



Nuclear Installations Act 1965

1965 CHAPTER 57

RIGHT TO COMPENSATION IN RESPECT OF BREACH OF DUTY

12 Right to compensation ^{F1}....

[^{F2}(1) Where any injury or damage has been caused in breach of a duty imposed by section 7, 7B, 8, 9 or 10, compensation is payable in accordance with section 16 wherever the injury or damage was incurred.

(1A) Where any significant impairment of the environment has been caused in breach of a duty imposed by section 7, 7B, 8, 9 or 10, such compensation as may be claimed by virtue of section 11A(1) or 11G(1) or paragraph 1 of Schedule 1A is payable in accordance with section 16 wherever the impairment arises.

(1B) Where preventive measures are taken after a breach of a duty imposed by section 7, 7B, 8, 9 or 10, such compensation as may be claimed by virtue of section 11H(1) is payable in accordance with section 16 wherever the preventive measures are taken.

(1C) Where any injury to a person or damage to property is caused by preventive measures taken after a breach of a duty imposed by section 7, 7B, 8, 9 or 10, such compensation as may be claimed by virtue of section 11H(2) is payable in accordance with section 16 wherever the injury or damage was incurred.

(1D) Subsections (1) to (1C) are subject to—

- (a) section 13(1), (1C), (3), (4) and (4A),
- (b) section 15, and
- (c) section 17(1).

(1E) No liability other than that imposed by subsections (1) to (1C) may be incurred by any person in respect of—

- (a) injury, damage or significant impairment of the environment caused or threatened in breach of a duty imposed by section 7, 7B, 8, 9 or 10,
- (b) preventive measures taken after a breach of a duty imposed by section 7, 7B, 8, 9 or 10, or

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- (c) injury or damage caused by preventive measures taken after a breach of a duty imposed by section 7, 7B, 8, 9 or 10.
- (1F) Subsection (1E) is subject to—
- (a) subsections (1G), (3) and (4), and
 - (b) section 21(2).
- (1G) Subsection (1E) does not affect such liability as may be incurred in relation to—
- (a) a preventive measure or part of a preventive measure in respect of which a claim for compensation under section 11H(1) may not be made, or
 - (b) such injury or damage as is excluded from a claim for compensation under this Act by section 11H(3).]

[^{F3}(2) Subject to subsection (3), any injury, damage or significant impairment of the environment which, though not caused in breach of a duty imposed by section 7, 7B, 8, 9 or 10, is not reasonably separable from injury, damage or significant impairment so caused, is to be deemed for the purposes of subsections (1) to (1C) to have been so caused.]

(3) Where [^{F4}any injury, damage or significant impairment of the environment] is caused partly in breach of such a duty as aforesaid and partly by an emission of ionising radiations which does not constitute such a breach, subsection (2) of this section shall not affect any liability of any person in respect of that emission apart from this Act, but a claimant shall not be entitled to recover compensation in respect of the [^{F5}same injury, damage or significant impairment of the environment] both under this Act and otherwise than under this Act.

[^{F6}(3A) Subject to subsection (4), where damage to any property has been caused which was not caused in breach of a duty imposed by section 7, 7B, 8, 9 or 10 but which would have been caused in breach of such a duty if in section 7(1A)(b) and (1C)(b) the words “other than the licensee” or in section 10(1)(b) the words “other than that operator” had not been enacted, no liability which, apart from this subsection, would have been incurred by any person in respect of that damage is to be so incurred except—

 - (a) in pursuance of an agreement to incur liability in respect of such damage entered into in writing before the occurrence of the damage, or
 - (b) where the damage was caused by an act or omission of that person done with intent to cause injury or damage.]

[^{F7}(3B) Subject to subsection (4), where compensation for damage to any property would have been payable by virtue of a claim under section 11H(2) if section 11H(4) had not been enacted, no liability which, apart from this subsection, would have been incurred by any person in respect of that damage is to be so incurred except—

 - (a) in pursuance of an agreement to incur liability in respect of such damage entered into in writing before the occurrence of the damage, or
 - (b) where the damage was caused by an act or omission done maliciously or negligently by the person whose breach of a duty imposed by section 7, 7B, 8, 9 or 10 is the reason for the claim.]

