning assigned to it by section 83(1) of the Scottish Act of 1947, and "private interest" means any interest other than such an interest as is described in the said section 83(1).

(3) In relation to Crown land in which there is a Duchy interest, arrangements may be made, with the approval of the Treasury, between the appropriate authority and the Commission for the payment by the appropriate authority to the Commission of such sums as may be determined in accordance with the arrangements to be appropriate, in substitution for any levy which would have been chargeable in respect of the Duchy interest if that interest had been a private interest.

PART III

(4) The purposes authorised by section 25 of the Act of the fifty-seventh year of King George the Third, chapter 97, for the application of moneys arising by any such sale of annuities standing in the name or to the account of the Duchy of Lancaster as is therein mentioned shall include the payment of any sums payable, in accordance with arrangements made under this section, in respect of an interest in land belonging to Her Majesty in right of that Duchy.

(5) The purposes authorised by section 8 of the Duchy of Cornwall Management Act 1863 for the advancement of parts of such gross sums as are therein mentioned shall include the payment of any sums payable, in accordance with arrangements made under this section, in respect of an interest in land belonging to the Duchy of Cornwall. 1863 c. 49.

(6) In the application of this section to England and Wales "Crown land", "Crown interest", "Duchy interest" and "the appropriate authority" have the meanings assigned to them by subsection (6) of section 199 of the Act of 1962, and "private interest" means an interest which is neither a Crown interest nor a Duchy interest; and the provisions of that subsection as to the determination of questions shall apply for the purposes of this section as they apply for the purposes of that section.

Credit carried forward from previous chargeable act or event.

76. Where in accordance with Part I of Schedule 11 to this Act a credit is to be taken to have arisen from a chargeable act or event, such of the provisions of Parts II and III of that Schedule as are applicable to any subsequent chargeable act or event shall have effect as therein mentioned.

Death, bankruptcy winding up and floating charges.

77. The provisions of Schedule 12 to this Act shall have effect in the cases specified in that Schedule.

Groups of companies, connected persons and other special cases.

78. The provisions of Schedule 13 to this Act shall have effect in relation to the matters specified in that Schedule.

Supplementary provisions

Exchanges.

79. For the purposes of this Part of this Act any exchange of an interest in land for an interest in other land (with or without the payment of any sum for equality of exchange) shall be treated as a disposition of the former interest and a disposition of the latter interest, that is to say, as a conveyance (or, in the case of a tenancy, an assignment) on sale of each of those interests by the person entitled to it to the other party to the exchange.

PART III
Penalties for contravention of s. 38.

80.—(1) Any person (in this section referred to as "the offender") who being the developing owner in relation to a project of material development, or being entitled to a material interest (as defined by section 38 of this Act) in relation to such a project, begins, or causes or permits another person to begin, to carry out the project in contravention of that section shall be guilty of an offence, and shall be liable on summary conviction to the penalty applicable in accordance with the following provisions of this section.

(2) If a notice under section 68 of this Act is served on the offender in relation to the project in question, and a notice of assessment of levy in respect of an assessable interest of his in the land, or part of the land, comprised in the project results in an operative assessment of levy, then the penalty to which the offender is liable under the preceding subsection shall be a penalty not exceeding £500 or twice the principal amount of the levy payable in accordance with the assessment, whichever is the greater.

(3) Any penalty payable in accordance with the last preceding subsection shall be in addition to any liability to pay the levy in accordance with the assessment.

(4) Where subsection (2) of this section does not apply, the penalty to which the offender is liable under subsection (1) of this section shall be a penalty not exceeding £500.

(5) Notwithstanding anything in any other enactment, proceedings against any person for an offence under subsection (1) of this section may be brought at any time before the end of the period of six months beginning with whichever of the following events last occurs, that is to say—

(*a*) a notice of assessment of levy having been served on him in respect of that project and having resulted in an operative assessment of levy, the date specified in the assessment as the date on which the levy is charged is reached;

(*b*) an objection made by him to such a notice having been referred to the Lands Tribunal, the period of thirty days beginning with the date on which that reference is finally determined expires.

Other offences and penalties.

81.—(1) Any person who—

(*a*) in the case of a disposition which he is required to notify by virtue of subsection (1) of section 37 of this Act, does not notify it in accordance with the requirements of that section and of any regulations made thereunder, or

(*b*) where he is required to give notice of a chargeable act or event falling within Case F, does not serve notice in accordance with the requirements of the regulations made under section 35 of this Act,

shall be guilty of an offence and liable on summary conviction to a penalty not exceeding £50.

(2) Any person who without reasonable excuse fails to comply with any requirement imposed on him by a notice served under section 43 of this Act, which states that it appears to the Commission that a project of material development has begun to be carried out in contravention of section 38 of this Act, shall be guilty of an offence and liable on summary conviction to a penalty not exceeding £100; and if, after he has been convicted of an offence under this subsection, he fails without reasonable excuse to comply with the requirement in respect of which he was so convicted, he shall be guilty of a further offence and liable on summary conviction to a penalty not exceeding £50 for each day following the first conviction on which he so fails to comply with that requirement.

(3) Any penalty to which a person is liable under the last preceding subsection shall be in addition to any penalty to which he may be liable under the last preceding section.

(4) Any person who without reasonable excuse fails to comply with any requirement imposed on him by a notice under section 43 of this Act (other than such a notice as is mentioned in subsection (2) of this section) shall be guilty of an offence and liable on summary conviction to a penalty not exceeding £100.

(5) Any person who, in serving any notice or giving any information which he is required to serve or give under this Part of this Act, or in an application under section 60 of this Act, knowingly or recklessly makes a statement which is false in a material particular shall be guilty of an offence and shall be liable—

(*a*) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both;

(*b*) on summary conviction, to imprisonment for a term not exceeding three months, or to a fine not exceeding £100, or to both.

Proceedings in respect of certain offences.

82.—(1) This section applies to any offence under section 80 or under any of subsections (1), (2) and (4) of section 81 of this Act.

(2) No proceedings for an offence to which this section applies—

(*a*) shall be brought in England or Wales except with the consent of the Commission or by, or with the consent of, the Director of Public Prosecutions, or

PART III

(*b*) shall be brought in Scotland except with the consent of the Commission.

(3) Proceedings against any person for an offence to which this section applies may be brought either—

(*a*) before the appropriate court in Great Britain having jurisdiction in any place where that person resides or is for the time being, or

(*b*) before the appropriate court in Great Britain having jurisdiction in the place in which the land to which the offence relates is situated.

(4) The Commission may in their discretion mitigate any penalty in respect of an offence to which this section applies or stay or compound any proceedings for recovery of any such penalty.

1952 c. 55.

(5) Paragraph 3 of Schedule 3 to the Magistrates' Courts Act 1952 (maximum periods of imprisonment in default of payment) shall have effect in relation to offences to which this section applies as it has effect in relation to any offence under an enactment relating to Her Majesty's revenue under the control of the Commissioners of Inland Revenue.

Avoidance of certain contractual provisions.

83.—(1) Any provision to which this section applies which is contained in any agreement made on or after 29th December 1965 or in a disposition made on or after that date shall be void.

(2) This section applies to any provision whereby, apart from this section, a person would—

(*a*) be precluded from serving a notice which by or under this Part of this Act he is required or authorised to serve, or

(*b*) be subject to any penalty or liability in consequence of serving such a notice, or

(*c*) be liable to pay the whole or any part of the levy which, in accordance with this Part of this Act, is payable by some other person, or be liable to indemnify any other person against any expenditure incurred or to be incurred by him in the payment of levy.

Contributions by Postmaster General in lieu of levy.

1961 c. 15.

84.—(1) Where for the purposes of section 2(1) of the Post Office Act 1961 (contributions by Postmaster General in lieu of taxes etc.) it falls to be determined what amounts would be payable by the Postmaster General by way of levy but for the

exemptions which he enjoys as therein mentioned, no account shall be taken of any levy which, apart from those exemptions,— PART III

(*a*) would be chargeable in Case A, or in any of Cases D to F, where the relevant interest is an interest to which this section applies, or

(*b*) would be chargeable in Case B, where the interest out of which the tenancy in question is created is an interest to which this section applies, or

(*c*) would be chargeable in Case C in respect of an interest in land which, on the date on which the carrying out of the project in question is begun, is an interest to which this section applies.

(2) This section applies to any interest for the time being vested in the Postmaster General, where the land in which the interest subsists is land falling within any of such descriptions of land as may for the purposes of this section be agreed between him and the Treasury, as being descriptions of land which, in relation to the functions of the Postmaster General, correspond as nearly as may be to the descriptions of land which are operational land in relation to statutory undertakers.

Interpretation of Part III.

85.—(1) In this Part of this Act the following expressions have the meanings hereby assigned to them respectively, that is to say:—

"assessable interest", for the purpose of assessing levy in Case C, has the meaning assigned to it by section 32 of this Act;

"chargeable act or event" has the meaning assigned to it by section 27(3) of this Act;

"developing owner" has the meaning assigned to it by section 32 of this Act;

"mining lease" means a lease or licence for the purpose of winning and working minerals, whether by underground or surface working;

"minor tenancy" means a tenancy for a year or from year to year or any lesser interest;

"notice of assessment of levy" has the meaning assigned to it by section 44 of this Act;

"operative assessment of levy" has the meaning assigned to it by section 49 of this Act;

"project of material development" has the meaning assigned to it by section 64(1) of this Act;

"restrictive right" means a covenant or agreement restrictive of the use or development of land, not being a covenant or agreement made between a lessor and

PART III

a lessee or, except as respects Schedule 4 to this Act, an obligation on a vassal imposed by a superior or mid-superior;

"specified operation" has the meaning assigned to it by section 64(3) of this Act;

"the relevant Schedules" means Schedules 4, 5, 6, 7, 8, 9, 11 and 13 to this Act and includes any regulations made under any of those Schedules.

(2) In this Part of this Act "contingent local land charge"—

(*a*) in relation to any land in England or Wales, means a matter registered in respect of that land in the register of local land charges, or specified in a notice so registered, under section 15(4) of the Land Charges Act 1925 or under section 112 of the Act of 1962 (or under that section as applied by any other provision of that Act) or under any other enactment which provides for the registration in that register of, or of notice of, any matter by reference to which, on the occurrence of some future act or event, liability to make a payment will or may accrue, and

1925 c. 22.

(*b*) in relation to any land in Scotland, means any matter recorded in respect of that land in the General Register of Sasines, or specified in a notice so recorded under section 29 of the Scottish Act of 1954 (or under that section as applied by any other provision of that Act) or under any other enactment which provides for the recording in that register of, or of notice of, any matter by reference to which, on the occurrence of some future act or event, liability to make a payment will or may accrue.

(3) For the purposes of this Part of this Act—

(*a*) the surrender of a tenancy to a landlord, if made for valuable consideration, shall be treated as an assignment on sale of the tenancy to that landlord;

(*b*) the creation of a tenancy by a tenancy agreement or an agreement for a lease shall be treated as a grant of that tenancy by the landlord;

(*c*) a term of years specified in a disposition granting, renewing or extending a tenancy shall be taken to be a term of years certain notwithstanding that the tenancy is, or may become, terminable by notice (whether given by the landlord or by the tenant) or by re-entry, forfeiture or otherwise before the end of the term so specified, and in determining whether such a term is a term of less, or not less, than seven years the fact that the tenancy is, or may become, so terminable shall be disregarded;

and any reference in this Part of this Act (including this subsection) to an assignment or surrender of a tenancy includes a reference to an assignment or (as the case may be) a surrender of the tenancy in respect of part of the land comprised in the tenancy: PART III

Provided that paragraph (*a*) of this subsection shall not apply to a surrender made in consideration of, or in pursuance of an agreement for, the grant of a new tenancy.

(4) Except in so far as section 72(1) of this Act otherwise provides, for the purposes of this Part of this Act a disposition shall be taken to be made on the date on which it is executed or otherwise effected by or on behalf of the grantor, and any reference to the date of a disposition shall be construed as a reference to the date on which it is so executed or effected.

(5) For the purposes of this Part of this Act a person entitled to two interests in land shall be taken to be entitled to them in the same capacity if, but only if, he is entitled—

(*a*) to both of them beneficially, or

(*b*) to both of them as trustee of one particular trust, or

(*c*) to both of them as personal representative of one particular person.

(6) In this Part of this Act any reference to the purpose of assessing levy in respect of a chargeable act or event shall be construed as including references to the purpose of determining whether any, and (if so) how much, levy is to be charged in respect of that act or event, and to the purpose of serving any notice or doing any other thing preparatory to or in connection with or consequential upon the determination of any such question, including the payment of levy in accordance with such a determination.

(7) In the case of land in Scotland subject to a security constituted by an *ex facie* absolute disposition or assignation the debtor shall, for the purposes of this Part of this Act, be treated as the proprietor of the *dominium utile* except where the creditor is in possession of the land, and " grantor " shall be construed accordingly.

(8) In this Part of this Act (including the provisions of this section other than this subsection) and in the relevant Schedules and Schedules 10 and 12 to this Act any reference to this Part of this Act shall be construed as including a reference to those Schedules.

PART IV

GENERAL AND SUPPLEMENTARY PROVISIONS

Abolition of certain additional compensation for acquisition under compulsory powers.

86. In relation to—

(*a*) any compulsory acquisition of an interest in land by an authority possessing compulsory purchase powers in pursuance of a notice to treat served on or after 1st January 1967, and

(*b*) any sale of an interest in land to such an authority in pursuance of a contract made on or after that date,

1961 c. 33. 1963 c. 51.

Part IV of the Land Compensation Act 1961, or, in the case of land in Scotland, Part V of the Land Compensation (Scotland) Act 1963, shall not have effect.

Amendment of Finance Act 1931. 1931 c. 28.

87.—(1) In relation to any instrument executed on or after the first appointed day, section 28 of the Finance Act 1931 (production to Commissioners of Inland Revenue of instruments transferring land) and Schedule 2 to that Act shall have effect subject to the amendments specified in Schedule 14 to this Act.

(2) In accordance with the preceding subsection, in relation to any instrument executed on or after the first appointed day Schedule 2 to the Finance Act 1931 shall have effect as set out in Schedule 15 to this Act.

Rights of entry.

88.—(1) Any person duly authorised in writing by the Commission may at any reasonable time enter upon any land for the purpose of surveying it in order to enable the Commission—

(*a*) to determine whether to make an application for planning permission for the carrying out of material development of that land, or

(*b*) to carry out any function assigned to the Commission by or under this Act.

(2) Any officer of the Valuation Office may at any reasonable time enter upon any land for the purpose of surveying it or making any assessment—

(*a*) in connection with any calculation required to be made for the purposes of Part III of this Act, or

(*b*) in connection with any proposal of the Commission to acquire that land or any interest in it, or any other land or interest in other land, or in connection with any claim for compensation in respect of any such acquisition, or

(*c*) in connection with the carrying out of any other function assigned to the Commission by or under this Act.

(3) Subject to the provisions of the next following section any power conferred by this section to survey land shall be construed

as including power to search and bore for the purpose of ascertaining the nature of the subsoil or the presence of minerals therein. PART IV

Supplementary provisions as to rights of entry.

89.—(1) A person authorised under the last preceding section to enter upon any land shall, if so required, produce evidence that he is authorised as mentioned in subsection (1) of that section or, as the case may be, that he is an officer of the Valuation Office, and shall not demand admission as of right to any land which is occupied unless seven days' notice of the intended entry has been given to the occupier.

(2) Any person who wilfully obstructs a person acting in the exercise of his powers under the last preceding section shall be liable on summary conviction to a fine not exceeding £20.

(3) If any person who, in compliance with the provisions of the last preceding section, is admitted into a factory, workshop or workplace discloses to any person any information obtained by him therein as to any manufacturing process or trade secret, he shall, unless the disclosure is made in the course of performing his duty in connection with the survey or assessment for which he was authorised to enter the premises, be liable—

(*a*) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both;

(*b*) on summary conviction, to imprisonment for a term not exceeding three months, or to a fine not exceeding £100, or to both.

(4) Where any land is damaged in the exercise of a right of entry conferred under the last preceding section, or in the making of any survey for the purpose of which any such right of entry has been so conferred, compensation in respect of that damage may be recovered from the Commission by any person interested in the land.

(5) Any question of disputed compensation under the last preceding subsection shall be referred to and determined by the Lands Tribunal; and, in relation to the determination of any such question, the provisions of sections 2 and 4 of the Land Compensation Act 1961, or, as the case may be, of sections 9 and 11 of the Land Compensation (Scotland) Act 1963, shall apply, subject to any necessary modifications. 1961 c. 33. 1963 c. 51.

(6) Where under the last preceding section a person proposes to execute any works authorised by virtue of subsection (3) of that section—

(*a*) he shall not execute those works unless notice of his intention to do so was included in the notice required by subsection (1) of this section, and

PART IV

(*b*) if the land in question is held by statutory undertakers, and those undertakers object to the proposed works on the ground that the execution of them would be seriously detrimental to the carrying on of their undertaking, the works shall not be executed except with the authority of the appropriate Minister, as defined by section 221(1) of the Act of 1962, or, as respects Scotland, by section 113(1) of the Scottish Act of 1947.

(7) The last preceding subsection shall have effect in relation to the National Coal Board as it has effect in relation to statutory undertakers, but as if in that subsection—

(*a*) any reference to statutory undertakers were a reference to that Board, and

(*b*) for the words from " the appropriate Minister " to the end of the subsection there were substitited the words " the Minister of Power ".

Ecclesiastical property.

90.—(1) Where the fee simple in any ecclesiastical property is in abeyance, then for the purposes of this Act, and of any enactment as applied by any provision of this Act, it shall be treated as being vested in the Church Commissioners.

(2) For the purposes of section 57 of this Act any interest in land which for the time being forms part of the corporate property of an ecclesiastical corporation (including any such interest which by virtue of the preceding subsection is treated as being vested in the Church Commissioners) shall be deemed—

(*a*) to be held by a charity having a permanent endowment, and

(*b*) to be so held as part of that endowment,

if apart from this subsection it would not be taken to be held by a charity as part of its permanent endowment.

(3) In this section " ecclesiastical property " means land belonging to an ecclesiastical benefice of the Church of England, or being or forming part of a church subject to the jurisdiction of the bishop of any diocese of the Church of England or the site of a church so subject, or being or forming part of a burial ground so subject, and " ecclesiastical corporation " means a corporation in the Church of England, whether sole or aggregate, which is established for spiritual purposes.

Consecrated land, places of religious worship and burial grounds.

91. The provisions of Schedule 16 to this Act shall have effect in relation to land acquired by the Commission under this Act.

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Settled land and land of universities and colleges in England and Wales.

92. The purposes authorised for the application of capital moneys—

(*a*) by section 73 of the Settled Land Act 1925, and by that section as applied by section 28 of the Law of Property Act 1925 in relation to trusts for sale, and

(*b*) by section 26 of the Universities and College Estates Act 1925,

1925 c. 18. 1925 c. 20. 1925 c. 24.

and the purposes authorised by section 71 of the Settled Land Act 1925, by that section as so applied, and by section 30 of the Universities and College Estates Act 1925, as purposes for which moneys may be raised by mortgage, shall include the discharge of any sum payable in respect of levy in accordance with section 50 of this Act, in so far as that sum represents the whole or part of the principal amount of the levy.

Penalty for false information in claiming compensation.

93.—(1) If any person, for the purpose of obtaining for himself or for any other person any compensation in respect of the acquisition by the Commission of an interest in land by virtue of a general vesting declaration under this Act,—

(*a*) knowingly or recklessly makes a statement which is false in a material particular, or

(*b*) with intent to deceive produces, furnishes, sends or otherwise makes use of any book, account or other document which is false in a material particular, or

(*c*) with intent to deceive withholds any material information,

he shall be guilty of an offence.

(2) Any person guilty of an offence under this section shall (without prejudice to the recovery of any sum under section 24 of this Act) be liable—

(*a*) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both;

(*b*) on summary conviction, to imprisonment for a term not exceeding three months, or to a fine not exceeding £100, or to both.

Power to require information as to ownership of interests in land.

94.—(1) For the purposes of the performance of any of their functions under this Act, the Commission may serve on the occupier of any land, or on any person who, either directly or indirectly, receives rent in respect of any land, a notice requiring him to state in writing the nature of his interest in the land, and the name and address of any other person known to him as having an interest in that land, whether as a freeholder, mortgagee, heritable creditor, lessee, superior or otherwise.

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(2) Any person who, having been required in pursuance of this section to give any information, fails without reasonable excuse to give that information, or knowingly makes any misstatement in respect thereof, shall be liable on summary conviction to a fine not exceeding £50.

(3) This section shall have effect without prejudice to the operation of any provision of Part III of this Act under which the Commission may require a person to give information.

Disclosure of information by Inland Revenue.

95.—(1) No obligation as to secrecy imposed by statute or otherwise on persons employed in relation to Inland Revenue shall prevent the disclosure to the Commission, for the purpose of facilitating the performance of any of their functions under this Act, of the contents of any document to which this section applies.

(2) This section applies to any document which, having (whether before or after the passing of this Act) been produced to the Commissioners of Inland Revenue in pursuance of section 28 of the Finance Act 1931 or furnished to them in pursuance of Schedule 2 to that Act, is for the time being in their possession or under their control.

1931 c. 28.

Service of documents.

96.—(1) Subject to subsection (6) of this section, subsections (2) to (5) of this section shall have effect in relation to any document required or authorised by or under this Act to be given to or served on any person, other than a document in relation to which provision as to service is made by Schedule 2 to this Act or by the Acquisition of Land (Authorisation Procedure) Act 1946 or the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947.

1946 c. 49.
1947 c. 42.

(2) Any such document may be given to or served on the person in question either by delivering it to him, or by leaving it at his proper address, or by sending it by post.

(3) Any such document required or authorised to be given to or served on a body corporate shall be duly given or served if it is given or served on the secretary or clerk of that body.

(4) For the purposes of this section, and of section 26 of the Interpretation Act 1889 in its application to this section, the proper address of any person to or on whom any such document is to be given or served shall, in the case of the secretary or clerk of a body corporate, be that of the registered or principal office of that body, and in any other case shall be the last-known address of the person to be served:

1889 c. 63.

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Provided that, if the person to or on whom the document to be given or served has, in accordance with arrangements agreed, given an address in the United Kingdom for the giving or service of the document, his proper address for those purposes shall be that address.

(5) If the name or the address of any owner, lessee or occupier of land to or on whom any such document is to be given or served cannot after reasonable inquiry be ascertained by the body or person seeking to give or serve the document, the document may be given or served by addressing it to the person to or on whom it is to be given or served by the description of "owner", "lessee" or "occupier" of the land (describing it) and delivering it to some responsible person resident or appearing to be resident on the land, or, if there is no such person to whom it can be delivered, affixing it, or a copy of it, to some conspicuous part of the land.

(6) Without prejudice to subsections (3) and (4) of section 37 of this Act, provision may be made by regulations as to the manner in which documents required or authorised by or under this Act to be given to or served on the Commission are to be or may be given or served; and, in relation to any such document, the preceding provisions of this section shall have effect subject to any such regulations.

Offences by bodies corporate.

97.—(1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) In this section "director", in relation to a body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

Regulations and orders.

98.—(1) The appropriate Minister or Ministers may make regulations for any purpose for which regulations are authorised or required to be made under this Act:

Provided that this subsection shall have effect subject to subsection (6) of section 58 of this Act in relation to regulations to which that subsection applies.

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(2) Any power to make regulations under this Act shall be exercisable by statutory instrument; and any statutory instrument containing any regulations under this Act—

(*a*) if they are made exclusively for the purposes of any provision contained in Part III of this Act (other than sections 35 and 74) or in Schedules 4 to 8 to this Act, shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament, and

(*b*) in any other case (with the exception of regulations made under section 35 or made for the purposes of section 74 or section 99(2) of this Act) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Any power to make orders under this Act, other than compulsory purchase orders, shall be exercisable by statutory instrument.

(4) Any power to make an order under section 3, section 8, section 28, section 51 or section 63 of this Act shall include power to vary or revoke any such order by a subsequent order made thereunder.

Interpretation.

99.—(1) In this Act, except in so far as the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

1962 c. 38. "the Act of 1962" means the Town and Country Planning Act 1962;

1845 c. 19. "the Scottish Act of 1845" means the Lands Clauses Consolidation (Scotland) Act 1845;

1945 c. 33. "the Scottish Act of 1945" means the Town and Country Planning (Scotland) Act 1945;

1947 c. 53. "the Scottish Act of 1947" means the Town and Country Planning (Scotland) Act 1947;

1954 c. 73. "the Scottish Act of 1954" means the Town and Country Planning (Scotland) Act 1954;

"the appropriate Minister or Ministers"—

(*a*) for the purpose of doing anything in relation to the whole of Great Britain, means the Minister of Housing and Local Government and the Secretary of State acting jointly;

(*b*) for the purpose of doing anything in relation to England and Wales but not Scotland, means the Minister of Housing and Local Government; and

(*c*) for the purpose of doing anything in relation to Scotland only or in relation to Wales (including Monmouthshire) only, means the Secretary of State;

" disposition " includes the grant of a tenancy, the renewal, extension or other variation of a tenancy, and any other conveyance, assignment, transfer, grant, variation or extinguishment of an interest in or right over land, whether made by an instrument or otherwise;

" the Ministers " means the Minister of Housing and Local Government and the Secretary of State, and, in relation to anything falling to be done by the Ministers, means that Minister and the Secretary of State acting jointly;

" the first appointed day " and " the second appointed day " have the meanings assigned to them respectively by sections 1(1) and 6(4) of this Act;

" the planning Minister " in relation to England (excluding Monmouthshire) means the Minister of Housing and Local Government and in relation to Scotland and in relation to Wales (including Monmouthshire) means the Secretary of State;

" prescribed " means prescribed by regulations under this Act;

" registered land " has the meaning assigned to it by section 3 of the Land Registration Act 1925. 1925 c. 21.

(2) In this Act " material development " means any development other than—

(*a*) development for which planning permission is granted by a general development order for the time being in force and which is carried out so as to comply with any condition or limitation subject to which planning permission is so granted;

(*b*) development falling within any of paragraphs 1, 2, 3 and 5 to 8 of Schedule 3 to the Act of 1962, as read with Part III of that Schedule and with section 1(4) of the Town and Country Planning Act 1963, or, in Scotland, falling within Part I, or within paragraph 1 or any of paragraphs 3 to 7 of Part II of Schedule 3 to the Scottish Act of 1947, as read with Part III of that Schedule, subsections (2) and (3) of section 108 of that Act and section 2(5) of the said Act of 1963; and 1963 c. 17.

(*c*) development of any class prescribed for the purposes of this subsection;

and in this subsection " general development order " means a development order made as a general order applicable (subject to such exceptions as may be specified therein) to all land in England and Wales, or to all land in Scotland, as the case may be.

PART IV

(3) Where for the purposes of any provision of this Act it falls to be determined what development of any land is or was authorised by planning permission at a time when planning permission granted on an outline application (that is to say, an application for planning permission subject to subsequent approval on any matters) is or was in force in respect of that land, any development of that land which at that time—

(*a*) is or was authorised by that permission without any requirement as to subsequent approval, or

(*b*) not being so authorised, has or had been approved in the manner applicable to that planning permission,

but no other development, shall for those purposes be taken to be, or (as the case may be) to have been, development authorised by that permission at that time; and any reference in this Act to operations, or the carrying out of a project, authorised by planning permission shall, in relation to planning permission granted on an outline application, be construed in a corresponding way:

Provided that nothing in this subsection shall affect the operation of section 6 or section 62 of this Act.

(4) In this Act "before the first appointed day" means at any time before that day, whether before or after the passing of this Act.

(5) In relation to registered land any reference in this Act to a conveyance or an assignment includes a reference to a transfer, and references to conveying the fee simple or assigning a tenancy shall be construed accordingly.

(6) In this Act any reference to a notice to treat shall be construed as including a reference to a notice to treat which by virtue of any enactment (including sections 10(1) and 21(5) of this Act) is deemed to have been served, and any reference to the service, or the date of service, of a notice to treat shall be construed accordingly.

(7) For the avoidance of doubt it is hereby declared that in this Act "works" includes any operations in the course of the clearing of land.

(8) Subject to the preceding provisions of this section, subsection (1) of section 221 (interpretation) of the Act of 1962, section 113(1) of the Scottish Act of 1947, subsections (1) and (3) of section 69 of the Scottish Act of 1954 and section 54(1) of the Town and Country Planning (Scotland) Act 1959 (interpretation) shall apply for the purposes of this Act as they apply for the purposes of those Acts.

1959 c. 70.

(9) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment, including this Act. PART IV

(10) Regulations made for the purposes of subsection (2) of this section shall be of no effect unless they are approved by a resolution of each House of Parliament.

100.—(1) The provisions of this section shall have effect for the application of this Act to Scotland. Application to Scotland.

