

## SCHEDULES

### SCHEDULE 21

Section 265.

#### TRANSITIONAL MATTERS ARISING WHERE A HIGHWAY BECOMES A TRUNK ROAD OR A TRUNK ROAD CEASES TO BE A TRUNK ROAD

- 1 All orders and regulations made, all directions, consents and notices given, and all building lines and improvement lines prescribed, with respect to a highway which becomes a trunk road, either by the former highway authority for the purposes of their functions with respect to that highway or by a council under any enactment to which section 265 of this Act applies, if they were in force immediately before the highway became a trunk road, have effect with respect thereto as if made, given or prescribed by the Minister; but nothing in this paragraph is to be taken as transferring to the Minister any liability not transferred to him by or under the said section 265.
- 2 Any order, byelaw, regulation or other instrument made by a council with respect to a highway which becomes a trunk road, which would, if it had been made after the highway became a trunk road, have required the consent or approval of the Minister, may be revoked or varied by an order made by the Minister in like manner and subject to the like conditions as the original instrument, so, however, that no appeal lies to the Crown Court or to a magistrates' court against any order made by the Minister under this paragraph.
- 3 All contracts, deeds, bonds or agreements entered into or made by the, former highway authority for a highway which becomes a trunk road, or by a council for the purposes of functions in relation to the highway under any enactment to which section 265 of this Act applies, and subsisting on the day on which the highway became a trunk road, have effect, in so far as they relate to the property and nabilities transferred to the Minister in respect of that highway, with the substitution of the Minister for the authority or council and may be enforced by or against the Minister accordingly.
- 4 Where any such contract as aforesaid provides for the execution of works or the rendering of services by a person other than the authority or council in connection with the construction, maintenance or improvement of, or other dealing with, the highway, then—
  - (a) if the works or services have been completed before the day on which the highway becomes a trunk road but the price or payment, or any part thereof, has not accrued due before that day, the Minister may recover from the authority or council the price or payment, or part thereof, as the case may be; and
  - (b) if the works or services have not been completed before the said day, the value of any works executed, or services rendered, before that day, shall be ascertained, regard being had to the terms of the contract, and the Minister may recover from the authority or council the amount of the said value less any sum paid by the authority or council in pursuance of the contract, and if the authority or council have paid in pursuance of the contract a sum greater

than the amount of the said value, the Minister shall repay the excess to the authority or council.

- 5 Where, before the day on which a highway becomes a trunk road, the former highway authority or any council having functions in relation to the highway under any enactment to which section 265 of this Act applies have been themselves executing works in connection with the construction, maintenance or improvement of, or other dealing with, the highway, but have not completed the works before that day, the Minister shall, if required to do so by the authority or council, purchase all unused materials necessarily acquired by the authority or council for the purpose of the works and hire from the authority or council all plant so acquired which is still necessary for the purpose of the works.

- 6 In calculating—
- (a) the amount of any sum to be recovered or paid by the Minister under paragraph 4 above, or
  - (b) the price of the materials to be purchased, or the hire of plant to be hired, by the Minister under paragraph 5 above,

account shall be taken of any grant paid or payable by the Minister to the authority or council for the purpose of the works or services.

- 7 If any dispute arises under paragraph 4, 5 or 6 above as to the materials to be purchased, or the plant to be hired, by the Minister from any authority or council, or as to the sums to be paid by any authority or council to the Minister, or by the Minister to any authority or council, it shall be determined by arbitration.

- 8 All proceedings, legal or other, begun before the day on which a highway becomes a trunk road and relating to any property or liabilities transferred to the Minister in respect of that highway, may be carried on with the substitution of the Minister as party to the proceedings, in lieu of the authority or council from whom the property or liabilities was or were transferred, and any such proceedings may be amended in such manner as may be necessary for that purpose.

- 9 The provisions of this Schedule, except paragraph 2, apply in a case where a trunk road ceases to be a trunk road in like manner as they apply where a highway becomes a trunk road, with the substitution, for the references to the former highway authority and to a council, of references to the Minister, and, for references to the Minister, of references to the council who become the highway authority for the road or, as far as relates to functions under any enactment to which section 265 of this Act applies and to property and liabilities vested in or incurred by the Minister for the purposes of those functions, to the council who are to exercise those functions in relation to the road.