



# Coal Mining Subsidence Act 1991

## 1991 CHAPTER 45

### PART V

#### SUPPLEMENTAL

##### *General*

#### **50 Regulations and orders.**

- (1) Any power of the Secretary of State or the Ministers to make regulations or orders under this Act shall be exercisable by statutory instrument and shall include power—
  - (a) to make different provision for different cases or classes of case; and
  - (b) to make such supplementary, incidental, consequential or transitional provisions as the Secretary of State or the Ministers consider necessary or expedient.
- (2) A statutory instrument containing any regulations or order under this Act (other than an order under section 54(2) below) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) In this section “the Ministers” means the Secretary of State and the Minister of Agriculture, Fisheries and Food acting jointly.

#### **Modifications etc. (not altering text)**

- C1** S. 50 applied (31.10.1994) by 1994 c. 21, s. 45(3) (with ss. 40(7), 66); S.I.1994/2552, art.2, **Sch. 1**  
s. 50 applied (31.10.1994) by 1994 c. 21, s. 46(7) (with ss. 40(7), 66); S.I. 1994/2552, art. 2, **Sch. 1**  
s. 50 applied (31.10.1994) by 1994 c. 21, s. 47(10) (with ss. 40(7), 66); S.I. 1994/2552, art. 2, **Sch. 1**

#### **Commencement Information**

- I2** S. 50 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, art.

*Status: Point in time view as at 01/04/1996.*

*Changes to legislation: Coal Mining Subsidence Act 1991, Cross Heading: General is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## [<sup>F1</sup>51 Service of documents

Section 63 of the Coal Industry Act 1994 (service of documents) shall apply in relation to any notice, request, claim or other document which is required or authorised by virtue of this Act to be served on any person (whether by being given, made or sent to that person or otherwise) as it applies in relation to any document which is required or authorised to be served on any person by virtue of that Act.]

### Textual Amendments

**F1** S. 51 substituted (31.10.1994) by 1994 c. 21, s. 67(1), **Sch. 9 para. 41(3)** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**

## 52 Interpretation etc.

- (1) In this Act, unless the context otherwise requires—
- “agriculture”, “agricultural” and “agricultural land”—
- (a) in relation to England and Wales, have the meanings given by section 109 of the <sup>M1</sup>Agriculture Act 1947;
- (b) in relation to Scotland, have the meanings given by section 86 of the <sup>M2</sup>Agriculture (Scotland) Act 1948;
- “agricultural unit”—
- (a) in relation to England and Wales, has the meaning given by section 171(1) of the <sup>M3</sup>Town and Country Planning Act 1990;
- (b) in relation to Scotland, has the meaning given by section 196(1) of the <sup>M4</sup>Town and Country Planning (Scotland) Act 1972;
- “claim” means a claim in writing;
- “the claimant” and “any other person interested” have the meanings given by section 3(6) above;
- “coal” has the same meaning as in Part I of the <sup>M5</sup>Coal Act 1938;
- “the Corporation” means the British Coal Corporation;
- “damage notice” has the meaning given by section 3(2) above;
- “depreciation payments” has the meaning given by section 2(5)(b) above;
- “dwelling-house”—
- (a) in relation to England and Wales, means any building or part of a building used wholly or partly as a private dwelling, together with any yard, garden, outhouses and appurtenances belonging to or usually enjoyed with that building or part;
- (b) in relation to Scotland, means a house including any part of a building, being a part which is occupied or intended to be occupied as a separate dwelling, and including, in particular, any flat, together with any yard, garden, outhouses and pertinents belonging to and usually enjoyed with the house;
- “emergency works” has the meaning given by section 12(1) above;
- “ground lease” means a lease for building purposes at a rent (or, where the rent varies, at a maximum rent) which does not substantially exceed the rent which a tenant might reasonably have been expected, at the date when the lease was granted, to pay for the land comprised in the lease, excluding any buildings, for a term equal to the term created by the lease;

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“housing clearance powers” means Part IX of the <sup>M6</sup>Housing Act 1985 (slum clearance) or Part VI of the <sup>M7</sup>Housing (Scotland) Act 1987 (closing and demolition orders);

“the Lands Tribunal”, in relation to Scotland, means the Lands Tribunal for Scotland;

“notice” means notice in writing and “notify” shall be construed accordingly;

“notice of proposed remedial action” has the meaning given by section 4(4) above;

“owner”—

(a) in relation to any real property in England and Wales, means the lessee under the ground lease if it is held on such a lease, and the owner of the fee simple if it is not;

