



Isle of Man

Ellan Vannin

AT 9 of 1984

ACQUISITION OF LAND ACT 1984



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**Isle of Man***Ellan Vannin*

ACQUISITION OF LAND ACT 1984

<i>Received Royal Assent:</i>	<i>10 April 1984</i>
<i>Passed:</i>	<i>15 May 1984</i>
<i>Commenced:</i>	<i>15 August 1984</i>

AN ACT to consolidate with amendments the *Lands Clauses Act 1871*, the Public Authorities Acquisition of Land Acts 1923 to 1948 and other enactments relating to the acquisition of land by public authorities and others; and for connected purposes.

GENERAL NOTE: References to the Commissioners are to be construed in accordance with the *Church Act 1992 s 2(4)*.

PART I – APPLICATION OF ACT

1 Application of Act

- (1) Where by virtue of any enactment (whenever passed) any person or body of persons, whether corporate or unincorporate, may acquire land compulsorily, the provisions of this Act shall apply to the acquisition, subject to such exceptions, adaptations and modifications (if any) as may be specified in that enactment.
- (2) Where by virtue of an Act of Parliament having effect in the Island any person or body corporate is authorised to acquire land compulsorily for the purposes of any public undertaking, the provisions of Part III shall apply to such acquisition.
- (3) Where any question of disputed compensation or other matter is by any enactment to be determined in accordance with Part III, that Part shall apply, with any necessary modifications, to that question or matter as it applies to a question or dispute which is under this Act to be determined in accordance with section 3.

PART II – AUTHORISATION PROCEDURE

2 Procedure for authorising compulsory purchase

- (1) Subject to this section, an authority possessing compulsory powers may be authorised to acquire land compulsorily by a resolution of Tynwald and not otherwise.
- (2) An authority possessing compulsory powers shall, not less than 21 days before applying to Tynwald for authorisation under subsection (1), give notice in writing of its intention so to do to each person of full age interested in any land proposed to be acquired –
 - (a) describing the land;
 - (b) stating the purpose for which it is required; and
 - (c) naming a place where a plan of the land may be inspected free of charge at all reasonable hours.
- (3) Where any person interested in such land is under legal disability, notice under subsection (2) may be given to the person having the control and management of the property of that person; and if there is no such person, notice under subsection (2) may be given to a suitable person appointed, with the consent of the High Court, by the authority to represent that person.
- (4) Notice of the hearing of the petition to Tynwald shall be given in at least two newspapers published and circulating in the Island, and such notice shall contain the particulars specified in paragraphs (a), (b) and (c) of subsection (2).

PART III – ASSESSMENT OF COMPENSATION

Arbitration

3 Tribunal for assessing compensation

- (1) Where any land is authorised to be acquired compulsorily –
 - (a) any question of disputed compensation; and
 - (b) any other question or dispute which is authorised by this Act to be determined in accordance with this section;shall be referred to and determined by the arbitration of such one of the panel of official arbitrators appointed under this section as may be selected by the Governor.
- (2) The Governor may, in consultation with the Department of Infrastructure, appoint such number of persons as he thinks fit, being

persons with special knowledge in the valuation of land, to act as official arbitrators for the purposes of this Act.¹

- (3) A person appointed under subsection (2) shall hold office for such term as the Governor may before such appointment determine.
- (4) There shall be paid such fees, salaries or remuneration of official arbitrators so appointed as the Treasury, with the approval of Tynwald, may determine.²
- (5) An official arbitrator to whom any question is referred under this section is in this Act referred to as “**the arbitrator**”.

4 Reference to agreed arbitrator

- (1) Nothing in this Act prevents the reference of any question or dispute, if the parties so agree, to an arbitrator agreed between the parties.
- (2) Where a question is referred to an arbitrator under subsection (1), this Part (except sections 3 and 9(2), (7) and (10)) shall apply as if the arbitration were under section 3.

Assessment

5 Rules for assessing compensation

- (1) Compensation in respect of any compulsory acquisition shall be assessed in accordance with the following rules:
 - (1) The value of land shall, subject as hereinafter provided, be taken to be the amount which the land if sold in the open market by a willing seller might be expected to realise, with an addition of 10 per cent. on account of the acquisition being compulsory:
 - (2) The special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from the requirements of any authority possessing compulsory purchase powers:
 - (3) Where the value of the land is **increased** by reason of the use thereof or of any premises thereon in a manner which could be restrained by any court, or is contrary to law, or is detrimental to the health of the occupants of the premises or to the public health, the amount of that increase shall not be taken into account:
 - (4) Where land is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, if the arbitrator is satisfied that reinstatement in some other place is *bona fide* intended, be assessed on the basis of the reasonable cost of equivalent reinstatement:

(5) The provisions of rule (1) shall not affect the assessment of compensation for disturbance or any other matter not directly based on the value of land:

and the following provisions of this Part shall have effect with respect to the assessment.

- (2) The arbitrator shall not take into account any interest in land, or any enhancement of the value of any interest in land, by reason of any building erected, work done or improvement or alteration made, whether on the land purchased or on any other land with which the claimant is, or was at the time of the erection, doing or making of the building, works, improvement or alteration, directly or indirectly concerned, if he is satisfied that the creation of the interest, the erection of the building, the doing of the work, the making of the improvement or the alteration, as the case may be, was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.
- (3) Where the person entitled to compensation for the compulsory acquisition of any interest in land is also entitled to a home loss payment in respect of the same interest, he shall be paid either the home loss payment or the addition of 10 per cent. of the market value referred to in rule (1) in subsection (1), whichever is the higher, but not both.
- (4) Where compensation is assessed in accordance with rule (4) in subsection (1), the acquiring authority may withhold payment of the whole or any part of that compensation until it is actually and reasonably required for the purpose of reinstatement.³

6 Compensation in case of severance

[III p514/35; P1965/56/7; P1973/26/44]

- (1) In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the value of the land to be purchased by the authority, but also to —
 - (a) the damage, if any, to be sustained by the owner of the land by reason of the severing of the land purchased from the other land of the owner, or otherwise injuriously affecting that other land by the exercise of the powers conferred by this or the special Act;
 - (b) the benefit, if any, to be received by the owner of the land by reason of the works to be carried out on the land purchased or the purposes to which that land is to be put.⁴
- (2) Where land is acquired or taken from the owner for the purpose of works which are to be situated partly on that land and partly elsewhere, compensation under subsection (1) for injurious affection of or benefit to land retained by the owner shall be assessed by reference to the whole of

the works and not only the part situated on the land acquired or taken from him.⁵

7 Injurious affection in other cases

[III p514/40; P1965/56/10]

- (1) Where any land, or an interest in land, has been injuriously affected by the execution of the works, the acquiring authority shall pay to the person entitled to the land or interest compensation for such injurious affection, except where the authority is liable to pay compensation therefor under any other provision of this Act or the special Act.
- (2) Any question of disputed compensation under this section shall be determined in accordance with section 3.
- (3) For the avoidance of doubt it is declared that this section confers a right to compensation for injurious affection of land affected by the execution of the works on land acquired either compulsorily or by agreement.⁶

7A Dwelling specially adapted for disabled person

[P1973/26/38(3) and 45]

- (1) Where compensation falls to be assessed in respect of the compulsory acquisition of an interest in a dwelling which —
 - (a) has been constructed or substantially modified to meet the special needs of a disabled person; and
 - (b) is occupied by such a person as his residence immediately before the date when the acquiring authority take possession of the dwelling or was last so occupied before that date,

it shall, if the person whose interest is acquired so elects, be assessed as if the dwelling were land which is devoted to a purpose of such a nature that there is no general demand or market for land for that purpose.

- (2) Subsection (3) applies where a disturbance payment falls to be made in respect of the displacement of a person from a dwelling to which modifications have been made for meeting the special needs of a disabled person (whether or not the person entitled to the disturbance payment).
- (3) Unless an election is made under subsection (1) in respect of an interest in that dwelling, the amount of the disturbance payment shall include an amount equal to any reasonable expenses incurred by the person entitled to the payment in making, in respect of a dwelling to which the disabled person removes, comparable modifications which are reasonably required for meeting the disabled person's special needs.⁷

8 Assumptions as to planning approval, etc

[P1961/33/14-18; P1971/78/116; P1980/65/121]

- (1) In assessing the compensation to be paid by the acquiring authority under this Act, such one or more of the assumptions mentioned in Part I of Schedule 1 as are applicable to the land to be purchased by the authority or any part thereof shall be made in ascertaining the value of the interests to be acquired.
- (2) Any planning approval which is to be assumed in accordance with Part I of Schedule 1 is in addition to any planning approval which may be in force at the date of service of the notice to treat.
- (3) Nothing in this section shall be construed as requiring it to be assumed that planning approval would necessarily be refused for any development which is not development for which the granting of planning approval is to be assumed in accordance with this section, but in determining whether the planning approval for any development could in any particular circumstances reasonably have been expected to be granted in respect of any land, regard shall be had to any contrary opinion expressed in relation to that land in any certificate issued under Part II of Schedule 1.
- (4) Part II of Schedule 1 shall have effect with respect to the issue of certificates of alternative development value.
- (5) In assessing the compensation to be paid in respect of any land including a building which, before the date of service of the notice to treat, was [a] registered building, it shall be assumed that a registered building consent would be granted for any works for the alteration or extension of the building, or for its demolition.
- (5A) Where —
 - (a) compensation has been paid in respect of the compulsory acquisition of an interest in land;
 - (b) before the expiration of 10 years beginning with the date on which notice to treat was served on the person entitled to that interest, planning approval is granted for development, or development is begun, on that land; and
 - (c) if on that date planning approval for that development had been granted, the amount of the compensation would have been greater;

that person to or on whose account the compensation was paid or, if he is dead, his personal representatives, shall be entitled to be paid the amount of the compensation calculated on the assumption in paragraph (c) (determined in accordance with section 3) less the amount of the compensation paid.⁸

