F.R.S.

12. The following provisions of that Act (being provisions stating the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land):—

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

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 interest or right which is to be compulsorily acquired is vested absolutely in the acquiring authority.

13. Section 11 of that Act (powers of entry) shall be so modified as to secure that, as from the date on which the acquiring authority have served notice to treat in respect of any interest or right, they have power, exercisable in the like circumstances and subject to the like conditions, to enter for the purpose of exercising that interest or right (which shall be deemed for this purpose to have been created on the date of service of the notice); and sections 12 (penalty for unauthorised entry) and 13 (entry on sheriff's warrant in the event of obstruction) shall be modified correspondingly.

14. Section 20 of that Act (protection for interests of 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 that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the interest or right in question.

15. Section 22 of that Act (protection of acquiring authority's possession where by inadvertence an estate, right or interest has not been got in) shall be so modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue entitled to exercise the interest or right acquired, subject to compliance with that section as respects compensation.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food was hereunto affixed on 20th January 1977.

John Silkin,
Minister of Agriculture, Fisheries and Food.

(L.S.)

EXPLANATORY NOTE

(*This Note is not part of the Order*)

These regulations prescribe the modifications subject to which the Acquisition of Land (Authorisation Procedure) Act 1946 and the Compulsory Purchase Act 1965 apply to the compulsory acquisition by an internal drainage board of interests in or rights over land by way of securing the creation of new interests or rights in their favour.

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STATUTORY INSTRUMENTS

1977 No. 84

LAND DRAINAGE

The Internal Drainage Boards (Acquisition of New Interests and Rights) Regulations 1977

Made - - -	20*th January* 1977
Laid before Parliament	31*st January* 1977
Coming into Operation	21*st February* 1977

The Minister of Agriculture, Fisheries and Food, in exercise of the powers conferred on him by sections 37(4) and 95 of the Land Drainage Act 1976(**a**) and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation and Commencement

1. These regulations may be cited as the Internal Drainage Boards (Acquisition of New Interests and Rights) Regulations 1977 and shall come operation on 21st February 1977.

Interpretation

2.—(1) In these regulations—

"the Act of 1976" means the Land Drainage Act 1976;

"the Act of 1946" means the Acquisition of Land (Authorisation Procedure) Act 1946(**b**); and

"the Act of 1965" means the Compulsory Purchase Act 1965(**c**).

(2) In these regulations, unless the context otherwise requires, any reference to any enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment.

(3) The Interpretation Act 1889(**d**) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

General Modifications of Acts of 1946 *and* 1965

3. In the application of the Act of 1946 and the Act of 1965 to the compulsory acquisition by an internal drainage board of an interest in or right over land by way of securing compulsorily the creation in their favour of a new interest or right by virtue of section 37 of the Act of 1976 the said Acts of 1946 and 1965 shall have effect with the modifications necessary to make them apply to such compulsory acquisition so that, in appropriate contexts, references in those Acts to land are to be read as referring, or as including references, to the interest or right acquired or to be acquired, or to land in or over which the interest or right is, or is to be, exercisable, according to the requirement of the particular context.

(**a**) 1976 c.70. (**b**) 1946 c. 49. (**c**) 1965 c. 56. (**d**) 1889 c. 63.

Specific modifications of Act of 1946

4. Without prejudice to the generality of regulation 3 above, Part III of Schedule 1 to the Act of 1946 (requirement of special parliamentary procedure, and other special provisions, in the case of acquisition of certain descriptions of land) shall apply in relation to the compulsory acquisition by an internal drainage board of an interest in or right over land by way of securing compulsorily the creation in their favour of a new interest or right with the modifications specified in regulations 5 to 8 below.

5. In paragraph 9 of that Schedule (compulsory purchase affecting land of local authorities, statutory undertakers or National Trust) for references to the compulsory purchase of land there shall be substituted references to the compulsory acquisition of interests in or rights over land.