(b) in the case of any heritable property in Scotland, means the proprietor of the *dominium utile* if the property is feudal property, and the owner of the property if it is not;

“payments in lieu” has the meaning given by section 2(5)(a) above;

“prescribed” means prescribed by regulations made by the Secretary of State;

“remedial obligation” has the meaning given by section 2(3) above;

“remedial works” has the meaning given by subsection (2) of section 6 above (subject to subsection (7) of that section);

“request” means a request in writing;

“schedule of remedial works” has the meaning given by section 6(8) above;

“statutory undertakers” means—

(a) any persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of hydraulic power; and

(b) any of the following, namely, any licence holder within the meaning of the <sup>M8</sup>Electricity Act 1989, any public gas supplier, any water or sewerage undertaker, the National Rivers Authority, any public telecommunications operator, the Post Office, the Civil Aviation Authority and any relevant airport operator within the meaning of Part V of the <sup>M9</sup>Airports Act 1986;

“stop notice” has the meaning given by section 16(4) above;

“structure” includes any works providing passage or hard standing for persons, animals or vehicles (including railway or tramway vehicles and aircraft);

“subsidence damage” has the meaning given by section 1 above;

“works” includes sewers, drains, pipes, cables, wires and any other apparatus.

(2) References in this Act, in relation to any damage, to a notice affecting the required remedial action in respect of the damage are references to—

(a) any notice of proposed remedial action with respect to that damage; and

(b) any notice with respect to a decision by the Corporation to make or revoke an election to take in respect of that damage any remedial action other than that indicated in any such notice as is mentioned in paragraph (a) above.

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- (3) References in this Act, in relation to any interest payable by the Corporation, to the applicable rate are references to such rate as may from time to time be prescribed by order made by the Secretary of State; and an order under this subsection—
- (a) may apply different rates in relation to different periods;
  - (b) may include provision for a nil rate to apply in relation to any period; and
  - (c) may fix any rate by specifying it or by applying any rate for the time being applicable for any other purpose (whether statutory or otherwise).

#### Modifications etc. (not altering text)

- C2** S. 52(1) amended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(2)(i)**; S.I. 1996/218, **art. 2**  
**C3** S. 52(1) applied (31.10.1994) by 1994 c. 21, **s. 45(3)** (with ss. 40(7), 66); S.I. 1994/2552, **art. 2, Sch. 1**

#### Commencement Information

- I3** S. 52 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, **art. 2**

#### Marginal Citations

- M1** 1947 c. 48.  
**M2** 1948 c. 45.  
**M3** 1990 c. 8.  
**M4** 1972 c. 52.  
**M5** 1938 c. 52.  
**M6** 1985 c. 68.  
**M7** 1987 c. 26.  
**M8** 1989 c. 29.  
**M9** 1986 c. 31.

## 52 Interpretation etc. **E+W+S**

- (1) In this Act, unless the context otherwise requires—
- “agriculture”, “agricultural” and “agricultural land”—
- (a) in relation to England and Wales, have the meanings given by section 109 of the <sup>M11</sup>Agriculture Act 1947;
  - (b) in relation to Scotland, have the meanings given by section 86 of the <sup>M12</sup>Agriculture (Scotland) Act 1948;
- “agricultural unit”—
- (a) in relation to England and Wales, has the meaning given by section 171(1) of the <sup>M13</sup>Town and Country Planning Act 1990;
  - (b) in relation to Scotland, has the meaning given by section 196(1) of the <sup>M14</sup>Town and Country Planning (Scotland) Act 1972;
- “claim” means a claim in writing;
- “the claimant” and “any other person interested” have the meanings given by section 3(6) above;
- “coal” has the same meaning as in Part I of the <sup>M15</sup>Coal Act 1938;
- “the Corporation” means the British Coal Corporation;
- “damage notice” has the meaning given by section 3(2) above;
- “depreciation payments” has the meaning given by section 2(5)(b) above;
- “dwelling-house”—