(2) (*a*) For any reference to an assignment there shall be substituted a reference to an assignation, and for any reference to an easement there shall be substituted a reference to a servitude;

(*b*) for any reference to an authority possessing compulsory purchase powers there shall be substituted a reference to a public authority possessing compulsory purchase powers;

(*c*) "covenant" means an obligation or agreement and includes a real burden *ad factum praestandum*, and "covenantor" shall be construed accordingly;

(*d*) "fee simple" and "freehold interest" mean the estate or interest of the proprietor of the *dominium utile*, and "freeholder" shall be construed accordingly;

(*e*) "heritable security" has the same meaning as in the Conveyancing (Scotland) Act 1924, except that it excludes a real burden *ad factum praestandum* but includes a security constituted by *ex facie* absolute disposition or assignation, and "heritable creditor" shall be construed accordingly; 1924 c. 27.

(*f*) references to an interest in reversion expectant or in reversion expectant (whether immediately or not), or in reversion immediately expectant shall be construed as references to the interest of the landlord in land subject to a lease, or, as the case may be, to the interest of the lessee of land who is the landlord under a sub-lease;

(*g*) references to the Lands Tribunal shall be construed as references to the Lands Tribunal for Scotland:

Provided that until sections 1 to 3 of the Lands Tribunal Act 1949 come into force as regards Scotland this subsection shall have effect as if for the reference to the Lands Tribunal for Scotland there were substituted— 1949 c. 42.

(i) except in the case mentioned in sub-paragraph (ii) below, a reference to an official arbiter appointed in accordance with the provisions of section 2 of the Land Compensation (Scotland) Act 1963, and sections 3 and 5 1963 c. 51.

PART IV

of that Act shall apply, subject to any necessary modifications, in relation to the determination of any question under this Act by an arbiter so appointed;

(ii) in the case of any question which arises as to whether levy is not chargeable by virtue of section 57 of this Act, a reference to the Court of Session, and in such a case, for the words "require the objection to be referred to the Lands Tribunal" in section 47(1) of this Act there shall be substituted the words "apply to the Court of Session for a decision on the objection".

(3) Any reference in this Act to the *dominium utile* in relation to land which is not held on feudal tenure shall be construed as a reference to the interest in the land of the owner thereof.

Repeals.

101. The enactments specified in Schedule 17 to this Act are hereby repealed to the extent specified in the third column of that Schedule:

Provided that—

1931 c. 28.

(*a*) the repeal by this section of any provision contained in the Finance Act 1931 shall not affect the operation of that Act in relation to instruments executed before the first appointed day, and

1961 c. 33.
1963 c. 51.

(*b*) the repeal by this section of any provision contained in the Land Compensation Act 1961 or the Land Compensation (Scotland) Act 1963 shall not affect the operation of that provision in relation to any compulsory acquisition or sale in pursuance of a notice to treat served, or contract made, before 1st January 1967.

Short title and extent.

102.—(1) This Act may be cited as the Land Commission Act 1967.

(2) This Act, except section 1(5) thereof, shall not extend to Northern Ireland.

SCHEDULES

SCHEDULE 1

Section 1.

CONSTITUTION AND PROCEEDINGS OF COMMISSION

1. The Land Commission shall by that name be a body corporate having perpetual succession and a common seal.

2. The Commission shall consist of such number of members, not exceeding nine, as the Ministers may from time to time determine.

3. The members shall be appointed by the Ministers, who may appoint one of them to be chairman of the Commission and another to be deputy chairman.

4.—(1) Subject to the provisions of this paragraph, a member of the Commission, and the chairman and deputy chairman, shall hold and vacate office as such in accordance with the terms of his appointment.

(2) A member may by notice in writing addressed to the Ministers resign his membership, and the chairman or deputy chairman may by the like notice resign his office as such.

(3) The Ministers may remove a person from membership if satisfied that he—

(*a*) has become bankrupt or made an arrangement with his creditors; or

(*b*) is incapacitated by physical or mental illness; or

(*c*) has been absent from more than six consecutive meetings of the Commission otherwise than for a reason approved by the Ministers; or

(*d*) is otherwise unable or unfit to discharge the functions of a member, or is unsuitable to continue as a member.

(4) If the chairman or deputy chairman ceases to be a member of the Commission he shall also cease to be chairman or deputy chairman.

(5) A person who ceases to be a member, or ceases to be chairman or deputy chairman, shall be eligible for reappointment.

5.—(1) The Commission, with the approval of the Ministers, may appoint a secretary of the Commission, and such other officers and servants as the Commission may, after consultation with the Ministers and with the consent of the Treasury, determine.

(2) A person may hold all or any two of the following offices at the same time, that is to say, as secretary or other officer of the Commission, as a member of the Commission, and as chairman or deputy chairman of the Commission.

6.—(1) The Commission shall pay to the members of the Commission such remuneration and allowances as may be determined by the Ministers with the consent of the Treasury.

(2) In the case of any such person as the Ministers may with the consent of the Treasury determine, the Commission shall pay such pension, allowance or gratuity to or in respect of him on his retirement or death, or make such payments towards the provision of such a pension, allowance or gratuity, as may be so determined.

SCH. 1

(3) If a person ceases to be a member of the Commission, and it appears to the Ministers that there are special circumstances which make it right that that person should receive compensation, the Ministers may, with the consent of the Treasury, require the Commission to pay to that person a sum of such amount as the Ministers may with the consent of the Treasury determine.

(4) As soon as practicable after the making of any determination under sub-paragraph (2) or sub-paragraph (3) of this paragraph the Ministers shall lay a statement thereof before each House of Parliament.

7. The Commission shall pay to their officers and servants such remuneration and allowances as the Commission may, after consultation with the Ministers and with the consent of the Treasury, determine.

8. Subject to the following provisions of this Schedule, the Commission shall have power to regulate their own procedure (including the manner in which matters subject to the determination of the Commission are to be determined by or on behalf of the Commission).

9. The quorum at meetings of the Commission shall be four.

10.—(1) A member of the Commission who is in any way directly or indirectly interested in any land which is the subject of a transaction entered into or proposed to be entered into by the Commission shall disclose the nature of his interest at a meeting of the Commission; and the disclosure shall be recorded in the minutes of the Commission, and the member shall not take any part in any deliberation or decision of the Commission with respect to the transaction.

(2) For the purposes of sub-paragraph (1) of this paragraph a general notice given at a meeting of the Commission by a member of the Commission to the effect that he is a member of a specified company or firm and is to be regarded as interested in any transaction which may, after the date of the notice, be entered into in relation to that company or firm, shall be regarded as a sufficient disclosure of his interest in relation to any such transaction.

(3) A member of the Commission need not attend in person at a meeting of the Commission in order to make any disclosure which he is required to make under this paragraph if he takes reasonable steps to secure that the disclosure is made by a notice which is brought up and read at the meeting.

(4) The preceding provisions of this paragraph shall have effect in relation to any land in respect of which any functions fall to be performed by the Commission under Part III of this Act as they have effect in relation to land which is the subject of a transaction entered into by the Commission; and, in relation to land in respect of which any such functions fall to be performed, any reference in those provisions to a transaction shall be construed as including a reference to the performance of those functions.

11. The seal of the Commission shall be authenticated by the signature of the secretary or of any person authorised by the Commission to act in that behalf.

SCH. 1

12. A certificate signed by the secretary that any instrument purporting to be made or issued by or on behalf of the Commission was so made or issued shall be conclusive evidence of that fact.

13. Every document purporting—

(*a*) to be an instrument made or issued by or on behalf of the Commission and to be sealed with the seal of the Commission authenticated in the manner provided by paragraph 11 of this Schedule, or to be signed or executed by the secretary or any person authorised by the Commission to act in that behalf, or

(*b*) to be a certificate such as is mentioned in paragraph 12 of this Schedule,

shall be received in evidence and be deemed without further proof to be so made or issued or to be such a certificate, unless the contrary is shown.

14.—(1) A person dealing with the Commission, or with a person claiming under the Commission, shall not be concerned to inquire—

(*a*) whether any directions have been given to the Commission under this Act or whether any directions so given have been complied with, or

(*b*) whether the consent or approval of any Minister required for any of the purposes of this Act has been given, or whether any condition or limitation subject to which any such consent or approval was given has been complied with;

and, in favour of any such person, the validity of anything done by the Commission shall not be affected by anything contained in any such direction, consent or approval or by reason that any such direction, consent or approval has not been given.

(2) Without prejudice to the preceding sub-paragraph, the validity of a compulsory purchase order made by the Commission shall not be affected by anything contained in a direction given under section 1(3) of this Act or by reason that any such direction has not been complied with.

SCHEDULE 2

Section 8.

SPECIAL PROCEDURE FOR COMPULSORY PURCHASE ORDERS

1. The provisions of this Schedule shall have effect in relation to any compulsory purchase order authorising an acquisition to which an order under section 8 of this Act applies.

2.—(1) Paragraph 19 of Schedule 1 to the Acquisition of Land Act (which relates to the service of notice and other documents) shall not apply to any notice relating to such a compulsory purchase order which, by virtue of paragraph 3 of that Schedule, is required to be served on an owner, lessee or occupier of land.

(2) Any such notice shall be taken to be duly served if—

(*a*) it is addressed to the owner, lessee or occupier by name, and delivered to him or left at, or sent by registered post or the recorded delivery service to, his usual or last known place of abode, or

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(*b*) where he is the owner, lessee or occupier of land which appears to the Commission to be separately occupied, the notice is addressed to "the owner and the occupier" of the land (describing it) and is either delivered to some person on the land or, if there is no person on the land to whom it can be delivered, is affixed to some conspicuous object on the land, or

(*c*) where the land appears to the Commission to be unoccupied, it is addressed to "the owners and any occupiers" of the land (describing it) and is affixed to some conspicuous object on the land.

(3) In this paragraph any reference to a particular paragraph of Schedule 1 to the Acquisition of Land Act is a reference to that paragraph as applied by virtue of section 7(1) of this Act.

3.—(1) The provisions of sub-paragraphs (2) to (4) of paragraph 4 of Schedule 1 to the Acquisition of Land Act, as applied by section 7 (2) of this Act, shall have effect in relation to such a compulsory purchase order subject to the following provisions of this paragraph.

(2) Except in so far as sub-paragraphs (3) to (5) of this paragraph otherwise provide, the Minister whose authority is required in accordance with section 7(3) of this Act shall not be required by virtue of the provisions mentioned in the preceding sub-paragraph to cause a public local inquiry to be held, or to afford to an objector an opportunity of appearing before and being heard by a person appointed by that Minister for the purpose, unless in the circumstances of the case that Minister considers it expedient to do so.

(3) Where the land comprised in such a compulsory purchase order as prepared in draft by the Commission consists of a dwelling-house, and the occupier of the dwelling-house duly objects to the order and that objection is not withdrawn, the last preceding sub-paragraph shall not have effect in relation to that objection.

(4) Where the land comprised in such a compulsory purchase order as so prepared includes a dwelling-house together with other land, and the occupier of the dwelling-house duly objects to the order and that objection is not withdrawn, then if the Minister referred to in sub-paragraph (2) of this paragraph—

(*a*) does not either cause a public local inquiry to be held or afford to the occupier of the dwelling-house an opportunity of appearing before and being heard by a person appointed by that Minister for the purpose, and

(*b*) authorises the Commission to make the order,

that Minister shall require the Commission to make the order with a modification so as to exclude the dwelling-house from the order.

(5) In this paragraph "dwelling-house" means any building or part of a building in which a person is residing, and includes any other building or part of a building in which a person normally resides but from which he is temporarily absent.

4. Where by virtue of the last preceding paragraph the Minister referred to in that paragraph dispenses with an inquiry or hearing as therein mentioned, then, as soon as may be after he has determined

either to authorise or not to authorise the Commission to make the order, he shall send to any person who— SCH. 2

(*a*) being such an owner, lessee or occupier as is mentioned in paragraph 3(1)(*b*) (or as respects Scotland paragraph 3(*b*)) of Schedule 1 to the Acquisition of Land Act, has duly objected to the order and has not withdrawn his objection, and

(*b*) has specified an address for the purposes of this paragraph,

a notification of his decision, which shall be addressed to that person and sent by registered post or the recorded delivery service to the address so specified.

SCHEDULE 3

Section 10.

SUPPLEMENTARY PROVISIONS AS TO GENERAL VESTING DECLARATIONS

Exclusion of power of entry under Compulsory Purchase Act 1965 or under the Acquisition of Land Act

1. Section 11(1) of the Compulsory Purchase Act 1965 or, as respects Scotland, paragraph 3 of Schedule 2 to the Acquisition of Land Act (power to enter upon land after service of notice to treat) shall not apply to land specified in a general vesting declaration under this Act. 1965 c. 56.

Restriction on withdrawal of constructive notice to treat

2. The power conferred by section 31 of the Land Compensation Act 1961 or by section 39 of the Land Compensation (Scotland) Act 1963 to withdraw a notice to treat shall not be exercisable, in respect of a notice to treat which is deemed to be served under section 10 of this Act, at any time after the interest in respect of which the notice is deemed to be served has vested in the Commission by virtue of subsection (2) of the said section 10. 1961 c. 33. 1963 c. 51.

Objection to severance

3. Section 8(1) of the Compulsory Purchase Act 1965 or, as respects Scotland, paragraph 4 of Schedule 2 to the Acquisition of Land Act shall not apply to land in respect of which a general vesting declaration is made under this Act.

4.—(1) If a general vesting declaration under this Act comprises part only of a house, building or factory, or of a park or garden belonging to a house, any person who is able to sell the whole of the house, building, factory, park or garden may by notice served on the Commission (in this Schedule referred to as a "notice of objection to severance") require them to purchase his interest in the whole.

(2) Except as provided by paragraph 13 of this Schedule, a notice of objection to severance served by any person shall not have effect if it is served more than twenty-eight days after the date on which the notice required by section 9(3) of this Act is served on him.

5. Where a notice of objection to severance is served in respect of a person's interest in any land (in this Schedule referred to as "the land proposed to be severed"), and is so served within the

SCH. 3

time allowed in accordance with paragraph 4(2) of this Schedule, then, notwithstanding anything in section 10(2) of this Act,—

(*a*) that interest shall not vest in the Commission, and

(*b*) if he is entitled to possession of that land, the Commission shall not be entitled to enter upon or take possession of it,

until the notice has been disposed of in accordance with the following provisions of this Schedule.

6. Within three months after a person has served on the Commission a notice of objection to severance, the Commission shall either—

(*a*) serve notice on him withdrawing the notice to treat deemed to have been served on him in respect of his interest in the land proposed to be severed, or

(*b*) serve notice on him that the general vesting declaration shall have effect, in relation to his interest in the land proposed to be severed, as if the whole of that land had been comprised in the declaration (and in the compulsory purchase order, if part only of that land was comprised in that order), or

(*c*) refer the notice of objection to severance to the Lands Tribunal and notify him that it has been so referred.

7. If the Commission do not take action in accordance with the last preceding paragraph within the period allowed by that paragraph, then at the end of that period they shall be deemed to have acted in accordance with sub-paragraph (*a*) of that paragraph.

8. Where in accordance with paragraph 6 or paragraph 7 of this Schedule the notice to treat deemed to have been served in respect of a person's interest in the land proposed to be severed is withdrawn, or is deemed to have been withdrawn,—

(*a*) that interest shall not vest in the Commission by virtue of the general vesting declaration, and

(*b*) if he is entitled to possession of that land, the Commission shall not be entitled by virtue of that declaration to enter upon or take possession of it.

9. Where the Commission take action in accordance with sub-paragraph (*b*) of paragraph 6 of this Schedule, the general vesting declaration (and, where applicable, the compulsory purchase order) shall have effect as mentioned in that sub-paragraph, whether apart from this Schedule the Commission could have been authorised to acquire the interest in question in the whole of the land proposed to be severed or not.

10. Where in accordance with paragraph 6(*c*) of this Schedule the Commission refer a notice of objection to severance to the Lands Tribunal, and on that reference the Tribunal determines that the part of the land proposed to be severed which is comprised in the general vesting declaration can be taken—

(*a*) in the case of a house, building or factory, without material detriment, or

(*b*) in the case of a park or garden, without seriously affecting the amenity or convenience of the house,

paragraph 5 of this Schedule shall thereupon cease to have effect in relation to that notice.

11.—(1) If on such a reference the Lands Tribunal does not make a determination in accordance with the last preceding paragraph, the Tribunal shall determine the area of that land (being the whole of it or a part of it which includes the part comprised in the general vesting declaration) which the Commission ought to be required to take; and the general vesting declaration shall have effect, in relation to the interest in that area of the person who served the notice of objection to severance, as if the whole of that area had been comprised in the general vesting declaration, whether apart from this Schedule the Commission could have been authorised to acquire that interest in the whole of that area or not.

(2) Where the preceding sub-paragraph applies, and part of the area determined by the Lands Tribunal was not comprised in the compulsory purchase order, the general vesting declaration shall have effect as mentioned in the preceding sub-paragraph as if the whole of that area had been comprised in the compulsory purchase order as well as in the declaration.

12. As respects Scotland, where by virtue of paragraph 6(*a*), 7, 9 or 11 of this Schedule a general vesting declaration is to have effect in relation to a different area of land than that originally comprised in the declaration, the Commission shall alter accordingly the description of the land affected by the declaration.

13.—(1) Where in accordance with paragraph 4(1) of this Schedule a person is entitled to serve a notice of objection to severance, and it is proved—

(*a*) that he never received the notice required by section 9(3) of this Act to be served on him, or received that notice less than twenty-eight days before, or on or after, the date on which the period specified in the general vesting declaration expired, and

(*b*) that a notice of objection to severance served by him was served not more than twenty-eight days after the date on which he first had knowledge of the execution of the general vesting declaration,

that notice shall have effect notwithstanding that it is served after the time allowed in accordance with paragraph 4(2) of this Schedule has expired.

(2) Where, in the circumstances specified in the preceding sub-paragraph, a person serves a notice of objection to severance after the end of the period specified in the general vesting declaration,—

(*a*) paragraphs 5 and 8 of this Schedule shall not have effect in relation to that notice;

(*b*) paragraph 6 of this Schedule shall have effect in relation to that notice as if sub-paragraph (*a*) of that paragraph were omitted;

(*c*) paragraph 7 of this Schedule shall have effect in relation to that notice with the substitution, for the words "sub-paragraph (*a*)", of the words "sub-paragraph (*b*)"; and

SCH. 3

(*d*) paragraph 10 of this Schedule shall not have effect in relation to that notice, but without prejudice to the making by the Tribunal of any such determination as is mentioned in that paragraph.

Compensation

14. Where any of the land specified in a general vesting declaration under this Act has become vested in the Commission by virtue of section 10 of this Act, the Commission shall be liable to pay the like compensation, and the like interest on the compensation agreed or awarded, as they would have been required to pay if they had taken possession of the land under section 11(1) of the Compulsory Purchase Act 1965, or, as respects Scotland, under paragraph 3 of Schedule 2 to the Acquisition of Land Act.

1965 c. 56.

15. Section 22 of the Compulsory Purchase Act 1965 and sections 117 to 119 of the Scottish Act of 1845 (interests omitted from purchase) and Schedule 2 to the said Act of 1965 and sections 56 to 60 and sections 63 to 66 of the said Act of 1845 (absent and untraced owners) shall not apply to the compensation to be paid for any interest in land in respect of which a notice to treat is deemed to have been served by virtue of section 10 of this Act.

Rentcharges and tenancies

16.—(1) Where land specified in a general vesting declaration under this Act is, together with other land not so specified, charged with a rentcharge, such proportion of the rentcharge as may be apportioned under section 18 of the Compulsory Purchase Act 1965, or under section 109 of the Scottish Act of 1845, to the first-mentioned land shall, subject to sub-paragraph (3) of this paragraph, be treated as having been extinguished by virtue of section 10 of this Act on the vesting of that land in the Commission under that section.

(2) Where by virtue of the preceding sub-paragraph a portion of a rentcharge is treated as having been extinguished, the provisions of section 18 of the said Act of 1965 shall have effect as if the extinguishment had taken place under that section, and, as respects Scotland, sections 108 to 111 of the said Act of 1845 shall have effect as if the extinguishment had taken place under section 110 of that Act.

(3) If, in the circumstances described in sub-paragraph (1) of this paragraph, the person entitled to the rentcharge and the owner of the land subject thereto enter into an agreement to that effect, the said section 18, or, as respects Scotland, the said sections 108 to 111, shall have effect as if, at the time of the vesting of the land in the Commission under section 10 of this Act, the person entitled to the rentcharge had released that land from the rentcharge on the condition mentioned in subsection (2) of the said section 18 or in section 109 of the said Act of 1845; and in that case no part of the rentcharge shall be treated as having been extinguished as regards the remaining part of the land charged therewith.

(4) In this paragraph "rentcharge" has the same meaning as in section 18 of the Compulsory Purchase Act 1965, and, as respects

Scotland, has the same meaning as a charge referred to in paragraph 12 of Schedule 6 to the Scottish Act of 1945. SCH. 3

17. Where land specified in a general vesting declaration under this Act is, together with other land not so specified, comprised in a tenancy for a term of years unexpired, section 19 of the Compulsory Purchase Act 1965, or, as respects Scotland, section 112 of the Scottish Act of 1845, shall have effect in relation thereto as if for references to the time of the apportionment of rent therein mentioned there were substituted references to the time of the vesting in the Commission of the tenancy. 1965 c. 56.

18. Where any of the land specified in a general vesting declaration under this Act has become vested in the Commission under section 10 of this Act, any person who, in consequence thereof, is relieved from any liability (whether in respect of a rentcharge, feu-duty, ground annual, rent under a tenancy, mortgage interest or any other matter) and makes any payment as in satisfaction or part satisfaction of that liability shall, if he shows that when he made the payment he did not know of the facts which constitute the cause of his being so relieved, or of some one or more of those facts, be entitled to recover the sum paid as money had and received to his use by the person to whom it was paid.

Miscellaneous

19. Where, after land has become vested in the Commission under section 10 of this Act, a person retains possession of any document relating to the title to the land, he shall be deemed to have given to the Commission an acknowledgment in writing of the right of the Commission to production of that document and to delivery of copies thereof and (except where he retains possession of the document as mortgagee, heritable creditor or as trustee or otherwise in a fiduciary capacity) an undertaking for safe custody thereof, and, in relation to land in England and Wales, section 64 of the Law of Property Act 1925 shall have effect accordingly, and on the basis that the acknowledgment and undertaking did not contain any such expression of contrary intention as is mentioned in that section. 1925 c. 20.

20.—(1) The time within which a question of disputed compensation, arising out of an acquisition of an interest in land in respect of which a notice to treat is deemed to have been served by virtue of section 10 of this Act, may be referred to the Lands Tribunal shall be six years from the date at which the person claiming compensation, or a person under whom he derives title, first knew, or could reasonably be expected to have known, of the vesting of the interest by virtue of that section.

(2) Sub-paragraph (1) of this paragraph shall, in relation to England and Wales, be construed as one with Part I of the Limitation Act 1939. 1939 c. 21.

(3) As respects Scotland, in reckoning the period of six years referred to in sub-paragraph (1) of this paragraph, no account shall be taken of any period during which the person claiming compensation or the person from whom he derives title was in minority or less age or was under legal disability.

Sections 29–31, 33, 34, 41, 85 (1).

SCHEDULE 4

GENERAL PROVISIONS FOR ASCERTAINING FACTORS RELEVANT TO ASSESSMENT OF LEVY

PART I

CASE A

Market value

1. For the purpose of assessing levy in respect of a disposition falling within Case A, the market value of the relevant interest shall be taken to be the amount of the consideration which, in accordance with the terms of the disposition or of any contract in pursuance of which the disposition is made, is to be given for the disposition, whether to the grantor or to any other person.

Base value

2. Except in so far as the relevant Schedules otherwise provide, the base value of the relevant interest shall, for the purpose mentioned in the preceding paragraph, be ascertained in accordance with paragraphs 3 to 5 of this Schedule.

3.—(1) There shall first be ascertained what immediately after the disposition is the value of the relevant interest, calculated in accordance with Schedule 6 to this Act and on the assumption that planning permission—

(*a*) would be granted for any development of the relevant land which does not constitute material development, but

(*b*) would not be granted for any development of that land which constitutes material development.

(2) The value of the relevant interest, calculated as mentioned in the preceding sub-paragraph, is in this Part of this Schedule referred to as the current use value of the relevant interest.

4. It shall also be ascertained whether the value of an interest in any other land held with the relevant land immediately before the disposition, where the grantor was immediately before the disposition entitled in the same capacity to that other interest, is depreciated in consequence of the disposition, and, if so, the amount of the depreciation shall be determined.

5. The base value of the relevant interest shall then be taken to be an amount equal to the aggregate of—

(*a*) eleven-tenths of the current use value of the relevant interest, and

(*b*) the amount (if any) by which the value of any such other interest as is mentioned in the last preceding paragraph is depreciated in consequence of the disposition.

PART II

CASE B

Introductory

6. In this Part of this Schedule "the tenancy", in relation to a disposition falling within Case B, means the tenancy granted by the disposition, "the disposition" means that disposition, and "the chargeable interest" means the interest in the relevant land which

the grantor has immediately before the disposition in so far as that interest subsists in that land. SCH. 4

Amount of consideration

7. For the purpose of assessing levy in respect of the disposition, the amount of the consideration for the disposition shall (subject to the next following paragraph) be taken to be the aggregate of the capital values at the relevant date of—

(*a*) the right to receive the rent (if any) which, in accordance with the terms of the disposition or of any contract in pursuance of which the disposition is made, is payable in respect of the tenancy;

(*b*) any other consideration (whether by way of premium or otherwise) which in accordance with those terms is given or agreed to be given for the disposition, whether to the grantor or to any other person; and

(*c*) any other matter required to be taken into account in accordance with paragraphs 1 to 3 of Schedule 6 to this Act.

8. Where the interest in reversion immediately expectant upon the termination of the tenancy is itself a tenancy (in this paragraph referred to as "the superior tenancy"), then for the purpose of assessing levy in respect of the disposition the amount of the consideration for the disposition shall be taken to be the aggregate specified in the last preceding paragraph, reduced by the capital value at the relevant date of a right, during the period beginning with that date and ending with the termination of the tenancy, to receive the rent (if any) which is payable under the superior tenancy.

9. In calculating, for the purposes of paragraphs 7 and 8 of this Schedule, the capital value at any date of a right to receive rent payable in respect of a tenancy, it shall be assumed that the tenant under that tenancy—

(*a*) will aways pay that rent when it falls due and will perform his other obligations under the tenancy, and

(*b*) will exercise any option to renew that tenancy, and will not exercise any option to terminate it, then or thereafter available to him.

Base value realised

10. Except in so far as the relevant Schedules otherwise provide, the base value realised by the disposition shall, for the purpose of assessing levy in respect of the disposition, be ascertained in accordance with paragraphs 11 to 15 of this Schedule.

11.—(1) There shall first be ascertained what immediately before the disposition is the value of the chargeable interest, calculated in accordance with Schedule 6 to this Act and on the assumption that planning permission—

(*a*) would be granted for any development of the relevant land which does not constitute material development, but

(*b*) would not be granted for any development of that land which constitutes material development.

(2) The value of the chargeable interest, calculated as mentioned in the preceding sub-paragraph, is in this Part of this Schedule referred to as the current use value of the chargeable interest.

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12.—(1) There shall also be ascertained what, immediately after the disposition, is the value of such prospective right as the grantor then has to possession of the relevant land at the end of the tenancy.

(2) For the purpose of ascertaining that value it shall be assumed that the relevant land will at the end of the tenancy be in the state in which it was immediately before the disposition.

(3) The value referred to in sub-paragraph (1) of this paragraph is in this Part of this Schedule referred to as the reversionary value of the chargeable interest.

13. There shall then be calculated what proportion the amount of the consideration for the disposition bears to the aggregate of—

(*a*) that amount, and

(*b*) the reversionary value of the chargeable interest;

and so much of the current use value of the chargeable interest as bears that proportion to the whole of that current use value is in this Part of this Schedule referred to as the current use value realised by the disposition.

14. It shall also be ascertained whether the value of an interest in any other land held with the relevant land immediately before the disposition, where the grantor was immediately before the disposition entitled in the same capacity to that other interest as that in which he is entitled to the chargeable interest, is depreciated in consequence of the disposition, and, if so, the amount of the depreciation shall be determined.

15. The base value realised by the disposition shall then be taken to be an amount equal to the aggregate of—

(*a*) eleven-tenths of the current use value realised by the disposition, and

(*b*) the amount (if any) by which the value of any such other interest as is mentioned in the last preceding paragraph is depreciated in consequence of the disposition.

PART III

CASE C

Market value

16. For the purpose of assessing levy in Case C there shall first be ascertained what is the annual amount of the rent at which the relevant land might reasonably have been expected to let on a letting in the open market on the relevant date in accordance with paragraphs 17 to 21 of this Schedule.

17.—(1) Except as otherwise provided by the next following sub-paragraph, the letting referred to in the last preceding paragraph shall be taken to be a letting for a term of years certain of ninety-nine years beginning on the relevant date.

(2) Where the nature of the relevant project is such that—

(*a*) its purpose is the carrying out of the operations comprised in the project, and not the use of the relevant land in the state resulting from the carrying out of those operations, and

(*b*) the period within which, in accordance with the project, those operations will be completed is a period less than ninety-nine years, SCH. 4

the letting referred to in the last preceding paragraph shall be taken to be a letting for a term of years beginning on the relevant date and equal in length to that period.

