

Status: Point in time view as at 01/06/2009.

Changes to legislation: There are currently no known outstanding effects for the Channel Tunnel Rail Link Act 1996, Part III. (See end of Document for details)

SCHEDULES

SCHEDULE 4

ACQUISITION OF LAND WITHIN LIMITS SHOWN ON DEPOSITED PLANS

PART III

SUPPLEMENTARY PROVISIONS

Acquisition of subsoil

- 6 (1) In the case of land specified in the following table (non-pedestrian tunnels), the power conferred by section 4(1) above shall only be exercisable in relation to so much of the subsoil or under-surface of the land as lies more than 9 metres beneath the level of the surface of the land.

THE TABLE

Area	No. on deposited plans
GREATER LONDON	
London Borough of Islington	307 to 318, 320 to 330, 332, 335, 338 to 739, 798, 799 and 803 to 1042
London Borough of Hackney	1 to 183, 185 to 211 and 213 to 772
London Borough of Newham	16 to 518, 522 to 540, 542 to 549, 551 to 1207, 1209 to 1223, 1235, 1236, 1238, 1240 to 1243 and 1246 to 1252
London Borough of Redbridge	8 to 14
London Borough of Barking and Dagenham	227 to 765, 767, 769 to 786, 794 and 796
COUNTY OF ESSEX	
Borough of Thurrock	99 and 103
COUNTY OF KENT	
Borough of Tonbridge and Malling, Parish of Aylesford	51 to 140 and 144 to 183
Borough of Tonbridge and Malling, Parish of Burham	1 to 9

- (2) In the case of land specified in the following table (pedestrian tunnels and ground anchors), the power conferred by section 4(1) above shall only be exercisable in

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relation to so much of the subsoil or under-surface of the land as lies more than 2 metres beneath the level of the surface of the land.

THE TABLE

Area	No. on deposited plans
GREATER LONDON	
London Borough of Camden	178
London Borough of Islington	740 to 771
COUNTY OF KENT	
Borough of Ashford, Parish of Mersham	39

- (3) In the case of any other land, the power conferred by section 4(1) above shall be exercisable as well in relation to the subsoil or under-surface only as in relation to the land as a whole.
- (4) Section 8(1) of the ^{M1}Compulsory Purchase Act 1965 (limitation on right to require a person to sell part only of any house, building, manufactory or park or garden belonging to a house) shall not apply where the power conferred by section 4(1) above is exercised in relation to the subsoil or under-surface of land only.
- (5) For the purposes of sub-paragraphs (1) and (2) above, the level of the surface of the land shall be taken—
- (a) in the case of any land on which a building is erected, to be the level of the surface of the ground adjoining the building, and
 - (b) in the case of a watercourse or other area of water, to be the level of the surface of the adjoining ground which is at all times above water level.

Marginal Citations

M1 1965 c. 56.

Acquisition of existing tunnels

- 7 In the case of land specified in the following table (existing railway tunnels), the power conferred by section 4(1) above shall only be exercisable in relation to so much of the land as is comprised in an existing railway tunnel.

THE TABLE

Area	No. on deposited plans
GREATER LONDON	
London Borough of Camden	117 to 120, 122 to 140 and 228 to 231
London Borough of Islington	20, 21 and 775 to 778
COUNTY OF KENT	

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Borough of Gravesham, Town of Gravesend 49 to 61

Acquisition of new rights

- 8 (1) The power conferred by section 4(1)(a) or (b) above shall include, in relation to any land to which the power relates, power to create and acquire such easements or other rights over land as may be required as mentioned in that provision instead of acquiring the land itself.
- (2) Part I of the Compulsory Purchase Act 1965, as applied to the acquisition of land under section 4(1) above, and the enactments relating to compensation for the compulsory purchase of land, shall apply to a compulsory acquisition by virtue of sub-paragraph (1) above—
- (a) with the modifications specified in paragraph 9 below, and
 - (b) with such other modifications as may be necessary.
- 9 (1) The modifications referred to in paragraph 8(2)(a) above are as follows.
- (2) For section 7 of the ^{M2}Compulsory Purchase Act 1965 there shall be substituted—

“7 Measure of compensation in case of purchase of new right.

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 acquisition of the 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.”