(4) Subject to section 13(5) of this Act, nothing in [^{F8}subsection (1E), (3A) or (3B)] shall affect—

 - (a)
 - (b) the operation of the ^{M1}Carriage by Air Act 1932, the ^{M2}Carriage by Air Act 1961 or the ^{M3}Carriage by Air (Supplementary Provisions) Act 1962 in

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relation to any international carriage to which a convention referred to in the Act in question applies; or

- (c) the operation of any Act which may be passed to give effect to the Convention on the Contract for the International Carriage of Goods by Road signed at Geneva on 19th May 1956.

Textual Amendments

- F1** Words in s. 12 heading omitted (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by virtue of [The Nuclear Installations \(Liability for Damage\) Order 2016 \(S.I. 2016/562\)](#), arts. 1(2), **11(8)** (with art. 40)
- F2** S. 12(1)-(1G) substituted for s. 12(1) (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by [The Nuclear Installations \(Liability for Damage\) Order 2016 \(S.I. 2016/562\)](#), arts. 1(2), **11(2)** (with art. 40)
- F3** S. 12(2) substituted (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by [The Nuclear Installations \(Liability for Damage\) Order 2016 \(S.I. 2016/562\)](#), arts. 1(2), **11(3)** (with art. 40)
- F4** Words in s. 12(3) substituted (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by [The Nuclear Installations \(Liability for Damage\) Order 2016 \(S.I. 2016/562\)](#), arts. 1(2), **11(4)(a)** (with art. 40)
- F5** Words in s. 12(3) substituted (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by [The Nuclear Installations \(Liability for Damage\) Order 2016 \(S.I. 2016/562\)](#), arts. 1(2), **11(4)(b)** (with art. 40)
- F6** S. 12(3A) substituted (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by [The Nuclear Installations \(Liability for Damage\) Order 2016 \(S.I. 2016/562\)](#), arts. 1(2), **11(5)** (with art. 40)
- F7** S. 12(3B) inserted (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by [The Nuclear Installations \(Liability for Damage\) Order 2016 \(S.I. 2016/562\)](#), arts. 1(2), **11(6)** (with art. 40)
- F8** Words in s. 12(4) substituted (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by [The Nuclear Installations \(Liability for Damage\) Order 2016 \(S.I. 2016/562\)](#), arts. 1(2), **11(7)** (with art. 40)
- F9** S. 12(4)(a) repealed by [Carriage of Goods by Sea Act 1971 \(c. 19\)](#), s. 6(3)(b)(5)

Marginal Citations

- M1** 1932 c. 36.
M2 1961 c. 27.
M3 1962 c. 43.

13 Exclusion, extension or reduction of compensation in certain cases.

[^{F10}(1) Compensation is not payable under this Act in the case of a breach of a duty imposed by section 7, 7B, 8, 9 or 10 if—

- (a) the breach of duty consisted of an occurrence falling within section 7(1B)(b) or 10(1) which took place wholly within the limits relating to a single relevant territory other than the United Kingdom;
- (b) the breach of duty consisted of an event creating a grave and imminent threat of such breach of duty as is mentioned in paragraph (a) and the event took place wholly within the limits relating to a single relevant territory other than the United Kingdom;
- (c) the injury, damage or significant impairment of the environment caused by the breach of duty was incurred within the territorial limits of a country or territory that is not a qualifying territory; or