- (6) In this section and Schedule 1 —

“the Planning Act” means the *Town and Country Planning Act 1999*;
“development order”, “the development plan”, “planning approval”,
“registered building” and “registered building consent” have the same
meanings as in the Planning Act.⁹

Supplemental

9 Procedure

[P1961/33/2 and 3]

- (1) The following provisions shall have effect with respect to any proceedings on a question to be determined in accordance with section 3.
- (2) The arbitrator shall sit in public, except in a case determined without an oral hearing pursuant to rules under subsection (8).
- (3) Not more than one expert witness on either side shall be heard unless the arbitrator otherwise directs; except that, where the claim includes a claim for compensation in respect of minerals, or disturbance of business, as well as in respect of land, one additional expert witness on either side on the value of the minerals or, as the case may be, on the damage suffered by reason of the disturbance may be allowed.
- (4) The arbitrator shall be entitled to enter on and inspect any land which is the subject of the proceedings.
- (5) The arbitrator may call for the production of any documents in the possession or power of either party which he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.
- (6) An appointment by the arbitrator as to the time and place of the hearing shall be sufficient authority to a coroner to summon witnesses, and any witness not appearing after due summons may be dealt with, and his attendance enforced, as in the case of a witness not appearing after summons by the High Court.
- (7) The fees to be charged in respect of proceedings before an arbitrator shall be such as may be determined in accordance with section 3(4).
- (8) Subject to subsections (2) to (7), the Council of Ministers may make rules regulating the procedure before the arbitrator.¹⁰
- (9) Rules under subsection (8) may provide for the determination of any question by the arbitrator without an oral hearing, with the consent of the parties to the proceedings.
- (10) Where notices to treat have been served for the acquisition of several interests in any land then, if the acquiring authority so desire, the disputed claims of the persons entitled to those interests shall, so far as

practicable, be heard and determined by the same arbitrator, and rules under subsection (8) may provide that such claims shall be heard together, but the value of the several interests shall be separately assessed.

10 Costs

[P1961/33/4]

- (1) Where either —
 - (a) the acquiring authority have made an unconditional offer in writing of any sum as compensation to any claimant and the sum awarded by the arbitrator to that claimant does not exceed the sum offered; or
 - (b) the arbitrator is satisfied that a claimant has failed to deliver to the acquiring authority, in time to enable them to make a proper offer, a notice in writing of the amount claimed by him, containing the particulars mentioned in subsection (2);

the arbitrator shall, unless for special reasons he thinks proper not to do so, order the claimant to bear his own costs and to pay the costs of the authority so far as they were incurred after the offer was made or, as the case may be, after the time when in the opinion of the arbitrator the notice should have been delivered.

- (2) The notice mentioned in subsection (1)(b) must —
 - (a) state the exact nature of the interest in respect of which compensation is claimed, and
 - (b) give details of the compensation claimed, distinguishing the amounts under separate heads and showing how the amount claimed under each head is calculated.
- (3) Where a claimant has delivered a notice as required by subsection (1)(b) and has made an unconditional offer in writing to accept any sum as compensation, then, if the sum awarded to him by the arbitrator is equal to or exceeds that sum, the arbitrator shall, unless for special reasons he thinks proper not to do so, order the acquiring authority to bear their own costs and pay the costs of the claimant so far as they were incurred after his offer was made.
- (4) The arbitrator may in any case disallow the costs of counsel.
- (5) Where the arbitrator orders the claimant to pay the costs, or any part of the costs, of the acquiring authority, the authority may deduct the amount so payable by the claimant from the amount of the compensation payable to him.
- (6) In this section “costs” includes any fees, charges and expenses of the arbitration or award.

11 Certificates of value

[P1961/33/35]

The arbitrator may on the application of any person certify the value of land being sold by him to an authority possessing compulsory purchase powers, and the sale of the land to that authority at the price so certified shall be deemed to be a sale at the best price that can reasonably be obtained.

12 Saving for certain statutory purchases of statutory undertakings

[P1961/33/36]

- (1) Nothing in this Part shall apply to any purchase of the whole or any part of any statutory undertaking under any enactment in that behalf prescribing the terms on which the purchase is to be effected.
- (2) In this section “statutory undertaking” means an undertaking established by an enactment.

PART IV – ACQUISITION OF LAND AND PAYMENT OF COMPENSATION

General

13 Time limit

[P1965/56/4]

The powers of the acquiring authority for the compulsory purchase of land shall not be exercised after the expiration of –

- (a) such period (if any) as may be specified in the resolution of Tynwald under which the purchase is authorised; or
- (b) if no such period is so specified, 3 years from the date of such resolution.

14 Acquisition by agreement

[III p514/6; P1965/56/3]

- (1) The acquiring authority may agree with the owner of any of the land subject to compulsory purchase or any interest therein, or having power to sell and convey or release any of that land, for the absolute purchase, for a consideration in money, of any of that land, and of all estates and interests in the land.
- (2) In subsection (1) “owner”, in relation to any land or interest in land, means –
 - (a) any person in whom the land or interest is vested, or
 - (b) any person having power to sell and convey or release the land or interest,

and in particular includes —

- (i) a corporation,
- (ii) a tenant for life or person having the powers of a tenant for life under the *Settled Land Act 1891*,
- (iii) the receiver of a patient appointed under Part VII of the *Mental Health Act 1974*,
- (iv) trustees for charitable purposes, and
- (v) a personal representative.

Notice to treat etc.

15 Notice to treat, and untraced owners

[P1961/33/31; P1965/56/5]

- (1) When the acquiring authority require to purchase any of the land subject to compulsory purchase, they shall give notice (in this Act called a “notice to treat”) in writing to all the persons interested in, or having power to sell and convey or release, the land, so far as known to the authority after making diligent inquiry.
- (2) Every notice to treat —
 - (a) shall give particulars of the land to which the notice relates,
 - (b) shall demand particulars of the recipient’s estate and interest in the land, and of the claim made by him in respect of the land, and
 - (c) shall state that the acquiring authority are willing to treat for the purchase of the land, and as to the compensation to be made for the damage which may be sustained by reason of the execution of the works.
- (3) Schedule 2 shall have effect with respect to absent or untraced owners.
- (4) Where a claimant has delivered such a notice as is required by section 10(1)(b), the acquiring authority may, at any time within 6 weeks after the delivery thereof, withdraw any notice to treat which has been served on him or on any other person interested in the land authorised to be acquired.

Where a claimant has failed to deliver a notice as required by section 10(1)(b), the acquiring authority may, at any time after the decision of the arbitrator on his claim but not later than 6 weeks after the claim has been finally determined, withdraw any notice to treat which has been served on him or on any other person interested in the land authorised to be acquired, unless the authority have entered into possession of the land by virtue of the notice.

- (5) Where the acquiring authority withdraw a notice to treat under this section, the authority shall be liable to pay compensation to the person to whom it was given for any loss or expenses occasioned to him by the giving and withdrawal of the notice, but if the notice is withdrawn under

subsection (5) not for any loss or expenses incurred by the claimant after the time when in the opinion of the arbitrator a proper notice of claim should have been delivered by the claimant.

- (6) The amount of any compensation payable under subsection (6) shall, in default of agreement, be determined in accordance with section 3.
- (7) So long as the acquiring authority are entitled to withdraw a notice to treat under subsection (5), the authority shall not be compellable to take the land to which the notice relates or to pay any compensation awarded in respect of the taking.
- (8) For the purposes of this section, a claim shall not be deemed to be finally determined so long as the time for requiring the arbitrator to state a case with respect thereto, or for appealing from any decision on the points raised by a case so stated, has not expired.

16 Reference to arbitration

[P1965/56/6]

If a person served with a notice to treat does not within 21 days from the service of the notice state the particulars of his claim or treat with the acquiring authority in respect of his claim, or if he and the authority do not agree as to the amount of compensation to be paid by the authority for the interest vested in him, or which he has power to sell, or for any damage which may be sustained by him by reason of the execution of the works, the question of disputed compensation shall be determined in accordance with section 3.

Mortgages etc.