18.—(1) The letting referred to in paragraph 16 of this Schedule shall be taken to be a letting subject to any of the incumbrances specified in the next following sub-paragraph which are subsisting at the relevant date and affect the relevant land or any part of it, in so far as any such incumbrance would restrict the doing of anything not comprised in the relevant project.

(2) Those incumbrances are—

(*a*) any easement;

(*b*) any restrictive right;

(*c*) any covenant or agreement restrictive of the use or development of land which, having been made between a lessor and a lessee, forms part of the terms and conditions of a tenancy which is an assessable interest;

(*d*) any mining lease.

19. That letting shall also be taken to be subject to any of the following incumbrances which are subsisting at the relevant date and affect the relevant land or any part of it, that is to say—

(*a*) any order made, or having effect as if made, under the Mines (Working Facilities and Support) Act 1966; 1966 c. 4.

(*b*) any right vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking and consisting of a right of laying down, erecting, continuing or maintaining apparatus on, under or over land;

(*c*) any compulsory rights order made under section 12 of the Pipe-lines Act 1962; 1962 c. 58.

(*d*) any contingent local land charge;

(*e*) any public right of way or other public right.

20.—(1) The terms and conditions of that letting shall be taken to include a covenant on the part of the tenant to carry out the relevant project.

(2) Subject to the preceding sub-paragraph, it shall be assumed that those terms and conditions would not require either the tenant or the landlord to carry out any material development of the relevant land on or after the relevant date.

(3) It shall be assumed that no consideration other than rent would be given for the letting.

21.—(1) The following provisions of this paragraph as to the effect of, or assumptions to be made with respect to, planning permission shall have effect in calculating the rent referred to in paragraph 16 of this Schedule.

(2) If planning permission for any development comprised in the relevant project is in force at the relevant date, then in calculating that rent account shall be taken of that planning permission.

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(3) In taking account of any planning permission in accordance with the last preceding sub-paragraph,—

(*a*) if it is planning permission authorising the erection of one or more houses subject to a condition whereby they are to be occupied only by (or by persons connected with) persons who are or have been employed in agriculture or forestry, account shall be taken of it as if no such condition had been imposed;

(*b*) if it is planning permission granted for a limited period, account shall be taken of it as if the condition, whereby it is planning permission granted for a limited period, had not been imposed.

(4) If planning permission for any development comprised in the relevant project is not in force at the relevant date, that rent shall be calculated as if planning permission for that development were then in force and were not planning permission granted for a limited period.

(5) Subject to the preceding sub-paragraphs, that rent shall be calculated on the assumption that planning permission—

(*a*) would be granted for any development of the relevant land which does not constitute material development, but

(*b*) would not be granted for any development of that land which constitutes material development and is not comprised in the relevant project.

(6) Subject to the following provisions of this paragraph, in calculating that rent no account shall be taken of any planning permission in force at the relevant date in so far as it would authorise the carrying out of any project of material development, other than the relevant project, to be begun or completed on or after that date.

(7) Where, in pursuance of any planning permission in force at the relevant date, the carrying out of a project of material development of the relevant land, other than the relevant project, has been begun before that date, but has not been completed at that date, and either—

(*a*) the carrying out of that project was begun before the first appointed day, or

(*b*) where it was begun on or after the first appointed day, notice of intention to carry out that project was served under section 38 of this Act before the relevant date or notice in respect of that project was before that date served under section 66(3)(*b*) or section 68 of this Act,

then, notwithstanding anything in the last preceding sub-paragraph, in calculating that rent account shall be taken of that planning permission in so far as it authorises the carrying out of that project.

(8) In taking account of any planning permission in accordance with the last preceding sub-paragraph, where it is planning permission granted for a limited period, account shall be taken of it as if the condition whereby it is planning permission granted for a limited period had not been imposed.

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(9) Where the carrying out of a project of material development of the relevant land, other than the relevant project, has been begun before the relevant date in accordance with planning permission granted for a limited period, and that period has expired before the relevant date, and notice relating to that project has been served as mentioned in sub-paragraph (7)(*b*) of this paragraph, then in calculating that rent account shall be taken of that planning permission in so far as it authorised the carrying out of that project, and shall be so taken as if the condition whereby it was planning permission granted for a limited period had not been imposed.

22. The rent ascertained in accordance with the preceding provisions of this Part of this Schedule is in this Part of this Schedule referred to as the full market rent.

23. Where the relevant interest is a tenancy which is not in reversion expectant on the termination of any other tenancy, the market value of that interest shall (subject to paragraphs 26 and 27 of this Schedule) be taken to be the capital value at the relevant date of a right, during the period beginning with that date and ending with the termination of that tenancy, to receive a rent equal to the amount by which the full market rent exceeds the annual amount of the rent payable under the tenancy.

24. Where the relevant interest is a tenancy (in this paragraph referred to as " the superior tenancy ") which is in reversion immediately expectant upon the termination of another tenancy (in this paragraph referred to as " the sub-tenancy "), the market value of that interest shall (subject to paragraphs 26 and 27 of this Schedule) be taken to be the aggregate of—

(*a*) the capital value at the relevant date of a right, during the period beginning with that date and ending with the termination of the sub-tenancy, to receive a rent equal to the amount by which the annual amount of rent payable under the sub-tenancy exceeds the annual amount of rent payable under the superior tenancy, and

(*b*) the capital value at that date of a right, during the period beginning with the termination of the sub-tenancy and ending with the termination of the superior tenancy, to receive a rent equal to the amount by which the full market rent exceeds the annual amount of rent payable under the superior tenancy.

25.—(1) Where the relevant interest is the fee simple, the market value of that interest shall (subject to the next following sub-paragraph and to paragraph 26 of this Schedule) be taken to be the capital value at the relevant date of a right to receive in perpetuity a rent equal to the full market rent.

(2) Where the relevant interest is the fee simple, but is in reversion immediately expectant upon the termination of a tenancy, the market value of that interest shall (subject to paragraphs 26 and 27 of this Schedule) be taken to be the aggregate of—

(*a*) the capital value at the relevant date of a right during the period beginning with that date and ending with the termination of that tenancy to receive the rent payable under that tenancy, and

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(*b*) the capital value at that date of a right as from the termination of the tenancy to receive in perpetuity a rent equal to the full market rent.

26. Where paragraph 17(2) of this Schedule applies, and in accordance with paragraph 23, paragraph 24 or paragraph 25 of this Schedule the right to receive any such rent as is therein mentioned would (apart from this paragraph) be a right continuing beyond the end of the period referred to in paragraph 17(2)(*b*) of this Schedule, the capital value of that right shall be calculated as if the right would expire at the end of that period.

27. Where the relevant interest is in reversion immediately expectant upon the termination of a tenancy which (by virtue of section 32(4) of this Act) is not an assessable interest, that tenancy shall be disregarded for the purposes of paragraphs 23 to 25 of this Schedule.

Base value

28. Except in so far as the relevant Schedules otherwise provide, for the purpose of assessing levy in Case C the base value of the relevant interest shall be ascertained in accordance with the following provisions of this Part of this Schedule.

29.—(1) There shall first be ascertained what at the relevant date is the value of the relevant interest, calculated in accordance with Schedule 6 to this Act and on the assumption that planning permission—

(*a*) would be granted for any development of the relevant land which does not constitute material development, but

(*b*) would not be granted for any development of that land which constitutes material development.

(2) If at the relevant date the carrying out of the relevant project is authorised (wholly or in part) by planning permission then in force, the value referred to in the preceding sub-paragraph shall be ascertained as if no such planning permission were then in force.

(3) Where the nature of the relevant project is such as is described in paragraph 17(2) of this Schedule, the value referred to in sub-paragraph (1) of this paragraph—

(*a*) where the relevant interest is the fee simple, shall be calculated as if it were a tenancy expiring at the end of the period mentioned in the said paragraph 17(2), and

(*b*) where the relevant interest is a tenancy for a term of years extending beyond the end of that period, shall be calculated as if it were for a term expiring at the end of that period.

30.—(1) For the purpose of calculating the value referred to in the last preceding paragraph, the relevant interest shall, except to the extent provided by the next following sub-paragraph, be treated as if it were free from any incumbrances to which it is subject.

(2) In calculating that value there shall be taken into account—

(*a*) any incumbrance of a description specified in paragraph 18(2) of this Schedule which is subsisting at the relevant date and affects the relevant land or any part of it, in so

far as that incumbrance would restrict the doing of anything not comprised in the relevant project, and

(*b*) any incumbrance of a description specified in paragraph 19 of this Schedule which is subsisting at the relevant date and affects the relevant land or any part of it ;

and, if the relevant interest is in reversion expectant upon the termination of one or more tenancies, that interest shall be valued subject to and with the benefit of those tenancies.

31. The value of the relevant interest, calculated in accordance with paragraphs 29 and 30 of this Schedule, is in this Part of this Schedule referred to as the current use value of the relevant interest.

32. It shall also be ascertained whether the value of an interest in any other land held with the relevant land or part of it, where the person entitled to the relevant interest is also entitled in the same capacity to that other interest, has been or will be depreciated in consequence of the carrying out of the relevant project, and, if so, the amount of that depreciation shall be determined.

33. Subject to the next following paragraph, the base value of the relevant interest shall then be taken to be an amount equal to the aggregate of—

(*a*) eleven-tenths of the current use value of the relevant interest, and

(*b*) the amount (if any) by which the value of any such other interest as is mentioned in the last preceding paragraph has been or will be depreciated in consequence of the carrying out of the relevant project.

34.—(1) Where the relevant land includes a building which is in existence at the relevant date, and the relevant project does not consist of or include any such alteration or change of use of that building as to constitute material development of the existing site, the current use value of the relevant interest shall be apportioned between the interest as it subsists in the existing site and the interest as it subsists in the remainder of the relevant land, and the base value of the relevant interest shall be taken to be an amount equal to the aggregate of—

(*a*) the current use value of the relevant interest in so far as it subsists in the existing site, and

(*b*) eleven-tenths of the current use value of the relevant interest in so far as it subsists in the remainder of the relevant land, and

(*c*) any such amount as is mentioned in paragraph 33(*b*) of this Schedule.

(2) In this paragraph " the existing site " means any such building as is mentioned in the preceding sub-paragraph together with the land covered by that building.

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PART IV

CASES D AND E

Amount of compensation or consideration

35. For the purpose of assessing levy in Case D, the amount of the compensation shall be taken to be the amount notified to the Commission, in pursuance of section 40 of this Act, as being the amount of that compensation in so far as it is compensation in respect of depreciation of the value of the relevant interest.

36. For the purpose of assessing levy in Case E, the amount of the consideration for the disposition shall, subject to the provisions of Schedule 6 to this Act, be taken to be the amount of the consideration which, in accordance with the terms of the disposition or of any contract in pursuance of which the disposition is made, is to be given for the disposition, whether to the grantor or to any other person.

Base value

37. Except in so far as the relevant Schedules otherwise provide, the base value of the relevant interest shall be ascertained in accordance with the next following paragraph.

38.—(1) There shall be ascertained what at the relevant date would have been the value of the relevant interest, calculated in accordance with Schedule 6 to this Act and on the assumptions specified in the next following sub-paragraph, if—

(*a*) in Case D, the relevant order or decision had not been made, or

(*b*) in Case E, the disposition had not been made.

(2) In calculating that value it shall be assumed that planning permission—

(*a*) would be granted for any development of the relevant land which does not constitute material development, but

(*b*) would not be granted for any development of that land which constitutes material development.

(3) The value of the relevant interest, calculated as mentioned in the preceding sub-paragraphs, shall then be taken to be, and is in the next following sub-paragraph referred to as, the current use value of the relevant interest.

(4) The base value of the relevant interest shall then be taken to be an amount equal to eleven-tenths of the current use value of the relevant interest.

Restricted value after depreciation or disposition

39. There shall also be ascertained what at the relevant date is the value of the relevant interest, calculated in accordance with Schedule 6 to this Act and on the assumptions specified in paragraph 38(2) of this Schedule, taking into account the effect—

(*a*) in Case D, of the relevant order or decision, or

(*b*) in Case E, of the disposition.

40. The restricted value of the relevant interest after the depreciation (in Case D) or after the disposition (in Case E) shall then be taken to be an amount equal to the value ascertained under the last preceding paragraph. SCH. 4

PART V

EXPENDITURE ON IMPROVEMENTS AND ANCILLARY RIGHTS

41.—(1) The provisions of this Part of this Schedule shall have effect for the purpose of assessing levy in any of Cases A to F.

(2) In this Part of this Schedule " the chargeable owner "—

(*a*) in any of Cases A, C, D and E, means the person who immediately before the chargeable act or event is entitled to the relevant interest ;

(*b*) in Case B, means the grantor ; and

(*c*) in Case F, means the person prescribed by the regulations under section 35 of this Act as being the person liable to pay the levy ;

" predecessor " means a predecessor in title of the chargeable owner, not being a person from whom that owner or any other predecessor in title of his derived title under a disposition for valuable consideration ; and " adjacent land ", in relation to any chargeable act or event, means land held with, and contiguous or adjacent to, the relevant land, where the chargeable owner is entitled in the same capacity to his interest in that land and his interest in the relevant land.

42. Subject to the following provisions of this Part of this Schedule, expenditure to which this Part of this Schedule applies is any expenditure which has, on or after 1st July 1948 but before the relevant date, been incurred by the chargeable owner or a predecessor—

(*a*) in executing, or defraying (whether voluntarily or otherwise) the whole or any part of the cost of executing, any works in, on, over or under the relevant land or any other land, where in consequence of the execution of those works the market value of the relevant interest, or, in Case B, the amount of the consideration for the disposition, is greater than it would have been if they had not been executed, or

(*b*) in the payment of any consideration for a disposition made before 29th December 1965 which consisted either of the grant of an easement for the benefit of the whole or any part of the relevant land or of any adjacent land, or of the release or modification of an easement or restrictive right affecting the whole or any part of the relevant land or of any adjacent land, or

(*c*) in the payment of any consideration for a disposition made on or after the first appointed day which constituted a chargeable act or event falling within Case E, where, in the notice served on the Commission in accordance with section 41 of this Act, the whole or any part of the relevant land or of any adjacent land was specified as being the land falling within paragraph (*c*) or, as the case may be, paragraph (*d*) of subsection (2) of that section, or

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1925 c. 20.

(*d*) in the payment of any compensation required to be paid in pursuance of section 84(1) of the Law of Property Act 1925 (power to discharge or modify restrictive covenants affecting land) where the restriction which was discharged or modified affected the whole or any part of the relevant land or of any adjacent land.

43. In sub-paragraphs (*b*) to (*d*) of the last preceding paragraph, any reference to the relevant land or to any adjacent land includes a reference to that land together with any other land.

44.—(1) For the purpose of assessing levy in Case C in connection with a project of material development, the Commission may, if they think fit, direct that any expenditure which has been incurred by the chargeable owner or a predecessor on or after the relevant date, but not more than six years after that date,—

(*a*) in the payment of any such consideration as is mentioned in sub-paragraph (*c*) of paragraph 42 of this Schedule, or

(*b*) in the payment of any such compensation as is mentioned in sub-paragraph (*d*) of that paragraph,

shall, to such extent as may be specified in the direction, be taken into account for the purposes of this Part of this Schedule as if it had been incurred on or after 1st July 1948 but before the relevant date.

(2) Where such a direction is given after a notice of assessment of levy has been served, whether that notice has resulted in an operative assessment of levy or not, the provisions of Part III of this Act as to the steps to be taken in consequence of such a notice shall have effect subject to the necessary modifications; and, if the direction is given after the levy has been paid, and in consequence of the direction the principal amount of levy payable is less than the amount paid, the Commission shall repay the excess.

(3) In the following provisions of this Part of this Schedule any reference to expenditure incurred as mentioned in paragraph 42 of this Schedule includes a reference to any expenditure in so far as, by virtue of a direction under this paragraph, it is to be treated as having been so incurred.

45. Notwithstanding anything in paragraph 42 of this Schedule, this Part of this Schedule does not apply—

(*a*) to any expenditure incurred in, or in respect of, the carrying out of any work of maintenance, repair or decoration or any similar work of a recurrent nature, or

(*b*) to any expenditure incurred in the payment of any tax, or

(*c*) to any expenditure incurred in the payment of any rate or charge levied by virtue of an enactment in respect of a particular year or other period and so levied at a specified rate per pound of annual, rateable or other value assessed in respect of land, or

(*d*) to any expenditure in respect of which (as being expenditure in respect of work rendered abortive) a right to compensation under section 118 of the Act of 1962 or under that section as applied by section 119 of that Act, or under section 20 of the Scottish Act of 1947, has accrued before the relevant date, or

(*e*) to any expenditure which has been or is to be met directly or indirectly by a government department or a local authority, or

(*f*) to so much of any expenditure incurred after 29th December 1965 in carrying out any work as exceeded the proper cost of the work (that is to say, such cost as was reasonable, regard being had to the prices of materials and rates of remuneration for services current at the time when the work was carried out), or

(*g*) to any expenditure incurred in, or in respect of, the carrying out of any work which constituted an offence under section 62 of the Act of 1962 or section 26(6) or section 27(5) of the Scottish Act of 1947 (which relate to tree and building preservation orders) or under the Ancient Monuments Acts 1913 to 1953.

46. For the purposes of paragraph 42 of this Schedule, any sum which a person has (whether in pursuance of an enactment or otherwise) become liable to pay in respect of any of the matters specified in sub-paragraphs (*a*) to (*d*) of that paragraph shall, whether that sum has been paid (wholly or in part) or not, be treated—

(*a*) as expenditure incurred by that person in respect of that matter, and

(*b*) as expenditure so incurred on the date on which that liability accrued, or, if the sum was or is payable by instalments, on the date on which the first of the instalments accrued due.

47. Where any expenditure incurred as mentioned in paragraph 42 of this Schedule did not relate exclusively to the relevant land—

(*a*) the expenditure shall be divided into two parts, in proportion to the extent to which it enured for the benefit of the relevant land and for the benefit of other land respectively, and

(*b*) one of those parts (that is to say, the part representing the proportion to which it enured for the benefit of the relevant land) shall, subject to the following provisions of this Schedule, be treated as expenditure to which this Part of this Schedule applies, and the other part shall be treated as not being such expenditure.

48.—(1) Provision may be made by regulations for disallowing the whole or part of any expenditure incurred as mentioned in paragraph 42 of this Schedule, in so far as that expenditure has been taken into account, in accordance with the provisions of Part III of this Act, in connection with any other chargeable act or event.

(2) So much of any expenditure as is disallowed in accordance with any regulations under this paragraph shall not be taken to be expenditure to which this Part of this Schedule applies.

49. Where in consequence of any expenditure to which this Part of this Schedule applies the current use value of the relevant interest (ascertained in accordance with Part I, Part III or Part IV of this Schedule, as the case may be) or, in Case B, the current use

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value of the chargeable interest (ascertained in accordance with paragraph 11 of this Schedule) is greater or less than it would have been if the expenditure had not been incurred,—

(*a*) the amount of the difference (whether it is an excess or a deficiency) shall be determined, and

(*b*) the amount of the expenditure shall, for the purposes of the following provisions of this Part of this Schedule, be treated as reduced by the amount of the excess, or as increased by the amount of the deficiency, as the case may be.

50. Where in connection with any chargeable act or event not falling within Case B the amount of any expenditure to which this Part of this Schedule applies has been ascertained in accordance with the preceding provisions of this Part of this Schedule, any reference in Part III of this Act to the amount of any expenditure on improvements or ancillary rights in so far as it has increased the development value of the relevant interest shall be construed as a reference to the amount so ascertained.

51. Where in connection with a disposition falling within Case B the amount of any expenditure to which this Part of this Schedule applies has been ascertained in accordance with the preceding provisions of this Part of this Schedule, then for the purpose of assessing levy in respect of that disposition—

(*a*) there shall be calculated what amount bears to the total amount of that expenditure so ascertained the proportion specified in paragraph 13 of this Schedule, and

(*b*) the reference in section 30(4) of this Act to the amount of any expenditure on improvements or ancillary rights in so far as it has increased the development value realised by the disposition shall be construed as a reference to the amount calculated in accordance with the preceding sub-paragraph.

Section 85(1)

SCHEDULE 5

BASE VALUE DERIVED FROM PREVIOUS TRANSACTION

PART I

BASE VALUE DERIVED FROM PREVIOUS DISPOSITION

Introductory

1. The provisions of this Part of this Schedule shall have effect for the purpose of assessing levy in respect of any chargeable act or event (in this Part of this Schedule referred to as " the chargeable act or event ") where immediately before the relevant date the chargeable owner derives title to the chargeable interest under one or more relevant dispositions of that interest.

2.—(1) In this Part of this Schedule " the chargeable interest "—

(*a*) in any of Cases A, C, D and E, means the interest which, in relation to the chargeable act or event, constitutes the relevant interest ;

(*b*) in Case B, means the interest in the relevant land which the grantor has immediately before the disposition in so far as that interest subsists in that land ; and

(*c*) in Case F, means such interest as may be prescribed by the regulations made under section 35 of this Act,

and "the chargeable owner" means the person who immediately before the chargeable act or event is entitled to the chargeable interest.

(2) In this Part of this Schedule "disposition falling within the antecedent period" means a disposition which either—

(*a*) was made within the period beginning on 1st July 1948 and ending with 22nd September 1965, or

(*b*) was made after the end of that period but before the first appointed day, and was so made in pursuance of an enforceable contract made before the end of that period, other than a contract granting an option which was not exercised before the end of that period.

(3) Any reference in this Part of this Schedule to a previous disposition of the chargeable interest shall be construed as including a reference to any previous disposition which—

(*a*) comprised the whole or part of the relevant land together with other land, and

(*b*) would (apart from this sub-paragraph) have been a previous disposition of the chargeable interest if it had been limited to the relevant land.

3. For the purposes of this Part of this Schedule a previous disposition of the chargeable interest shall (subject to paragraphs 4 and 5 of this Schedule) be taken to have been a relevant disposition of that interest if it was a disposition for valuable consideration under which the chargeable owner or a predecessor in title of his became entitled to the chargeable interest, and either—

(*a*) it was a disposition falling within the antecedent period, or

(*b*) it was made on or after the first appointed day and constituted a chargeable act or event which was or is notified in accordance with the provisions as to notification contained in Part III of this Act.

4. A previous disposition of the chargeable interest (whether made before, on or after the first appointed day) shall not be taken for the purposes of this Part of this Schedule to have been a relevant disposition of that interest if, after that disposition was made but before the relevant date,—

(*a*) the carrying out of a project of material development of the whole or part of the relevant land was begun, and

(*b*) the beginning of the carrying out of that project constituted a chargeable act or event and notice in respect of that project was or is served under section 38, section 66(3)(*b*) or section 68 of this Act.

5.—(1) A previous disposition of the chargeable interest (whether made before, on or after the first appointed day) shall not be taken for the purposes of this Part of this Schedule to have been a relevant disposition of that interest if, after that disposition was made but before the relevant date, there has occurred a chargeable act or event to which this paragraph applies.

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(2) This paragraph applies to any chargeable act or event falling within Case D or Case E in such circumstances that the interest which, for the purpose of assessing levy in respect of that act or event, constituted the relevant interest was the chargeable interest in so far as it subsisted in the land which for that purpose was the relevant land.

(3) For the purposes of this paragraph a chargeable act or event to which this paragraph applies shall be taken to have occurred on the date which was the relevant date for the purpose of assessing levy in respect of it.

(4) Regulations made for the purposes of this Schedule may provide that, in such circumstances as may be specified in the regulations and subject to such exceptions and modifications as may be so specified, the preceding provisions of this paragraph shall have effect in relation to a previous chargeable act or event which fell within Case F and consisted of—

(*a*) such a disposition as is mentioned in subsection (3) of section 35 of this Act, or

(*b*) the accrual of such a right to compensation as is mentioned in subsection (5) of that section,

as those provisions have effect in relation to a chargeable act or event to which this paragraph applies.

6. In the following provisions of this Part of this Schedule "the last relevant disposition" means that disposition of the chargeable interest which was the last relevant disposition of that interest made before the relevant date.

Consideration taken as base value

7. Subject to the following provisions of this Schedule and to such other provisions of the relevant Schedules as are applicable to this paragraph, if the amount of the consideration given for the last relevant disposition exceeded the value which would be the base value of the relevant interest ascertained apart from this Part of this Schedule, then for the purpose of assessing levy in respect of that act or event the amount of that consideration (instead of the value so ascertained) shall be taken to be the base value of the relevant interest.

Adjustment in case of last relevant disposition falling within antecedent period

8. Where the last relevant disposition was a disposition falling within the antecedent period, and by virtue of the last preceding paragraph the amount of the consideration given for that disposition is taken to be the base value of the relevant interest for the purpose of assessing levy in respect of the chargeable act or event, then the provisions of Part V of Schedule 4 to this Act shall have effect for that purpose as if paragraph 49 of that Schedule were omitted.

Adjustment for change in current use value

9.—(1) The provisions of this paragraph shall have effect where the last relevant disposition was a disposition falling within paragraph 3(*b*) of this Schedule.

(2) After the current use value of the relevant interest has been ascertained in accordance with those provisions of Schedule 4 to this Act which are applicable to the chargeable act or event, it

shall be determined whether the amount of that current use value (so ascertained) is greater or less than it would have been if it had fallen to be ascertained as at the date of the last relevant disposition, and, if so, the amount of the difference (whether it is an excess or a deficiency) shall be determined.

(3) For the purpose of determining under the last preceding sub-paragraph what would have been the current use value of the relevant interest if ascertained as at the date of the last relevant disposition, where that disposition constituted a chargeable act or event falling within Case A, the reference in that sub-paragraph to the date of that disposition shall be construed as a reference to the time immediately after that disposition was made.

(4) If the determination under sub-paragraph (2) of this paragraph shows an excess or a deficiency, then, for the purposes of paragraph 7 of this Schedule, the amount of the consideration given for the last relevant disposition shall be treated as increased by the amount of the excess, or as reduced by the amount of the deficiency, as the case may be.

Dispositions by exempted bodies during interim period

10.—(1) Subject to paragraphs 4 and 5 of this Schedule, a previous disposition of the chargeable interest, which was a disposition for valuable consideration made after 1st July 1948 under which the chargeable owner or a predecessor in title of his became entitled to the chargeable interest, shall for the purposes of this Part of this Schedule be taken to have been a relevant disposition of that interest, notwithstanding that it was made before the first appointed day and was not a disposition falling within the antecedent period, if any of the conditions specified in the next following sub-paragraph was fulfilled in relation to the disposition.

(2) Those conditions are—

(*a*) that the person in whom, immediately before the disposition was made, the chargeable interest was vested was a body to whom section 56 of this Act applies;

(*b*) that, immediately before the disposition was made, the chargeable interest fulfilled one or other of the conditions specified in section 57(2) of this Act;

(*c*) that, immediately before the disposition was made, the chargeable interest was vested in statutory undertakers and the relevant land fulfilled one or other of the conditions specified in paragraph (*b*) of subsection (1) of section 58 of this Act, or the chargeable interest was vested in the National Coal Board and the relevant land fulfilled one or other of the conditions specified in that paragraph as modified by subsection (5) of that section;

(*d*) that, immediately before the disposition was made, the chargeable interest was a Crown interest or a Duchy interest (as defined by section 75(6) of this Act) or such an interest as is described in section 83(1) of the Scottish Act of 1947.

Dispositions to builders or developers on or after 1st August 1966

11.—(1) For the purpose of assessing levy in Case C in respect of a project of material development where the conditions specified in

SCH. 5 sub-paragraph (3) of this paragraph are fulfilled, a disposition to which this paragraph applies shall, subject to paragraphs 4 and 5 of this Schedule, be taken to have been a relevant disposition of the chargeable interest, notwithstanding that it does not fall within paragraph 3 of this Schedule.

(2) This paragraph applies to any disposition which (not being a disposition falling within the antecedent period by virtue of paragraph 2(2)(*b*) of this Schedule)—

(*a*) was made on or after 1st August 1966 and before the first appointed day, and

(*b*) was a disposition for valuable consideration under which the chargeable owner or a predecessor in title of his became entitled to the chargeable interest.

(3) The conditions referred to in sub-paragraph (1) of this paragraph are—

(*a*) that the project of material development in question is one to which section 62 of this Act applies ;

(*b*) that the carrying out of that project is begun before the end of the period of six months beginning with the first appointed day ;

(*c*) that the chargeable owner is the developing owner in relation to that project and the chargeable interest is the assessable interest, or one of the assessable interests, by virtue of which he is the developing owner in relation to it ; and

(*d*) that the chargeable owner is a builder or developer of residential property (as defined by section 62(7) of this Act).

(4) This paragraph shall have effect without prejudice to any exemption conferred by section 62 of this Act.

Adjustment where paragraph 10 or paragraph 11 applies

12. Where by virtue of paragraph 10 or paragraph 11 of this Schedule a previous disposition of the chargeable interest was a relevant disposition of that interest, and it was the last relevant disposition, paragraph 8 of this Schedule shall apply as if it had been a disposition falling within the antecedent period.

Application of this Part of this Schedule to Case B

13. The provisions of paragraphs 14 to 17 of this Schedule shall have effect where the chargeable act or event is a disposition granting a tenancy.