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- (d) in relation to compensation that would but for this paragraph be claimed under section 11H(1) or (2), the preventive measures in question were or would be taken in a place within the territorial limits of a country or territory that is not a qualifying territory.
- (1A) For the purposes of subsection (1), the limits relating to a relevant territory are—
- (a) its territorial limits; and
 - (b) where the relevant territory has a relevant maritime zone, the limits of its relevant maritime zone (which are to be treated as applying to sea, sea bed, subsoil and airspace).
- (1B) Subsection (1) is subject to subsections (2) and (5).
- (1C) Compensation is not payable under this Act in the case of a breach of a duty imposed by section 10 if—
- (a) the injury, damage or significant impairment of the environment caused by the breach of duty was incurred in, under or above the sea outside the territorial limits of any country or territory; or
 - (b) in relation to compensation that would but for this paragraph be claimed under section 11H(1) or (2), the preventive measures in question were or would be taken in, under or above the sea outside the territorial limits of any country or territory.
- (1D) Subsection (1C) does not apply if the injury, damage or significant impairment of the environment in question was incurred or the preventive measures in question were or would be taken—
- (a) in or above the sea within the exclusive economic zone of any qualifying territory, or
 - (b) on the continental shelf of any qualifying territory.
- (1E) Subsection (1C) is also subject to subsections (2A) and (5).]
- (2) In the case of a breach of a duty imposed by section 7^[F11], 7B], 8 or 9 of this Act, ^[F12]subsection (1)(c) and (d)] of this section shall not apply to injury or damage incurred by, or by persons or property on, a ship or aircraft registered in the United Kingdom.
- ^[F13](2A) In the case of a breach of duty imposed by section 10, subsection (1C)(b) does not apply to injury or damage incurred by, or by persons or property on, a ship or aircraft registered in a qualifying territory.]
- (3) Compensation shall not be payable under this Act ^[F14]in the case of] a breach of a duty imposed by section 10 of this Act in respect of such carriage ^[F15]as satisfies the condition in section 10(4) by reference to the condition in section 7A(2)] unless the agreement so referred to was expressed in writing.
- ^[F16](4) A duty imposed by section 7(1A) or (1C), 7B, 8, 9, 10(1) or 11 as regards occurrences—
- (a) does not impose on the person subject to that duty any liability with respect to injury, damage or impairment of the environment caused by an occurrence which constitutes a breach of that duty if the occurrence, or the fact that the occurrence causes the injury, damage or impairment of the environment, is attributable to hostile action in the course of any armed conflict, including any armed conflict within the United Kingdom; but

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- (b) does impose such a liability where the occurrence, or the fact that the occurrence causes the injury, damage or significant impairment of the environment, is attributable to a natural disaster, notwithstanding that the disaster is of such an exceptional character that it could not reasonably have been foreseen.
- (4A) A duty imposed by section 7(1E), 7B, 8, 9 or 10(1A) as regards events creating a grave and imminent threat of a breach of another duty imposed by section 7, 7B, 8, 9 or 10—
- (a) does not impose any liability on the person subject to that duty if the event is attributable to hostile action in the course of any armed conflict, including any armed conflict within the United Kingdom; but
 - (b) does impose such a liability where the event is attributable to a natural disaster, notwithstanding that the disaster is of such an exceptional character that it could not reasonably have been foreseen.]
- [^{F17}(5) Where, in the case of an occurrence or event which constitutes a breach of a duty under section 7, 7B, 8, 9 or 10, a person (“A”) other than the person subject to that duty makes a payment to another person (“B”) in respect of material harm connected to the breach of duty or the cost of preventive measures taken after the breach of duty and—
- (a) the payment is made in pursuance of any of the international conventions referred to in the Acts mentioned in section 12(4), or
 - (b) the payment is made in accordance with the law of a country or territory that is not a relevant territory,
- A may make such claim under this Act (if any) as would have been available to A if the material harm in question had affected A or A’s property or A had incurred the cost of taking the preventive measures.
- (5ZA) A reference in subsection (5) to material harm connected to a breach of a duty under section 7, 7B, 8, 9 or 10 is a reference to—
- (a) injury, damage to property or significant impairment of the environment caused by the occurrence which constitutes the breach of duty, or
 - (b) injury or damage to property caused by a preventive measure taken after the occurrence or event which constitutes the breach of duty.
- (5ZB) A claim for compensation under this Act made by A by virtue of subsection (5) is not to be treated as a special relevant claim unless it would have been such a claim if made by B.]
- [^{F18}(5A) The amount that a person may claim by virtue of subsection (5) of this section shall not exceed the amount of the payment made by him and, in the case of a claim made by virtue of [^{F19}subsection (5)(b), is subject to the limit on liability under section 16(1), (1ZA), (1ZB) or (2) that is applicable to the person subject to the duty.]]
- [^{F20}(6) The amount of compensation payable to or in respect of any person under this Act by virtue of a breach of a duty imposed by section 7, 7B, 8, 9 or 10 may be reduced in accordance with subsection (7).
- (7) The amount may be reduced if, and to the extent that, the injury, damage or significant impairment of the environment in respect of which the compensation is, or would but for this subsection be, payable to or in respect of the person is attributable to—
- (a) an act or omission of that person done with the intention of causing harm to any person or property or to any part of the environment, or