17 Mortgages

[III p514/65 and 66; P1965/56/14]

- (1) The acquiring authority may purchase or redeem the interest of the mortgagee of any of the land subject to compulsory purchase in accordance with either subsection (2) or subsection (3).
- (2) The acquiring authority may pay or tender to the mortgagee the principal and interest due on the mortgage, together with his costs and charges, if any, and also six months additional interest, and thereupon the mortgagee shall immediately convey or release his interest in the land comprised in the mortgage to the authority, or as they may direct.
- (3) Alternatively, the acquiring authority may give notice in writing to the mortgagee that they will pay all the principal and interest due on the mortgage at the end of six months, computed from the day of giving the notice; and if they have given any such notice, or if the person entitled to the land subject to the mortgage has given six months' notice of his intention to redeem, then at the expiration of either of the notices, or at any intermediate period, on payment or tender by the authority to the

mortgagee of the principal money due on the mortgage, and the interest which would become due at the end of six months from the time of giving either of the notices, together with his costs and expenses, if any, the mortgagee shall convey or release his interest in the land comprised in the mortgage to the authority, or as they may direct.

- (4) If, in a case under subsection (2) or (3), on such payment or tender the mortgagee fails to convey or release his interest in the mortgage as directed by the acquiring authority, or fails to make out a good title to that interest to the satisfaction of the authority, the authority may pay into the bank the sums payable under subsection (2) or (3), as the case may be.
- (5) When the acquiring authority have paid those sums into the bank, they may execute a deed poll in the manner provided by section 29.
- (6) On execution of the deed poll, as well as in the case of a conveyance by the mortgagee, all the estate and interest of the mortgagee (and of all persons in trust for him, or for whom he may be a trustee) in the land shall vest in the acquiring authority and, where the mortgagee was entitled to possession of the land, the acquiring authority shall be entitled to possession of the land.
- (7) This section shall apply —
 - (a) whether or not the acquiring authority have previously purchased the land subject to the mortgage,
 - (b) whether or not the mortgagee is a trustee,
 - (c) whether or not the mortgagee is in possession of the land, and
 - (d) whether or not the mortgage includes other land in addition to the land subject to compulsory purchase.

18 Mortgage exceeding value of land

[III p514/67, 68 and 70; P1965/56/15]

- (1) If the value of any such mortgaged land is less than the principal, interest and costs secured on the land, the value of the land, or the compensation to be paid by the acquiring authority in respect of the land, shall be settled by agreement between the mortgagee and the person entitled to the land subject to the mortgage on the one part, and the acquiring authority on the other part, or, if they fail to agree, shall be determined in accordance with section 3.
- (2) The amount so agreed or awarded shall be paid by the acquiring authority to the mortgagee in satisfaction or part satisfaction of his mortgage debt.
- (3) On payment or tender of the amount so agreed or awarded the mortgagee shall convey or release all his interest in the mortgaged land to the acquiring authority or as they direct, and if he fails to do so, or fails

to adduce a good title to that interest to the satisfaction of the authority, the authority may pay into the bank the amount agreed or awarded.

- (4) When the acquiring authority have so paid into the bank the amount agreed or awarded, they may execute a deed poll in the manner provided by section 29.
- (5) On execution of the deed poll the land, as to the estate and interest which were then vested in the mortgagee, or any person in trust for him, shall become absolutely vested in the acquiring authority and, where the mortgagee was entitled to possession of the land, the authority shall be entitled to possession of the land.
- (6) The making of payment to the mortgagee or into the bank of the amount agreed or awarded shall be accepted by the mortgagee in satisfaction, or part satisfaction, of his mortgage debt, and shall be a full discharge of the mortgaged land from all money due thereon.
- (7) All rights and remedies possessed by the mortgagee against the mortgagor by virtue of any bond or covenant or other obligation, other than the right to the land, shall remain in force in respect of so much of the mortgage debt as has not been satisfied by payment to the mortgagee or into the bank.

19 Acquisition of part of mortgaged land

[III p514/69 and 70; P1965/56/16]

- (1) If a part only of any mortgaged land is required by the acquiring authority, and —
 - (a) the part so required is of less value than the principal, interest and costs secured on such land, and
 - (b) the mortgagee does not consider the remaining part of the land a sufficient security for the money charged thereon or is not willing to release the part so required,

then the value of that part, and also the compensation (if any) to be paid in respect of the severance thereof or otherwise, shall be settled by agreement between the mortgagee and the party entitled to the land subject to the mortgage on the one part and the acquiring authority on the other part and, if the parties fail to agree, shall be determined in accordance with section 3.

- (2) The amount so agreed or awarded shall be paid by the acquiring authority to the mortgagee in satisfaction or part satisfaction of his mortgage debt.
- (3) On payment or tender of the amount so agreed or awarded the mortgagee shall convey or release all his interest in the land to be taken to the acquiring authority or as they direct.

- (4) If, on payment or tender to any such mortgagee of the amount of compensation agreed or awarded, the mortgagee fails to convey or release to the acquiring authority, or as they direct, his interest in the land in respect of which the compensation has been so paid or tendered, or if he fails to adduce a good title thereto to the satisfaction of the authority, the authority may pay into the bank the amount of the compensation; and section 18(4) to (6) shall apply as if references in that section to the land were references to the part of the land comprised in the mortgage which is required by the authority.
- (5) Notwithstanding subsections (1) to (4) the mortgagee shall have the same powers and remedies for recovering or compelling payment of the mortgage money or the residue of it (as the case may be), and the interest thereon, as against the remaining land comprised in the mortgage, as he would have had for recovering or compelling payment thereof as against the whole of the land originally comprised in the mortgage.

20 Payment of mortgage before stipulated time

[III p514/71; P1965/56/17]

If in the mortgage deed a time was limited for the payment of the principal secured and under sections 17 to 19 the mortgagee has been required to accept payment of the principal at a time earlier than the time so limited, the amounts payable under those sections shall include —

- (a) all such costs and expenses as may be incurred by the mortgagee in respect of, or as incidental to, the re-investment of the sum paid off, and
- (b) if the rate of interest secured by the mortgage is higher than can reasonably be expected to be obtained on re-investment at the time the mortgage is paid off, regard being had to the current rate of interest, compensation in respect of the loss thereby sustained to be determined in accordance with section 3.

21 Rentcharges

[III p514/72-75; P1965/56/18]

- (1) If any difference arises between the acquiring authority and a person entitled to a rentcharge on any of the land subject to compulsory purchase as to the compensation to be paid for the release of the land from the rentcharge, or from the part of the rentcharge affecting the land, it shall be determined in accordance with section 3.
- (2) If part only of the land charged with a rentcharge is comprised in the land required by the acquiring authority, the apportionment of the rentcharge —
 - (a) may be settled by agreement between the person entitled to the rentcharge and the owner of the land on the one part and the authority on the other part, and

- (b) if not so settled, shall be determined in accordance with section 3, but if the remaining part of the land so charged is a sufficient security for the rentcharge the person entitled to the rentcharge may, with the consent of the owner of that part of the land, release from the rentcharge the land required by the authority on condition or in consideration of that part of the land remaining exclusively subject to the whole of the rentcharge.
- (3) If the person entitled to a rentcharge on any of the land subject to compulsory purchase, on payment or tender to him of the compensation agreed or awarded, fails to execute in favour of the acquiring authority a release of the rentcharge, or if he fails to make out a good title to the rentcharge to the satisfaction of the authority, the authority may pay into the bank the amount of the compensation.
- When the authority have paid the compensation into the bank, they may execute a deed poll in the manner provided by section 29, and on execution of the deed poll the rentcharge, or the part of the rentcharge in respect of which the compensation was paid, shall be extinguished.
- (4) If any of the land subject to compulsory purchase is so released from a rentcharge, or part of a rentcharge, to which it was subject jointly with other land, the last-mentioned land shall alone be charged with the whole of the rentcharge, or, as the case may be, with the remainder of the rentcharge, and the person entitled to the rentcharge shall have all the same rights and remedies over the last-mentioned land, for the whole, or as the case may be for the remainder, of the rentcharge as he had previously over the whole of the land subject to the rentcharge.
- (5) In this section “rentcharge”, in relation to any land, includes any other payment or incumbrance charged on the land not provided for in the foregoing provisions of this Act.

22 Apportionment of rent under leases

[III p514/76 and 77; P1965/56/19]

- (1) If part only of the land comprised in a lease is required by the acquiring authority, the rent payable in respect of the land comprised in the lease shall be apportioned between the land so required and the residue of the land.
- (2) The apportionment may be settled by agreement between the lessor and lessee of the land on the one part, and the acquiring authority on the other part, and if the apportionment is not so settled by agreement between the parties, it shall be determined in accordance with section 3.
- (3) After the apportionment the lessee shall, as to all future accruing rent, be liable only for so much of the rent as is apportioned in respect of the land not required by the acquiring authority.

- (4) As respects the land not so required, and as against the lessee, the lessor shall have all the same rights and remedies for the recovery of the apportioned rent as, before the apportionment, he had for the recovery of the whole rent reserved by the lease; and all the covenants, conditions and terms of the lease except as to the amount of rent to be paid, shall remain in force with regard to the part of the land not so required in the same manner as they would have done if that part only of the land had been included in the lease.
- (5) Every such lessee shall be entitled to receive from the acquiring authority compensation for the damage done to him in his tenancy by reason of the severance of the land required by the authority from that not required, or otherwise by reason of the execution of the works.

