

SCHEDULES

SCHEDULE 5

Section 21.

MODIFICATIONS OF CERTAIN PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1971 AS APPLIED BY SECTION 21

PART I

MODIFICATIONS IN RELATION TO LAND REFERRED TO IN PARAGRAPH (A) OR (B) OF SECTION 21(2)

- 1 For references in sections 230, 231, 237(2) and (3), 238 and 240 of the Town and Country Planning Act 1971 (referred to in this Schedule as "the 1971 Act") to the acquiring or appropriating authority substitute references to the special road authority.
- 2 In subsection (1) of the said section 230 omit the words from " if satisfied " to " appropriated " and after that subsection insert the following:—

“(1A) A notice under this section shall not be served by the special road authority unless they are satisfied that the extinguishment of the statutory undertakers' right or, as the case may be, the removal of their apparatus, is necessary for the purpose of carrying out any works in pursuance of the scheme or order or, as the case may be, for the purpose of ensuring that the highway can be safely used as a special road.”.
- 3 The references in subsection (4) of the said section 230 and in subsection (2) of the said section 231 to a local authority or statutory undertakers include references to the special road authority, when a local highway authority.
- 4 In paragraph (b) of section 232(1) of the 1971 Act for the words " development to be carried out on the land is" substitute " the works to be executed by the special road authority or, as the case may be, that the effect of the conversion of the highway into a special road, will be ".
- 5 For subsection (2) of the said section 232 substitute the following:—

“(2) No notice under this section shall be served later than 21 days after the date of the commencement of the works or as the case may be, the date of the coming into operation of the order by means of which the highway is appropriated by or transferred to the special road authority.”.
- 6 For references in subsections (3) and (6) of the said section 232 to the authority or the acquiring or appropriating authority substitute references to the special road authority.

PART II

MODIFICATIONS IN RELATION TO LAND REFERRED TO IN PARAGRAPH (C) OF SECTION 21(2)

- 1 For references in sections 230, 231, 237(2) and (3), 238 and 240 of the 1971 Act to the acquiring or appropriating authority substitute references to the Minister, the special road authority or the local highway authority, as the case may be, by whom the order in question was made.
- 2 In subsection (1) of the said section 230 omit the words from " if satisfied " to "appropriated" and after that subsection insert the following:—
- “(1A) A notice under this section shall not be served by the Minister, the special road authority or the local highway authority, as the case may be, unless he or they is or are satisfied that the extinguishment of the statutory undertakers' right, or as the case may be, the removal of their apparatus, is made necessary by the works in connection with which the stopping up or diversion of the highway is or was authorised.”.
- 3 The references in subsection (4) of the said section 230 and in subsection (2) of the said section 231 to a local authority or statutory undertakers include references to a local highway authority.
- 4 For subsections (1) and (2) of section 232 of the 1971 Act substitute the following:—
- “(1) Subject to the provisions of this section, where the stopping up or diversion of a highway is or was authorised by an order under section 14 or section 18 of the Highways Act 1980, and—
- (a) there is on, under or over the land over which that highway subsists or subsisted any apparatus vested in or belonging to statutory undertakers; and
- (b) the undertakers claim that the works in connection with which the stopping up or diversion of the highway is or was authorised are such as to require, on technical or other grounds connected with the carrying on of their undertaking, the removal or re-siting of their apparatus,
- the undertakers may serve on the Minister, the special road authority or the local highway authority, as the case may be, by whom the order was made a notice claiming the right to enter on the land and carry out such works for the removal or re-siting of the apparatus or any part of it as may be specified in the notice.
- (2) No notice under this section shall be served later than twenty-one days after the later of the following dates, that is to say, the date of the coming into operation of the order in question and the date of the commencement of the works in connection with which the stopping up or diversion of the highway is or was authorised.”.
- 5 For references in subsections (3) and (6) of the said section 232 to the authority or to the acquiring or appropriating authority substitute references to the Minister, the special road authority or the local highway authority as the case may be, by whom the order in question was made.