- (3) In section 8 of that Act (provisions as to divided land) for subsection (1) there shall be substituted—

“(1) This subsection applies where—

- (a) a notice to treat in respect of a right over land consisting of a house, building or manufactory or of a park or garden belonging to a house (“the relevant land”) has been served on a person under section 5 of this Act,
- (b) in consequence of the service of the notice, a question of disputed compensation in respect of the purchase of the right would, apart from this section, fall to be determined by the [^{F1}Upper Tribunal], and
- (c) before the [^{F2}Upper Tribunal has] determined that question, the person on whom the notice has been served satisfies [^{F3}the Upper Tribunal] that the relevant conditions are met.

(1A) The relevant conditions are—

- (a) that he has an interest which he is able and willing to sell in the whole of the relevant land;
- (b) where the relevant land consists of a house, building or manufactory, that it cannot be made subject to the right without material detriment to it; and

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- (c) where the relevant land consists of a park or garden belonging to a house, that it cannot be made subject to the right without seriously affecting the amenity or convenience of the house.
- (1B) Where subsection (1) above applies—
- (a) the compulsory purchase order shall, in relation to the person on whom the notice to treat has been served—
- (i) cease to authorise the purchase of the right to which the notice relates, and
- (ii) be deemed to authorise the purchase of that person's interest in the whole of the relevant land including, where the land consists of a park or garden belonging to a house, the house, and
- (b) the notice to treat shall be deemed to have been served in respect of that interest on such date as the [^{F4}Upper Tribunal directs].
- (1C) Any question as to the extent of the land in which the compulsory purchase order is deemed to authorise the purchase of an interest by virtue of subsection (1B)(a)(ii) of this section shall be determined by the [^{F5}Upper Tribunal].
- (1D) Where the [^{F6}Upper Tribunal determines] that the person on whom a notice to treat has been served has satisfied [^{F7}the Upper Tribunal] as mentioned in subsection (1)(c) of this section, the acquiring authority may withdraw the notice at any time within the period of six weeks beginning with the date of the determination.
- (1E) Subsection (1D) of this section is without prejudice to any other power of the acquiring authority to withdraw the notice to treat.”
- (4) The following provisions of that Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land) namely—
- section 9(4) (failure of owners to convey),
- paragraph 10(3) of Schedule 1 (owners under incapacity),
- paragraph 2(3) of Schedule 2 (absent and untraced owners), and
- paragraphs 2(3) and 7(2) of Schedule 4 (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 right which is to be purchased compulsorily is vested absolutely in the acquiring authority.
- (5) 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 right, they have 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 sections 12 (penalty for unauthorised entry) and 13 (entry on [^{F8}enforcement officer's or sheriff's warrant] in the event of obstruction) of that Act shall be modified correspondingly.
- (6) Section 20 of that Act (compensation for short term tenants) shall apply with the modifications necessary to secure that persons with such interests in land as are

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mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition of the land 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.

- (7) Section 22 of that Act (protection of acquiring authority's possession of land where interest accidentally 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 acquired, subject to compliance with that section as respects compensation.
- (8) References in that Act to land are, in appropriate contexts, to be read (according to the requirements of the particular context) as referring to, or as including references to—
- (a) the right acquired or to be acquired, or
 - (b) the land over which the right is, or is to be, exercisable.
- (9) In the ^{M3}Land Compensation Act 1973, for section 44 there shall be substituted—

“44 Compensation for injurious affection.

- (1) Where a right over land is purchased from any person for the purpose of works which are to be situated partly on that land and partly elsewhere, compensation for injurious affection of land retained by that person 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) In this section “compensation for injurious affection” means compensation for injurious affection under section 7 or 20 of the ^{M4}Compulsory Purchase Act 1965 as applied by paragraph 8(2) of Schedule 4 to the Channel Tunnel Rail Link Act 1996.”

- (10) For section 58 of that Act there shall be substituted—

“58 Determination of material detriment where right over part of house etc. proposed for compulsory acquisition.

In determining under section 8(1)(c) of the Compulsory Purchase Act 1965 as applied by paragraph 8(2) of Schedule 4 to the Channel Tunnel Rail Link Act 1996 whether—

- (a) a right over part of a house, building or manufactory can be taken without material detriment to the house, building or manufactory, or
- (b) a right over part of a park or garden belonging to a house can be taken without seriously affecting the amenity or convenience of the house,

the [^{F9}Upper Tribunal] shall take into account not only the effect of the right on the whole of the house, building or manufactory or of the house and the park or garden but also the use to be made of the rights 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.”