23 Tenants at will, etc

[III p514/78 and 79; P1965/56/20; P1973/26/44]

- (1) If any of the land subject to compulsory purchase is in the possession of a person having no greater interest in the land than as tenant for a year or from year to year, and if that person is required to give up possession of any land so occupied by him before the expiration of his term or interest in the land, he shall be entitled to compensation for the value of his unexpired term or interest in the land, and for any loss or injury he may sustain.
- (2) If a part only of such land is required, he shall also be entitled to compensation for the damage done to him in his tenancy by severing the land held by him or otherwise injuriously affecting it.
- (3) Where such land is required for the purpose of works which are to be situated partly on that land and partly elsewhere, compensation under subsection (2) for injurious affection of land retained shall be assessed by reference to the whole of the works and not only the part situated on the land taken.
- (4) If the parties differ as to the amount of compensation payable under subsections (1) to (3) the dispute shall be determined in accordance with section 3.
- (5) Without prejudice to section 30, on payment or tender of the amount of such compensation all such persons shall respectively deliver up to the acquiring authority, or to the person appointed by them to take possession, any such land in their possession required by the authority.
- (6) If any person having a greater interest than as tenant at will claims compensation in respect of any unexpired term or interest under any lease or grant of the land subject to compulsory purchase, the acquiring authority may require that person to produce the lease or grant, or the best evidence thereof in his power; and if, after demand in writing by the authority, the lease or grant, or that best evidence, is not produced

within 21 days, that person shall be considered as a tenant holding only from year to year, and be entitled to compensation accordingly.

23A Payments for home loss

[P1973/26/29 and 29A]

- (1) Where a person is displaced from a dwelling on any land in consequence of the compulsory acquisition of an interest in the dwelling, the acquiring authority shall make him a payment (a “home loss payment”) if the following conditions have been satisfied throughout the period of one year ending with the date on which he is displaced —
 - (a) he has been in occupation of the dwelling, or a substantial part of it, as his only or main residence; and
 - (b) he has been in such occupation by virtue of an interest in the dwelling.
- (2) Where a person is displaced as mentioned in subsection (1), the acquiring authority may make him a payment (a “discretionary payment”) if the conditions in subsection (1)(a) and (b) are satisfied on the date on which he is displaced.
- (3) For the purpose of this section a person shall not be treated as displaced from a dwelling in consequence of the compulsory acquisition of an interest in it if he gives up his occupation of it before the date on which the acquiring authority was authorised to acquire that interest, but (subject to that) the acquiring authority need not have required him to give up his occupation of the dwelling.
- (4) Where an authority possessing compulsory purchase powers acquires the interest of any person in a dwelling by agreement, then, in relation to any other person who is displaced from the dwelling in consequence of the acquisition, subsections (1) to (3) have effect as if —
 - (a) the acquisition were compulsory, and
 - (b) the authority (if not authorised to acquire the interest compulsorily) had been so authorised on the date of the agreement.
- (5) Where an interest in a dwelling is vested in trustees and a person beneficially entitled (whether directly or derivatively) under the trusts is entitled or permitted by reason of his interest to occupy the dwelling, he shall be treated for the purposes of this section as occupying it by virtue of an interest in the dwelling.
- (6) Where, by reason of the entitlement of one spouse or civil partner to occupy a dwelling by virtue of an interest in it, the other spouse or civil partner acquires rights of occupation (within the meaning of Part 5 of the *Matrimonial Proceedings Act 2003*), then so long as —
 - (a) those rights continue, and

- (b) the spouse or civil partner with those rights is in occupation of the dwelling and the other spouse or civil partner is not, and¹¹
- (c) the spouse or civil partner with those rights is not, apart from this subsection, treated as occupying the dwelling by virtue of an interest in it,¹²

the spouse or civil partner with those rights shall be treated for the purposes of this section as occupying the dwelling by virtue of an interest in it.^{13 14}

23B Amount of and claims for home loss payment etc

[P1973/26/30]

- (1) Subject to regulations under subsection (4), the amount of a home loss payment shall be £6,000.
- (2) Subject to regulations under subsection (4), the amount of a discretionary payment shall be such sum, not exceeding that specified in subsection (1), as appears to the acquiring authority to be appropriate in all the circumstances of the case.
- (3) The Treasury may by order vary the amount specified in subsection (1); but no such order shall have effect in relation to a payment made in consequence of the displacement of a person from a dwelling before the date on which the order comes into force.
- (4) The Treasury shall make regulations with respect to —
 - (a) the making of claims for home loss payments and discretionary payments;
 - (b) the making of such payments (including payments on account);
 - (c) the apportionment of such payments between 2 or more persons in respect of the same dwelling;
 - (d) the entitlement of a person to a home loss payment, or the making of a discretionary payment to him, where —
 - (i) he has successively been in occupation of or resided in different dwellings in the same building; or
 - (ii) a person who might have made a claim for such a payment died without doing so.
- (5) Orders and regulations under this section shall not have effect unless they are approved by Tynwald.¹⁵

23C Disturbance payments for persons without compensatable interests

[P1973/26/37]

- (1) Where a person is displaced from any land in consequence of the acquisition of the land by an authority possessing compulsory purchase powers, he shall, subject to the provisions of this section, be entitled to

receive a payment (a “disturbance payment”) from the acquiring authority.

- (2) A person shall not be entitled to a disturbance payment unless —
 - (a) he is in lawful possession of the land from which he is displaced; and
 - (b) he has no interest in the land for the acquisition or extinguishment of which he is (or if the acquisition or extinguishment were compulsory would be) entitled to compensation under any other provision.
- (3) For the purposes of subsection (1) a person shall not be treated as displaced in consequence of the acquisition of the land by an authority possessing compulsory purchase powers unless he was in lawful possession of the land —
 - (a) in the case of land acquired compulsorily, on the date on which the authority was authorised to acquire it;
 - (b) in the case of land acquired by agreement, on the date of the agreement.
- (4) Where a person is displaced from any land as mentioned in subsection (1) but is not entitled, as against the authority in question, to a disturbance payment or to compensation for disturbance under any other provision, the authority may, if it thinks fit, make a payment to him determined in accordance with section 23D.
- (5) A disturbance payment shall carry interest, at the rate for the time being prescribed under section 30, from the date of displacement until payment.¹⁶

23D Amount of disturbance payment

[P1973/26/38]

- (1) The amount of a disturbance payment shall be equal to —
 - (a) the reasonable expenses of the person entitled to the payment in removing from the land from which he is displaced; and
 - (b) if he was carrying on a trade or business on that land, the loss he will sustain by reason of the disturbance of that trade or business consequent upon his having to quit the land.
- (2) In estimating the loss of any person for the purposes of subsection (1)(b), regard shall be had to the period for which the land occupied by him might reasonably have been expected to be available for the purposes of his trade or business and to the availability of other land suitable for that purpose.
- (3) Any dispute as to the amount of a disturbance payment shall be determined in accordance with section 3.

- (4) This section has effect subject to sections 7A(3) and 23E(6).¹⁷

23E Compensation for disturbance where business carried on by person over 60

[P1973/26/46]

- (1) Where a person is carrying on a trade or business on any land and, in consequence of the compulsory acquisition of the whole of that land, is required to give up possession of it to the acquiring authority, then, if —
- (a) on the date on which he so gives up possession he has attained the age of 60; and
 - (b) the compensation payable to him in respect of the compulsory acquisition of his interest in the land or under section 23, as the case may be, does not exceed the prescribed amount; and
 - (c) that person has not disposed of the goodwill of the whole of the trade or business and gives to the acquiring authority the undertakings mentioned in subsection (3),

the compensation payable to that person as mentioned in paragraph (b) shall, so far as attributable to disturbance, be assessed on the assumption that it is not reasonably practicable for that person to carry on the trade or business or, as the case may be, the part thereof the goodwill of which he has retained, elsewhere than on that land.

- (2) The undertakings to be given by the person claiming compensation are —
- (a) that he will not dispose of the goodwill of the trade or business, or, as the case may be, of the part thereof the goodwill of which he has retained; and
 - (b) that he will not within the Island, for such time as the acquiring authority may require, directly or indirectly engage in or have any interest in any other trade or business of the same or substantially the same kind as that carried on by him on the land acquired.
- (3) If an undertaking given by a person for the purposes of this section is broken the acquiring authority may recover from him an amount equal to the difference between the compensation paid and the compensation that would have been payable if it had been assessed without regard to this section.
- (4) This section applies to a trade or business carried on by 2 or more persons in partnership —
- (a) as if references to the person by whom it is carried on were references to all the partners, and
 - (b) as if the undertakings mentioned in subsection (2) were required to be given by all the partners.
- (5) This section applies to a trade or business carried on by a company —

- (a) as if subsection (1)(a) required —
 - (i) each shareholder, other than a minority shareholder, to be an individual who has attained the age of 60 on the date there mentioned; and
 - (ii) each minority shareholder to be an individual who either has attained that age on that date or is the spouse of a shareholder who has attained that age on that date; and
- (b) as if the undertakings mentioned in subsection (2)(b) were required to be given both by the company and by each shareholder.