14.—(1) If the last relevant disposition was a disposition falling within paragraph 3(*b*) of this Schedule, then, after the current use value of the chargeable interest has been ascertained in accordance with paragraph 11 of Schedule 4 to this Act, it shall be determined whether the amount of that current use value (so ascertained) is greater or less than it would have been if it had fallen to be ascertained as at the date of the last relevant disposition, and, if so, the amount of the difference (whether it is an excess or a deficiency) shall be determined.

(2) If the determination under the preceding sub-paragraph shows an excess or a deficiency, then for the purposes of this Part of this

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Schedule the amount of the consideration given for the last relevant disposition shall be adjusted by increasing it by the amount of the excess, or by reducing it by the amount of the deficiency, as the case may be.

15. There shall then be calculated what amount bears to the amount of the consideration given for the last relevant disposition (or, where the last preceding paragraph applies, bears to the amount of that consideration as adjusted under that paragraph) the proportion specified in paragraph 13 of Schedule 4 to this Act; and that amount so calculated is in the next following paragraph referred to as the apportioned part of the consideration.

16. Subject to the following provisions of this Schedule and to such other provisions of the relevant Schedules as are applicable to this paragraph, if the apportioned part of the consideration exceeds the value which would be the base value realised by the disposition ascertained apart from this Part of this Schedule, then for the purpose of assessing levy in respect of the chargeable act or event the apportioned part of the consideration (instead of the value so ascertained) shall be taken to be the base value realised by the disposition.

17. Where the last relevant disposition was a disposition falling within the antecedent period, and the last preceding paragraph has effect for the purpose of assessing levy in respect of the chargeable act or event, then the provisions of Part V of Schedule 4 to this Act shall have effect for that purpose as if paragraph 49 of that Schedule were omitted.

PART II

BASE VALUE DERIVED FROM CONTRACT (CASE C)

18. The provisions of this Part of this Schedule shall have effect for the purpose of assessing levy in Case C where a person is the developing owner in relation to the relevant project and—

(*a*) at the relevant date he is under an enforceable contract to purchase the relevant interest, or

(*b*) the relevant interest is such a tenancy as is mentioned in section 32(2) of this Act and he is under a contract to take that tenancy as therein mentioned.

19. In the following provisions of this Part of this Schedule "the contract" means the contract referred to in sub-paragraph (*a*) or sub-paragraph (*b*) of the last preceding paragraph, as the case may be.

20.—(1) Subject to the following provisions of this Schedule and to such other provisions of the relevant Schedules as are applicable to this paragraph, if—

(*a*) the consideration to be given under the contract for the relevant interest is a sum specified in the contract or (if not so specified) is a sum of which the actual amount has been determined before the date mentioned in the next following sub-paragraph, and

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(*b*) the amount of that consideration exceeds the value which would be the base value of the relevant interest ascertained apart from this Part of this Schedule,

then for the purpose of assessing levy in respect of that interest that amount (instead of the value so ascertained) shall be taken to be the base value of the relevant interest.

(2) The date referred to in sub-paragraph (1)(*a*) of this paragraph is the latest date on which, in accordance with section 46(2) of this Act, a counter-notice could be served objecting to a notice of assessment of levy served in respect of the relevant interest.

(3) For the purposes of the application of this paragraph to a contract falling within paragraph 18(*b*) of this Schedule—

(*a*) any reference in sub-paragraph (1) of this paragraph to the consideration to be given under the contract for the relevant interest shall be construed as a reference to so much of that consideration as does not consist of rent to be paid under the tenancy; and

(*b*) if that consideration consists of or includes any periodical payment, other than rent, the requirement imposed by sub-paragraph (1)(*a*) of this paragraph shall, in relation to that payment, be construed as a requirement that the amount of the payment, and the times at which, and the period during which, it is to be paid are specified in the contract or (if not so specified) have been determined before the date mentioned in the last preceding sub-paragraph.

21. Where by virtue of the last preceding paragraph the amount of the consideration to be given under the contract for the relevant interest is taken to be the base value of that interest, then for the purpose of assessing levy in Case C in respect of that interest the provisions of Part V of Schedule 4 to this Act shall have effect as if paragraph 49 of that Schedule were omitted.

PART III

RELATED TENANCIES

22.—(1) The provisions of this Part of this Schedule shall have effect for the purpose of assessing levy in respect of a chargeable act or event (in this Part of this Schedule referred to as "the chargeable act or event") where by a relevant disposition there was assigned to the chargeable owner, or to a predecessor of his, a related tenancy which, whether by merger on being assigned to him or by merger after it was assigned to him, has ceased to exist before the relevant date.

(2) In this Part of this Schedule "related tenancy" means a tenancy which either—

(*a*) was created out of the chargeable interest, or

(*b*) was a tenancy such that, immediately before it was assigned as mentioned in the preceding sub-paragraph, the chargeable interest was in reversion expectant (whether immediately or not) on its termination.

(3) For the purposes of this Part of this Schedule, paragraph 2 of this Schedule shall have effect in relation to a chargeable act or event falling within sub-paragraph (1) of this paragraph as for the purposes of Part I of this Schedule that paragraph has effect in relation to a chargeable act or event falling within paragraph 1 of this Schedule.

(4) In this paragraph "predecessor" means a predecessor in title of the chargeable owner, not being a person from whom that owner or any other predecessor in title of his derived title under a disposition for valuable consideration.

23. For the purposes of this Part of this Schedule a disposition assigning a related tenancy shall be taken to have been a relevant disposition of that tenancy if it was a disposition for valuable consideration and either—

(*a*) it was a disposition falling within the antecedent period, or

(*b*) it was made on or after the first appointed day and constituted a chargeable act or event which was or is notified in accordance with the provisions as to notification contained in Part III of this Act:

Provided that paragraphs 4 and 5 of this Schedule shall have effect in relation to any disposition assigning a related tenancy, as if in those paragraphs any reference to the chargeable interest were a reference to that tenancy.

24. Where the last relevant disposition of a related tenancy was a disposition falling within the antecedent period,—

(*a*) the amount of the consideration given for that disposition shall be ascertained, and

(*b*) the amount of the base value of the relevant interest (ascertained apart from this Part of this Schedule) shall be adjusted by adding to it the amount of that consideration.

25. Where the last relevant disposition of a related tenancy was a disposition falling within paragraph 23(*b*) of this Schedule, there shall be ascertained—

(*a*) the amount of the consideration given for that disposition, and

(*b*) the value (in this paragraph referred to as "the previous current use value") which, for the purpose of assessing levy in respect of that disposition, was or is taken to be the current use value of that tenancy,

and the amount of the base value of the relevant interest (ascertained apart from this Part of this Schedule) shall be adjusted by adding to it the amount (if any) by which the consideration given for the last relevant disposition of the related tenancy exceeded the previous current use value.

26. The provisions of paragraph 27 or (as the case may be) paragraph 28 of this Schedule shall have effect (instead of paragraph 24 or paragraph 25 of this Schedule) where the chargeable act or event is a disposition falling within Case B.

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27. Where the last relevant disposition of a related tenancy was a disposition falling within the antecedent period,—

(*a*) there shall be ascertained what amount bears to the amount of the consideration given for that last relevant disposition the proportion specified in paragraph 13 of Schedule 4 to this Act, and

(*b*) the amount of the base value realised by the disposition constituting the chargeable act or event (ascertained apart from this Part of this Schedule) shall be adjusted by adding to it the amount ascertained under the preceding sub-paragraph.

28. Where the last relevant disposition of a related tenancy was a disposition falling within paragraph 23(*b*) of this Schedule, there shall be ascertained—

(*a*) the amount of the consideration given for that last relevant disposition;

(*b*) the value (in this paragraph referred to as "the previous current use value") which, for the purpose of assessing levy in respect of that disposition, was or is taken to be the current use value of that tenancy;

(*c*) the amount by which the consideration given for the last relevant disposition of the related tenancy exceeded the previous current use value; and

(*d*) what amount bears to the amount referred to in the last preceding sub-paragraph the proportion specified in paragraph 13 of Schedule 4 to this Act;

and the amount of the base value realised by the disposition which constitutes the chargeable act or event (ascertained apart from this Part of this Schedule) shall be adjusted by adding to it the amount ascertained in accordance with sub-paragraph (*d*) of this paragraph.

29. The provisions of this Part of this Schedule shall apply where there were two or more related tenancies, as well as where there was only one related tenancy; and, where there were two or more related tenancies, any adjustment required by this Part of this Schedule shall be made separately in relation to each of the tenancies, and those adjustments shall have effect cumulatively.

PART IV

SUPPLEMENTARY PROVISIONS

Mortgages

30. For the purposes of Parts I and III of this Schedule a mortgage, or, in Scotland, a heritable security, shall not be taken to have been a relevant disposition, whether the mortgage has been foreclosed or not, or, as the case may be, whether the power of sale conferred by the heritable security has been exercised or not.

Previous disposition not duly notified

31. Where a disposition, which was made on or after the first appointed day, would for the purposes of Part I of this Schedule have been a relevant disposition of the chargeable interest, or would for the purposes of Part III of this Schedule have been a relevant disposition of a related tenancy, if it had been notified in accordance with the provisions as to notification contained in Part III of this Act, but it was not so notified, then, if the Commission are satisfied that the omission to notify it was due to inadvertence, the Commission may direct either—

(*a*) that the preceding provisions of this Schedule shall have effect as if it had been so notified, or

(*b*) that those provisions shall have effect as mentioned in the preceding sub-paragraph, but as if the amount of the consideration given for the disposition were such part of the consideration actually given for it as may be specified in the direction.

Related tenancy assigned on or after relevant date

32.—(1) The provisions of this paragraph shall have effect for the purpose of assessing levy in Case C where—

(*a*) by a disposition made for valuable consideration on or after, but not more than six years after, the relevant date a tenancy which was subsisting on the relevant date is assigned to the chargeable owner and thereupon merges in the chargeable interest, and

(*b*) that assignment constitutes a chargeable act or event which is notified in accordance with the provisions as to notification contained in Part III of this Act.

(2) Where the preceding sub-paragraph applies, paragraphs 25 and 29 of this Schedule shall apply as if the tenancy had been a related tenancy within the meaning of Part III of this Schedule and the assignment of the tenancy had been the last relevant disposition of it for the purposes of that Part of this Schedule.

(3) If, in a case where sub-paragraph (1) of this paragraph applies, the assignment is notified after a notice of assessment of levy in Case C has been served and has resulted in an operative assessment of levy, any person who has paid, or would be liable to pay, levy payable in accordance with the assessment may make an application in writing to the Commission for relief; and the Commission, having regard to the preceding provisions of this paragraph, shall give by way of repayment or otherwise such relief as is appropriate in the circumstances.

(4) Subsections (3) to (5) of section 54 of this Act shall have effect in relation to any application under the last preceding sub-paragraph as they have effect in relation to an application under that section, as if in those subsections any reference to varying the notice of assessment of levy by reducing the principal amount of the levy included a reference to discharging that notice and giving such consequential directions as the Lands Tribunal may determine to be appropriate.

SCHEDULE 6

Section 85(1). SUPPLEMENTARY PROVISIONS RELATING TO SCHEDULES 4 AND 5

Consideration

1. In determining, for the purposes of Part III of this Act, what was or is the amount of the consideration given or to be given for a disposition (whether made before or after the passing of this Act) there shall, subject to the following provisions of this Schedule, be taken into account, in addition to the purchase price (if any),—

(*a*) the value of any property which, in accordance with the terms of the disposition or of any contract in pursuance of which the disposition was or is made, was or is given or agreed to be given in exchange;

(*b*) the amount of any capital sum charged on the land, or on the interest in land, comprised in the disposition and constituting an incumbrance subject to which the disposition was or is made, whether that incumbrance subsisted before the disposition or was or is created by it;

(*c*) the capital value of the right of the grantor or any other person, other than the grantee, to receive any rent, rentcharge, feu-duty, ground annual or other periodical payment, not being rent or a payment arising under a tenancy, where the disposition was or is made subject to that rent, rentcharge, feu-duty, ground annual or payment, or where that rent, rentcharge, feu-duty, ground annual or payment was or is payable in accordance with the terms of the disposition or of any contract in pursuance of which the disposition was or is made;

(*d*) the amount of any debt (not falling within sub-paragraph (*b*) of this paragraph) which, in accordance with those terms, was or is released or agreed to be released, or paid or agreed to be paid by a person other than the debtor, or against which the debtor, in accordance with those terms, was or is indemnified or agreed to be indemnified;

(*e*) any other thing representing money or money's worth which, in accordance with those terms, was or is done or agreed to be done.

2. Notwithstanding anything in paragraph 1 of this Schedule, in calculating the consideration given or to be given for a disposition of an interest in land, there shall be left out of account so much of the purchase price, or of any other matter falling within any of sub-paragraphs (*a*) to (*e*) of that paragraph, as related or relates to payment for chattels, or, in Scotland, corporeal moveables.

3. For the avoidance of doubt it is hereby declared that the matters to be taken into account as mentioned in paragraph 1 of this Schedule do not include any contingent local land charge.

Calculation of value

4.—(1) Where for any of the purposes of Schedules 4 and 5 to this Act the value of any interest in land, or any depreciation of the value of such an interest, falls to be calculated, it shall, subject to the following provisions of this paragraph, be calculated by reference

to the price, or, as the case may be, the depreciation of the price, which that interest might reasonably be or have been expected to fetch on a sale in the open market at the time by reference to which the value or depreciation falls to be calculated.

(2) In calculating any such value or depreciation in accordance with the preceding sub-paragraph, the interest in question shall be treated as being offered for sale—

(*a*) free from any such capital sum as is mentioned in paragraph 1(*b*) of this Schedule (not being a contingent local land charge), and

(*b*) free from any rent, rentcharge, feu-duty, ground annual or other periodical payment falling within paragraph 1(*c*) of this Schedule.

(3) Sub-paragraph (1) of this paragraph shall have effect for the purpose of calculating the value of anything which in accordance with sub-paragraph (*a*) or sub-paragraph (*e*) of paragraph 1 of this Schedule is to be taken into account in determining the amount of the consideration given or to be given for a disposition, as it has effect for the purpose of calculating the value of an interest in land; but, with that exception, sub-paragraph (1) of this paragraph does not apply to the calculation of market value in accordance with paragraph 1 or any of paragraphs 23 to 26 of Schedule 4 to this Act.

(4) The preceding provisions of this paragraph shall have effect subject to any special provision made by any of the provisions of the relevant Schedules as to—

(*a*) assumptions to be made with respect to planning permission in calculating the value or depreciation in question, or

(*b*) matters to be taken into account, or left out of account, in calculating that value or depreciation, or

(*c*) any adjustment to be made after the amount of the value or depreciation in question has been initially calculated.

5. Where for the purposes of paragraph 7 or paragraph 8 or any of paragraphs 23 to 26 of Schedule 4 to this Act, or for the purposes of paragraph 1(*c*) of this Schedule, account has to be taken of the capital value of a right to receive a rent or other periodical payment, that value shall be calculated by reference to the price which that right might reasonably be or have been expected to fetch on a sale in the open market at the time by reference to which the value falls to be calculated.

Current use value and depreciation of other interests

6. In determining in any Case the base value of the relevant interest or, in Case B, the base value realised by the disposition, the provisions of the next following paragraph shall apply in calculating—

(*a*) the value of the relevant interest referred to in paragraph 3 of Schedule 4 to this Act, or

(*b*) the value of the chargeable interest referred to in paragraph 11 of that Schedule, or

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(*c*) the value of the relevant interest referred to in paragraph 29 of that Schedule, or

(*d*) the value of the relevant interest referred to in paragraph 38 of that Schedule ;

and any reference in the next following paragraph to the value is a reference to the value mentioned in the sub-paragraph of this paragraph which is appropriate to the Case in question.

7.—(1) Subject to the following provisions of this paragraph, in calculating the value no account shall be taken of any planning permission in force at the relevant date, in so far as it would authorise the carrying out of any project of material development of the relevant land to be begun or completed after that date.

(2) Where, in pursuance of any planning permission in force at the relevant date, the carrying out of a project of material development of the relevant land has been begun before that date, but has not been completed at that date, and either—

(*a*) the carrying out of that project was begun before the first appointed day, or

(*b*) where it was begun on or after the first appointed day, notice in respect of that project was served under section 38, section 66(3)(*b*) or section 68 of this Act before the relevant date,

then notwithstanding anything in the preceding sub-paragraph (but subject to paragraph 8 of this Schedule where that paragraph applies) in calculating the value account shall be taken of that planning permission in so far as it relates to the land comprised in that project.

(3) In taking account of any planning permission in accordance with the last preceding sub-paragraph,—

(*a*) if it is planning permission authorising the erection of one or more houses subject to a condition whereby they are to be occupied only by (or by persons connected with) persons who are or have been employed in agriculture or forestry, account shall be taken of it as if no such condition had been imposed ;

(*b*) if it is planning permission granted for a limited period, account shall be taken of it as if the condition whereby it is planning permission granted for a limited period had not been imposed.

(4) Where the carrying out of a project of material development has been begun before the relevant date in accordance with planning permission granted for a limited period, and that period has expired before the relevant date, and notice relating to that project has been served as mentioned in sub-paragraph (2)(*b*) of this paragraph, then in calculating the value account shall be taken of that planning permission in so far as it related to the land comprised in that project, and shall be so taken as if the condition whereby it was planning permission granted for a limited period had not been imposed.

(5) In calculating the value, no account shall be taken of any depreciation of the value of any interest in land other than the relevant land which is attributable to the chargeable act or event.

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(6) For the purpose of assessing levy in Case C in connection with a project of material development—

(*a*) references in the preceding sub-paragraphs to projects of material development shall be construed as not including that project, and

(*b*) those sub-paragraphs shall have effect without prejudice to the operation of paragraph 29(2) of Schedule 4 to this Act.

8.—(1) The provisions of this paragraph shall have effect for the purpose of assessing levy in Case A or Case B in respect of a disposition where—

(*a*) the grantee is a person who was the developing owner in relation to a project of material development in respect of which notice was served under section 38 of this Act before the date of the disposition, and

(*b*) the relevant interest is an interest to which the grantee was not entitled on the date on which the carrying out of the project was begun, but is an interest by virtue of which he was the developing owner in relation to that project in accordance with paragraph (*b*) or paragraph (*c*) of section 32(7) of this Act.

(2) Where, in the circumstances specified in the preceding sub-paragraph and for the purpose therein mentioned, the value referred to in paragraph 3 or paragraph 11 of Schedule 4 to this Act falls to be determined,—

(*a*) notwithstanding anything in paragraph 7 of this Schedule, in calculating that value no account shall be taken of any planning permission authorising the project in question to be carried out, and

(*b*) that value shall be calculated as if the relevant land were in the state in which it was, and were being used in the manner in which it was being used, immediately before the date on which the carrying out of the project was begun.

9.—(1) The provisions of this paragraph shall apply in calculating, for the purposes of paragraph 4, paragraph 14 or, as the case may be, paragraph 32 of Schedule 4 to this Act, the value of the other interest referred to in that paragraph and any depreciation of that value; and any reference in the following provisions of this paragraph to the other land is a reference to the land in which the other interest subsists.

(2) In calculating any value for the purposes referred to in the preceding sub-paragraph, it shall be assumed that planning permission—

(*a*) would be granted for any development of the other land which does not constitute material development, but

(*b*) would not be granted for any development of that land which constitutes material development.

(3) Subject to the last preceding sub-paragraph, in calculating any value for the purposes referred to in sub-paragraph (1) of this

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(*a*) any reference in that paragraph to the value were a reference to the value in question;

(*b*) any reference to the relevant land were a reference to the other land; and

(*c*) sub-paragraphs (5) and (6)(*b*) of that paragraph were omitted.

(4) Sub-paragraphs (2) to (4) of paragraph 21 of Schedule 4 to this Act shall apply in calculating, for the purposes of paragraph 32 of that Schedule, the value of the other interest and any depreciation of that interest, as those sub-paragraphs apply in calculating the rent referred to in paragraph 16 of that Schedule.

10.—(1) For the purpose of assessing levy in Case A or Case B, where there is a tenancy of the relevant land together with other land and that tenancy, in so far as it subsists in the relevant land, constitutes (in Case A) the relevant interest or (in Case B) the chargeable interest, paragraph 4 or (as the case may be) paragraph 14 of Schedule 4 to this Act shall apply as if the tenancy, in so far as it subsists in that other land, were a separate interest to which immediately before the disposition the grantor was entitled in the same capacity.

(2) For the purpose of assessing levy in Case C, where there is a tenancy of the whole or part of the relevant land together with other land and that tenancy, in so far as it subsists in the relevant land, constitutes the relevant interest, paragraph 32 of Schedule 4 to this Act shall apply as if the tenancy, in so far as it subsists in that other land, were a separate interest to which the person entitled to the relevant interest is entitled in the same capacity.

11. Regulations may provide that development of any description specified in the regulations, which does not constitute material development in accordance with section 99(2) of this Act, shall be treated as material development for the purposes of paragraphs 3, 11, 21(5), 29 and 38(2) of Schedule 4 to this Act, and for the purposes of paragraph 9(2) of this Schedule.

Tenancies and reversions

12.—(1) Regulations made under this paragraph may provide that any provisions of the relevant Schedules specified in the regulations shall have effect subject to such exceptions and modifications, and together with any such additional provisions, as may be so specified for the purpose of assessing levy in respect of a chargeable act or event where—

(*a*) the relevant interest (or, in Case B, the interest of the grantor) is a tenancy or a reversion, or

(*b*) any disposition of which account has to be taken in accordance with Schedule 5 to this Act (other than a disposition which constitutes the chargeable act or event) is or was a disposition assigning a tenancy, or is or was a disposition of a reversion, or

(*c*) there has been a disposition granting, or a disposition renewing, extending or otherwise varying, a tenancy, in such circumstances that, in accordance with Schedule 5

to this Act, account would have been taken of that disposition if it had been a disposition assigning that tenancy, or

(*d*) a tenancy for a term of years certain has been terminated by notice (whether given by the landlord or by the tenant) or has been terminated by the landlord otherwise than by notice, whether by re-entry, forfeiture or in any other way, and (in any such case) has been so terminated in such circumstances that, in accordance with Schedule 5 to this Act, account would have been taken of that termination if it had been a surrender of the tenancy to the landlord for valuable consideration.

(2) In this paragraph "reversion" means any interest in land (being either the fee simple or a tenancy) which is in reversion expectant on the termination of a tenancy of that land.

Apportionment

13. For the purpose of assessing levy in Case C where the relevant interest is an interest in part (but not the whole) of the relevant land—

(*a*) the full market rent, ascertained in accordance with paragraphs 16 to 21 of Schedule 4 to this Act, shall be apportioned as between that part of the relevant land and the remainder of that land, and

(*b*) any reference in paragraphs 23 to 25 of that Schedule to the full market rent shall be construed as a reference to so much of that rent as is apportioned to that part of the relevant land.

14.—(1) Where for the purpose of assessing levy in respect of any chargeable act or event account has (in accordance with any of the provisions of the relevant Schedules) to be taken—

(*a*) of the rent payable under a tenancy comprising the whole or part of the relevant land together with other land, or

(*b*) of the consideration given or to be given for a disposition of, or under a contract comprising, the whole or part of the relevant land together with other land,

the amount of the rent or consideration shall be apportioned, and the provisions in question shall have effect subject to that apportionment accordingly.

(2) For the purposes of the application of paragraph 25 or paragraph 28 of Schedule 5 to this Act to a related tenancy which was a tenancy of the whole or part of the relevant land together with other land—

(*a*) the previous current use value (as defined by that paragraph) shall be apportioned, and

(*b*) any reference in that paragraph to that value shall be construed as a reference to so much of that value as is apportioned to the relevant land or that part of the relevant land, as the case may be,

and the provisions of that paragraph shall have effect subject to that apportionment in addition to any apportionment required by sub-paragraph (1) of this paragraph.

SCH. 6 (3) The preceding sub-paragraphs shall have effect without prejudice to any apportionment which, for the purpose of assessing levy in respect of any chargeable act or event, is required by reason that an interest subsisting in the whole or part of the relevant land together with other land constitutes the relevant interest (or, in Case B, the chargeable interest) only in so far as it subsists in the relevant land.

(4) In this paragraph " apportioned " means apportioned as between the relevant land or part of it and other land and " apportionment " shall be construed accordingly, and " other land " means land not comprised in the relevant land.

15. Where any apportionment is required by paragraph 13 or paragraph 14 of this Schedule, or is required for any such reason as is mentioned in paragraph 14(3) of this Schedule, the apportionment shall be made in such manner as may be appropriate in the circumstances.

Modification of Schedule 5, Part I, in relation to certain previous dispositions

16.—(1) The provisions of this paragraph shall have effect for the purposes of the application of Part I of Schedule 5 to this Act to a previous disposition of the whole or part of the relevant land, with or without other land (in this paragraph referred to as " the previous disposition "), where either—

(*a*) the previous disposition would, but for paragraph 4 of that Schedule, have been the last relevant disposition for the purposes of that Part of that Schedule and the project of material development referred to in that paragraph comprised part (but not the whole) of the land comprised in that disposition, or

(*b*) the previous disposition would, but for paragraph 5 of that Schedule, have been the last relevant disposition for the purposes of that Part of that Schedule and the land which was the relevant land for the purpose of assessing levy in Case D or Case E as mentioned in that paragraph (in this paragraph referred to as " the Case D or Case E land ") comprised part (but not the whole) of the land comprised in that disposition.

(2) Where sub-paragraph (1)(*a*) of this paragraph applies, the previous disposition shall for the purposes of Part I of Schedule 5 to this Act be treated as if it had been two or more separate dispositions, that is to say—

(*a*) a disposition of so much of the relevant land as was comprised in the previous disposition and was also comprised in the project of material development;

(*b*) a disposition of so much of the relevant land as was comprised in the previous disposition but was not comprised in that project;

(*c*) a disposition of such other land (if any) as was comprised in the previous disposition but is not comprised in the relevant land.

(3) Where sub-paragraph (1)(*b*) of this paragraph applies, the previous disposition shall for the purposes of Part I of Schedule 5 to this Act be treated as if it had been two or more separate dispositions, that is to say—

(*a*) a disposition of so much of the relevant land as was comprised in the previous disposition and was also comprised in the Case D or Case E land ;

(*b*) a disposition of so much of the relevant land as was comprised in the previous disposition but was not comprised in the Case D or Case E land ;

(*c*) a disposition of such other land (if any) as was comprised in the previous disposition but is not comprised in the relevant land.

(4) Where in accordance with sub-paragraph (2) or sub-paragraph (3) of this paragraph the previous disposition is treated as if it had been two or more separate dispositions, the consideration given for the previous disposition shall be apportioned as between the lands taken to be comprised in those separate dispositions, and any reference in Part I of Schedule 5 to this Act to the consideration given for a previous disposition shall be construed accordingly.

Modification of Schedule 5, paragraph 9, in relation to certain projects of material development

17. Where paragraph 9 of Schedule 5 to this Act has effect for the purpose of assessing levy in Case C, and the circumstances of the relevant project are such that paragraph 29(3) of Schedule 4 to this Act has effect in ascertaining the current use value of the relevant interest, the comparison to be made under sub-paragraph (2) of the said paragraph 9 shall be between—

(*a*) the current use value of that interest ascertained in accordance with paragraphs 29 and 30 of Schedule 4 to this Act, and

(*b*) the value which would have been the current use value of that interest if paragraph 29(3) of Schedule 4 to this Act had been omitted and that value had fallen to be ascertained in accordance with those paragraphs (subject to that omission) as at the date of the last relevant disposition or (where so required by sub-paragraph (3) of the said paragraph 9) at the time immediately after that disposition was made.

Separate ascertainment of base value in relation to different parts of relevant land

18.—(1) The provisions of this paragraph shall have effect for the purpose of assessing levy in respect of a chargeable act or event where—

(*a*) there was a previous disposition of part (but not the whole) of the chargeable unit, with or without other land not comprised in that unit, and

(*b*) that disposition would have been the last relevant disposition for the purposes of Part I of Schedule 5 to this Act if the chargeable unit had been limited to that part of it.

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(2) In the circumstances specified in the preceding sub-paragraph, the base value of the relevant interest (or, in Case B, the base value realised by the disposition which constitutes the chargeable act or event) shall be ascertained in two ways, that is to say, it shall first be ascertained apart from the provisions of this paragraph, and it shall then be ascertained separately—

(*a*) in relation to each part of the chargeable unit in respect of which the conditions specified in the preceding sub-paragraph are fulfilled, as if the chargeable unit had been limited to that part of it, and

(*b*) in relation to the remainder of the chargeable unit in respect of which those conditions are not fulfilled, as if the chargeable unit had been limited to that remainder of it.

(3) If in those circumstances, otherwise than in Case B, the aggregate of the base values as so ascertained separately is greater than the base value as first ascertained, that aggregate (instead of the base value as first ascertained) shall for the purpose mentioned in sub-paragraph (1) of this paragraph be taken to be the base value of the relevant interest.

(4) If in those circumstances, in Case B, the aggregate of the base values realised by the disposition which constitutes the chargeable act or event, when ascertained separately as mentioned in the last preceding sub-paragraph, is greater than the base value so realised as first ascertained, that aggregate (instead of the base value realised as first ascertained) shall for the purpose mentioned in sub-paragraph (1) of this paragraph be taken to be the base value realised by the disposition.