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Textual Amendments

- F1** Words in Sch. 4 para. 9(3) 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. 262(2)(a)(i)** (with Sch. 5)
- F2** Words in Sch. 4 para. 9(3) 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. 262(2)(a)(ii), **(aa)** (with Sch. 5)
- F3** Words in Sch. 4 para. 9(3) 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. 262(2)(a)(ii), **(bb)** (with Sch. 5)
- F4** Words in Sch. 4 para. 9(3) 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. 262(2)(b)** (with Sch. 5)
- F5** Words in Sch. 4 para. 9(3) 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. 262(2)(c)** (with Sch. 5)
- F6** Words in Sch. 4 para. 9(3) 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. 262(2)(d)(i)** (with Sch. 5)
- F7** Words in Sch. 4 para. 9(3) 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. 262(2)(d)(ii)** (with Sch. 5)
- F8** Words in Sch. 4 para. 9(5) substituted (1.4.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 22 para. 9**; S.I. 2007/2709, art. 5(b)
- F9** Words in Sch. 4 para. 9(10) 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. 262(3)** (with Sch. 5)

Marginal Citations

- M2** 1965 c. 56.
M3 1973 c. 26.
M4 1965 c. 56.

- 10 (1) The Secretary of State may by order provide, in relation to land to which this paragraph applies, that section 4(1) above, so far as relating to acquisition by virtue of paragraph 8(1) above, shall be treated as also authorising acquisition by such person as may be specified in the order.
- (2) This paragraph applies to land within the limits of deviation for the scheduled works or within the limits of land to be acquired or used which is or will be required for use in relocating any apparatus which it is expedient to divert or replace in consequence of the carrying out of any of the works authorised by this Part of this Act.
- (3) The power to make an order under sub-paragraph (1) above includes power to make an order varying or revoking any order previously made under that provision.

Acquisition of part only of certain properties

- 11 (1) Where—
- (a) a notice to treat under Part I of the Compulsory Purchase Act 1965, as applied to the acquisition of land under section 4(1) above, is served in respect of land forming part only of a house, building or factory or part only of land consisting of a house with a park or garden, and

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- (b) a copy of this paragraph is served with the notice to treat, the following provisions of this paragraph, with paragraph 12 below, shall apply instead of section 8(1) of the Compulsory Purchase Act 1965.
- (2) The person on whom the notice to treat is served (“the owner”) may within the period of 21 days beginning with the day on which the notice to treat is served on him, serve on the Secretary of State a counter-notice objecting to the sale of the part (“the land subject to the notice to treat”) and stating that he is willing and able to sell the whole (“the land subject to the counter-notice”).
- (3) If no counter-notice is served under sub-paragraph (2) above, the owner shall be required to sell the land subject to the notice to treat.
- (4) If a counter-notice is served under sub-paragraph (2) above and the Secretary of State agrees to take the land subject to the counter-notice, the notice to treat shall be deemed to be a notice to treat in addition for the remainder of the land subject to the counter-notice.
- (5) If a counter-notice is served under sub-paragraph (2) above and the Secretary of State does not agree to take the land subject to the counter-notice, the question as to what land the owner is to be required to sell shall be referred to the [^{F10}Upper Tribunal].
- (6) If, on a reference under sub-paragraph (5) above, the [^{F11}Upper Tribunal determines] that the land subject to the notice to treat can be taken—
- (a) without material detriment to the remainder of the land subject to the counter-notice, and
- (b) where the land subject to the notice to treat consists of or includes garden only land, without seriously affecting the amenity and convenience of the relevant house,
- the owner shall be required to sell the land subject to the notice to treat.
- (7) If, on such a reference, the [^{F11}Upper Tribunal determines] that only part of the land subject to the notice to treat can be taken as mentioned in sub-paragraph (6) above, the notice to treat shall, subject to sub-paragraph (8) below, be deemed to be a notice to treat for that part.
- (8) Where the land subject to the notice to treat is not land which consists of or includes garden only land, sub-paragraph (7) above shall only have effect to deem the notice to treat to be a notice to treat for land which does consist of or include garden only land if the [^{F11}Upper Tribunal determines] that that land can be taken without seriously affecting the amenity and convenience of the relevant house.
- (9) If, on such a reference, the [^{F11}Upper Tribunal determines]—
- (a) that 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, but
- (b) that the material detriment is confined to part of the remainder of that land, then, except where sub-paragraph (10) below applies, the notice to treat shall be deemed to be a notice to treat in addition for the land to which the material detriment is confined.
- (10) If, in a case where the land subject to the notice to treat consists of or includes garden only land, the [^{F11}Upper Tribunal determines] on such a reference that none of the