In this subsection “shareholder” means a person who is beneficially entitled to a share or shares in the company carrying voting rights and “minority shareholder” means a person who is so entitled to less than 50 per cent. of those shares.

- (6) This section applies in relation to any disturbance payment assessed in accordance with section 23D(1)(b) as it applies in relation to the compensation mentioned in subsection (1)(b), and shall so apply subject to the necessary modifications and as if references to the giving up of possession of land to the acquiring authority in consequence of its compulsory acquisition were references to displacement as mentioned in section 23D.
- (7) In subsection (1)(b) “the prescribed amount” means such amount as is prescribed by order of the Treasury for the purposes of this section; and an order under this subsection shall not have effect unless it is approved by Tynwald.¹⁸

24 Severed lands

[P1965/56/8; P1973/26/58]

- (1) No person shall be required to sell a part only of land consisting of —
 - (a) a house, building or factory; or
 - (b) a garden belonging to a house,
 (in this section called “the relevant land”), if he is willing and able to sell the whole of the relevant land, unless the arbitrator determines —
 - (i) in the case of a house, building or factory, that the part proposed to be acquired can be taken without material detriment to the relevant land, or
 - (ii) in the case of such a garden, that the part proposed to be acquired can be taken without seriously affecting the amenity or convenience of the house,

and, if the arbitrator so determines, he shall award compensation in respect of any loss due to the severance of the part proposed to be acquired, in addition to its value; and thereupon the party interested

shall be required to sell to the acquiring authority that part of the relevant land.

- (2) In making a determination under subsection (1) the arbitrator shall take into account not only the effect of the severance but also the use to be made of the part of the relevant land proposed to be acquired and, in a case where the part is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use to be made of the other land.
- (3) If any land which is not situated in a town or built upon is cut through and divided by the works so as to leave, either on both sides of the works, or on one side, a quantity of land which is less than 0.2 hectare, the owner of the land may require the acquiring authority to purchase the land along with the land subject to compulsory purchase; but this subsection shall not apply if the owner has other land adjoining the land so left into which it can be thrown so as to be conveniently occupied with it, and in that case the authority shall, if so required by the owner at their own expense throw the piece of land so left into the adjoining land by removing the fences and levelling the sites thereof, and by soiling it in a satisfactory and workmanlike manner.
- (4) If the owner of any land cut through and divided by the works requires the acquiring authority under the provisions of the special Act to make any bridge, culvert or other communication between the land so divided, and —
 - (a) the land is so cut through and divided as to leave, either on both sides or on one side, a quantity of land which is less than 0.2 hectare, or which is of less value than the expense of making the communication between the divided land, and
 - (b) the owner has not other land adjoining that piece of land;the authority may require the owner to sell them the piece of land.
- (5) Any dispute as to the value of a piece of land referred to in subsection (4), or as to the expense of making a communication between the divided land, shall be determined in accordance with section 3, and either party to proceedings for determining the compensation to be paid for the land acquired may require the arbitrator to make his determination under this subsection in those proceedings.

25 Interests omitted from purchase

[III p514/81 and 82; P1965/56/22]

- (1) If, after the acquiring authority have entered on any of the land subject to compulsory purchase, it appears that they have through mistake or inadvertence failed or omitted duly to purchase or to pay compensation for any estate, right or interest in or charge affecting that land, the

authority shall remain in undisturbed possession of the land provided that within the time limited by this section —

- (a) they purchase or pay compensation for the estate, right or interest in or charge affecting the land, and
- (b) they also pay to any person who may establish a right to it, full compensation for profits,

and the compensation shall be agreed or awarded and paid (whether to claimants or into the bank) in the manner in which, under this Act, it would have been agreed or awarded and paid if the authority had purchased the estate, right, interest or charge before entering on the land, or as near to that manner as circumstances admit.

- (2) Subsection (1) shall apply whether or not the period specified in section 13 has expired.
- (3) The time limited by this section shall be six months after the acquiring authority have notice of the estate, right, interest or charge or, if it is disputed by the authority, six months after the right to the estate, right, interest or charge is finally established by law in favour of the claimant.
- (4) In assessing compensation under this section the value of the land, and of any estate or interest in the land, or any profits of the land, shall be taken to be the value at the time when the acquiring authority entered on the land, and without regard to any improvements or works made in or upon the land by the authority, and as though the works had not been constructed.
- (5) In this section “profits” means the mesne profits or interest which would have accrued to the persons concerned during the interval between the entry of the acquiring authority and the time when the compensation is paid, so far as such mesne profits or interest may be recoverable in any proceedings.

Money paid into bank

26 Money paid into the bank

[III p514/52; P1965/56/26]

- (1) Any money paid into the bank under this Act shall be subject to an order of the High Court.
- (2) Subsections (3) to (5) shall apply in relation to any compensation paid into the bank under this Act except where it was so paid in consequence —
 - (a) of the wilful refusal of the person entitled to accept it, or
 - (b) of the wilful refusal of that person to convey the land in respect of which the compensation was payable, or

- (c) of the wilful neglect of any person to make out a good title to the land.
- (3) Where this subsection applies the High Court may order the acquiring authority to pay —
- (a) the costs of, or incurred in consequence of, the purchase of the land, and
 - (b) the cost of the investment of the compensation paid into the bank or of its reinvestment in the purchase of other land.
- (4) References in this section to costs include references to all reasonable charges and expenses incidental to the matters mentioned in this section and to —
- (a) the cost of obtaining the proper orders for any of the purposes set out above,
 - (b) the cost of obtaining the orders for the payment of dividends out of the compensation,
 - (c) the cost of obtaining the orders for the payment out of court of the principal amount of the compensation, or of any securities in which it is invested, and
 - (d) the cost of all proceedings relating to such orders, except such as are occasioned by litigation between adverse claimants.
- (5) The costs of not more than one application for reinvestment in land shall be allowed unless it appears to the High Court that it is for the benefit of the parties interested in the compensation that it should be invested in the purchase of land in different sums and at different times.

Conveyance of land

27 Costs of conveyances etc

[III p514/54; P1965/56/23]

- (1) The costs of all conveyances of the land subject to compulsory purchase shall be borne by the acquiring authority.
- (2) The costs shall include all charges and expenses, whether incurred on the part of the seller or on the part of the purchaser, —
 - (a) of all conveyances and assurances of any of the land, and of any outstanding interests in the land, and
 - (b) of deducing, evidencing and verifying the title to the land, or interests, and
 - (c) of making out and furnishing such abstracts and attested copies as the acquiring authority may require,

and all other reasonable expenses incident to the investigation, deduction and verification of the title.

28 Refusal to convey, etc

[III p514/48; P1965/56/9]

- (1) If the owner of any of the land purchased by the acquiring authority, or of any interest in the land so purchased —
 - (a) on tender of the compensation agreed or awarded to be paid in respect of the land or interest refuses to accept it, or
 - (b) neglects or fails to make out a title to the land or interest to the satisfaction of the acquiring authority, or
 - (c) refuses to convey or release the land as directed by the authority, the authority may pay into the bank the compensation payable in respect of the land or interest.
- (2) In subsection (1) “owner” has the same meaning as in section 14(1).
- (3) The compensation so paid into the bank shall be placed to the credit of the parties interested in the land, and the acquiring authority shall, so far as they can, give their descriptions.
- (4) When the acquiring authority have paid the compensation into the bank, they may execute a deed poll in accordance with section 29, and on execution of the deed poll all the estate and interest in the land of the parties for whose use and in respect whereof the compensation was paid into the bank shall vest absolutely in the acquiring authority and as against those persons the authority shall be entitled to immediate possession of the land.
- (5) On the application of any person claiming all or any part of the money paid into the bank, or claiming all or any part of the land in respect of which it was paid into the bank, or any interest in it, the High Court may order its distribution according to the respective estates, titles or interests of the claimants, and if, before the money is distributed, it is invested in accordance with rules of court, payment likewise of the dividends thereof, and may make such other order as the Court thinks fit.

29 Deeds poll

[III p514/48 and 49; P1965/56/9(3) and 28(1)]

Any deed poll executed by the acquiring authority under this Act —

- (a) if they are a corporation, shall be under their common seal; and
- (b) otherwise, shall be under their hands, or the hands of any two of them;

and shall contain a description of the land in respect of which, and declare the circumstances under which, and the names of the parties to whose credit, the payment into the bank was made.