(5) In this paragraph "the chargeable unit", except in Case C, means the relevant land, and in Case C means so much of the relevant land as is land in which the relevant interest subsists.

Allowance for costs of valuation or apportionment

19.—(1) For the purpose of assessing levy in respect of a chargeable act or event—

(*a*) if it falls within Case A or Case C, the market value of the relevant interest (ascertained apart from this paragraph), or

(*b*) if it consists of a disposition falling within Case B, Case E or Case F, the amount of the consideration for the disposition (ascertained apart from this paragraph), or

(*c*) if it consists of the accrual of a right to compensation falling within Case D or Case F, the amount of the compensation (ascertained apart from this paragraph),

shall be reduced by the amount of any costs to which this paragraph applies.

(2) In relation to a chargeable act or event, this paragraph applies to any costs which are reasonably incurred by an appropriate person in connection with that act or event and are costs so incurred in making any valuation or apportionment required for the purposes of the computation under the relevant Schedules.

(3) In this paragraph "appropriate person", in relation to a chargeable act or event, means a person who, if— SCH. 6

(*a*) a notice of assessment of levy has been or were to be served in respect of it, and

(*b*) that notice resulted in an operative assessment of levy,

would be liable to pay levy in respect of that chargeable act or event.

SCHEDULE 7

Section 69.

ALLOWANCE IN RESPECT OF ESTATE DUTY

PART I

GENERAL PROVISIONS AS TO ALLOWANCE

1.—(1) The provisions of this Part of this Schedule shall have effect for the purpose of assessing levy in respect of a chargeable act or event (in this Schedule referred to as "the chargeable act or event") where—

(*a*) a person (in this Schedule referred to as "the deceased") who was a predecessor of the chargeable owner died before, but not more than six years before, the relevant date;

(*b*) an interest in land (in this Schedule referred to as "the dutiable interest") passed on the death of the deceased and estate duty was leviable in respect of that interest;

(*c*) that interest either was the chargeable interest or was an interest in part of the land in which the chargeable interest subsists and would have been the chargeable interest if it had extended to the whole of that land; and

(*d*) there has not before the relevant date been any previous chargeable act or event in connection with which an allowance under this Schedule fell or falls to be made in respect of that interest.

(2) For the purposes of this Schedule an interest in land shall be taken to have passed on a person's death if at his death it passed, or is deemed to have passed, for the purposes of the enactments relating to estate duty.

(3) In this paragraph "predecessor", in relation to the chargeable owner, means a predecessor in title, not being a person from whom the chargeable owner or any other predecessor in title of his derived title under a disposition for valuable consideration.

2. Subject to paragraph 4 and to Part III of this Schedule, the appropriate allowance shall be made for the purpose of assessing levy where, in the circumstances specified in the preceding paragraph, the gross principal value of the dutiable interest exceeds the modified value of that interest in accordance with the provisions of Part II of this Schedule.

3. Where in accordance with the last preceding paragraph the appropriate allowance falls to be made, then for the purpose of assessing levy in respect of the chargeable act or event—

(*a*) if it falls within Case A or Case C, the market value of the relevant interest (ascertained apart from this Schedule) shall be reduced by the allowance;

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(*b*) if it consists of a disposition falling within Case B, Case E or Case F, the amount of the consideration for the disposition (ascertained apart from this Schedule) shall be reduced by the allowance;

(*c*) if it consists of the accrual of a right to compensation falling within Case D or Case F, the amount of the compensation (ascertained apart from this Schedule) shall be reduced by the allowance.

4. Notwithstanding anything in paragraph 2 of this Schedule, that paragraph shall not have effect for the purpose of assessing levy in Case C in respect of a project of material development where the chargeable interest is an assessable interest by virtue of which a person is the developing owner in relation to that project in accordance with paragraph (*b*) or paragraph (*c*) of section 32(7) of this Act.

PART II

CALCULATION OF APPROPRIATE ALLOWANCE

Gross principal value

5.—(1) Subject to the following provisions of this paragraph, for the purposes of this Schedule the gross principal value of the dutiable interest shall be taken to be an amount equal to the principal value of that interest as, for the purposes of estate duty leviable on the death of the deceased, that value was or is—

(*a*) agreed between the person accountable for estate duty in respect of that interest and the Commissioners of Inland Revenue, or

(*b*) determined in proceedings between them.

(2) Where the principal value of the dutiable interest has not been so agreed or determined, but for the purposes of estate duty leviable on the death of the deceased the principal value—

(*a*) of the whole of his estate, or

(*b*) of a part of his estate which includes the dutiable interest,

has been agreed between the person accountable for the duty and the Commissioners of Inland Revenue, or has been determined in proceedings between them, that value as so agreed or determined shall be apportioned, in such manner as may be appropriate in the circumstances, as between the dutiable interest and the remainder of the estate or of that part of the estate, as the case may be; and so much of that value as is apportioned to the dutiable interest shall for the purposes of this Schedule be taken to be the gross principal value of the dutiable interest.

(3) Where for the purposes of estate duty leviable on the death of the deceased the principal value of the dutiable interest was or is reduced under section 64 of the Finance Act 1960, any reference in the preceding sub-paragraphs to the value as agreed or determined shall be construed as a reference to that value as agreed or determined apart from any reduction under that section.

1960 c. 44.

Modified value SCH. 7

6. The modified value of the dutiable interest shall be ascertained in accordance with paragraphs 7 to 10 of this Schedule.

7. Where the dutiable interest was the chargeable interest, and for the purpose of assessing levy in respect of the chargeable act or event the base value of the relevant interest (or, in Case B, the base value realised by the disposition which constitutes the chargeable act or event) does not fall to be ascertained separately in relation to different parts of the chargeable unit in accordance with paragraph 18 of Schedule 6 to this Act, then (subject to paragraph 8 of this Schedule)—

(*a*) if the chargeable act or event falls within Case A, or within any of Cases C to E, and paragraph 7 of Schedule 5 to this Act has effect for the purpose of assessing levy in respect of it, the modified value of the dutiable interest shall be taken to be an amount equal to the amount of the consideration given for the last relevant disposition ;

(*b*) if the chargeable act or event falls within any of those Cases, but paragraph 7 of Schedule 5 to this Act does not have effect for the purpose of assessing levy in respect of it, the modified value of the dutiable interest shall be taken to be an amount equal to eleven-tenths of the current use value of the relevant interest, as ascertained under Schedule 4 to this Act ;

(*c*) if the chargeable act or event falls within Case B, and paragraph 16 of Schedule 5 to this Act has effect for the purpose of assessing levy in respect of it, the modified value of the dutiable interest shall be taken to be an amount equal to the amount of the consideration given for the last relevant disposition ;

(*d*) if the chargeable act or event falls within Case B, but paragraph 16 of Schedule 5 to this Act does not have effect for the purpose of assessing levy in respect of it, the modified value of the dutiable interest shall be taken to be an amount equal to eleven-tenths of the current use value of the chargeable interest, as ascertained under Part II of Schedule 4 to this Act.

8.—(1) The references in sub-paragraphs (*a*) and (*c*) of the last preceding paragraph to the amount of the consideration given for the last relevant disposition shall be construed subject to the following provisions of this paragraph.

(2) Where, in the circumstances specified in either of those sub-paragraphs, the amount of the consideration given for the last relevant disposition falls to be adjusted in accordance with paragraph 9 or paragraph 14 of Schedule 5 to this Act, any such reference to the amount of that consideration shall be construed as a reference to that amount as so adjusted.

(3) In so far as any regulations made under paragraph 12 of Schedule 6 to this Act require any adjustment to be made for the purposes of Schedule 5 to this Act, those regulations may provide that

SCH. 7 references in sub-paragraphs (*a*) and (*c*) of the last preceding paragraph to the amount of the consideration given for the last relevant disposition shall be construed subject to such modifications as may be specified in the regulations.

9. Where either of the following conditions is fulfilled, that is to say—

(*a*) in accordance with paragraph 18 of Schedule 6 to this Act the base value of the relevant interest (or, in Case B, the base value realised by the disposition constituting the chargeable act or event) falls to be ascertained separately in relation to different parts of the land in which the chargeable interest subsists, or

(*b*) the dutiable interest was an interest in part (but not the whole) of that land,

or where both of those conditions are fulfilled, paragraphs 7 and 8 of this Schedule shall have effect subject to such modifications for securing the separate ascertainment of the matters referred to in those paragraphs in relation to different parts of that land, and subject to such provisions (if any) as to apportionment and as to aggregation of amounts apportioned, as are appropriate in the circumstances.

10. Where the chargeable act or event falls within Case F, the modified value of the dutiable interest shall be ascertained in such manner as may be prescribed by regulations made under this Schedule.

Excess gross value

11. There shall then be ascertained the amount (if any) by which the gross principal value of the dutiable interest exceeds the modified value of that interest; and that amount is in the following provisions of this Schedule referred to as the excess gross value of the dutiable interest.

Net principal value

12. For the purposes of this Schedule the net principal value of the dutiable interest shall be ascertained in accordance with paragraphs 13 to 19 of this Schedule.

13. Where at the death of the deceased the dutiable interest was subject to a mortgage or heritable security, and for the purposes of estate duty leviable on that death the sum secured by that mortgage or heritable security, or part of that sum, fell or falls to be deducted from the value of the dutiable interest, then for the purpose of ascertaining the net principal value of the dutiable interest that sum, or that part of it, as the case may be, shall be deducted from the gross principal value of that interest.

14.—(1) There shall also for that purpose be deducted from the gross principal value of the dutiable interest so much (if any) of the funeral expenses and (subject to the next following sub-paragraph) so much of the debts and liabilities of the deceased (other than debts secured by a mortgage or heritable security to which the dutiable interest was subject) as for the purposes of estate duty leviable on his death was or is allowable as a deduction from the value of the dutiable interest.

(2) The preceding sub-paragraph does not apply to any liability in respect of capital gains tax chargeable on chargeable gains deemed to accrue on the death of the deceased or otherwise chargeable in consequence of his death. SCH. 7

15.—(1) The provisions of this paragraph shall have effect where, by virtue of section 24 of the Finance Act 1965, a taxable disposal of the dutiable interest is deemed to have occurred on the death of the deceased and a gain deemed to have accrued on that disposal (in this paragraph referred to as "the gain attributed to the disposal") is included among the gains accruing to the deceased in the year of assessment in which he died. 1965 c. 25.

(2) Subject to paragraph 17 of this Schedule, for the purpose of ascertaining the net principal value of the dutiable interest—

(*a*) there shall be deducted from the gross principal value of that interest so much of the capital gains tax (if any) chargeable in respect of chargeable gains accruing to the deceased in that year as would not have been chargeable if the gain attributed to the disposal had not been deemed to accrue; and

(*b*) if the whole or any part of the gain attributed to the disposal was not chargeable to capital gains tax in that year because of relief for losses accruing in that year or in any earlier year of assessment, there shall also be deducted the amount of capital gains tax which would have been charged on the gain attributed to the disposal or that part of it if that gain, or that part of it, as the case may be, had been the only gain accruing to the deceased in that year and had all been chargeable to tax.

16.—(1) The provisions of this paragraph shall have effect where, by virtue of section 25 of the Finance Act 1965, a taxable disposal of settled property is deemed to have occurred on the death of the deceased and a gain deemed to have accrued on that disposal (in this paragraph referred to as "the gain attributed to the disposal") is included among the gains accruing to the trustees of the settlement in the year of assessment in which the deceased died.

(2) Subject to the next following paragraph, for the purpose of ascertaining the net principal value of the dutiable interest—

(*a*) there shall be deducted from the gross principal value of that interest so much of the capital gains tax (if any) chargeable in respect of chargeable gains accruing to the trustees in that year as would not have been chargeable if the gain attributed to the disposal had not been deemed to accrue; and

(*b*) if the whole or any part of the gain attributed to the disposal was not chargeable to capital gains tax in that year because of relief for losses accruing in that year or in any earlier year of assessment, there shall also be deducted the amount of capital gains tax which would have been charged on the gain attributed to the disposal or that part of it if that gain, or that part of it, as the case may be, had been the only gain accruing to the trustees of the settlement in that year and had all been chargeable to tax.

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17.—(1) Subject to the following provisions of this paragraph, where—

(*a*) for the purpose of assessing levy in respect of a chargeable act or event paragraph 15 or paragraph 16 of this Schedule has effect by reference to a taxable disposal deemed to have occurred on the death of the deceased (in this paragraph referred to as " the first taxable disposal "), and

(*b*) for the purpose of assessing levy in respect of a subsequent chargeable act or event that paragraph falls to be applied by reference to another taxable disposal deemed to have occurred on that death,

any reference in that paragraph to the tax chargeable in respect of gains accruing to the deceased or to the trustees of the settlement in the year of assessment in which the deceased died shall be construed as a reference to the tax which would have been so chargeable if the gain deemed to accrue on the first taxable disposal had not been deemed to accrue.

(2) Where there is a series of three or more chargeable acts or events, and three or more taxable disposals are deemed to have occurred on the death of the deceased, the preceding sub-paragraphs shall have effect in relation to each chargeable act or event of the series successively, so that, for the purpose of assessing levy in respect of each subsequent chargeable act or event, there is excluded from the calculation of capital gains tax the chargeable gain deemed to accrue on any of those taxable disposals taken into account in ascertaining the net principal value of the dutiable interest in relation to a previous chargeable act or event of the series.

18. Subject to the next following paragraph, the gross principal value of the dutiable interest, reduced by the deductions (if any) required to be made by paragraphs 13 to 17 of this Schedule, shall for the purposes of this Schedule be taken to be the net principal value of that interest.

1960 c. 44.

19. Where under section 64 of the Finance Act 1960 the principal value of the dutiable interest was or is reduced by a percentage specified in that section, then, for the purpose of ascertaining the net principal value of the dutiable interest, the gross principal value of that interest, or, if one or more deductions fall to be made under paragraphs 13 to 17 of this Schedule, so much of it as remains after those deductions have been made, shall be reduced by the like percentage; and the amount resulting from that reduction shall for the purposes of this Schedule be taken to be the net principal value of that interest.

Amount of estate duty attributable to net principal value

20. There shall be ascertained the rate at which estate duty leviable on the death of the deceased would have been payable on the dutiable interest if the following conditions had been fulfilled (whether any of those conditions was in fact fulfilled or not), that is to say—

1925 c. 36.

(*a*) section 23 of the Finance Act 1925 (which relates to agricultural property) did not apply to the estate of the deceased;

(*b*) section 28 of the Finance Act 1954 (reduced rate of duty on certain business assets) did not apply to that estate; but SCH. 7 1954 c. 44.

(*c*) in a case where subsection (1) of section 13 of the Finance Act 1914 (which relates to marginal relief) applied to that estate, the rate of estate duty payable was the lower rate referred to in that subsection, 1914 c. 10.

and in all other respects the circumstances relevant for ascertaining the rate of duty leviable were those which actually existed.

21. There shall then be calculated what amount of estate duty would have been payable in respect of the dutiable interest if—

(*a*) the amount on which the duty fell to be charged in respect of the dutiable interest had been the net principal value of that interest, and

(*b*) the rate of duty chargeable in respect of that interest had been the rate ascertained under paragraph 20 of this Schedule,

and in all other respects the circumstances relevant for computing the duty were those which actually existed.

22. For the purposes of the following provisions of this Schedule the amount of estate duty attributable to the net principal value of the dutiable interest shall be taken to be the amount calculated under paragraph 21 of this Schedule.

Effective rate of duty and appropriate allowance

23.—(1) There shall be calculated what proportion the amount of estate duty attributable to the net principal value of the dutiable interest bears to the gross principal value of that interest.

(2) That proportion, expressed as a percentage, is in this Schedule referred to as the effective rate of duty.

24. The appropriate allowance shall then be the amount which bears to the excess gross value of the dutiable interest the proportion which constitutes the effective rate of duty.

PART III

PROCEDURE

Notice of claim

25.—(1) For the purpose of assessing levy no allowance under this Schedule shall be made in respect of an interest in land, as being the dutiable interest for the purposes of this Schedule, unless the chargeable owner, or a successor in title of his in whom the chargeable interest has become vested by operation of law, has served on the Commission a notice (in this Part of this Schedule referred to as a "notice of claim") specifying that interest and stating—

(*a*) that a person specified in the notice died on a date so specified, and that a grant of probate or of letters of administration in respect of his estate was obtained on a date and at a registry so specified;

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(*b*) that estate duty was leviable on the death of the person specified in the notice; and

(*c*) that the person so specified was a predecessor (as defined by paragraph 1(3) of this Schedule) of the chargeable owner.

(2) A notice of claim may be served either before or after the service of a notice of assessment of levy in respect of the levy in question, but shall not have effect if served after such a notice of assessment of levy has resulted in an operative assessment of levy.

(3) In the application of this paragraph to Scotland, for the reference to a grant of probate or of letters of administration there shall be substituted a reference to confirmation, and for the reference to a registry there shall be substituted a reference to the sheriff court.

(4) The preceding provisions of this paragraph shall have effect subject to any regulations made under Part IV of this Schedule in cases to which those regulations apply.

Certificate of Commissioners of Inland Revenue

26.—(1) Where a person (in this Part of this Schedule referred to as "the claimant") serves on the Commission a notice of claim, then if the Commission have served, or intend to serve, a notice of assessment of levy in respect of a chargeable act or event, in such circumstances that for the purpose of assessing levy in respect of it—

(*a*) the chargeable interest (or an interest in part of the land in which the chargeable interest subsists, which would have been the chargeable interest if it had extended to the whole of that land) is the interest specified in the notice of claim, and

(*b*) the relevant date is a date not more than six years after the date specified in the notice of claim as the date of the death to which it relates,

the Commission shall apply to the Commissioners of Inland Revenue for a certificate under this Part of this Schedule.

(2) An application under this paragraph shall set out the matters stated in the notice of claim and the name and address of the claimant.

27.—(1) For the purpose of dealing with an application under this Part of this Schedule, the Commissioners of Inland Revenue shall assume that a chargeable act or event has occurred in the circumstances specified in paragraph 1 of this Schedule and that, in relation to that chargeable act or event,—

(*a*) the person specified in the notice of claim was a predecessor of the chargeable owner as mentioned in paragraph 1(1)(*a*) of this Schedule, and

(*b*) the interest specified in the notice of claim is the dutiable interest for the purposes of this Schedule.

(2) On those assumptions the Commissioners of Inland Revenue shall issue to the Commission a certificate stating—

(*a*) the gross principal value of the dutiable interest;

(*b*) whether that value was ascertained under sub-paragraph (1) or under sub-paragraph (2) of paragraph 5 of this Schedule;

(*c*) if it was ascertained under sub-paragraph (2) of that paragraph, what was agreed or determined, as mentioned in that sub-paragraph, as being the principal value of the estate of the deceased, or, as the case may be, what was so agreed or determined as being the principal value of such a part of the estate as is mentioned in that sub-paragraph and what was that part of the estate; and

(*d*) the effective rate of duty,

and shall send a copy of the certificate to the person specified in the application as the claimant at the address so specified.

28. Subject to paragraph 30 of this Schedule, a certificate issued under this Part of this Schedule shall be conclusive evidence of the matters stated in the certificate, except that, if it states that the gross principal value of the dutiable interest was ascertained under sub-paragraph (2) of paragraph 5 of this Schedule, the certificate shall not be conclusive evidence of that value.

29.—(1) If, in a case where a certificate under this Part of this Schedule states that the gross principal value of the dutiable interest was ascertained under sub-paragraph (2) of paragraph 5 of this Schedule, the claimant wishes to dispute that value, on the grounds that it represents an incorrect apportionment of the value specified in the certificate in accordance with paragraph 27(2)(*c*) of this Schedule, he may, within such time as may be allowed by the rules, appeal on those grounds against the certificate to the Lands Tribunal; and, if the Tribunal allows the appeal, it shall either discharge the certificate or vary it in such manner as the Tribunal may determine.

(2) In this paragraph "the rules" means any rules made for the purposes of this paragraph under section 3 of the Lands Tribunal Act 1949, or, in the case of proceedings in Scotland before an official arbiter, under section 3 of the Land Compensation (Scotland) Act 1963.

1949 c. 42.

1963 c. 51.

30.—(1) A certificate issued by the Commissioners of Inland Revenue under this Part of this Schedule shall be construed as having been issued on the assumptions specified in paragraph 27(1) of this Schedule and shall have effect without prejudice to any question whether those assumptions are correct or not.

(2) In relation to a certificate which is varied on or in consequence of an appeal under paragraph 29 of this Schedule, the preceding sub-paragraph shall have effect in relation to the certificate as so varied.

PART IV

SUPPLEMENTARY PROVISIONS

31.—(1) Provision may, in accordance with the following provisions of this Part of this Schedule, be made by regulations so as to require or enable an allowance to be made under this Schedule for the purpose of assessing levy in respect of a chargeable act or event where one or more of the conditions specified in paragraph 1(1) of

SCH. 7 this Schedule are not fulfilled, but the following conditions are fulfilled, that is to say—

(*a*) property consisting of the land in which the chargeable interest subsists or of part of that land or of an interest in that land or part of that land (whether subsisting at law or only as an equitable interest) passed on the death of a person and estate duty was leviable in respect of that property;

(*b*) that person died not more than six years before the relevant date or, where the property was an interest in expectancy and estate duty in respect of it was not paid until it fell into possession, the interest fell into possession not more than six years before the relevant date; and

(*c*) there has not before the relevant date been any previous chargeable act or event in connection with which an allowance under this Schedule fell or falls to be made in respect of the passing of that property on that death.

(2) In this paragraph any reference to property passing on a death is a reference to its passing, or being deemed to pass, on that death for the purposes of the enactments relating to estate duty.

32. Regulations made in pursuance of paragraph 31 of this Schedule may provide that, in such cases where the conditions specified in that paragraph are, or are claimed to be, fulfilled as may be specified in the regulations, the preceding provisions of this Schedule shall apply, subject to such exceptions and modifications, and together with any such additional provisions, as may be so specified.

33.—(1) Regulations made in pursuance of paragraph 31 of this Schedule may provide that in such cases where the conditions specified in that paragraph are, or are claimed to be, fulfilled as may be specified in the regulations (not being cases in relation to which the regulations make provision in accordance with the last preceding paragraph) the Commission may make such allowance under this Schedule as, after consultation with the Commissioners of Inland Revenue, they determine to be appropriate.

(2) Any regulations made in accordance with the preceding sub-paragraph may provide that, where it is claimed that the power conferred on the Commission by the regulations is or may be exercisable, the provisions of Part III of this Schedule shall apply, subject to such exceptions and modifications, and together with any such additional provisions, as may be specified in the regulations.

34.—(1) Where for the purpose of assessing levy in respect of a chargeable act or event there are two or more deaths to which the preceding provisions of this Schedule are applicable, those provisions shall have effect in relation to those deaths cumulatively so as to require or enable the appropriate allowance to be made by reference to each of them.

(2) In this paragraph any reference to the preceding provisions of this Schedule shall be construed as including a reference to any regulations made under this Part of this Schedule.

35. In this Schedule, in relation to a chargeable act or event, "the chargeable interest" and "the chargeable owner" have the meanings assigned to them by paragraph 2(1) of Schedule 5 to this Act, and "the last relevant disposition" has the meaning assigned to it by paragraph 6 of that Schedule. SCH. 7

SCHEDULE 8

Section 69.

DEDUCTIONS FROM LEVY IN RESPECT OF CAPITAL GAINS TAX AND CORPORATION TAX

PART I

CHARGEABLE ACT OR EVENT CONSTITUTING TAXABLE DISPOSAL

Cases in which chargeable act or event constitutes taxable disposal

1. For the purposes of this Schedule a disposition falling within Case A, Case B, Case E or Case F shall be taken to constitute a taxable disposal if—

(*a*) for the purposes of Part III of the Finance Act 1965 it constitutes a disposal of an asset on which chargeable gains accrue to a person, or would so have accrued if the assumed tax condition had been fulfilled in relation to that disposal, or 1965 c. 25.

(*b*) for the purposes of that Part of that Act as applied to corporation tax by Part IV of that Act it constitutes a disposal of an asset on which chargeable gains accrue to a company, or would so have accrued if the assumed tax condition had been fulfilled in relation to that disposal.

2. For the purposes of this Schedule the accrual of a right to compensation falling within Case D or Case F shall be taken to constitute a taxable disposal if—

(*a*) for the purposes of Part III of the Finance Act 1965 the receipt of compensation in pursuance of that right constitutes a disposal of an asset on which chargeable gains accrue to a person, or would so have accrued if the assumed tax condition had been fulfilled in relation to that disposal, or

(*b*) for the purposes of that Part of that Act as applied to corporation tax by Part IV of that Act the receipt of that compensation constitutes a disposal of an asset on which chargeable gains accrue to a company, or would so have accrued if the assumed tax condition had been fulfilled in relation to that disposal.

Chargeable act or event fulfilling relevant conditions as to Schedule 5

3. For the purposes of this Schedule a chargeable act or event shall be taken to fulfil the relevant conditions as to Schedule 5 if, for the purpose of assessing levy in respect of it,—

(*a*) the last relevant disposition was a disposition falling within the antecedent period, and

(*b*) paragraph 7 or (in Case B) paragraph 16 of Schedule 5 to this Act has effect.

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4. For the purposes of this Schedule a chargeable act or event to which the last preceding paragraph does not apply shall be taken to fulfil the relevant conditions as to Schedule 5 if, for the purpose of assessing levy in respect of it,—

(*a*) a disposition would have been the last relevant disposition, and would have been a disposition falling within the antecedent period, and

(*b*) paragraph 7 or (in Case B) paragraph 16 of Schedule 5 to this Act would have had effect,

if the antecedent period had extended to the first appointed day.

5. For the purposes of this Schedule a chargeable act or event shall be taken to fulfil the relevant conditions as to Schedule 5 if, for the purpose of assessing levy in respect of it,—

(*a*) in accordance with paragraph 18 of Schedule 6 to this Act, the base value of the relevant interest (or, in Case B, the base value realised by the disposition constituting the chargeable act or event) falls to be ascertained separately in relation to different parts of the land in which the chargeable interest subsists, or would have fallen to be so ascertained if the antecedent period had extended to the first appointed day, and

(*b*) for the purposes of any such separate ascertainment the conditions specified in sub-paragraphs (*a*) and (*b*) of paragraph 3 of this Schedule are fulfilled (or would, if the antecedent period had extended to the first appointed day, have been fulfilled) in relation to every part of that land.

Chargeable act or event partly fulfilling relevant conditions as to Schedule 5

6. For the purposes of this Schedule a chargeable act or event shall be taken to be a chargeable act or event partly fulfilling the relevant conditions as to Schedule 5 if, for the purpose of assessing levy in respect of it,—

(*a*) in accordance with paragraph 18 of Schedule 6 to this Act the base value of the relevant interest (or, in Case B, the base value realised by the disposition constituting the chargeable act or event) falls to be ascertained separately in relation to different parts of the land in which the chargeable interest subsists, or would have fallen to be so ascertained if the antecedent period had extended to the first appointed day, and

(*b*) for the purposes of any such separate ascertainment the conditions specified in sub-paragraphs (*a*) and (*b*) of paragraph 3 of this Schedule are fulfilled (or would, if the antecedent period had extended to the first appointed day, have been fulfilled) in relation to one or more parts of that land (in this Schedule referred to as "the part or parts fulfilling the relevant conditions") but are not, or (as the case may be) would not have been, fulfilled in relation to the remainder of that land.

Provisions for making appropriate deduction SCH. 8

7. The appropriate deduction shall be made for the purpose of assessing levy in respect of any chargeable act or event which—

(*a*) constitutes a taxable disposal, and

(*b*) fulfils the relevant conditions as to Schedule 5.

8. The appropriate deduction shall also be made for the purpose of assessing levy in respect of any chargeable act or event which—

(*a*) constitutes a taxable disposal, and

(*b*) is a chargeable act or event partly fulfilling the relevant conditions as to Schedule 5.

PART II

TAXABLE DISPOSAL PRECEDING CHARGEABLE ACT OR EVENT

Introductory

9. For the purposes of this Schedule an act or event (whether actual or one which by virtue of any provision of Part III or Part IV of the Finance Act 1965 is deemed to have occurred) shall be taken to have constituted a taxable disposal if— 1965 c. 25.

(*a*) for the purposes of Part III of the Finance Act 1965 it constituted a disposal of an asset on which chargeable gains accrued to a person, or would so have accrued if the assumed tax condition had been fulfilled in relation to that disposal, or

(*b*) for the purposes of that Part of that Act as applied to corporation tax by Part IV of that Act it constituted a disposal of an asset on which chargeable gains accrued to a company, or would so have accrued if the assumed tax condition had been fulfilled in relation to that disposal, or

(*c*) for the purposes of section 82 of that Act it constituted a disposal of an asset on which chargeable gains accrued to a company in the circumstances specified in subsection (1) of that section, or would so have accrued if the assumed tax condition had been fulfilled in relation to that disposal.

10.—(1) For the purposes of this Part of this Schedule a previous chargeable act or event shall be taken to have been a chargeable act or event affecting the chargeable interest if that interest was the chargeable interest for the purpose of assessing levy in respect of that chargeable act or event.