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land subject to the notice to treat can be taken without seriously affecting the amenity or convenience of the relevant house, the notice to treat shall be deemed to be a notice to treat in addition for the remainder of the land subject to the counter-notice.

- (11) If, on such a reference, the [^{F11}Upper Tribunal determines]—
- (a) that 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, and
 - (b) that the material detriment is not confined to part of the remainder of that land,
- the notice to treat shall be deemed to be a notice to treat in addition for the remainder of the land subject to the counter-notice.
- (12) For the purposes of this paragraph, the land subject to the notice to treat consists of or includes garden only land if it consists of the whole or part of a park or garden belonging to a house or if it includes the whole or part of such a park or garden but does not include the house (“the relevant house”) or any part of it.

Textual Amendments

- F10** Words in Sch. 4 para. 11(5) 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. 262(4)(a)** (with Sch. 5)
- F11** Words in Sch. 4 para. 11(6)-(11) 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. 262(4)(b)** (with Sch. 5)

Modifications etc. (not altering text)

- C1** Sch. 4 para. 11 applied (with modifications) (19.2.1999) by [S.I. 1999/537](#), art. 13(1), **Sch. 3 para. 1-8**
 Sch. 4 para. 11 applied (with modifications) (22.3.2001) by [S.I. 2001/1451](#), art. 15(1), **Sch. 3 paras. 1(d), 3(5)**

- 12 (1) Where under paragraph 11 above a notice to treat is deemed by virtue of a determination of the [^{F12}Upper Tribunal] to be a notice to treat for less land or more land than that specified in the notice, the Secretary of State may, within the period of 6 weeks beginning with the day on which the determination is made, withdraw the notice.
- (2) If the Secretary of State withdraws a notice to treat under sub-paragraph (1) above, he shall pay the person on whom the notice was served compensation for any loss or expense occasioned to that person by the giving and withdrawal of the notice, such compensation to be determined in case of dispute by the [^{F13}Upper Tribunal].
- (3) Where under paragraph 11 above a person is required to sell part only of a house, building or factory or of land consisting of a house with a park or garden, the Secretary of State shall pay him compensation for any loss sustained by him due to the severance of that part in addition to the value of the interest acquired.
- (4) A notice to treat shall have the effect which it is deemed to have under paragraph 11(4), (9), (10) or (11) above whether or not the additional land is, apart from that provision, land which the Secretary of State is authorised to acquire compulsorily under this Part of this Act.

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Textual Amendments

- F12** Words in Sch. 4 para. 12(1) 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. 262\(5\)](#) (with Sch. 5)
- F13** Words in Sch. 4 para. 12(2) 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. 262\(5\)](#) (with Sch. 5)

Modifications etc. (not altering text)

- C2** Sch. 4 para. 12 applied (with modifications) (19.2.1999) by [S.I. 1999/537](#), art. 13(1), [Sch. 3 para. 1-8](#)
Sch. 4 para. 12 applied (with modifications) (22.3.2001) by [S.I. 2001/1451](#), art. 15(1), [Sch. 3 para. 1\(d\)](#)

Minerals

- 13 (1) Parts II and III of Schedule 2 to the ^{M5}Acquisition of Land Act 1981 (exception of minerals from compulsory purchase and regulation of the working of mines or minerals underlying an authorised undertaking) shall have effect in relation to land to which section 4(1) above applies as if it were comprised in a compulsory purchase order providing for the incorporation with that order of those Parts of that Schedule.
- (2) In their application by virtue of sub-paragraph (1) above, Parts II and III of Schedule 2 to the Acquisition of Land Act 1981 shall have effect with the following modifications—
- references to the acquiring authority, except the second reference in paragraph 6, shall be construed as references to the nominated undertaker, and
 - references to the undertaking shall be construed as references to the undertaking which the nominated undertaker is authorised by this Part of this Act to carry on.