*Entry on land***30 Powers of entry**

[P1961/33/32; P1965/56/11]

- (1) If the acquiring authority have served notice to treat in respect of any of the land and have served on the owner, lessee and occupier of that land not less than 6 weeks' notice in writing, the authority may enter on and take possession of that land, or of such part of that land as is specified in the notice; and then any compensation agreed or awarded for the land of which possession is taken shall, subject to subsection (2), carry interest at the rate prescribed under subsection (3) from the time of entry until the compensation is paid, or is paid into the bank in accordance with this Act.
- (2) Where compensation for any land has been assessed in accordance with rule (4) of section 5, such compensation shall carry interest from the time when expenditure is incurred in reinstatement, and where expenditure is incurred at different times, each item of expenditure shall carry interest from the time when it is incurred.¹⁹
- (3) The rate of interest on any compensation in respect of the compulsory acquisition of an interest in any land on which entry has been made before the payment of the compensation shall be such rate as may from time to time be prescribed by regulations made by the Treasury; and regulations under this subsection may provide that that rate shall be, or shall be ascertained by reference to, the rate of interest from time to time prescribed by regulations under section 32(1) of the Land Compensation Act 1961 (an Act of Parliament).²⁰
- (4) For the purpose of surveying and taking levels of any of the land subject to compulsory purchase, of probing or boring to ascertain the nature of the soil and of setting out the lines of the works, the acquiring authority, after giving not less than 3 nor more than 14 days' notice in writing to the owners or occupiers of that land, may enter on that land, but the authority shall make compensation for any damage thereby occasioned to the owners or occupiers of the land, and any question of disputed compensation under this subsection shall be determined in accordance with section 3.
- (5) Except as provided by subsection (1) or (4) the acquiring authority shall not, except with the consent of the owners and occupiers, enter on any of the land subject to compulsory purchase until the compensation payable for the respective interests in that land has been agreed or awarded, and has been paid to the persons having those interests or has been paid into the bank in accordance with this Act.

30A Advance payment of compensation

[P1973/26/52]

- (1) Where an acquiring authority has taken possession of any land the authority shall, if a request in that behalf is made in accordance with subsection (2), make an advance payment on account of any compensation payable by it for the compulsory acquisition of any interest in that land.
- (2) Any request under this section shall —
 - (a) be made by the person entitled to the compensation (“the claimant”),
 - (b) be in writing,
 - (c) give particulars of the claimant’s interest in the land (so far as not already given pursuant to a notice to treat), and
 - (d) be accompanied or supplemented by such other particulars as the acquiring authority may reasonably require to enable it to estimate the amount of the compensation in respect of which the advance payment is to be made.
- (3) Subject to subsection (7), the amount of any advance payment under this section shall be equal to 90 per cent. of the following amount —
 - (a) if the acquiring authority and the claimant have agreed on the amount of the compensation, the agreed amount;
 - (b) in any other case, an amount equal to the compensation as estimated by the acquiring authority.
- (4) Any advance payment under this section shall be made not later than 3 months after the date on which a request for the payment is made in accordance with subsection (2) or, if those 3 months end before the date on which the acquiring authority takes possession of the land to which the compensation relates, on the date on which it takes possession.
- (5) Where, at any time after an advance payment has been made on the basis of the acquiring authority’s estimate of the compensation, it appears to the acquiring authority that its estimate was too low, it shall, if a request in that behalf is made in accordance with subsection (2), pay to the claimant the balance of the amount of the advance payment calculated as at that time.
- (6) Where the amount, or aggregate amount, of any payment under this section made on the basis of the acquiring authority’s estimate of the compensation exceeds the compensation as finally determined or agreed, the excess shall be repaid; and if after any payment under this section has been made to any person it is discovered that he was not entitled to it, the amount of the payment shall be recoverable by the acquiring authority.

- (7) No advance payment shall be made on account of compensation payable in respect of any land which is subject to a mortgage the principal of which exceeds 90 per cent. of the amount mentioned in subsection (3); and where the land is subject to a mortgage the principal of which does not exceed 90 per cent. of that amount, the advance payment shall be reduced by such sum as the acquiring authority consider will be required by it for securing the release of the interest of the mortgagee.
- (8) Any advance payment on account of compensation in respect of an interest which is settled land for the purposes of the *Settled Land Act 1891* shall be treated as capital money arising under that Act.
- (9) Before an acquiring authority makes an advance payment under this section on account of compensation in respect of any interest in land it shall —
- (a) if the title to that interest is not registered under the *Land Registration Act 1982*, record in the General Registry particulars of the payment to be made, the compensation and the interest in land to which it relates;
 - (b) if the title to that interest is so registered, request the Chief Registrar to make a corresponding entry on the title register in accordance with Land Registry Rules.
- (10) Where particulars of an advance payment are recorded or registered under subsection (9) and the advance payment is made to the claimant, then if thereafter he disposes of the interest in the land to, or creates an interest in the land in favour of, a person other than the acquiring authority, the amount of the advance payment shall be set off against any sum payable by the authority to that other person in respect of the compulsory acquisition of the interest disposed of or the compulsory acquisition or release of the interest created.
- (11) Where an advance payment has been made under this section on account of any compensation, section 28 shall have effect as if references to the compensation were references to the balance thereof remaining unpaid.
- (12) This section applies to compensation for the compulsory acquisition of a right over land as it applies to compensation for the compulsory acquisition of an interest in land —
- (a) with the necessary modifications, and
 - (b) as if references to taking possession of the land were references to first entering it for the purpose of exercising the right.²¹

31 Refusal to give possession

[III p514/61; P1965/56/13]

If the acquiring authority are under this Act authorised to enter on and take possession of any land, and the owner or occupier of any of that land, or any other person, refuses to give up possession of it, or hinders the authority from

entering on or taking possession of it, the authority may apply to the High Court for an order for possession of that land.

PART V – SUPPLEMENTAL

32 Acquisition of rights over land

[P1976/57/13]

- (1) In any case where the acquiring authority may acquire land compulsorily for any purpose, they may be authorised to acquire for that purpose new rights over land, that is, rights which are not in existence at the date of the resolution of Tynwald authorising the acquisition.
- (2) The provisions of this Act shall have effect with the modifications necessary to make them apply to the compulsory purchase of rights by virtue of subsection (1) as they apply to the compulsory purchase of land, so that references to land are read as referring, or as including references, to the rights or to land over which the rights are or are to be exercisable, as the context requires.
- (3) In particular, the provisions of this Act specified in Schedule 3 shall have effect, in relation to the purchase of rights by virtue of subsection (1), subject to the modifications specified in that Schedule.

33 Ecclesiastical property

[P1965/56/31 and 34; P1981/67/12(3)]

- (1) Any sums agreed or awarded for the purchase of land being ecclesiastical property or to be paid by way of compensation for damage sustained by reason of severance or injury affecting such land, shall not be paid as directed by the other provisions of this Act, but shall be paid to the Church Commissioners to be applied for the purposes for which the proceeds of a sale by agreement of the land would be applicable under any enactment authorising such a sale or disposing of the proceeds of such a sale.
- (2) Where under this Act any notice is required to be served on an owner of land, and the land is ecclesiastical property, a like notice shall be served on the Church Commissioners.
- (3) Where the fee simple of any ecclesiastical property is in abeyance, it shall be treated for the purposes of this Act as being vested in the Church Commissioners.
- (4) In this section “ecclesiastical property” means land belonging to any ecclesiastical benefice, or being or forming part of a church subject to the jurisdiction of the Bishop or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction.²²

34 Interpretation

[P1965/56/1; III p514/3]

(1) In construing this Act the enactment under which the purchase is authorised and (in the case of compulsory purchase) the resolution of Tynwald authorising the purchase shall be deemed to be the special Act.²³

(2) In this Act, unless the context otherwise requires —

“**acquiring authority**” means the person or body of persons authorised by the special Act to purchase the land;

“**the arbitrator**” has the meaning given by section 3(5);

“**authority possessing compulsory powers**” means a person or body of persons with power to acquire land compulsorily;

“**the bank**” means the bank appointed to have custody of moneys paid into the High Court pursuant to rules of court;

“**discretionary payment**” means a payment under section 23A(2);²⁴

“**disturbance payment**” means a payment under section 23C(1);²⁵

“**home loss payment**” means a payment under section 23A(1);²⁶

“**lease**” includes an agreement for a lease;

“**notice to treat**” has the meaning given by section 15;

“**subject to compulsory purchase**”, in relation to land, means land the compulsory purchase of which is authorised by the special Act.

(3) In this Act “**the works**” or “**the undertaking**” means the works or undertaking, of whatever nature, authorised to be executed by the special Act.

(4) Where under this Act any notice is to be given to the owner of any land or where any act is authorised or required to be done with the consent of any such owner, the word “owner” shall, unless the context otherwise requires, mean any person having power to sell and convey or release the land to the acquiring authority.

35 Amendments and savings

(1) The enactments specified in Schedule 4 are amended in accordance with that Schedule.

(2) [Repealed]²⁷

(3) Nothing in this Act applies to the compulsory purchase of land authorised by a resolution of Tynwald passed before the commencement of this Act, or by a compulsory purchase order under the *Housing Act 1955* or section 23 of the *Water Act 1972* confirmed before such commencement.

- (4) Nothing in this Act or the special Act authorises the acquiring authority to acquire compulsorily land belonging to or held in trust for —
- (a) Her Majesty in right of the Crown; or
 - (b) any department of Her Majesty's Government of the United Kingdom; or
 - (c) the public service of the Island.