6. In paragraph 10 of that Schedule (land of statutory undertakers)—

(*a*) for the words "land comprised in the order" there shall be substituted the words "land in or over which an interest or right is to be acquired by virtue of the order";

(*b*) for the words "purchase of" there shall be substituted the words "acquisition of an interest in or right over";

(*c*) for the words "it can be purchased and not replaced" there shall be substituted the words "the interest or right can be acquired"; and

(*d*) for sub-paragraph (ii) there shall be substituted the following:—

"(ii) that any detriment to the carrying on of the undertaking, in consequence of the acquisition of the interest or right, can be made good by the undertakers by the use of other land belonging to, or available for acquisition by, them".

7.—(1) In paragraph 11 of that Schedule (common land, open spaces, etc) the following shall be substituted for sub-paragraph (1):—

"(1) In so far as a compulsory purchase order authorises the acquisition of an interest in or right over land forming part of a common, open space or fuel or field garden allotment, it shall be subject to special parliamentary procedure unless the Secretary of State is satisfied—

(*a*) that the land, when burdened with that interest or right, will be no less advantageous to those persons in whom it is vested and other persons, if any, entitled to rights of common or other rights, and to the public, than it was before; or

(*b*) that there has been or will be given in exchange for the interest or right additional land which will as respects the persons in whom there is vested the land in or over which the interest or right is to be acquired, the persons, if any, entitled to rights of common or other rights over that land, and the public, be adequate to compensate them for the disadvantages which result from the acquisition of the interest or right, and that the additional land has been or will be vested in the persons in whom there is vested the land in or over which the interest or right is to be acquired, and subject to the like rights, trusts and incidents as attach to that land apart from the compulsory purchase order; or

(*c*) that the land affected by the interest or right to be acquired does not exceed 250 square yards in extent, and that the giving of other land in exchange for the interest or right is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,

and certifies accordingly.".

(2) In the said paragraph 11, in sub-paragraph (3), the following shall be substituted for the words from "and for discharging" to the end—

"and for discharging the land in or over which any interest or right is to be acquired from all rights, trusts and incidents to which it has previously been subject so far as their continuance would be inconsistent with the exercise of that interest or right".

8. In paragraph 12 of that Schedule for the words "the purchase of" there shall be substituted the words "the acquisition of an interest in or right over".

Specific modifications of Act of 1965

9. Without prejudice to the generality of regulation 3 above, Part I of the Act of 1965 shall apply in relation to the compulsory acquisition by an internal drainage board of an interest in or right over land by way of securing compulsorily the creation in their favour of a new interest or right with the modifications specified in paragraphs 10 to 15 below.

10. For section 7 of that Act (measure of compensation) there shall be substituted the following:—

"7. 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 in or over which the interest or right is to be acquired is depreciated by the acquisition of the interest or right but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of his, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act."

11. For section 8(1) of that Act (protection for vendor against severance of house, garden, etc) there shall be substituted the following:—

"(1) No person shall be required to grant any interest in or right over part only—

(*a*) of any house, building or manufactory, or

(*b*) of a park or garden belonging to a house,

if he is willing to sell the whole of the house, building, manufactory, park or garden, unless the Lands Tribunal determines that—

(i) in the case of a house, building or manufactory, the part over which the interest or right is proposed to be acquired can be made subject to that interest or right without material detriment to the house, building or manufactory, or

(ii) in the case of a park or garden, the part in or over which the interest or right is proposed to be acquired can be made subject to that interest or right without seriously affecting the amenity or convenience of the house;

and if the Lands Tribunal so determine, the Tribunal shall award compensation in respect of any loss due to the acquisition of the interest or right, in addition to its value; and thereupon the party interested shall be required to grant to the acquiring authority that interest or right over that part of the house, building, manufactory, park or garden.

(1A) In considering the extent of any material detriment to a house, building or manufactory, or any extent to which the amenity or convenience of a house is affected, the Lands Tribunal shall have regard not only to the interest or right which is to be acquired in or over the land, but also to any adjoining or adjacent land belonging to the same owner and subject to compulsory purchase.".