Modifications etc. (not altering text)

- C3** [Sch. 4 para. 13](#) applied (with modifications) (19.2.1999) by [S.I. 1999/537](#), art. 13(1), [Sch. 3 para. 1-8](#)
[Sch. 4 para. 13](#) applied (with modifications) (22.3.2001) by [S.I. 2001/1451](#), art. 15(1), [Sch. 3 paras. 1\(d\), 3\(5\)](#)

Marginal Citations

- M5** 1981 c. 67.

Power to require acquisition where time limit extended

- 14 (1) If the Secretary of State makes an order under section 47(2) above, the following provisions shall have effect as from the coming into operation of that order.
- (2) If an owner or lessee of any of the land in relation to which the order is made gives notice in writing to the Secretary of State that he desires his interest in such of that land as is specified in the notice to be acquired by the Secretary of State, the Secretary of State shall, within the period of 3 months immediately following receipt of the notice—
- enter into an agreement with him for the acquisition of his interest in the whole or part of the land specified in the notice,

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- (b) exercise the relevant powers of compulsory acquisition in respect of his interest in the whole or part of the land specified in the notice, or
- (c) serve on him notice in writing of the Secretary of State’s intention not to proceed with the purchase of his interest in any of the land specified in the notice.

(3) Where—

- (a) a person gives the Secretary of State notice under sub-paragraph (2) above, and
- (b) the Secretary of State—
 - (i) fails to comply with the requirements of that sub-paragraph,
 - (ii) withdraws a notice to treat served in compliance with paragraph (b) of that sub-paragraph, or
 - (iii) serves on the owner notice in compliance with paragraph (c) of that sub-paragraph,

the relevant powers of compulsory acquisition shall cease to be exercisable in respect of that person’s interest in any of the land specified in the notice under sub-paragraph (2) above.

(4) Where—

- (a) a person gives the Secretary of State notice under sub-paragraph (2) above, and
- (b) the Secretary of State acquires in pursuance of paragraph (a) or (b) of that sub-paragraph that person’s interest in some, but not all, of the land specified in the notice,

the relevant powers of compulsory acquisition shall cease to be exercisable in respect of that person’s interest in the remainder of that land.

(5) In this paragraph—

references to the relevant powers of compulsory acquisition are to—

- (a) the power to serve a notice to treat under Part I of the ^{M6}Compulsory Purchase Act 1965, as applied to the acquisition of land under section 4(1) above, and
- (b) the power to execute a declaration under section 4 of the ^{M7}Compulsory Purchase (Vesting Declarations) Act 1981, as applied by paragraph 4 above.

Marginal Citations

M6 1965 c. 56.

M7 1981 c. 66.

15 (1) Paragraph 14 above shall not apply to any subsoil or under-surface of land required only for the construction of a work at a level more than the relevant distance below the level of the surface of the land.

(2) In sub-paragraph (1) above, the reference to the relevant distance is—

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- (a) in the case of a work consisting of a pedestrian tunnel or ground anchor, 2 metres, and
 - (b) in the case of any other work, 9 metres.
- (3) For the purposes of sub-paragraph (1) above, the level of the surface of the land shall be taken—
- (a) in the case of any land on which a building is erected, to be the level of the surface of the ground adjoining the building, and
 - (b) in the case of a watercourse or other area of water, to be the level of the surface of the adjoining ground which is at all times above water level.

Compensation

- 16 Section 4 of the ^{M8}Acquisition of Land Act 1981 (assessment of compensation in relation to a compulsory purchase where unnecessary things done with a view to obtaining compensation) shall have effect in relation to a compulsory purchase under this Part of this Act as if it were a compulsory purchase for the purposes of that Act.

Modifications etc. (not altering text)

- C4** Sch. 4 para. 16 applied (with modifications) (19.2.1999) by S.I. 1999/537, art. 13(1), Sch. 3 para. 1-8
Sch. 4 para. 16 applied (with modifications) (22.3.2001) by S.I. 2001/1451, art. 15(1), Sch. 3 para. 1(d)

Marginal Citations

- M8** 1981 c. 67.

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