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- (a) in relation to England and Wales, means any building or part of a building used wholly or partly as a private dwelling, together with any yard, garden, outhouses and appurtenances belonging to or usually enjoyed with that building or part;
- (b) in relation to Scotland, means a house including any part of a building, being a part which is occupied or intended to be occupied as a separate dwelling, and including, in particular, any flat, together with any yard, garden, outhouses and pertinents belonging to and usually enjoyed with the house;
  - “emergency works” has the meaning given by section 12(1) above;
  - “ground lease” means a lease for building purposes at a rent (or, where the rent varies, at a maximum rent) which does not substantially exceed the rent which a tenant might reasonably have been expected, at the date when the lease was granted, to pay for the land comprised in the lease, excluding any buildings, for a term equal to the term created by the lease;
  - “housing clearance powers” means Part IX of the <sup>M16</sup>Housing Act 1985 (slum clearance) or Part VI of the <sup>M17</sup>Housing (Scotland) Act 1987 (closing and demolition orders);
  - “the Lands Tribunal”, in relation to Scotland, means the Lands Tribunal for Scotland;
  - “notice” means notice in writing and “notify” shall be construed accordingly;
  - “notice of proposed remedial action” has the meaning given by section 4(4) above;
  - “owner”—
- (a) in relation to any real property in England and Wales, means the lessee under the ground lease if it is held on such a lease, and the owner of the fee simple if it is not;
- (b) in the case of any heritable property in Scotland, means the proprietor of the *dominium utile* if the property is feudal property, and the owner of the property if it is not;
  - “payments in lieu” has the meaning given by section 2(5)(a) above;
  - “prescribed” means prescribed by regulations made by the Secretary of State;
  - “remedial obligation” has the meaning given by section 2(3) above;
  - “remedial works” has the meaning given by subsection (2) of section 6 above (subject to subsection (7) of that section);
  - “request” means a request in writing;
  - “schedule of remedial works” has the meaning given by section 6(8) above;
  - “statutory undertakers” means—
- (a) any persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of hydraulic power; and
- (b) any of the following, namely, any licence holder within the meaning of the <sup>M18</sup>Electricity Act 1989, any public gas supplier, any water or sewerage undertaker, the National Rivers Authority, any public telecommunications operator, the Post Office, the Civil Aviation Authority and any relevant airport operator within the meaning of Part V of the <sup>M19</sup>Airports Act 1986;
  - “stop notice” has the meaning given by section 16(4) above;

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“structure” includes any works providing passage or hard standing for persons, animals or vehicles (including railway or tramway vehicles and aircraft);

“subsidence damage” has the meaning given by section 1 above;

“works” includes sewers, drains, pipes, cables, wires and any other apparatus.

- (2) References in this Act, in relation to any damage, to a notice affecting the required remedial action in respect of the damage are references to—
- (a) any notice of proposed remedial action with respect to that damage; and
  - (b) any notice with respect to a decision by the Corporation to make or revoke an election to take in respect of that damage any remedial action other than that indicated in any such notice as is mentioned in paragraph (a) above.
- (3) References in this Act, in relation to any interest payable by the Corporation, to the applicable rate are references to such rate as may from time to time be prescribed by order made by the Secretary of State; and an order under this subsection—
- (a) may apply different rates in relation to different periods;
  - (b) may include provision for a nil rate to apply in relation to any period; and
  - (c) may fix any rate by specifying it or by applying any rate for the time being applicable for any other purpose (whether statutory or otherwise).

#### Commencement Information

**I6** S. 52 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, art. 2

#### Marginal Citations

**M11** 1947 c. 48.  
**M12** 1948 c. 45.  
**M13** 1990 c. 8.  
**M14** 1972 c. 52.  
**M15** 1938 c. 52.  
**M16** 1985 c. 68.  
**M17** 1987 c. 26.  
**M18** 1989 c. 29.  
**M19** 1986 c. 31.

### 53 Transitional provisions, savings and repeals.

- (1) The transitional provisions and savings contained in Schedule 7 to this Act shall have effect; but nothing in this subsection shall be taken as prejudicing the operation of sections 16 and 17 of the <sup>M10</sup>Interpretation Act 1978 (which relate to the effect of repeals).
- (2) The enactments mentioned in Schedule 8 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

#### Commencement Information

**I4** S. 53 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, art. 2

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#### Marginal Citations

**M10** 1978 c. 30.

#### 54 Short title, commencement and extent.

- (1) This Act may be cited as the Coal Mining Subsidence Act 1991.
- (2) This Act shall come into force on such day as the Secretary of State may by order appoint, and different days may be appointed for different provisions or for different purposes.
- (3) Without prejudice to the provisions of Schedule 7 to this Act, an order under subsection (2) above may make such transitional provisions and savings as appear to the Secretary of State necessary or expedient in connection with any provision brought into force by the order.
- (4) This Act does not extend to Northern Ireland.

#### Commencement Information

**I5** S. 54 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, art. 2

**Status:**

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**Changes to legislation:**

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