(2) For the purposes of this Part of this Schedule a previous chargeable act or event shall be taken to have been notified if it was or is notified in accordance with the provisions as to notification contained in Part III of this Act.

Disposal by way of gift

11. The appropriate deduction shall (subject to paragraph 15 of this Schedule) be made for the purpose of assessing levy in respect of a chargeable act or event where—

(*a*) before the first appointed day, but not more than six years before the relevant date, there was a disposal of the

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chargeable interest to a person by way of gift (including any such gift in settlement as is mentioned in section 25(2) of the Finance Act 1965) and that disposal constituted a taxable disposal;

1965 c. 25.

(*b*) after that disposal and before the first appointed day there was not any disposition for valuable consideration under which the chargeable owner or a predecessor in title of his became entitled to the chargeable interest; and

(*c*) there has not before the relevant date been any previous notified chargeable act or event affecting the chargeable interest.

Disposal deemed to have occurred on death

12. The appropriate deduction shall (subject to paragraph 15 of this Schedule) be made for the purpose of assessing levy in respect of a chargeable act or event where—

(*a*) by virtue of section 24(1) of the Finance Act 1965 a disposal of the chargeable interest is deemed to have occurred on a person's death before the first appointed day but not more than six years before the relevant date and that disposal constituted a taxable disposal;

(*b*) after that person's death and before the first appointed day there was not any disposition for valuable consideration under which the chargeable owner or a predecessor in title of his became entitled to the chargeable interest; and

(*c*) there has not before the relevant date been any previous notified chargeable act or event affecting the chargeable interest.

Disposal deemed to have occurred in relation to settled property

13. The appropriate deduction shall (subject to paragraph 15 of this Schedule) be made for the purpose of assessing levy in respect of a chargeable act or event where—

(*a*) by virtue of subsection (3) or subsection (4) of section 25 of the Finance Act 1965 (which relate respectively to settled property to which a person becomes absolutely entitled and settled property in which a life interest terminates) a disposal of the chargeable interest is deemed to have occurred before the first appointed day but not more than six years before the relevant date and that disposal constituted a taxable disposal;

(*b*) after the occasion on which that disposal is deemed to have occurred and before the first appointed day there was not any disposition for valuable consideration under which the chargeable owner or a predecessor in title of his became entitled to the chargeable interest; and

(*c*) there has not before the relevant date been any previous notified chargeable act or event affecting the chargeable interest.

Application of paragraphs 11, 12 *and* 13 *to disposal of interest in part of chargeable unit* SCH. 8

14.—(1) The provisions of this paragraph shall have effect for the purpose of assessing levy in respect of a chargeable act or event where a disposal has occurred, or by virtue of any provision of the Finance Act 1965 referred to in paragraph 11, paragraph 12 or paragraph 13 of this Schedule is deemed to have occurred, in relation to an interest (in this Schedule referred to as " the interest comprised in the disposal ") which, being an interest in part of the land in which the chargeable interest subsists, would have been the chargeable interest if it had extended to the whole of that land, and that disposal constituted a taxable disposal. 1965 c. 25.

(2) If the conditions specified in sub-paragraphs (*a*), (*b*) and (*c*) of any of those paragraphs would be fulfilled if, in sub-paragraphs (*a*) and (*b*) of that paragraph, any reference to the chargeable interest were a reference to the interest comprised in the disposal, then that paragraph shall have effect as if those conditions were fulfilled.

Exclusion of certain chargeable interests in Case C

15.—(1) Notwithstanding anything in paragraphs 11 to 14 of this Schedule, none of those paragraphs shall have effect for the purpose of assessing levy in Case C in respect of a project of material development where the chargeable interest is an assessable interest by virtue of which a person is the developing owner in relation to the project in accordance with paragraph (*b*) or paragraph (*c*) of section 32(7) of this Act.

(2) Where the preceding sub-paragraph has effect in relation to the chargeable interest, then, for the purpose of assessing levy in respect of any subsequent chargeable act or event in relation to which that interest is the chargeable interest, the chargeable act or event referred to in the preceding sub-paragraph shall be disregarded in determining whether the condition specified in paragraph 11(*c*), paragraph 12(*c*) or paragraph 13(*c*) of this Schedule is fulfilled.

PART III

CALCULATION OF APPROPRIATE DEDUCTION

Introductory

16.—(1) Where any of the operative provisions of Part I or Part II of this Schedule requires the appropriate deduction to be made, it shall be construed as requiring the principal amount of levy payable apart from that provision to be reduced by an amount determined in accordance with this Part and Part IV of this Schedule.

(2) Where two or more of those provisions are applicable to the same chargeable act or event, they shall have effect cumulatively and the deduction appropriate to each of them shall be made in accordance with the preceding sub-paragraph.

(3) In this Part and in Part IV of this Schedule any reference to an operative provision of Part I or Part II of this Schedule is a reference to any of the following, that is to say—

(*a*) paragraphs 7, 8, 11, 12 and 13 of this Schedule, and

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(*b*) paragraphs 11, 12 and 13 of this Schedule, as each of those paragraphs has effect by virtue of paragraph 14 of this Schedule.

17. Where in accordance with paragraph 1, paragraph 2 or paragraph 9 of this Schedule an act or event is taken to constitute or to have constituted a taxable disposal, then in the following provisions of this Schedule, in their application to that taxable disposal,—

(*a*) "the taxpayer" means the person or company to whom chargeable gains accrue or accrued on that disposal or would so have accrued if the assumed tax condition had been fulfilled in relation to that disposal;

(*b*) "the relevant year or period" means the year of assessment or accounting period in which those chargeable gains accrue or accrued or would so have accrued; and

(*c*) "tax" means capital gains tax or corporation tax, as the case may be.

18.—(1) In this Part of this Schedule "the increase (if any) in the current use value of the chargeable interest", in relation to a taxable disposal, means the amount (if any) by which the value of the chargeable interest immediately before that disposal, calculated on the assumption specified in sub-paragraph (3) of this paragraph, exceeded the value of that interest at the relevant earlier time, calculated on the like assumption.

(2) For the purposes of the preceding sub-paragraph—

(*a*) where the gain accruing on the disposal in question, or the gain which would so have accrued if the assumed tax condition had been fulfilled, is, was or would have been treated as a chargeable gain by virtue only of section 17(15) or section 82(3) of the Finance Act 1965, the relevant earlier time is the time immediately after the acquisition of the chargeable interest by the taxpayer, and

1965 c. 25.

(*b*) in any other case, the relevant earlier time is the time of the acquisition of that interest by the taxpayer or 6th April 1965, whichever was the later.

(3) The assumption referred to in sub-paragraph (1) of this paragraph, in relation to the calculation of value at any time referred to in that sub-paragraph, is that, at any time subsequent to the time in question, planning permission—

(*a*) would be granted for any development of the relevant land which does not constitute material development, but

(*b*) would not be granted for any development of that land which constitutes material development.

(4) Sub-paragraphs (1) and (2) of paragraph 4 of Schedule 6 to this Act and (without prejudice to the assumption specified in the last preceding sub-paragraph) paragraph 7 of that Schedule shall have effect for calculating value for the purposes of this paragraph.

(5) For the purposes of the application of this paragraph to a chargeable act or event, the definition of "material development" in section 99(2) of this Act, and any regulations made for the purposes of that definition which are in force at the relevant date, shall be deemed always to have had effect.

General provisions for calculating appropriate deduction where assumed tax condition fulfilled SCH. 8

19.—(1) For the purpose of assessing levy in respect of a chargeable act or event which fulfils the relevant conditions as to Schedule 5, where the assumed tax condition is fulfilled in relation to the taxable disposal in question, the appropriate deduction (whether required by virtue of Part I or by virtue of Part II of this Schedule) shall, subject to paragraph 24 of this Schedule, be calculated in accordance with the following provisions of this paragraph.

(2) There shall be ascertained how much of the tax (if any) to which the taxpayer is or was chargeable for the relevant year or period would not have been so chargeable if any chargeable gain which accrued on that taxable disposal had not accrued.

(3) If the whole or part of any chargeable gain which accrued on the taxable disposal in question was not chargeable to tax in the relevant year or period because of relief for losses accruing in that year or period or in any earlier year or period, there shall be ascertained how much tax would have been chargeable in the relevant year or period on that gain, or that part of it, as the case may be, if—

(*a*) that gain, or that part of it, as the case may be, had been the only gain accruing to the taxpayer in the relevant year or period, and

(*b*) the whole of that gain, or the whole of that part of that gain, as the case may be, had been chargeable to tax.

(4) The appropriate deduction shall then be calculated as follows, that is to say—

(*a*) where amounts are ascertained under both of sub-paragraphs (2) and (3) of this paragraph, it shall be the aggregate of the amounts ascertained under those sub-paragraphs;

(*b*) in any other case, it shall be the amount ascertained under one or other of those sub-paragraphs.

20.—(1) For the purpose of assessing levy in respect of a chargeable act or event which neither fulfils nor partly fulfils the relevant conditions as to Schedule 5, where the assumed tax condition is fulfilled in relation to the taxable disposal in question, the appropriate deduction required by any provision of Part II of this Schedule shall, subject to paragraph 24 of this Schedule, be calculated in accordance with the following provisions of this paragraph.

(2) There shall be ascertained how much of the tax (if any) to which the taxpayer is or was chargeable for the relevant year or period would not have been so chargeable if any chargeable gain accruing on the taxable disposal in question had been limited to the increase (if any) in the current use value of the chargeable interest.

(3) There shall then be ascertained how much of any chargeable gain accruing on the taxable disposal in question would not so have accrued if that gain had been limited as mentioned in sub-paragraph (2) of this paragraph; and the part of that gain which in those circumstances would not have accrued is in the following provisions of this paragraph referred to as "the excess gain".

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(4) If the whole or part of the excess gain would not have been chargeable to tax in the relevant year or period because of relief for losses accruing in that year or period or in any earlier year or period, there shall be ascertained how much tax would have been chargeable in the relevant year or period on the excess gain, or that part of it, as the case may be, if—

(*a*) the excess gain or that part of it, as the case may be, had been the only gain accruing to the taxpayer in the relevant year or period, and

(*b*) the whole of the excess gain, or the whole of that part of it, as the case may be, had been chargeable to tax.

(5) The appropriate deduction shall then be calculated as follows, that is to say—

(*a*) where amounts are ascertained under both of sub-paragraphs (2) and (4) of this paragraph, it shall be the aggregate of the amounts ascertained under those sub-paragraphs ;

(*b*) in any other case, it shall be the amount ascertained under one or other of those sub-paragraphs.

General provisions for calculating appropriate deduction where assumed tax condition not fulfilled

21.—(1) For the purpose of assessing levy in respect of a chargeable act or event which fulfils the relevant conditions as to Schedule 5, where the assumed tax condition is not fulfilled in relation to the taxable disposal in question, the appropriate deduction (whether required by virtue of Part I or by virtue of Part II of this Schedule) shall, subject to paragraph 24 of this Schedule, be calculated in accordance with the following provisions of this paragraph.

(2) There shall be ascertained how much of the tax (if any) to which the taxpayer would have been chargeable for the relevant year or period if the assumed tax condition had been fulfilled in relation to that disposal would not have been so chargeable if any chargeable gain which, in those circumstances, would have been taken to accrue on that disposal were treated as not having accrued.

(3) If the whole or part of any such chargeable gain would not have been chargeable to tax in the relevant year or period because of relief for losses accruing in that year or period or in any earlier year or period, there shall be ascertained how much tax would have been chargeable in the relevant year or period on that gain, or that part of it, as the case may be, if—

(*a*) that gain, or that part of it, as the case may be, had been the only gain accruing to the taxpayer in the relevant year or period, and

(*b*) the whole of that gain, or the whole of that part of that gain, as the case may be, had been chargeable to tax.

(4) The appropriate deduction shall then be calculated as follows that is to say—

(*a*) where amounts are ascertained under both of sub-paragraphs (2) and (3) of this paragraph, it shall be the aggregate of the amounts ascertained under those sub-paragraphs ;

(*b*) in any other case, it shall be the amount ascertained under one or other of those sub-paragraphs.

22.—(1) For the purpose of assessing levy in respect of a chargeable act or event which neither fulfils nor partly fulfils the relevant conditions as to Schedule 5, where the assumed tax condition is not fulfilled in relation to the taxable disposal in question, the appropriate deduction required by any provision of Part II of this Schedule shall, subject to paragraph 24 of this Schedule, be calculated in accordance with the following provisions of this paragraph.

(2) There shall be ascertained how much of the tax (if any) to which the taxpayer would have been chargeable for the relevant year or period if the assumed tax condition had been fulfilled in relation to that disposal would not have been so chargeable if any chargeable gain which, in those circumstances, would have been taken to accrue on that disposal had been limited to the increase (if any) in the current use value of the chargeable interest.

(3) There shall then be ascertained how much of any chargeable gain which, if the assumed tax condition had been fulfilled in relation to that disposal, would have been taken to accrue on it would not have been taken so to accrue if that gain had been limited as mentioned in sub-paragraph (2) of this paragraph; and the part of that gain which in those circumstances would not be taken to have accrued is in the following provisions of this paragraph referred to as " the excess gain ".

(4) If the whole or part of the excess gain would not have been chargeable to tax in the relevant year or period because of relief for losses accruing in that year or period or in any earlier year or period, there shall be ascertained how much tax would have been chargeable in the relevant year or period on the excess gain, or that part of it, as the case may be, if—

(*a*) the excess gain or that part of it, as the case may be, had been the only gain accruing to the taxpayer in the relevant year or period, and

(*b*) the whole of the excess gain, or the whole of that part of it, as the case may be, had been chargeable to tax.

(5) The appropriate deduction shall then be calculated as follows, that is to say—

(*a*) where amounts are ascertained under both of sub-paragraphs (2) and (4) of this paragraph, it shall be the aggregate of the amounts ascertained under those sub-paragraphs;

(*b*) in any other case, it shall be the amount ascertained under one or other of those sub-paragraphs.

Chargeable act or event partly fulfilling relevant conditions as to Schedule 5

23.—(1) Where in accordance with any operative provision of Part I or Part II of this Schedule the appropriate deduction is required to be made for the purpose of assessing levy in respect of a chargeable act or event partly fulfilling the relevant conditions as to Schedule 5 (as defined by paragraph 6 of this Schedule), the taxable disposal to which that provision relates (in this paragraph referred to as " the relevant taxable disposal ") shall, for the purposes of this Part of this

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Schedule, be treated as if it had been two separate taxable disposals, that is to say—

(*a*) a taxable disposal limited to the part or parts fulfilling the relevant conditions (in this paragraph referred to as " the first separate disposal "), and

(*b*) a taxable disposal limited to the remainder of the land in which the chargeable interest subsists (in this paragraph referred to as " the second separate disposal ").

(2) If the operative provision in question is paragraph 8, then for the purpose of calculating the appropriate deduction paragraph 19 or, as the case may be, paragraph 21 of this Schedule shall apply as if the taxable disposal which occurred had been the first separate disposal and not the relevant taxable disposal, and accordingly as if—

(*a*) in paragraph 19 of this Schedule (where that paragraph is applicable) any reference to the chargeable gain which accrued on the taxable disposal in question were a reference to so much of the chargeable gain which accrued on the relevant taxable disposal as is properly attributable to the first separate disposal, and

(*b*) in paragraph 21 of this Schedule (where that paragraph is applicable) any reference to the chargeable gain which would have been taken to accrue on the taxable disposal in question if the assumed tax condition had been fulfilled in relation to it were a reference to so much of the chargeable gain which in those circumstances would have been taken to accrue on the relevant taxable disposal as is properly attributable to the first separate disposal.

(3) If the operative provision in question is any provision of Part II of this Schedule, then the appropriate deduction shall be the aggregate of two deductions calculated separately as follows, that is to say—

(*a*) a deduction calculated in relation to the first separate disposal in accordance with sub-paragraph (2) of this paragraph, and

(*b*) a deduction calculated in relation to the second separate disposal in accordance with the next following sub-paragraph.

(4) For the purpose of calculating the deduction in relation to the second separate disposal, paragraph 20 or, as the case may be, paragraph 22 of this Schedule shall apply as if in that paragraph any reference to any chargeable gain which would have accrued on the taxable disposal in question in any circumstances specified in that paragraph were a reference to so much of any chargeable gain which in those circumstances would have accrued on the relevant taxable disposal as is properly attributable to the second separate disposal.

(5) For the purpose of determining how much of any chargeable gain which accrued, or would in any particular circumstances have accrued, on the relevant taxable disposal is properly attributable to the first separate disposal or the second separate disposal, as mentioned in sub-paragraph (2) or sub-paragraph (4) of this paragraph,

that gain shall be treated as apportioned as between those separate disposals in accordance with the principles applicable to any apportionment required by the provisions of the enactments relating to the tax. SCH. 8

Successive chargeable acts or events

24.—(1) Subject to the following provisions of this paragraph, where—

(*a*) in accordance with any operative provision of Part I or Part II of this Schedule the appropriate deduction is required to be made by reference to a taxable disposal (in this paragraph referred to as " the first taxable disposal ") for the purpose of assessing levy in respect of a chargeable act or event (in this paragraph referred to as " the previous chargeable act or event "), and

(*b*) in accordance with any such provision the appropriate deduction is required to be made by reference to another taxable disposal on which chargeable gains accrue or accrued to the same person or company in the same year of assessment or accounting period, or would so have accrued if the assumed tax condition had been fulfilled, and that deduction is so required to be made for the purpose of assessing levy in respect of a subsequent chargeable act or event (in this paragraph referred to as " the subsequent chargeable act or event "),

any reference in paragraphs 19 to 22 of this Schedule to the tax to which the taxpayer is or was, or would in any specified circumstances have been, chargeable for the relevant year or period shall be construed as a reference to the tax to which the taxpayer would (or would in those circumstances) have been chargeable for the relevant year or period if any chargeable gain which accrued on the first taxable disposal, or would have accrued on that disposal if the assumed tax condition had been fulfilled, had not or would not have so accrued.

(2) Where there is a series of three or more chargeable acts or events, and three or more taxable disposals on which chargeable gains accrue or accrued to the same person or company in the same year of assessment or accounting period or would so have accrued if the assumed tax condition had been fulfilled, the preceding sub-paragraph shall have effect in relation to each chargeable act or event of the series successively, so that, for the purpose of assessing levy in respect of each subsequent chargeable act or event, there is excluded from the calculation the chargeable gain which accrues or accrued (or, as the case may be, would have accrued) on any of those taxable disposals taken into account in calculating the appropriate deduction in relation to a previous chargeable act or event of the series.

(3) For the purposes of this paragraph it is immaterial in what order of time any taxable disposals occur, if they occur in the same year of assessment or accounting period.

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PART IV

CERTIFICATION OF APPROPRIATE DEDUCTION

25. It shall be the duty of the Commission to apply to the inspector appearing to them to be the appropriate inspector for a certificate under this Part of this Schedule in any case where—

(*a*) it appears to the Commission that for the purpose of assessing levy in respect of a chargeable act or event the appropriate deduction is required to be made, or

(*b*) the person on whom a notice of assessment of levy is served has, whether before or after the service of that notice but before that notice has resulted in an operative assessment of levy, served on the Commission a notice claiming that the appropriate deduction is so required to be made.

26. A notice under paragraph 25(*b*) of this Schedule need not specify the amount of the deduction claimed and shall have effect if (however expressed) it indicates—

(*a*) whether the appropriate deduction is claimed by virtue of Part I or by virtue of Part II of this Schedule ;

(*b*) if it is claimed by virtue of Part II of this Schedule, the name of the taxpayer, the date of the act or event which constitutes the taxable disposal in question, the name of the person to whom chargeable gains accrued, or if the assumed tax condition had been fulfilled would have accrued, on that disposal and his address at that date and (in general terms) the nature of that disposal ; and

(*c*) such particulars as are sufficient to identify the inspector to whom the person serving the notice made his last return of income for the purposes of the Income Tax Acts.

27. Any application under paragraph 25 of this section which is made in pursuance of a notice served in accordance with sub-paragraph (*b*) of that paragraph shall set out the matters indicated in that notice.

28. Without prejudice to the last preceding paragraph, any application under paragraph 25 of this Schedule shall indicate the circumstances, and the operative provision of Part I or Part II of this Schedule, appearing to the Commission to be those by virtue of which, for the purpose of assessing levy in respect of the chargeable act or event in question, the appropriate deduction is or may be required to be made ; and, where paragraph 7 or paragraph 8 of this Schedule is so indicated, the application shall state the date of the act or event which constitutes the taxable disposal and the name and address of the person or company to whom chargeable gains accrued, or if the assumed tax condition had been fulfilled would have accrued, on that disposal.

29.—(1) For the purpose of dealing with an application under paragraph 25 of this Schedule, the inspector shall assume that the opinion of the Commission indicated in the application as to any matter specified therein is correct in so far as it relates to any question arising under Part I or Part II of this Schedule, except

any question whether an act or event constitutes a taxable disposal in accordance with paragraph 1, paragraph 2 or paragraph 9 of this Schedule. SCH. 8

(2) On that assumption, the inspector shall issue to the Commission a certificate stating the amount of the appropriate deduction required to be made for the purpose of assessing levy in respect of the chargeable act or event in question, or (as the case may be) stating that no deduction under this Schedule is required to be made for that purpose.

30.—(1) Where a certificate is issued to the Commission under the last preceding paragraph—

(*a*) if that certificate is received by the Commission before they serve a notice of assessment of levy in respect of the levy to which the certificate relates, they shall send a copy of it with that notice to the person on whom that notice is served;

(*b*) in any other case, the Commission shall, within thirty days after receiving the certificate, send a copy of it to the appropriate person.

(2) For the purposes of the preceding sub-paragraph—

(*a*) if the application for a certificate was made in pursuance of a notice served under paragraph 25(*b*) of this Schedule, the appropriate person is the person who served that notice;

(*b*) in any other case, the appropriate person is the person appearing to the Commission to be the person who is liable to pay the levy or who, if a notice of assessment of levy in respect of the chargeable act or event in question resulted in an operative assessment of levy, would be liable to pay the levy.

(3) Where the Commission send a copy of a certificate in pursuance of sub-paragraph (1) of this paragraph, they shall send with it a copy of the application under paragraph 25 of this Schedule in pursuance of which the certificate was issued.

31.—(1) A certificate issued by an inspector under this Part of this Schedule shall be construed as having been issued on the assumption specified in paragraph 29(1) of this Schedule and shall have effect without prejudice to any question whether that assumption is correct or not.

(2) Subject to the preceding sub-paragraph, any such certificate shall be conclusive evidence of the matter stated in the certificate.

32.—(1) If, after a certificate under this Part of this Schedule has been issued,—

(*a*) any change (whether in consequence of an appeal, re-assessment or otherwise) is made in the computation of any capital gains tax or corporation tax by reference to which the inspector calculated the deduction specified in the certificate, or, as the case may be, stated in the certificate that no deduction under this Schedule was required to be made, and

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(*b*) by reason of that change the certificate needs to be revised,

the inspector may withdraw the certificate and issue a revised certificate in its place.

(2) Paragraphs 29(1), 30 and 31 of this Schedule shall have effect in relation to such a revised certificate as they have effect in relation to a certificate issued under paragraph 29(2) of this Schedule.

PART V

SUPPLEMENTARY PROVISIONS

33.—(1) In this Schedule "year of assessment" has the same meaning as in Part III of the Finance Act 1965 and "company" and "accounting period" have the same meanings as in Part IV of that Act.

1965 c. 25.

(2) Any reference in this Schedule to chargeable gains which accrue or accrued, or would (if any specified conditions had been fulfilled) have accrued, to a person or company shall be construed as including a reference—

(*a*) to chargeable gains which, by virtue of any provisions of the enactments relating to capital gains tax or corporation tax, are deemed so to accrue or to have accrued, or which by virtue of any such provisions would (if the specified conditions had been fulfilled) have been deemed so to accrue, and

(*b*) to chargeable gains which, in the case of a person who has died, were by virtue of any provision of those enactments included in the gains accruing to him, or to the trustees of a settlement under which he was a beneficiary, in the year of assessment in which he died or would (if the specified conditions had been fulfilled) have been so included.

34.—(1) In this Schedule "the assumed tax condition", in relation to a disposal, means the condition that neither of the provisions of the Finance Act 1965 specified in the next following sub-paragraph has or had effect in relation to that disposal or in relation to the corresponding acquisition.

(2) The provisions of the Finance Act 1965 referred to in the preceding sub-paragraph are section 33 (replacement of business assets) and paragraph 20 of Schedule 7 (which relates to disposals between husband and wife).

(3) In this paragraph "disposal" means any act or event which for the purposes of any provisions of Part III or Part IV of the Finance Act 1965 constitutes a disposal, and "the corresponding acquisition", in relation to a disposal, means the act or event whereby the person or company making, or deemed to make, the disposal acquired the interest in land to which the disposal relates or related.

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35.—(1) In this Schedule "inspector" has the same meaning as in the Income Tax Acts, and "the appropriate inspector"—

(*a*) in relation to any act or event appearing to the Commission to be a taxable disposal in accordance with paragraph 1 or paragraph 2 of this Schedule, means the inspector for the district in which the chargeable gains (if any) which accrue on that disposal, or would so have accrued if the assumed tax condition had been fulfilled, would be assessable to capital gains tax or corporation tax, as the case may be, and

(*b*) in relation to any act or event appearing to the Commission to be such as is described in paragraph 9 of this Schedule, means the inspector for the district in which the chargeable gains (if any) of the taxpayer for the relevant year or period are or were, or if the assumed tax condition had been fulfilled would have been, assessable to tax.

(2) Section 3(3) of the Income Tax Management Act 1964 (which relates to the functions of inspectors) shall have effect in relation to matters arising under this Schedule as it has effect in relation to income tax. 1964 c. 37.

36.—(1) In this Schedule, in relation to a chargeable act or event, "the chargeable interest" and "the chargeable owner" have the meanings assigned to them by paragraph 2(1) of Schedule 5 to this Act.

(2) In this Schedule "disposition falling within the antecedent period" has the meaning assigned to it by paragraph 2(2) of that Schedule, and "if the antecedent period had extended to the first appointed day" means if in paragraph 2(2)(*b*) of that Schedule the words from "and was so made" to the end had been omitted.

37. Nothing in this Schedule shall be construed as indicating an intention to exclude the operation of section 19 of the Interpretation Act 1889 (whereby, unless the contrary intention appears, "person" includes any body of persons corporate or unincorporate) in relation to any provisions of this Act. 1889 c. 63.

38. In relation to any chargeable act or event falling within Case F, regulations made under this Schedule may provide that the provisions of this Schedule shall have effect subject to such modifications of any of those provisions (except paragraphs 1, 2 and 9) as may be specified in the regulations.

SCHEDULE 9

Section 72.

SPECIAL PROVISIONS AS TO ACQUISITION UNDER COMPULSORY POWERS

Acquisitions pending on first appointed day

1. No levy shall be chargeable in Case A in respect of a disposition of an interest in land to an authority possessing compulsory purchase powers if the disposition, notwithstanding that it falls within that Case, is made in pursuance of a notice to treat served, or contract of sale made, before the first appointed day.

SCH. 9 *Modifications of Schedule 4, Part I*

2.—(1) The provisions of this paragraph shall have effect where an interest in land is compulsorily acquired by, or is sold to, an authority possessing compulsory purchase powers, and—

(*a*) on the date of service of the notice to treat, or the contract of sale, as the case may be, the person entitled to that interest is also entitled in the same capacity to an interest (in this paragraph referred to as "the other interest") in other land held with the land to which the notice to treat or contract relates;

(*b*) the compensation or purchase price includes an amount in respect of severance of the land comprised in the acquisition or sale from that other land or in respect of that other land as being injuriously affected; and

(*c*) the disposition of the first-mentioned interest to the acquiring authority constitutes a chargeable act or event falling within Case A.

(2) There shall be ascertained what would have been the appropriate deduction to be made for the purposes of section 33(2) of this Act if—

(*a*) the amount included in the compensation or purchase price as mentioned in sub-paragraph (1)(*b*) of this paragraph had been compensation for depreciation of the value of the other interest which was payable by virtue of a right to compensation to which section 33 of this Act applied (that right being assumed to have accrued on the date of service of the notice to treat or of the contract of sale, as the case may be), and

(*b*) the accrual of that right had constituted a chargeable act or event falling within Case D in respect of which levy fell to be assessed.

(3) For the purpose of assessing levy in Case A in respect of the disposition to the acquiring authority, the market value of the relevant interest (ascertained in accordance with Part I of Schedule 4 to this Act) shall be reduced by the amount of the deduction ascertained under the last preceding sub-paragraph.

3. For the purpose of assessing levy in Case A in respect of a disposition made to an authority possessing compulsory purchase powers in the circumstances specified in paragraph 2(1) of this Schedule, Part I of Schedule 4 to this Act shall apply as if paragraph 4 of that Schedule, and in paragraph 5 the words "the aggregate of" and sub-paragraph (*b*), were omitted.