36 Short title and commencement

- (1) This Act may be cited as the Acquisition of Land Act 1984.
- (2) This Act shall come into operation on the expiration of 3 months from the date on which it is passed.²⁸

SCHEDULE 1**ASSUMPTIONS AS TO PLANNING APPROVAL ETC.**

Section 8

PART I – ASSUMPTIONS AS TO GRANT OF PLANNING APPROVAL

[P1961/33/15 and 16; P1980/65/33/5]

1. In a case where —

- (a) an interest in land is to be compulsorily acquired for purposes which involve the carrying out of proposals of the acquiring authority for development of the land or part of it, and
- (b) on the date of service of the notice to treat there is not in force planning approval for that development,

it shall be assumed that planning approval would be granted in respect of that land or that part of it, as the case may be, such as would permit development of it in accordance with the proposals of the acquiring authority.

2. (1) It shall be assumed that planning approval would be granted in respect of that land or any part of it, for development of any of the following classes.

- (a) The rebuilding, enlargement, improvement or other alteration, as often as occasion may require, of any building existing at the material date, so long as the cubic content of the original building (as ascertained by external measurements) is not increased or exceeded —
 - (i) in the case of a dwellinghouse by more than one tenth or 50 cubic metres, whichever is the greater; and
 - (ii) in any other case by more than one tenth.
- (b) The use as two or more separate dwellinghouses of any building which at the material date was used as a single dwellinghouse.
- (c) The carrying out, on land which was used for the purposes of agriculture or forestry at the material date, of any building or other operations required for the purposes of that use, other than operations for the erection, enlargement, improvement or alteration of dwellinghouses or of buildings used for the purposes of market gardens, nursery grounds or timber yards or for other purposes not connected with general farming operations or with the cultivation or felling of trees.
- (d) The winning and working, on land held or occupied with land used for the purposes of agriculture, of any minerals reasonably

required for the purposes of that use, including the fertilisation of the lands so used and the maintenance, improvement or alteration of buildings or works thereon which are occupied or used for those purposes.

- (e) In the case of a building or other land which, at the material date, was used for a purpose within any class specified in an order under section 3A(3) of the 1934 Act, or which having been unoccupied at the material date was last used for any such purpose (otherwise than before the 12th May 1936), the use of that building or land for any other purpose falling within the same class.
- (f) In the case of any building or other land which, at the material date, was in the occupation of a person by whom it was used as to part only for a particular purpose, the use for that purpose of any additional part of the building or land not exceeding —
 - (i) one tenth of the cubic content of the part of the building used for that purpose, or
 - (ii) one tenth of the area of the land so used,
as the case may be.
- (g) The deposit of waste materials or refuse in connection with the working of minerals, on any land comprised in a site which at the material date was being used for that purpose, so far as may be reasonably required in connection with the working of those minerals.

(2) Where any buildings or works have been erected or constructed, or any use of land has been instituted, and any condition imposed on the grant of planning approval has effect so as to limit the period for which those buildings or works may be retained, or the use may be continued, this paragraph shall not operate except as respects the period specified in that condition.

(3) This paragraph shall not apply in relation to any buildings, works, operations or use of land erected, constructed, retained, carried out or instituted in breach of planning control.

(4) In this paragraph —

“in breach of planning control” has the same meaning as in the Planning Act.²⁹

3. Where a certificate is issued under Part II of this Schedule, it shall be assumed that any planning approval which, according to the certificate, would have been granted in respect of the land or part of it if it were not proposed to be acquired by any authority possessing compulsory powers would be so granted, but, where any conditions are, in accordance with that Part, specified in the certificate, only subject to those conditions and, if any future time is so specified, only at that time.

4. (1) If the land or any part of it consists or forms part of an area shown in the development plan as an area allocated primarily for a use specified in the plan in relation to that area, it shall be assumed that planning approval would be granted in respect of that land or that part of it, as the case may be, for any development which —

- (a) is development for the purposes of that use of that land or that part of it; and
- (b) is development for which planning approval might reasonably have been expected to be granted in respect of that land or that part of it, as the case may be.

(2) If that land or any part of it consists or forms part of an area shown in the development plan as an area allocated primarily for a range of two or more uses specified in the plan in relation to the whole of that area, it shall be assumed that planning approval would be granted, in respect of that land or that part of it, as the case may be, for any development which —

- (a) is development for the purposes of the use of that land or that part of it, being a use falling within that range of uses; and
- (b) is development for which planning approval might reasonably have been expected to be granted in respect of that land or that part of it, as the case may be.

4A. (1) Subject to paragraph 4 of Schedule 5 to the Planning Act, in a case where the land includes a registered building, it shall be assumed that registered building consent would be granted for any works —

- (a) for the alteration or extension of the building; or
- (b) for the demolition of the building for the purpose of development of any class specified in paragraph 2(1),
other than works in respect of which such consent has been applied for and refused, or granted subject to conditions.³⁰

PART II – CERTIFICATION OF ALTERNATIVE DEVELOPMENT VALUE³¹

[P1961/33/17 and 18; P1980/65Sch 24]

5. (1) Where an interest in land is proposed to be acquired by an authority possessing compulsory powers, and that land or part of it does not consist or form part of an area indicated in the development plan for a use which is primarily residential, commercial or industrial or for a range of two or more uses any of which is residential, commercial or industrial, then, subject to sub-paragraph (2), either the authority or the person entitled to the interest may apply to the Department for a certificate under this Part.

(2) If, in the case of an interest in land falling within sub-paragraph (1), the acquiring authority have served a notice to treat in respect of it, or an agreement has

been made for the sale of it to that authority, and a reference has been made to the arbitrator to determine the amount of the compensation payable in respect of that interest, no application for a certificate under this Part shall be made by the acquiring authority or the person entitled to the interest after the date of that reference except either —

- (a) with the consent in writing of the other of those parties, or
 - (b) with the leave of the arbitrator.
- (3) An application for a certificate under this Part —
- (a) shall state whether or not there are, in the applicant's opinion, any classes of development which, either immediately or at a future time, would be appropriate for the land in question if it were not proposed to be acquired by any authority possessing compulsory powers and, if so, shall specify the classes of development and the times at which they would be so appropriate;
 - (b) shall state the applicant's grounds for holding that opinion; and
 - (c) shall be accompanied by a statement specifying the date on which a copy of the application has been or will be served on the other party.

(4) Where an application is made to the Department for a certificate under this Part in respect of an interest in land, the Department shall, not earlier than 21 days after the date specified in the statement mentioned in sub-paragraph (3)(c), issue to the applicant a certificate stating either of the following to be the opinion of the Department regarding the grant of planning approval in respect of the land in question, if it were not proposed to be acquired by an authority possessing compulsory powers, that is to say —

- (a) that planning approval for development of one or more classes specified in the certificate (whether specified in the application or not) would have been granted; or
- (b) that planning approval would not have been granted for any development other than the development (if any) which is proposed to be carried out by the acquiring authority.³²

(5) Where, in the opinion of the Department, planning approval would have been granted as mentioned in sub-paragraph (4)(a), but would only have been granted subject to conditions, or at a future time, or both subject to conditions and at a future time, the certificate shall specify those conditions, or that future time, or both, as the case may be, in addition to the other matters required to be contained in the certificate.³³

(6) In determining, for the purposes of the issue of a certificate under this Part, whether planning approval for any particular class of development would have been granted in respect of any land, the Department shall not treat development of that class as development for which planning approval would have been refused by reason only that it would have involved development of the land in question (or of that land

together with other land) otherwise than in accordance with the provisions of the development plan relating thereto.³⁴

(7) Where an application for a certificate under this Part relates to land in which part (but not the whole) consists or forms part of such an area as is mentioned in sub-paragraph (1), any certificate issued under this Part in pursuance of that application shall be limited to so much of that land as does not fall within any such area.

(8) On issuing to one of the parties a certificate under this Part in respect of any interest in land, the Department shall serve a copy of the certificate on the other party.³⁵

(9) For the purpose of this Part, an interest in land shall be taken to be an interest proposed to be acquired by an authority possessing compulsory powers —

- (a) where the authority has given notice of its intention to apply to Tynwald for authority to acquire the land compulsorily in accordance with section 2; or
- (b) where an offer in writing has been made by or on behalf of the authority to negotiate for the purchase of that interest.

6. The provisions of any development order [and] relating to decisions of the Department on applications for planning approval, and the review of and appeals against such decisions shall, with any necessary modifications, apply to an application for a certificate under this Part as they apply to such applications, but so that no such provision shall enable a person other than the Department, the acquiring authority or authority possessing compulsory powers and a person entitled to an interest in the land in question to be a party to any such proceedings.³⁶

SCHEDULE 2**ABSENT AND UNTRACED OWNERS**

Section 15(3)[III p514/32; P1965/56/2/1]

1. (1) The compensation to be paid for any land subject to compulsory purchase to be purchased by the acquiring authority from a person —

- (a) who is prevented from treating with them on account of absence from the Island, or
- (b) who cannot be found after diligent inquiry has been made,

and the compensation to be paid for any permanent injury to any such land, shall be determined by the valuation of such one of the panel of official arbitrators appointed under section 3 as may be selected by the Governor.

(2) The acquiring authority shall file the valuation in the General Registry.

(3) All the expenses of and incident to the valuation shall be borne by the acquiring authority.

[III p514/48 and 49; P1965/56/2/2]

2. (1) The acquiring authority may pay into the bank the compensation determined under this Schedule to be placed to the credit of the parties interested in the land, giving their descriptions so far as the authority is in a position to do so.

