
Changes to legislation: There are currently no known outstanding effects for the Channel Tunnel Act 1987, Cross Heading: Acquisition of part only of certain properties. (See end of Document for details)

SCHEDULE 5

SUPPLEMENTARY PROVISIONS AS TO ACQUISITION OF LAND

PART III

SUPPLEMENTARY

Acquisition of part only of certain properties

- 3 (1) Where a copy of this paragraph is endorsed on, or annexed to, a notice to treat served under Part I of the ^{M1}Compulsory Purchase Act 1965, as applied by section 37 of this Act, the following provisions of this paragraph shall apply to the land subject to the notice instead of section 8(1) of that Act.
- (2) Where the land subject to the notice is part only of a house, building or factory, or part only of land consisting of a house together with any park or garden belonging thereto, then, if the person on whom the notice is served, within the period of two months beginning with the day on which the notice is served on him, serves on the appropriate authority a counter-notice objecting to the sale of the part and stating that he is willing and able to sell the whole (in this paragraph below referred to as “the land subject to the counter-notice”), the question whether he shall be required to sell the part shall, unless the appropriate authority agrees to take the land subject to the counter-notice, be referred to the [^{F1}Upper Tribunal].
- (3) If the said person does not serve such a counter-notice as aforesaid within the period of two months beginning with the day on which the notice to treat is served on him, or if on such a reference to the [^{F1}Upper Tribunal] the tribunal determines that the part subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, in the case of part of any land consisting of a house together with a park or garden belonging thereto, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the said person shall be required to sell the part.
- (4) If, on such a reference to the [^{F1}Upper Tribunal], the tribunal determines that part only of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice, or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the notice to treat shall be deemed to be a notice to treat for that part.
- (5) If, on such a reference to the [^{F1}Upper Tribunal], the tribunal determines that the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice but that the material detriment is confined to a part of the land subject to the counter-notice, the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the appropriate authority is authorised to acquire compulsorily under section 8 or 36 of this Act.
- (6) If the appropriate authority agrees to take the land subject to the counter-notice, or if the [^{F1}Upper Tribunal] determines that—

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- (a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or (as the case may be) without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and
- (b) the material detriment is not confined to a part of the land subject to the counter-notice;

the notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice, whether or not the whole of that land is land which the appropriate authority is authorised to acquire compulsorily under section 8 or 36 of this Act.

- (7) In any case where, by virtue of a determination by the [^{F1}Upper Tribunal] under sub-paragraph (4), (5) or (6) above, a notice to treat is deemed to be a notice to treat for part of the land specified in the notice or for more land than is specified in the notice, the appropriate authority may, within six weeks after the tribunal makes its determination, withdraw the notice to treat and, if this is done, shall pay to the person on whom the notice to treat was served compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice, to be determined in default of agreement by the tribunal.
- (8) For the purposes of sub-paragraph (7) above, the determination shall not be deemed to be made so long as—
- (a) the time for requiring the tribunal to state a case with respect to the determination has not expired;
 - (b) any proceedings on points raised by a case so stated have not been concluded; or
 - (c) any proceedings on appeal from any decision on points raised by a case so stated have not been concluded.
- (9) Where a person is required under this paragraph to sell part only of a house, building or factory, or of land consisting of a house together with any park or garden belonging thereto, compensation shall be payable to him for any loss sustained by him due to the severance of that part in addition to the value of his interest therein.

Textual Amendments

- F1** Words in Sch. 5 para. 3(2)-(7) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 187(a)** (with Sch. 5)

Marginal Citations

- M1** 1965 c.65.

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