Calculation of value

4.—(1) Where, for the purpose of assessing levy in Case A in respect of a disposition of an interest in land to an authority possessing compulsory purchase powers, the current use value of that interest falls to be calculated, it shall, subject to the following provisions of this paragraph, be calculated in accordance with rules (2)

to (4) of the rules set out in section 5 of the Land Compensation Act 1961, or, as respects Scotland, in accordance with rules (2) to (4) of the rules set out in section 12 of the Land Compensation (Scotland) Act 1963. SCH. 9 1961 c. 33. 1963 c 51.

(2) In calculating that value, the interest in question shall be treated as being offered for sale—

(*a*) free from any such capital sum as is mentioned in paragraph 1(*b*) of Schedule 6 to this Act (not being a contingent local land charge), and

(*b*) free from any rent, rentcharge, feu-duty, ground annual or other periodical payment falling within paragraph 1(*c*) of that Schedule.

(3) If the consideration for the acquisition of the relevant interest (calculated in accordance with paragraph 1 of Schedule 6 to this Act) includes the payment by the acquiring authority of any legal, professional or other incidental expenses incurred by the person entitled to that interest, those expenses shall be excluded in calculating the market value of the relevant interest.

(4) Where immediately before the relevant date the relevant land, or part of it, had an unexpended balance of established development value for the purposes of Part VI of the Act of 1962 or for the purposes of the Scottish Act of 1954, then, in calculating the current use value of the relevant interest for the purpose specified in sub-paragraph (1) of this paragraph, that balance shall be treated as not having been extinguished or reduced by the operation, in relation to the disposition in question, of section 96 of the Act of 1962 or, as the case may be, of paragraph 1 of Schedule 6 to the Town and Country Planning (Scotland) Act 1959. 1959 c. 70.

Derivation of base value from previous disposition

5. In relation to any case where the chargeable act or event, within the meaning of Part I of Schedule 5 to this Act, is the disposition of an interest in land to an authority possessing compulsory purchase powers, that Schedule shall have effect as if, for the words "the relevant date", in paragraphs 1, 4, 5 and 6 thereof, there were substituted the words "the disposition which constitutes the chargeable act or event".

6.—(1) For the purposes of the application of Part I of Schedule 5 to this Act to a chargeable act or event (in this paragraph referred to as "the subsequent chargeable act or event") where a previous disposition of the chargeable interest would apart from this paragraph have been a relevant disposition of that interest for those purposes, but there has been a compulsory acquisition by, or sale to, an authority possessing compulsory purchase powers in the circumstances specified in paragraph 2(1) of this Schedule, and—

(*a*) that acquisition or sale was effected in pursuance of a notice to treat served, or contract made, before the date which is the relevant date in relation to the subsequent chargeable act or event, and

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(*b*) the interest which in relation to the subsequent chargeable act or event constitutes the relevant interest is an interest in the whole or part of the land referred to in paragraph 2(1) of this Schedule as the other land,

that previous disposition shall not be taken for those purposes to have been a relevant disposition of the chargeable interest.

(2) In this paragraph "the chargeable interest" has the meaning assigned to it by paragraph 2(1) of Schedule 5 to this Act.

7.—(1) Where apart from this paragraph a previous disposition of a related tenancy would be a relevant disposition of that tenancy for the purposes of the application of Part III of Schedule 5 to this Act to a chargeable act or event, paragraph 6 of this Schedule shall have effect for those purposes as it has effect for the purposes of the application of Part I of that Schedule, as if in that paragraph any reference to the chargeable interest were a reference to that tenancy.

(2) In this paragraph "related tenancy" has the meaning assigned to it by paragraph 22(2) of Schedule 5 to this Act.

Modification of Schedule 6, paragraph 8

8. Where a disposition of an interest in land to an authority possessing compulsory purchase powers constitutes a chargeable act or event falling within Case A, and is made in the circumstances specified in sub-paragraph (1) of paragraph 8 of Schedule 6 to this Act, sub-paragraph (2)(*b*) of that paragraph shall apply as if, for the reference to the date on which the carrying out of the project was begun, there were substituted a reference to the date of service of the notice to treat, or (as the case may be) the date of the contract, in pursuance of which the disposition is made.

Derivation of base value from compensation for acquisition (Case C)

9.—(1) The provisions of this paragraph shall have effect for the purpose of assessing levy in Case C where an authority possessing compulsory purchase powers is the developing owner in relation to the relevant project and has served notice to treat, or has entered into an agreement, for the acquisition of the relevant interest.

(2) After the current use value of the relevant interest has been ascertained in accordance with Part III of Schedule 4 to this Act, it shall be determined whether the amount of that current use value (so ascertained) is greater or less than it would have been if it had fallen to be ascertained as at the date of the notice to treat or agreement, and, if so, the amount of the difference (whether it is an excess or a deficiency) shall be determined.

(3) If the amount of the compensation to be paid for the acquisition of the relevant interest has been agreed or determined before the latest date on which, in accordance with section 46(2) of this Act, a counter-notice could be served objecting to a notice of assessment of levy served in respect of the relevant interest, and that amount—

(*a*) increased by the amount of any excess determined under the last preceding sub-paragraph, in a case where the determination under that sub-paragraph shows an excess, or

(*b*) reduced by the amount of any deficiency determined under that sub-paragraph, in a case where that determination shows a deficiency,

exceeds the value which would be the base value of the relevant interest apart from this paragraph, then for the purpose of assessing levy in Case C in respect of the relevant interest that amount, as so increased or reduced, shall be taken to be the base value of the relevant interest.

Base value to include additional factor for disturbance

10.—(1) For the purpose of assessing levy in Case A in respect of a disposition of an interest in land to an authority possessing compulsory purchase powers, the base value of the relevant interest (ascertained apart from this paragraph) shall be increased by adding to it an amount calculated in accordance with the following provisions of this paragraph.

(2) For the purpose of calculating that amount regard shall be had to the compensation which would have been payable by the acquiring authority in respect of the acquisition of the relevant interest if the following circumstances had existed, that is to say—

(*a*) no planning permission for the carrying out of any material development of the relevant land were in force on the relevant date, and

(*b*) it were to be assumed that no such planning permission would be granted;

and the amount referred to in the preceding sub-paragraph is so much of that compensation as would have been attributable to disturbance.

(3) If the disposition referred to in sub-paragraph (1) of this paragraph is a disposition in pursuance of an agreement, and not in pursuance of a notice to treat, the last preceding sub-paragraph shall apply as if it were a disposition in pursuance of a notice to treat served on the date of the agreement.

Additional requirements as to notification in certain cases

11. Where by a disposition made on or after the first appointed day an interest in land is compulsorily acquired by, or is sold to, an authority possessing compulsory purchase powers, other than the Commission, and the compensation or purchase price includes an amount in respect of severance of the land comprised in the acquisition or sale from other land or in respect of other land as being injuriously affected, the acquiring authority shall serve notice on the Commission under this paragraph.

12.—(1) Where by a disposition made on or after the first appointed day an interest in land is compulsorily acquired by, or is sold to, an authority possessing compulsory purchase powers, other

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than the Commission, and, in calculating the compensation or purchase price, a deduction falls to be made on account of betterment of an interest in other land, the acquiring authority shall serve notice on the Commission under this paragraph.

(2) In this paragraph "betterment" means any increase in the value of an interest in other land which—

(*a*) for the purpose of assessing compensation in respect of a compulsory acquisition, falls to be taken into account by virtue of section 7 of the Land Compensation Act 1961 or of section 14 of the Land Compensation (Scotland) Act 1963 (effect of certain actual or prospective development of adjacent land in same ownership) or by virtue of any such local enactment as is mentioned in subsection (5), or of any such enactment as is mentioned in subsection (7), of section 8 of the said Act of 1961, or by virtue of any such local enactment as is mentioned in subsection (5), or of any such enactment as is mentioned in subsection (7), of section 15 of the said Act of 1963, or

1961 c. 33.
1963 c. 51.

(*b*) in the case of a sale (not being a compulsory acquisition) is an increase which would have fallen to be so taken into account if the sale had been a compulsory acquisition.

13.—(1) Any notice required to be served under paragraph 11 or paragraph 12 of this Schedule in respect of a disposition shall be served within thirty days after the date of the disposition or such extended period as the Commission may in any particular case allow.

(2) Any requirement imposed by either of those paragraphs shall be in addition to any requirement imposed by or under section 37 of this Act.

14.—(1) Any notice served under paragraph 11 of this Schedule shall specify the land in respect of which an amount is included in the compensation or purchase price as mentioned in that paragraph and the interest in that land in respect of which that amount is so included.

(2) Any notice served under paragraph 12 of this Schedule shall specify the other land referred to in that paragraph and the interest in that land in respect of which a deduction falls to be made as therein mentioned.

(3) A notice under either of those paragraphs shall, if necessary to enable the other land in question to be identified, have annexed to it a map on which that land is delineated.

Section 73.

SCHEDULE 10

ASSESSMENT OF LEVY ON ACQUISITION BY COMMISSION

1. For the purpose of assessing levy in Case A in respect of a disposition of an interest in land to the Commission (in this Schedule referred to as "the disposition") the provisions of sections 43 to 55 of this Act shall have effect subject to the following provisions of this Schedule.

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2. For the purposes of the application of those sections and of the following provisions of this Schedule in relation to any time on or after—

(*a*) the date on which an agreement for making the disposition has been made, or

(*b*) the date which (whether by virtue of the execution of a general vesting declaration or otherwise) is the date of service of a notice to treat for the acquisition of the relevant interest by the Commission,

but before the disposition is made, it shall be assumed that the disposition will be made on the date on which subsequently it is in fact made.

3. In relation to any such time as is mentioned in paragraph 2 of this Schedule, sections 43 and 44 of this Act shall have effect as if, for the words " has occurred ", in subsections (1) and (2)(*a*) of section 43 and in subsection (1) of section 44, there were substituted the words " is about to occur ".

4. Section 45 of this Act shall have effect as if subsection (1)(*c*) of that section were omitted.

5.—(1) If, in any proceedings relating to the compensation payable by the Commission for the compulsory acquisition of the relevant interest, the Lands Tribunal determines the amount of that compensation, and—

(*a*) before that decision of the Tribunal is made a notice of assessment of levy has (whether before, on or after the date of the disposition) been served in respect of the disposition and a counter-notice objecting to it has been served under section 46 of this Act, and the objection has been referred to the Tribunal but that reference has not been finally determined, and

(*b*) the principal amount of levy specified in the notice of assessment of levy was calculated on the assumption that the amount of the compensation would be less than the amount determined by the Tribunal,

the increase in the amount of the compensation shall, for the purposes of section 47(2) of this Act, be included among the matters which the Tribunal is required to consider on that reference.

(2) Where the preceding sub-paragraph applies, then, notwithstanding anything in section 47(3) of this Act, the Lands Tribunal may vary the notice of assessment of levy by increasing the principal amount of levy specified in it, in so far as the Tribunal determines that it is appropriate to do so in consequence of the decision of the Tribunal as to the amount of the compensation.

6. If, in any proceedings relating to the compensation payable by the Commission for the compulsory acquisition of the relevant interest, the Lands Tribunal determines the amount of that compensation, and—

(*a*) that decision of the Tribunal is made after a notice of assessment of levy has (whether before, on or after the date

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of the disposition) been served in respect of the disposition and has resulted in an operative assessment of levy, and

(*b*) the principal amount of levy specified in the notice of assessment of levy was calculated on the assumption that the amount of the compensation would be less than the amount determined by the Tribunal,

section 55 of this Act shall apply as if such a decision of the Tribunal were included among the circumstances to which that section applies.

7. Sections 50 to 53 of this Act shall not have effect in relation to a notice of assessment of levy served in respect of the disposition, whether it is served before, on or after the date of the disposition.

Section 76.

SCHEDULE 11

CREDIT CARRIED FORWARD FROM PREVIOUS CHARGEABLE ACT OR EVENT

PART I

CASES IN WHICH CREDIT ARISES

Introductory

1. For the purpose of assessing levy in respect of a chargeable act or event (in this Schedule referred to as a "subsequent chargeable act or event") a credit shall be taken to have arisen from a previous chargeable act or event (in this Schedule referred to as "the previous chargeable act or event") in the cases specified in paragraphs 2 to 4 of this Schedule.

Credit carried forward from Case C

2. Such a credit shall be taken to have arisen where the previous chargeable act or event consisted of beginning to carry out a project of material development in respect of which notice was served under section 38, section 66(3)(*b*) or section 68 of this Act, and, for the purpose of assessing levy in respect of an assessable interest in the land, or part of the land, comprised in the project,—

(*a*) paragraph 7 or paragraph 20 of Schedule 5 to this Act had effect, and

(*b*) the base value of that interest, ascertained in accordance with that paragraph, together with any amount which was allowable in accordance with Part V of Schedule 4 to this Act, exceeded the market value of that interest.

Credit carried forward from Cases D and E

3. Such a credit as is referred to in paragraph 1 of this Schedule shall be taken to have arisen where the previous chargeable act or event fell within Case D or Case E and notice in respect of it was served under section 40 or section 41 of this Act and, for the purpose of assessing levy in respect of it, the appropriate deduction for the purposes of section 33(2) or section 34(2) of this Act exceeded the amount of the compensation or consideration.

Credit carried forward from acquisition under compulsory powers SCH. 11

4.—(1) Such a credit as is referred to in paragraph 1 of this Schedule shall be taken to have arisen where the previous chargeable act or event was a disposition whereby an interest in land was compulsorily acquired by, or was sold to, an authority possessing compulsory purchase powers and—

(*a*) the circumstances of the disposition were such that a notice in respect of it was required to be served under paragraph 11 or paragraph 12 (or under both of those paragraphs) of Schedule 9 to this Act or, where the acquiring authority was the Commission, would have been required to be so served if the acquiring authority had been a body other than the Commission, and

(*b*) the aggregate of the amounts specified in the next following sub-paragraph exceeded the value which, for the purpose of assessing levy in respect of the disposition, constituted the market value of the relevant interest.

(2) The amounts referred to in sub-paragraph (1)(*b*) of this paragraph are those amounts which, for the purpose of assessing levy in respect of the disposition in question, constituted—

(*a*) the base value of the relevant interest;

(*b*) any amount which was allowable in accordance with Part V of Schedule 4 to this Act; and

(*c*) where the disposition was made in the circumstances specified in sub-paragraph (1) of paragraph 2 of Schedule 9 to this Act, the amount ascertained in accordance with sub-paragraph (2) of that paragraph.

Provisions as to interpretation of Schedule

5.—(1) In the following provisions of this Schedule, in their application to a case falling within paragraph 2 of this Schedule, "the credit" means the amount of the excess referred to in sub-paragraph (*b*) of that paragraph, "the original chargeable interest" means the assessable interest referred to in that paragraph, "the original chargeable unit" means the land in which that interest subsisted, and "the original chargeable owner" means the person who either was the developing owner in relation to the project in question by virtue of that interest (or by virtue of that interest together with one or more other assessable interests) or (if he was not the developing owner) was entitled to that interest immediately before the date on which the carrying out of the project was begun.

(2) In the following provisions of this Schedule, in their application to a case falling within paragraph 3 of this Schedule, "the credit" means the amount of the excess referred to in that paragraph, "the original chargeable interest" means the interest which for the purpose mentioned in that paragraph was the relevant interest, "the original chargeable unit" means the land in which that interest subsisted and "the original chargeable owner" means the person who immediately before the date which for that purpose was the relevant date was entitled to that interest.

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(3) In the following provisions of this Schedule, in their application to a case falling within paragraph 4 of this Schedule, "the credit" means the amount of the excess referred to in sub-paragraph (1)(*b*) of that paragraph, "the original chargeable owner" means the person in whom, immediately before the disposition referred to in that paragraph was made, the interest compulsorily acquired or sold was vested, and—

(*a*) if, in the circumstances in which that disposition was made, a notice was required to be served under one (but not both) of paragraphs 11 and 12 of Schedule 9 to this Act (or if the acquiring authority was the Commission, would have been required to be so served if the acquiring authority had been a body other than the Commission), "the land previously affected" means the other land in respect of which a notice was, or would have been, required to be so served, and "the interest previously affected" means the interest in that land which the original chargeable owner had immediately before the disposition; and

(*b*) if, in those circumstances, a notice was required to be served both under paragraph 11 and paragraph 12 of that Schedule (or, if the acquiring authority was the Commission, would have been required to be so served if the acquiring authority had been a body other than the Commission) "the land previously affected" means the aggregate of all the land in respect of which notices were or would have been required to be so served, and "the interest previously affected" means the interest in all that land which the original chargeable owner had immediately before the disposition.

6. For the purposes of the application of the following provisions of this Schedule to a case falling within paragraph 2 or paragraph 3 of this Schedule, a subsequent chargeable act or event shall be taken to be a subsequent chargeable act or event affecting the original chargeable interest if—

(*a*) the land, or part of the land, which, for the purpose of assessing levy in respect of it, constitutes the relevant land is or forms part of the original chargeable unit;

(*b*) the interest which for that purpose constitutes the relevant interest (or, in Case B, the interest of the grantor) is, or in so far as it subsists in the original chargeable unit or part of that unit is, the original chargeable interest; and

(*c*) the person who for that purpose is the chargeable owner (as defined by paragraph 2(1) of Schedule 5 to this Act) is either the original chargeable owner or a successor in title of the original chargeable owner, not being a successor such that he, or a previous successor in title of the original chargeable owner, derived title under a disposition for valuable consideration.

7. For the purposes of the application of the following provisions of this Schedule to a case falling within paragraph 4 of this Schedule,

a subsequent chargeable act or event shall be taken to be a subsequent chargeable act or event affecting the interest previously affected if— SCH. 11

(*a*) the land, or part of the land, which for the purpose of assessing levy in respect of it constitutes the relevant land is or forms part of the land previously affected;

(*b*) the interest which for that purpose constitutes the relevant interest (or, in Case B, the interest of the grantor) is, or in so far as it subsists in the land previously affected or part of that land is, the interest previously affected; and

(*c*) the person who for that purpose is the chargeable owner (as defined by paragraph 2(1) of Schedule 5 to this Act) is either the original chargeable owner or a successor in title of the original chargeable owner, not being a successor such that he, or a previous successor in title of the chargeable owner, derived title under a disposition for valuable consideration.

PART II

PROVISIONS FOR CARRYING CREDIT FORWARD

8.—(1) The provisions of this paragraph shall have effect in relation to the first subsequent chargeable act or event affecting the original chargeable interest (or, as the case may be, the first subsequent chargeable act or event affecting the interest previously affected) which fulfils the following conditions, that is to say—

(*a*) that it is a chargeable act or event falling within Case A or Case C, and

(*b*) that, for the purpose of assessing levy in respect of it, the relevant interest has net development value (ascertained apart from this Part of this Schedule).

(2) If the amount of that net development value (so ascertained) is greater than the credit, then—

(*a*) for the purpose of assessing levy in respect of that act or event, the net development value of the relevant interest shall be reduced by the credit, and

(*b*) the credit shall thereupon be taken to be extinguished.

(3) If the amount of that net development value is equal to the credit, then—

(*a*) for the purpose of assessing levy in respect of that act or event, the relevant interest shall be treated as having no net development value, and

(*b*) the credit shall thereupon be taken to be extinguished.

(4) If the amount of that net development value is less than the credit, then—

(*a*) for the purpose of assessing levy in respect of that act or event, the relevant interest shall be treated as having no net development value, and

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(*b*) the credit shall thereupon be reduced by the amount of the net development value ascertained apart from this Part of this Schedule.

9.—(1) The provisions of this paragraph shall have effect in relation to the first subsequent chargeable act or event affecting the original chargeable interest (or, as the case may be, the first subsequent chargeable act or event affecting the interest previously affected) which fulfils the following conditions, that is to say—

(*a*) that it consists of a disposition granting a tenancy, and

(*b*) that, for the purpose of assessing levy in respect of it, there is net development value realised by the disposition (ascertained apart from this Part of this Schedule).

(2) If the amount of the net development value realised by the disposition (so ascertained) is greater than the credit, then—

(*a*) for the purpose of assessing levy in respect of that act or event, the net development value realised by the disposition shall be reduced by the credit, and

(*b*) the credit shall thereupon be taken to be extinguished.

(3) If the amount of that net development value is equal to the credit, then—

(*a*) for the purpose of assessing levy in respect of that act or event, no net development value shall be taken to be realised by the disposition, and

(*b*) the credit shall thereupon be taken to be extinguished.

(4) If the amount of that net development value is less than the credit, then—

(*a*) for the purpose of assessing levy in respect of that act or event, no net development value shall be taken to be realised by the disposition, and

(*b*) the credit shall thereupon be reduced by the amount of the net development value realised by the disposition, ascertained apart from this Part of this Schedule.

10.—(1) The provisions of this paragraph shall have effect in relation to the first subsequent chargeable act or event affecting the original chargeable interest (or, as the case may be, the first subsequent chargeable act or event affecting the interest previously affected) which is a chargeable act or event falling within Case D or Case E; and in the following provisions of this paragraph "the primary amount" means the amount of the compensation or consideration, ascertained in accordance with Part IV of Schedule 4 to this Act, less the appropriate deduction (if any) referred to in section 33(2) or, as the case may be, section 34(2) of this Act.

(2) If the primary amount is greater than the credit, then—

(*a*) for the purpose of assessing levy in respect of that act or event, the primary amount shall be treated as reduced by the credit, and

(*b*) the credit shall thereupon be taken to be extinguished.

(3) If the primary amount is equal to the credit, then—

(*a*) no levy shall be chargeable in respect of that act or event, and

(*b*) the credit shall thereupon be taken to be extinguished.

(4) If the primary amount is less than the credit, then—

(*a*) no levy shall be chargeable in respect of that act or event, and

(*b*) the credit shall thereupon be reduced by an amount equal to the primary amount.

11. Where the credit is reduced in accordance with any of the preceding provisions of this Part of this Schedule, or in accordance with any corresponding provisions contained in regulations made under section 35 of this Act, then, in the case of each successive subsequent chargeable act or event affecting the original chargeable interest (or, as the case may be, each successive subsequent chargeable act or event affecting the interest previously affected) those provisions of this Part of this Schedule and of the regulations shall apply in relation to the credit as so reduced (or as progressively reduced by virtue of this paragraph, as the case may be) until the whole of the credit has been extinguished.

12. The preceding provisions of this Part of this Schedule shall have effect subject to Part III of this Schedule where that Part is applicable.

PART III

ADJUSTMENT OF BASE VALUE

13. Where in accordance with paragraph 3 of this Schedule a credit is taken to have arisen from a previous chargeable act or event falling within Case D or Case E and (apart from this Part of this Schedule) any of the provisions of Part II of this Schedule would have effect in relation to a subsequent chargeable act or event, then, for the purpose of assessing levy in respect of that subsequent chargeable act or event, either—

(*a*) the provisions of Part II of this Schedule shall not apply, or

(*b*) the provisions of the next following paragraph shall apply and the provisions of Part II of this Schedule shall apply subject to those provisions,

whichever results in the lesser amount of levy being chargeable in respect of that act or event.

14.—(1) Where the subsequent chargeable act or event falls within Case A, Case C, Case D or Case E, then (if the provisions of this paragraph are to apply) paragraph 5, paragraph 33 or paragraph 38(4) of Schedule 4 to this Act (as the case may be) shall have effect for the purpose of assessing levy in respect of it as if, for the reference to eleven-tenths of the current use value of the relevant interest, there were substituted a reference to the aggregate of—

(*a*) the current use value of the relevant interest in so far as it subsists in the original chargeable unit, and

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(*b*) (if that interest extends to land other than the original chargeable unit) eleven-tenths of the current use value of that interest in so far as it subsists in that other land.

(2) Where the subsequent chargeable act or event falls within Case B and the relevant land does not comprise any land not comprised in the original chargeable unit, then (if the provisions of this paragraph are to apply) paragraph 15 of Schedule 4 to this Act shall have effect for the purpose of assessing levy in respect of it as if, in sub-paragraph (*a*) of that paragraph, the words "eleven-tenths of" were omitted.

(3) Where the subsequent chargeable act or event falls within Case B and the relevant land comprises land not comprised in the original chargeable unit, then (if the provisions of this paragraph are to apply) the current use value realised by the disposition shall be apportioned as between the original chargeable unit and the remainder of the relevant land in such manner as may be appropriate in the circumstances, and paragraph 15 of Schedule 4 to this Act shall have effect as if, for the reference to eleven-tenths of the current use value realised by the disposition, there were substituted a reference to the aggregate of—

(*a*) so much of that value as is apportioned to the original chargeable unit, and

(*b*) eleven-tenths of so much of it as is apportioned to the remainder of the relevant land.

PART IV

CREDIT CARRIED FORWARD FROM CASE F

15. Regulations made for the purposes of this Schedule may provide that, in such circumstances as may be specified in the regulations and subject to such exceptions and modifications as may be so specified, the provisions of Parts I to III of this Schedule shall have effect in relation to a previous chargeable act or event which fell within Case F and consisted of—

(*a*) such a disposition as is mentioned in subsection (3) of section 35 of this Act, or

(*b*) the accrual of such a right to compensation as is mentioned in subsection (5) of that section,

as those provisions have effect in relation to a previous chargeable act or event which fell within Case D or Case E.

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SCHEDULE 12

DEATH, BANKRUPTCY, WINDING UP AND FLOATING CHARGES

PART I

GENERAL PROVISIONS

1. In this Schedule "person prospectively liable for levy"—

(*a*) in relation to a chargeable act or event falling within Case A, Case B or Case E, means the grantor;

(*b*) in relation to a chargeable act or event falling within Case C, means a person who is the developing owner in relation

to the relevant project or (if he is not the developing owner in relation to it) is on the relevant date entitled to an assessable interest in the relevant land or in part of that land;

(*c*) in relation to a chargeable act or event falling within Case D, means the person to whom the right to compensation accrues; and

(*d*) in relation to a chargeable act or event falling within Case F, means such person as for the purposes of this paragraph may be prescribed by the regulations made under section 35 of this Act.

2. For the purposes of the application of this Schedule to a chargeable act or event falling within any Case other than Case C, "the levy" means levy chargeable in respect of that act or event and "the chargeable interest" has the meaning assigned to it by paragraph 2(1) of Schedule 5 to this Act.

3. For the purposes of the application of this Schedule to a chargeable act or event falling within Case C, "the levy", in relation to any person prospectively liable for levy in respect of that act or event, means levy chargeable in that Case in respect of any assessable interest by virtue of which he is the developing owner in relation to the relevant project or (if he is not the developing owner in relation to it) means levy chargeable in that Case in respect of any assessable interest in the relevant land, or in part of that land, to which he is entitled on the relevant date, and "the chargeable interest", in relation to the levy, means the assessable interest in respect of which the levy is so chargeable.

4.—(1) In this Schedule "net capital proceeds"—

(*a*) in relation to a chargeable act or event consisting of a disposition falling within Case A, Case E or Case F, means the consideration given for the disposition, reduced by the amount of any costs which are incurred by the person making the disposition and are incidental costs to him of making it or of making any contract in pursuance of which it is made;

(*b*) in relation to a chargeable act or event consisting of a disposition falling within Case B, means all premiums or other capital sums which are paid as consideration for the disposition or which in accordance with the terms of the tenancy are payable to the landlord at any time during the tenancy, reduced by the amount of any such costs as are mentioned in the preceding sub-paragraph; and

(*c*) in relation to a chargeable act or event consisting of the accrual of a right to compensation falling within Case D or Case F, means the compensation paid in respect of that right.

(2) For the purposes of the preceding sub-paragraph the incidental costs to a person of making a disposition or contract shall be taken to consist of—

(*a*) expenditure wholly or exclusively incurred by him for the purposes of the disposition or contract, being fees, com-

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mission or remuneration paid for the professional services of any surveyor or valuer, or auctioneer, or accountant, or agent or legal adviser;

(*b*) any stamp duty payable by him on the disposition or contract;

(*c*) any costs of advertising to find a purchaser or tenant; and

(*d*) any costs reasonably incurred by him which, in relation to the chargeable act or event in question, are costs to which paragraph 19 of Schedule 6 to this Act applies.

PART II

DEATH

Death on or after relevant date

5.—(1) Where a chargeable act or event occurs, and a person prospectively liable for levy in respect of it (in this paragraph referred to as "the deceased") dies on or after the relevant date but before a notice of assessment of levy has been served on him in respect of the chargeable interest, then, subject to the next following sub-paragraph, a notice of assessment of levy in respect of that interest may be served on his personal representatives.

(2) The preceding sub-paragraph shall have effect subject to subsections (3) and (4) of section 44 of this Act; and, without prejudice to those subsections, a notice of assessment of levy served by virtue of this paragraph shall not have effect if it is served more than three years after the death of the deceased.

(3) For the purposes of this paragraph (and without prejudice to any question arising otherwise than under this Part of this Schedule) a person who has been a personal representative of the deceased shall not be taken at any time after the death of the deceased to have ceased to be such a personal representative by reason only that, apart from the levy, the administration of the estate of the deceased has been completed before that time.

6. Where a person prospectively liable for levy in respect of a chargeable act or event dies after a notice of assessment of levy has been served on him in respect of the chargeable interest, but before that notice has resulted in an operative assessment of levy, anything which, in accordance with Part III of this Act, would if he had not died have fallen to be done by or in relation to him in connection with the levy may be done or (if it has been begun) may be continued by or in relation to his personal representatives.