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- (b) an act or omission of that person done with reckless disregard for the consequences of the act or omission.]

Textual Amendments

- F10** S. 13(1)-(1E) substituted for s. 13(1) (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by [The Nuclear Installations \(Liability for Damage\) Order 2016 \(S.I. 2016/562\)](#), arts. 1(2), **12(2)** (with art. 40)
- F11** Word in s. 13(2) inserted (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by [The Nuclear Installations \(Liability for Damage\) Order 2016 \(S.I. 2016/562\)](#), arts. 1(2), **12(3)(a)** (with art. 40)
- F12** Words in s. 13(2) substituted (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by [The Nuclear Installations \(Liability for Damage\) Order 2016 \(S.I. 2016/562\)](#), arts. 1(2), **12(3)(b)** (with art. 40)
- F13** S. 13(2A) inserted (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by [The Nuclear Installations \(Liability for Damage\) Order 2016 \(S.I. 2016/562\)](#), arts. 1(2), **12(4)** (with art. 40)
- F14** Words in s. 13(3) substituted (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by [The Nuclear Installations \(Liability for Damage\) Order 2016 \(S.I. 2016/562\)](#), arts. 1(2), **12(5)(a)** (with art. 40)
- F15** Words in s. 13(3) substituted (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by [The Nuclear Installations \(Liability for Damage\) Order 2016 \(S.I. 2016/562\)](#), arts. 1(2), **12(5)(b)** (with art. 40)
- F16** S. 13(4)(4A) substituted for s. 13(4) (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by [The Nuclear Installations \(Liability for Damage\) Order 2016 \(S.I. 2016/562\)](#), arts. 1(2), **12(6)** (with art. 40)
- F17** S. 13(5)-(5ZB) substituted for s. 13(5) (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by [The Nuclear Installations \(Liability for Damage\) Order 2016 \(S.I. 2016/562\)](#), arts. 1(2), **13(2)** (with art. 40)
- F18** S. 13(5A) inserted by [Energy Act 1983 \(c. 25, SIF 44:1\)](#), s. **27(3)**
- F19** Words in s. 13(5A) substituted (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by [The Nuclear Installations \(Liability for Damage\) Order 2016 \(S.I. 2016/562\)](#), arts. 1(2), **13(3)** (with art. 40)
- F20** S. 13(6)(7) substituted for s. 13(6) (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by [The Nuclear Installations \(Liability for Damage\) Order 2016 \(S.I. 2016/562\)](#), arts. 1(2), **14** (with art. 40)

[^{F21}13A Damage to property and measures of reinstatement

- (1) Subsection (2) applies if—
- (a) a person claims compensation under this Act in respect of damage to property,
 - (b) the property is affected by relevant measures of reinstatement (as defined by section 11A) that have been taken by, or under arrangements made by, a qualifying public authority (as defined in section 11A), and
 - (c) the damage to property and the significant impairment of the environment were caused by the same occurrence.
- (2) The court that is determining the person's claim in respect of damage to property must take into account, as affecting the amount of the person's loss, any benefit or loss that—
- (a) arises from or in connection with the measures of reinstatement, and
 - (b) is gained or suffered by the person.