(2) When the acquiring authority have paid the compensation into the bank, they may execute a deed poll in the manner provided by section 29.

[III p514/50; P1965/56/2/3]

(3) On execution of the deed poll all the estate and interest in the land of the parties for whose use and in respect whereof the compensation was paid into the bank shall vest absolutely in the acquiring authority, and as against those persons the authority shall be entitled to immediate possession of the land.

3. On the application of any person claiming any part of the money paid into the bank, or of the land or any interest in the land in respect of which it was paid into the bank, the High Court may order its distribution according to the respective estates, titles or interests of the claimants, and if, before the money is distributed, it is invested in accordance with rules of court, payment likewise of the dividends thereof, and may make such other order as the court thinks fit.

[III p514/36-39; P1965/56/2/4]

4. (1) If the person mentioned in paragraph 1(1) is dissatisfied with the arbitrator's valuation he may, before applying under paragraph 3 to the High Court for payment or investment of the compensation paid into the bank, by notice in writing to the acquiring authority require the determination in accordance with section 3 of the question whether the compensation paid into the bank was sufficient, or whether any and what further sum ought to be paid over or paid into the bank.

(2) If the arbitrator awards a further sum, the acquiring authority shall pay over or pay into the bank, as the case may require, that further sum within 14 days of the making of the award, and if they make default that further sum may be recovered in proceedings in the High Court.

(3) If the arbitrator determines that the compensation paid into the bank was sufficient, the costs of and incident to the proceedings before the arbitrator shall be in the discretion of the arbitrator, but if the arbitrator determines that a further sum ought to be paid, all the costs of and incident to the proceedings shall be borne by the acquiring authority.

SCHEDULE 3

MODIFICATIONS RELATING TO ACQUISITION OF RIGHTS OVER LAND

Section 32(3) [P1976/57/Sch 1]

1. For section 6 (compensation for severance) there shall be substituted the following: —

6. (1) In assessing the compensation to be paid by the acquiring authority under this Act regard shall be had not only to the extent, if any, to which the value of the land over which the right is purchased is depreciated by the purchase but also to the damage, if any, to be sustained by the owner of the land by reason of injurious affection of other land of the owner by the exercise of the right.

(2) Where a right over land is purchased from the owner for the purpose of works which are to be situated partly on that land and partly elsewhere, compensation under subsection (1) for injurious affection of the land retained by the owner shall be assessed by reference to the whole of the works and not only the part situated on the land over which the right is exercisable.

2. Section 23 (tenants at will etc.) shall apply with the modifications necessary to secure that persons with such interests as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of the interests but taking into account only the extent (if any) of such interference with such interests as is actually caused, or likely to be caused, by the exercise of the right in question.

3. For section 24 (severed lands) there shall be substituted the following: —

24. (1) Where in consequence of the service on a person in pursuance of section 15 of a notice to treat in respect of a right over land consisting of a house, building or factory, or of a garden belonging to a house, (in this section called “the relevant land”) —

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

the special Act shall, in relation to that person, cease to authorise the purchase of the right and be deemed to authorise the purchase of that person's interest in the whole of the relevant land including, where the land consists of such a garden, the house to which it belongs, and the notice shall be deemed to have been served in respect of that interest on such date as the arbitrator directs.

(2) In making a determination under subsection (1), the arbitrator shall take into account not only the effect of the right on the whole of the relevant land but also the use to be made of the right proposed to be acquired and, in a case where the right is proposed to be acquired for works or other purposes extending to other land, the effect of the whole of the works and the use to be made of the other land.

(3) Any question as to the extent of the land in which the special Act is deemed to authorise the purchase of an interest by virtue of the preceding subsection shall be determined by the arbitrator.

(4) Where in consequence of a determination of the arbitrator that he is satisfied as mentioned in subsection (1) the special Act is deemed by virtue of that subsection to authorise the purchase of an interest in land, the acquiring authority may, at any time within the period of 6 weeks beginning with the date of the determination, withdraw the notice to treat in consequence of which the determination was made.

4. Section 25 (interests omitted from purchase) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right in question, subject to compliance with that section as respects compensation.

5. The following provisions (effect of deed poll), namely —
section 28 (refusal to convey); and
paragraph 2(3) of Schedule 2 (absent and untraced owners),

shall be so modified as to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be purchased compulsorily is vested absolutely in the acquiring authority.

6. Section 30 (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right, it has power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that right (which shall be deemed for this purpose to have been created on the date of service of the notice); and section 31 (entry in the event of obstruction) shall be modified correspondingly.

SCHEDULE 4

CONSEQUENTIAL AMENDMENTS

Section 35(1)

[Sch 4 amended by Highways Act 1986 Sch 9, by Burials Act 1986 Sch 6, by GC190/86, by Airports and Civil Aviation Act 1987 Sch 3, by Statute Law Revision Act 1989 Sch 2, by Water Act 1991 Sch 9, by Electricity Act 1996 Sch 7, by Statute Law Revision Act 1997 Sch 2, by Sewerage Act 1999 Sch 5, by Town and Country Planning Act 1999 Sch 10 and by Acquisition of Land (Amendment) Act 2000 Sch, and amends the following Acts —

Settled Land Act 1891 q.v.

Allotments Act 1928 q.v.

Land Drainage Act 1934 q.v.

National Defence Property Regulation Act 1938 q.v.

Housing Act 1955 q.v.

Registration of Deeds Act 1961 q.v.

Land Registration Act 1982 q.v.]

SCHEDULE 5³⁷

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

¹ Subs (2) amended by SD155/10 Sch 5.

² Subs (4) amended by Treasury Act 1985 Sch 2.

³ S 5 substituted by Acquisition of Land (Amendment) Act 2000 s 1 with saving - see s 10(3).

⁴ Subs (1) substituted by Acquisition of Land (Amendment) Act 2000 s 1 with saving - see s 10(3).

⁵ Subs (2) amended by Acquisition of Land (Amendment) Act 2000 s 1 with saving - see s 10(3).

⁶ Subs (3) added by Acquisition of Land (Amendment) Act 2000 s 8.

⁷ S 7A inserted by Acquisition of Land (Amendment) Act 2000 s 5 with saving - see s 10(3).

⁸ Subs (5A) inserted by Acquisition of Land (Amendment) Act 2000 s 6 with saving - see s 10(3).

⁹ Subs (6) substituted by Town and Country Planning Act 1999 Sch 9.

¹⁰ Subs (8) amended by GC155/91.

¹¹ Para (b) amended by Civil Partnership Act 2011 Sch 14.

¹² Para (c) amended by Civil Partnership Act 2011 Sch 14.

¹³ S 23A inserted by Acquisition of Land (Amendment) Act 2000 s 2 with saving - see s 10(3).

¹⁴ Subs (6) amended by Matrimonial Proceedings Act 2003 Sch 5 and by Civil Partnership Act 2011 Sch 14.

¹⁵ S 23B inserted by Acquisition of Land (Amendment) Act 2000 s 2 with saving - see s 10(3)

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- ¹⁶ S 23C inserted by Acquisition of Land (Amendment) Act 2000 s 3 with saving - see s 10(3).
- ¹⁷ S 23D inserted by Acquisition of Land (Amendment) Act 2000 s 3 with saving - see s 10(3).
- ¹⁸ S 23E inserted by Acquisition of Land (Amendment) Act 2000 s 3 with saving - see s 10(3).
- ¹⁹ Subs (2) amended by Acquisition of Land (Amendment) Act 2000 s 10.
- ²⁰ Subs (3) amended by Treasury Act 1985 Sch 2.
- ²¹ S 30A inserted by Acquisition of Land (Amendment) Act 2000 s 4 with saving - see s 10(3).
- ²² References to the Church Commissioners in this section are to be construed as references to the Sodor and Man Diocesan Board of Finance by virtue of the Church Act 1992 s 2(4).
- ²³ Subs (1) amended by Acquisition of Land (Amendment) Act 2000 s 8.
- ²⁴ Definition of “discretionary payment” inserted by Acquisition of Land (Amendment) Act 2000 s 10.
- ²⁵ Definition of “disturbance payment” inserted by Acquisition of Land (Amendment) Act 2000 s 10.
- ²⁶ Definition of “home loss payment” inserted by Acquisition of Land (Amendment) Act 2000 s 10.
- ²⁷ Subs (2) repealed by Statute Law Revision Act 1992 Sch 2.
- ²⁸ Effective 15 August 1984.
- ²⁹ Definition of “in breach of planning control” substituted by Town and Country Planning Act 1999 Sch 9.
- ³⁰ Para 4A inserted by Town and Country Planning Act 1991 s 24 and amended by Town and Country Planning Act 1999 Sch 9.
- ³¹ Para 5 amended by GC192/86.
- ³² Subpara (4) amended by GC192/86.
- ³³ Subpara (5) amended by GC192/86.
- ³⁴ Subpara (6) amended by GC192/86.
- ³⁵ Subpara (8) amended by GC192/86.
- ³⁶ Para 6 amended by GC192/86 and by Town and Country Planning Act 1999 Sch 9.
- ³⁷ Sch 5 repealed by Statute Law Revision Act 1991 Sch 2.