7.—(1) Where a person prospectively liable for levy in respect of a chargeable act or event dies on or after the relevant date, and a notice of assessment of levy served in respect of the chargeable interest has resulted in an operative assessment of levy, any sum recoverable by the Commission in respect of the levy shall (subject to the next following sub-paragraph) be treated for all purposes as if it had been a debt due from him to the Commission which accrued immediately before his death.

(2) Nothing in the preceding sub-paragraph shall operate so as to enable any sum to be recovered by the Commission before

the date on which it accrues due in accordance with section 50 of this Act, or so as to require interest on any sum to be calculated otherwise than in accordance with section 51 of this Act.

8.—(1) The provisions of this paragraph shall have effect for the purposes of the application of the preceding provisions of this Part of this Schedule to a chargeable act or event consisting of a disposition on the acquisition of an interest in land (whether compulsorily or by agreement) by the Commission.

(2) In relation to any time on or after—

(*a*) the date on which an agreement for making the disposition is made, or

(*b*) the date which (whether by virtue of the execution of a general vesting declaration or otherwise) is the date of service of a notice to treat for the acquisition of that interest by the Commission,

but before the disposition is made, it shall, for the purposes of any of the preceding provisions of this Part of this Schedule and for the purposes of Part I of this Schedule as it has effect for the purposes of any of those provisions, be assumed that the disposition will be made on the date on which subsequently it is in fact made.

(3) In relation to any such time, paragraph 5(1) of this Schedule shall have effect as if, for the word "occurs", there were substituted the words "is about to occur".

Chargeable act or event occurring during administration of estate of deceased person

9.—(1) The provisions of this paragraph shall have effect where the personal representatives of a deceased person (in this paragraph referred to as "the deceased") are persons prospectively liable for levy in respect of a chargeable act or event—

(*a*) by reason of anything done by them in their capacity as his personal representatives, or

(*b*) by reason of any right accruing to them in that capacity, or

(*c*) in Case C, by reason of an interest in land, or the benefit of a contract, which has become vested in them in that capacity.

(2) If in the circumstances specified in the preceding sub-paragraph a notice of assessment of levy served in respect of the levy has resulted in an operative assessment of levy,—

(*a*) any sum recoverable by the Commission in respect of the levy shall (subject to the next following sub-paragraph) be treated for all purposes, except for the purposes of estate duty, as if it had been a debt due from the deceased to the Commission which accrued immediately before his death, and

(*b*) any such sum shall not be recoverable by the Commission from the personal representatives otherwise than as being such a debt due to the Commission from the deceased.

(3) Nothing in the last preceding sub-paragraph shall operate so as to enable any sum to be recovered by the Commission before the date on which it accrues due in accordance with section 50 of

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this Act, or so as to require interest on any sum to be calculated otherwise than in accordance with section 51 of this Act.

1925 c. 19.

(4) Section 27 of the Trustee Act 1925 (protection by means of advertisements) shall not have effect in relation to any claim of the Commission in respect of any sum which, in the circumstances specified in sub-paragraph (1) of this paragraph, is recoverable by them in respect of the levy.

10.—(1) If apart from this paragraph the Probate Judge would be a person prospectively liable for levy by reason that an interest in land, or the benefit of a contract, to which a person was entitled immediately before his death has become vested in the Probate Judge by operation of law, section 36 of this Act shall not have effect in relation to the Probate Judge in respect of the levy; and, if letters of administration of that person's estate are granted,—

(*a*) his personal representatives shall be treated as persons prospectively liable for levy in respect of the chargeable interest and the provisions of this Act relating to notices of assessment of levy shall apply accordingly, and

(*b*) sub-paragraphs (2) to (4) of the last preceding paragraph shall apply as they would apply in the circumstances specified in sub-paragraph (1) of that paragraph.

(2) In this paragraph "the Probate Judge" has the same meaning as in the Administration of Estates Act 1925.

1925 c. 23.

11.—(1) Where a person (in this paragraph referred to as "the deceased") who has served a notice under section 38 of this Act in respect of a project of material development dies before the date on which the carrying out of the project is begun, and he would have been the developing owner in relation to that project if he had still been living on that date, then for the purposes of Part III of this Act he shall be deemed to have been the developing owner in relation to that project; and section 32(7) of this Act shall have effect accordingly as if the deceased had been living on that date.

(2) For the purposes of the preceding sub-paragraph it shall be assumed that, if the deceased had still been living on the date on which the carrying out of the project is begun,—

(*a*) he would on that date still be entitled to any interest in the land comprised in the project, or in part of that land, to which he was entitled at the time when he served notice of intention to carry it out, and

(*b*) he would on that date still be under any contract relating to that land, or part of it, to which he was subject at that time.

PART III

BANKRUPTCY

Receiving order made or sequestration awarded after relevant date

12. Where a person prospectively liable for levy in respect of a chargeable act or event has a receiving order made against him in England or Wales on or after the relevant date and he is adjudged

bankrupt, or where such a person has an award of sequestration made against him in Scotland on or after the relevant date,— SCH. 12

(*a*) any sum recoverable by the Commission in respect of the levy shall constitute a debt provable in his bankruptcy, if apart from this paragraph it would not constitute a debt so provable, and

(*b*) if the receiving order or the award of sequestration is made not more than twelve months after the relevant date, any sum so recoverable shall be deemed to be included among his debts specified in section 33(1) of the Bankruptcy Act 1914 or section 118(1) of the Bankruptcy (Scotland) Act 1913 (priority of debts). 1914 c. 59. 1913 c. 20.

Relevant date after receiving order but before adjudication

13.—(1) Where, in England or Wales, a person prospectively liable for levy in respect of a chargeable act or event has had a receiving order made against him before the relevant date, and is adjudicated bankrupt on or after that date, any sum recoverable by the Commission in respect of the levy shall (notwithstanding anything in section 30 of the Bankruptcy Act 1914) constitute a debt provable in his bankruptcy.

(2) For the purpose of recovering any such sum the Commission shall, in priority to all other debts provable in the bankruptcy, have a first charge on so much of the net capital proceeds (if any) of the chargeable act or event in question as is received by the official receiver or the trustee in bankruptcy as money divisible among the unsecured creditors of the bankrupt.

Chargeable act or event occurring after adjudication or sequestration

14.—(1) The provisions of this paragraph shall have effect where the trustee in bankruptcy of a bankrupt is a person prospectively liable for levy in respect of a chargeable act or event—

(*a*) by reason of anything done by him in his capacity as trustee in bankruptcy of the bankrupt, or

(*b*) by reason of any right accruing to him in that capacity, or

(*c*) in Case C, by reason of an interest in land, or the benefit of a contract, which has become vested in him in that capacity.

(2) If in the circumstances specified in the preceding sub-paragraph a notice of assessment of levy served in respect of the levy has resulted in an operative assessment of levy,—

(*a*) any sum recoverable by the Commission in respect of the levy shall (notwithstanding anything in section 30 of the Bankruptcy Act 1914) constitute a debt provable in the bankruptcy, and

(*b*) any such sum shall not be recoverable from the trustee in bankruptcy otherwise than as being such a debt due to the Commission from the bankrupt.

(3) For the purpose of recovering any such sum the Commission shall, in priority to all other debts provable in the bankruptcy, have

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a first charge on so much of the net capital proceeds (if any) of the chargeable act or event in question as is received by the trustee in bankruptcy as money divisible among the unsecured creditors of the bankrupt.

Composition or scheme or deed of arrangement

15.—(1) The provisions of paragraph 14 of this Schedule shall have effect in relation to a trustee appointed under or in pursuance of a composition or scheme or deed of arrangement as they have effect in relation to a trustee in bankruptcy.

(2) Without prejudice to the preceding sub-paragraph, where—

(*a*) a trustee appointed under or in pursuance of a composition or scheme or deed of arrangement is a person prospectively liable for levy in respect of a chargeable act or event, and

(*b*) the composition or scheme is annulled, and the debtor again adjudged bankrupt, under section 21(3) of the Bankruptcy Act 1914, or the composition or deed of arrangement is superseded by an award of sequestration,

1914 c. 59.

sub-paragraphs (2) and (3) of paragraph 14 of this Schedule shall have effect in relation to any sum recoverable by the Commission in respect of the levy as if in that paragraph any reference to the trustee in bankruptcy included a reference to the trustee under the composition, scheme or deed.

Power for official receiver or trustee in bankruptcy to act in relation to levy

16. Where a notice of assessment of levy is served on a person prospectively liable for levy, and a receiving order or award of sequestration—

(*a*) has been made against him before the service of that notice, or

(*b*) is made against him after the service of that notice but before it has resulted in an operative assessment of levy,

anything which, in accordance with Part III of this Act, would fall to be done by or in relation to him in connection with the levy may be done or (if it has been begun) may be continued by or in relation to the official receiver or (if he has been adjudged bankrupt or sequestrated) his trustee in bankruptcy.

PART IV

WINDING UP AND FLOATING CHARGES

General provisions as to winding up

17.—(1) Where a company is a person prospectively liable for levy in respect of a chargeable act or event, and the company is wound up, whether compulsorily or otherwise, any sum recoverable by the Commission in respect of the levy shall constitute a debt provable in the winding up, if apart from this paragraph it would not constitute a debt so provable.

(2) If the date which is the relevant date for the purposes of section 319 of the Companies Act 1948 (preferential payments) is after, but not more than twelve months after, the date which is the

1948 c. 38.

relevant date for the purpose of assessing the levy, any sum so recoverable shall be deemed to be included among the debts of the company specified in subsection (1) of that section. SCH. 12

(3) If the date first mentioned in sub-paragraph (2) of this paragraph is not after the relevant date, then for the purpose of recovering any sum recoverable by the Commission in respect of the levy the Commission shall, in priority to all other debts provable in the winding up, have a first charge on so much of the net capital proceeds (if any) of the chargeable act or event in question as is received by the company, by an official receiver or by a liquidator as money divisible among the unsecured creditors of the company.

Provisions where property vested in liquidator

18.—(1) The provisions of this paragraph shall have effect where, in pursuance of an order made under section 244 of the Companies Act 1948 (vesting of property of company in liquidator), all or any part of the property of a company has vested in the liquidator of the company, and the liquidator is a person prospectively liable for levy in respect of a chargeable act or event— 1948 c. 38.

(*a*) by reason of anything done by him in his capacity as liquidator of the company, or

(*b*) by reason of any right accruing to him in that capacity, or

(*c*) in Case C, by reason of an interest in land, or the benefit of a contract, which has become vested in him in that capacity.

(2) If in the circumstances specified in the preceding sub-paragraph a notice of assessment of levy served in respect of the levy has resulted in an operative assessment of levy,—

(*a*) any sum recoverable by the Commission in respect of the levy shall constitute a debt provable in the winding up of the company, if apart from this paragraph it would not constitute a debt so provable, and

(*b*) any such sum shall not be recoverable from the liquidator otherwise than as being such a debt due to the Commission from the company.

(3) For the purpose of recovering any such sum the Commission shall, in priority to all other debts provable in the winding up, have a first charge on so much of the net capital proceeds (if any) of the chargeable act or event in question as is received by the liquidator as money divisible among the unsecured creditors of the company.

Property of company subject to debentures secured by floating charge

19. Where a company registered in England is a person prospectively liable for levy in respect of a chargeable act or event, and a receiver is appointed on behalf of the holders of any debentures of the company secured by a floating charge, or possession is taken by or on behalf of those debenture holders of any property comprised in or subject to the charge, then if—

(*a*) the date of the appointment of the receiver, or of possession being so taken, is after, but not more than twelve months

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after, the date which is the relevant date for the purpose of assessing the levy, and

(*b*) at the first-mentioned date the company is not in course of being wound up,

1948 c. 38.

section 94 of the Companies Act 1948 (payment of certain debts out of assets subject to floating charge in priority to claims under the charge) shall have effect in relation to any sum recoverable by the Commission in respect of the levy as if that sum were included among the debts specified in section 319(1) of that Act.

Interpretation

20. In this Part of this Schedule "company" and "debenture" have the same meanings as in the Companies Act 1948.

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SCHEDULE 13

SPECIAL PROVISIONS AS TO LEVY IN CERTAIN CASES

PART I

GROUPS OF COMPANIES

Introductory

1. For the purposes of this Part of this Schedule—

(*a*) "company" means a body which, being a company within the meaning of the Companies Act 1948 or the corresponding enactment in force in Northern Ireland, a company which is constituted under any Act, Royal Charter or Letters Patent or is formed under the law of a country or territory outside the United Kingdom or a registered industrial and provident society, is resident in the United Kingdom;

(*b*) a principal company and all its subsidiaries form a group, and, where a principal company is a member of a group as being itself a subsidiary, that group shall comprise all its subsidiaries;

(*c*) "subsidiary" has the meaning which in section 42 of the Finance Act 1938 it is expressed to have for the purposes of that section, except that in the application of that section any share capital of a registered industrial and provident society shall be treated as within the definition of ordinary share capital, and "principal company" means a company of which another company is a subsidiary; and

1938 c. 46.

(*d*) "registered industrial and provident society" means a society registered under the Industrial and Provident Societies Act 1965 or under the enactments repealed by that Act or registered under any corresponding enactment in force in Northern Ireland.

1965 c. 12.

Dispositions within the group

2.—(1) Notwithstanding anything in Part III of this Act, a disposition made by a member of a group of companies to another member of the group, if apart from this paragraph it would constitute a chargeable act or event, shall be treated as not being a chargeable act or event for the purposes of that Part of this Act.

(2) Any provisions of sections 37, 41 and 42 of this Act which would be applicable apart from this paragraph shall not have effect in relation to any such disposition.

Liability for levy

3.—(1) The provisions of this paragraph shall have effect in relation to any chargeable act or event not falling within the last preceding paragraph, where—

(*a*) a notice of assessment of levy has resulted in an operative assessment of levy, and the person who, apart from this paragraph, is liable to pay the levy is a member of a group of companies, and

(*b*) at the end of the period of six months beginning with the date on which, in accordance with section 50 of this Act, the principal amount of the levy or part of it falls due the amount so falling due or part of it remains unpaid.

(2) Subject to sub-paragraph (4) of this paragraph, the sum remaining unpaid as mentioned in sub-paragraph (1)(*b*) of this paragraph shall be recoverable by the Commission—

(*a*) from the company which at the relevant date was the principal company of the group, or

(*b*) from any other company which in any part of the period of two years ending with the relevant date was a member of the group and was then entitled to the chargeable interest.

(3) Subject to the next following sub-paragraph, section 53 of this Act shall have effect in relation to any amount recoverable by virtue of this paragraph.

(4) No action shall, after the end of the period of two years beginning with the date specified in sub-paragraph (1)(*b*) of this paragraph, be brought for the recovery of any sum which is recoverable by virtue of this paragraph.

(5) This paragraph shall have effect without prejudice to the recovery of any sum by the Commission otherwise than by virtue of this paragraph.

(6) In this paragraph, in relation to a chargeable act or event, " the chargeable interest " has the meaning assigned to it by paragraph 2(1) of Schedule 5 to this Act.

4. A company from whom any sum is recovered by the Commission by virtue of paragraph 3 of this Schedule shall be entitled to recover the amount of that sum—

(*a*) from the company which is liable to pay the levy apart from that paragraph, or

(*b*) if that company is not the company which was the principal company of the group at the relevant date, from that principal company.

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PART II

CONNECTED PERSONS

5.—(1) For the purposes of this Part of this Schedule any question whether a person is connected with another shall be determined in accordance with the following provisions of this paragraph (any provision that one person is connected with another being taken to mean that they are connected with one another).

(2) A person is connected with an individual if that person is the individual's husband or wife, or is a relative, or the husband or wife of a relative, of the individual or of the individual's husband or wife.

(3) A person, in his capacity as trustee of a settlement, is connected with any individual who in relation to the settlement is a settlor, and with any person who is connected with such an individual.

(4) Except in relation to acquisitions or disposals of partnership assets pursuant to bona fide commercial arrangements, a person is connected with any person with whom he is in partnership, and with the husband or wife or a relative of any individual with whom he is in partnership.

(5) A company is connected with another company—

(*a*) if the same person has control of both, or a person has control of one and persons connected with him, or he and persons connected with him, have control of the other, or

(*b*) if a group of two or more persons has control of each company, and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person with whom he is connected.

(6) A company is connected with another person if—

(*a*) that person has control of it, or

(*b*) persons connected with him have control of it, or

(*c*) that person and persons connected with him together have control of it.

(7) Any two or more persons acting together to secure or exercise control of a company shall be treated in relation to that company as connected with one another and with any person acting on the directions of any of them to secure or exercise control of the company.

(8) In this Part of this Schedule—

(*a*) "relative" means brother, sister, ancestor or lineal descendant;

(*b*) "settlement" and "settlor" have the meanings assigned to them by Chapter III of Part XVIII of the Income Tax Act 1952; 1952 c. 10.

(*c*) "company" includes any body corporate or unincorporated association but does not include a partnership, and any reference to control, in relation to a company, shall be construed in accordance with paragraph 3 of Schedule 18 to the Finance Act 1965. 1965 c. 25.

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6.—(1) The provisions of this paragraph shall have effect in relation to any chargeable act or event falling within any Case other than Case C (in this paragraph referred to as " the chargeable act or event ") where—

(*a*) a notice of assessment of levy has resulted in an operative assessment of levy, and the person who, apart from this paragraph, is liable to pay the levy is a company resident in the United Kingdom (in this paragraph referred to as " the company "), and

(*b*) at the end of the period of six months beginning with the date on which, in accordance with section 50 of this Act, the principal amount of the levy or part of it falls due the amount so falling due or part of it remains unpaid.

(2) For the purposes of this paragraph a person is a contributory if, at any time on or after the relevant date (whether before or after the date specified in sub-paragraph (1)(*b*) of this paragraph) when he is a person connected with the company, he receives or becomes entitled to receive in respect of shares in the company any capital distribution from the company, other than a capital distribution representing a reduction of capital, and—

(*a*) where the chargeable act or event consists of a disposition made by the company and falling within any of Cases A, B, E and F, the capital so distributed derives from the consideration given for that disposition, or

(*b*) where the chargeable act or event consists of the accrual of a right to compensation falling within Case D or Case F, the capital distribution derives from the compensation received by the company in pursuance of that right.

(3) Subject to the next following sub-paragraph, the sum remaining unpaid as mentioned in sub-paragraph (1)(*b*) of this paragraph—

(*a*) if there is only one contributory, shall be recoverable by the Commission from him, and

(*b*) if there are two or more contributories, shall be recoverable by the Commission from all or any of them, as being persons jointly and severally liable to pay that sum to the Commission.

(4) The amount recoverable by virtue of this paragraph from any one person who is a contributory by virtue of a capital distribution made in the circumstances mentioned in sub-paragraph (2) of this paragraph—

(*a*) shall not exceed the amount or value of the capital distribution which he has received or has become entitled to receive, and

(*b*) shall not exceed a proportion of the sum referred to in the last preceding sub-paragraph which is greater than the proportion which his share of the total capital distribution made by the company in those circumstances bears to the whole of that distribution.

(5) Section 53 of this Act shall have effect in relation to any amount recoverable by virtue of this paragraph.

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(6) This paragraph shall have effect without prejudice to the recovery of any sum by the Commission otherwise than by virtue of this paragraph.

(7) In this paragraph "capital distribution" means any distribution from a company (including a distribution in the course of dissolving or winding up the company) in money or money's worth except a distribution which in the hands of the recipient constitutes income for the purposes of income tax.

7. A person from whom any amount is recovered by the Commission by virtue of the last preceding paragraph, as being a contributory in relation to a company, shall be entitled to recover that amount from the company.

8.—(1) Where, for the purpose of assessing levy in respect of a chargeable act or event, paragraph 7 or paragraph 16 of Schedule 5 to this Act would have effect apart from the provisions of this paragraph, and the last relevant disposition (within the meaning of Part I of that Schedule)—

(*a*) was a disposition made between connected persons, and

(*b*) itself constituted a chargeable act or event in respect of which a notice of assessment of levy was or is served,

the Commission may, if they think fit, give a direction under this paragraph.

(2) Where such a direction is given, then, unless all levy payable in respect of the chargeable act or event consisting of the last relevant disposition has been paid before the date referred to in the next following sub-paragraph, paragraph 7 or (as the case may be) paragraph 16 of Schedule 5 to this Act shall not have effect for the purpose of assessing levy in respect of the subsequent chargeable act or event.

(3) The date referred to in the last preceding sub-paragraph is the latest date on which, in connection with the subsequent chargeable act or event, a counter-notice could be served, in accordance with section 46(2) of this Act, objecting to a notice of assessment of levy served in respect of the relevant interest.

9.—(1) Where, on an application under section 60 of this Act, the Commission give a direction under that section with respect to a project of material development, and—

(*a*) the disposition referred to in the application was made between connected persons, and

(*b*) that disposition itself constituted a chargeable act or event in respect of which a notice of assessment of levy was or is served, and

(*c*) on the date on which the carrying out of the project is begun, the whole or part of the levy payable in respect of that chargeable act or event remains unpaid,

the Commission may, if they think fit, revoke the direction given under section 60 of this Act.

(2) Where the Commission revoke such a direction in pursuance of the preceding sub-paragraph, levy shall be chargeable as if that direction had not been given.

(3) Where such a direction is revoked under this paragraph, and for the purpose of assessing levy in Case C in respect of any interest in the land, or in part of the land, comprised in the project paragraph 7 or paragraph 16 of Schedule 5 to this Act would have effect apart from the provisions of this paragraph (the disposition referred to in the application under section 60 of this Act being the last relevant disposition within the meaning of Part I of that Schedule) the Commission may give a direction under this sub-paragraph.

(4) Sub-paragraphs (2) and (3) of the last preceding paragraph shall have effect where a direction is given under sub-paragraph (3) of this paragraph as they have effect where a direction is given under that paragraph.

PART III

BENEFICIARY ABSOLUTELY ENTITLED

10. The provisions of this Part of this Schedule shall have effect where—

(*a*) a notice of assessment of levy has resulted in an operative assessment of levy, and the person who, apart from this Part of this Schedule, is liable to pay the levy is so liable by reason that an interest in land is vested in him as trustee for another person (in this Part of this Schedule referred to as "the beneficiary") who, as against him, is absolutely entitled to that interest, and

(*b*) at the end of the period of six months beginning with the date on which, in accordance with section 50 of this Act, the principal amount of the levy or part of it falls due, the amount so falling due or part of it remains unpaid.

11.—(1) Any sum remaining unpaid as mentioned in paragraph 10(*b*) of this Schedule shall be recoverable by the Commission from the beneficiary.

(2) Section 53 of this Act shall have effect in relation to any amount recoverable by virtue of this paragraph.

12. The last preceding paragraph shall have effect without prejudice to the recovery of any sum by the Commission apart from that paragraph.

Section 87(1).

SCHEDULE 14

1931 c. 28.

AMENDMENTS OF FINANCE ACT 1931

Provision of Act	*Amendment*
Section 28:—	
In subsection (1) ...	For the words " ten pounds " there shall be substituted the words " fifty pounds ".
In subsection (3) ...	The words from " or which is a mining lease " to the end of the subsection shall be omitted.
After subsection (5) ...	Insert the following subsection:— (6) In Schedule 2 to this Act " local authority ", in relation to England and Wales, has the same meaning as in the Town and Country Planning Act 1962, and, in relation to Scotland, has the same meaning as in the Town and Country Planning (Scotland) Act 1947.
Schedule 2:—	
In so much of paragraph 1 as precedes sub-paragraph (*a*)	For the words " may at his option either " there shall be substituted the word " shall ".
In paragraph 1(*a*)(vi) ...	For the words " any mortgage debt released, any mortgage debt covenanted to be paid " there shall be substituted the words " any debt released, any debt covenanted to be paid or to which the transaction is made subject ", and for the words " and any land exchanged " there shall be substituted the words " any land exchanged and any other thing representing money or money's worth comprised in the consideration for the transaction ".
In paragraph 1(*a*)(vii) ...	For the word " or " where it last occurs there shall be substituted the words " and (viii) of the information given to the transferee or lessee by any local authority in reply to any request made in connection with the transaction whereby that authority was requested to state what entries (if any) relating to the land to which the transaction relates were shown in any register kept by that authority under section 19(4) of the Town and Country Planning Act 1962 or (where the land is in Scotland) under section 12(5) of the Town and Country Planning (Scotland) Act 1947 ".

AMENDMENTS OF FINANCE ACT 1931—*continued* SCH. 14

Provision of Act	*Amendment*
Paragraph 1(*b*) and (*c*), the proviso to paragraph 1, and paragraph 2	To be omitted.

SCHEDULE 15

Section 87(2).

SCHEDULE 2 TO FINANCE ACT 1931, AS AMENDED 1931 c. 28.

REQUIREMENTS IN CONNECTION WITH PRODUCTION OF INSTRUMENTS OF TRANSFER

Any person required by section 28 of this Act to produce any instrument to the Commissioners shall furnish to the Commissioners with the instrument a document (signed by the transferee or lessee or by some person on his behalf and showing his address) giving particulars—

(i) of the description of the instrument;

(ii) of the date of the instrument;

(iii) of the names and addresses of the transferor and transferee or lessor and lessee;

(iv) of the situation of the land to which the transaction relates, including any dimensions stated in the instrument, and, if necessary for the identification of the land, a description of the boundaries thereof, or a plan;

(v) of the estate or interest transferred, including, where the transaction is the assignment or grant of a lease or the transfer of a fee simple subject to a lease, the term of the lease, the date of the commencement of the term, and the rent reserved;

(vi) of the consideration, if any, other than the rent shown under the last paragraph, showing separately any capital payment, any debt released, any debt covenanted to be paid or to which the transaction is made subject, any periodical payment (including any charge) covenanted to be paid, any terms surrendered, any land exchanged and any other thing representing money or money's worth comprised in the consideration for the transaction;

(vii) of any minerals, mineral rights, sporting rights, timber or easements reserved, and of any restrictions, covenants, or conditions affecting the value of the estate or interest transferred or granted; and

(viii) of the information given to the transferee or lessee by any local authority in reply to any request made in connection with the transaction whereby that authority was requested to state what entries (if any) relating to the land to which the transaction relates were shown in any register kept by

SCH. 15
1962 c. 38.
1947 c. 53.

that authority under section 19(4) of the Town and Country Planning Act 1962 or (where the land is in Scotland) under section 12(5) of the Town and Country Planning (Scotland) Act 1947.

Section 91.

SCHEDULE 16

APPLICATION OF CERTAIN ENACTMENTS RELATING TO CONSECRATED LAND, PLACES OF RELIGIOUS WORSHIP AND BURIAL GROUNDS

PART I

LAND IN ENGLAND AND WALES

1. Subject to the following provisions of this Part of this Schedule, the provisions of section 82 of the Act of 1962 (use and development of consecrated land and burial grounds) and any regulations made under that section shall have effect in relation to land in England or Wales which is acquired by the Commission under this Act as they have effect in relation to land acquired or appropriated as mentioned in subsection (1) of that section.

2. For the purposes of the application of the provisions of section 82 of the Act of 1962 in relation to land acquired by the Commission under this Act, those provisions shall be construed as if, for paragraphs (*a*) and (*b*) of subsection (1) and for paragraphs (*a*) and (*b*) of subsection (4) of that section, there were substituted the following paragraphs:—

"(*a*) where for the time being the land is held by the Land Commission, or by a person, other than a Minister, deriving title from the Land Commission, be used in any manner in accordance with planning permission, and

(*b*) where for the time being the land is held by a Minister deriving title from the Land Commission, be used in any manner by him or on his behalf for any purpose for which he acquired the land".

3. Section 87(3) of the Act of 1962 (which relates to the interpretation of certain provisions of that Act) shall have effect for the purpose of construing the provisions of section 82 of that Act as applied with modifications by this Part of this Schedule.

PART II

LAND IN SCOTLAND

4. Subject to the following provisions of this Part of this Schedule, the provisions of section 27 of the Scottish Act of 1945 (use and development of churches and burial grounds) and any regulations made under that section shall have effect in relation to land in Scotland which is acquired by the Commission under this Act as they have effect in relation to land acquired or appropriated as mentioned in subsection (1) of that section.

5. For the purposes of the application of the provisions of the said section 27 in relation to land acquired by the Commission

under this Act, those provisions shall be construed as if, for paragraphs (*a*) and (*b*) of subsection (1), there were substituted the following paragraphs:— SCH. 16

"(*a*) in the case of land for the time being held by the Land Commission, or by a person, other than a Minister, deriving title from the Land Commission, by the Land Commission or by that person if that use conforms with planning control; or

(*b*) in the case of land for the time being held by a Minister deriving title from the Land Commission, by him or on his behalf for any purpose for which he acquired the land".

SCHEDULE 17

Section 101.

ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
21 & 22 Geo. 5. c. 28.	The Finance Act 1931	In section 28(3), the words from " or which is a mining lease " to the end of the subsection. In Schedule 2, in paragraph 1, the words from " or ", where it last occurs in sub-paragraph (*a*), to the end of the paragraph, and paragraph 2.
9 & 10 Eliz. 2. c. 33.	The Land Compensation Act 1961.	Part IV and Schedule 3.
1963 c. 51 ...	The Land Compensation (Scotland) Act 1963.	Part V and Schedule 3.