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- (3) Subsection (4) applies if—
- (a) a person claims compensation under this Act in respect of damage to property,
 - (b) the property is affected, or likely to be affected by, relevant measures of reinstatement—
 - (i) that have been started by, or under arrangements made by, a qualifying public authority but have not been completed, or
 - (ii) that are proposed to be taken by, or under arrangements made by, a qualifying public authority, and
 - (c) the damage to property and the significant impairment of the environment were caused by the same occurrence.
- (4) The court in determining the person’s claim in respect of damage to property may, if it considers it just to do so, take into account, as affecting the amount of the person’s loss, any benefit or loss that is likely to—
- (a) arise from or in connection with the measures of reinstatement as proposed to be carried out and be gained by the person, and
 - (b) be gained or suffered (as the case may be) by the person.
- (5) Where the court determines a person’s claim in the manner described in subsection (2) or (4), the person may not claim to be further compensated under this Act in respect of measures of reinstatement affecting the property that are taken because of the same occurrence.
- (6) Subsection (7) applies if—
- (a) a qualifying public authority claims compensation under this Act by virtue of section 11A(1) in relation to significant impairment of a part of the environment (“the section 11A(1) claim”),
 - (b) some or all of the significant impairment also constitutes damage to property, and
 - (c) the amount of compensation payable in respect of the section 11A(1) claim falls to be determined after—
 - (i) a court has determined, in proceedings for compensation under this Act for damage to a person’s property, that compensation is payable in accordance with section 16 for the damage to the property, or
 - (ii) the persons who are, or would be, parties to such proceedings have agreed for the purposes of such proceedings that compensation is payable in accordance with section 16 for the damage to the property.
- (7) The court in determining the section 11A(1) claim may, if it considers it just to do so, reduce the amount of compensation otherwise payable in accordance with section 16 so that compensation claimed by virtue of section 11A(1) is not payable by reference to matters for which compensation for damage to property is already payable.
- (8) Subsections (1) to (7) apply in relation to—
- (a) relevant measures of reinstatement (as defined by paragraph 1 of Schedule 1A),
 - (b) persons who satisfy the condition in paragraph 2 of Schedule 1A, and
 - (c) claims made by virtue of paragraph 1 of Schedule 1A,
- as they apply in relation to relevant measures of reinstatement (as defined by section 11A), qualifying public authorities and claims made by virtue of section 11A(1).]

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Textual Amendments

- F21** S. 13A inserted (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by [The Nuclear Installations \(Liability for Damage\) Order 2016 \(S.I. 2016/562\)](#), arts. 1(2), **15** (with art. 40)

14 Protection for ships and aircraft.

- (1) [^{F22}A claim under this Act falling within subsection (1A) is not to] give rise to any lien or other right in respect of any ship or aircraft; and the following provisions of the ^{M4}Administration of Justice Act 1956 (which relate to the bringing of actions in rem against ships or aircraft in England and Wales, Scotland and Northern Ireland respectively), that is to say—
- (a) section 3(3) and (4);
 - (b) section 47; and
 - (c) paragraph 3(3) and (4) of Part I of Schedule 1,
^{F23}, shall not apply to that claim.

[^{F24}(1A) The claims are—

- (a) a claim in respect of an occurrence falling within section 7(1B)(b), 10(1) or 11 which constitutes a breach of a person's duty under section 7, 7B, 8, 9, 10 or 11;
 - (b) a claim in respect of an event that constitutes a breach of a duty under section 7(1E), 7B, 8, 9 or 10(1A) where the threatened breach of duty would consist of an occurrence falling within section 7(1B)(b) or 10(1).]
- (2) Subsection (1) of this section shall have effect in relation to any claim notwithstanding that by reason of section 16 of this Act no payment for the time being falls to be made in satisfaction of the claim.

Textual Amendments

- F22** Words in s. 14(1) substituted (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by [The Nuclear Installations \(Liability for Damage\) Order 2016 \(S.I. 2016/562\)](#), arts. 1(2), **16(2)** (with art. 40)
- F23** Words repealed by [Merchant Shipping Act 1979 \(c. 39, SIF 111\)](#), ss. 50(4), **Sch. 7 Pt. 1**
- F24** S. 14(1A) inserted (coming into force in accordance with art. 1(2)-(5) of the amending S.I.) by [The Nuclear Installations \(Liability for Damage\) Order 2016 \(S.I. 2016/562\)](#), arts. 1(2), **16(3)** (with art. 40)

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- M4** 1956 c. 46.

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