

Status: Point in time view as at 01/12/2022.

Changes to legislation: Coal Mining Subsidence Act 1991, SCHEDULE 4 is up to date with all changes known to be in force on or before 23 June 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)

SCHEDULES

SCHEDULE 4

Section 22(1).

HOME LOSS PAYMENTS

Commencement Information

II Sch. 4 wholly in force at 30.11.1991 see s. 54(2) and S.I. 1991/2508, art.2

Right to home loss payment

- 1 (1) Subject to the provisions of this Schedule, any person who is displaced from the dwelling-house shall be entitled to receive a payment (a “home loss payment”) from the Corporation.
- (2) A person shall not be entitled to a home loss payment unless the following conditions have been satisfied throughout the period of one year ending with the date of displacement—
- (a) he has been in occupation of the dwelling-house, or a substantial part of it, as his only or main residence; and
 - (b) he has been in such occupation by virtue of an interest or right to which this section applies,
- but, if those conditions are satisfied on the date of displacement, a payment (a “discretionary payment”) may be made to him of an amount not exceeding the amount to which he would have been entitled if he had satisfied those conditions throughout that period.
- (3) A person shall not be entitled to a home loss payment so long as any application made by him under paragraph 3(3) of Schedule 5 to this Act (challenge to the validity of a notice given by the Corporation under paragraph 3(1)(b) of that Schedule) has been neither determined nor withdrawn.
- (4) This paragraph applies to the following interests and rights, namely—
- (a) any interest in the dwelling-house;
 - (b) a right to occupy the dwelling-house as a statutory tenant within the meaning of the ^{M1}Rent Act 1977 or under a restricted contract within the meaning of that Act or a contract which would be such a contract if the contract or dwelling-house were not excluded by section 19(4) or (5)(b) of that Act;
 - (c) a right to occupy the dwelling-house as a statutory tenant within the meaning of the ^{M2}Rent (Scotland) Act 1984 or under a contract to which Part VII of that Act (contracts) applies or would apply if the contract or dwelling-house were not excluded by section 63(3)(a) or by an order under section 64 of that Act;

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- (d) a right to occupy the dwelling-house under a licence to which Part IV of the ^{M3}Housing Act 1985 (secure tenancies) [^{F1}or Chapter 1 of Part V of the Housing Act 1996 (introductory tenancies)] applies;
- (e) a right to occupy the dwelling-house under a contract of employment [^{F2}];
- [^{F3}(f) in the case of a dwelling-house in Wales, a right to occupy the dwelling-house under a licence which is a secure contract or under an introductory standard contract.]
- (5) Where an interest in a dwelling-house is vested in trustees (other than a sole tenant for life within the meaning of the ^{M4}Settled Land Act 1925) and a person beneficially entitled (whether directly or derivatively) under the trust is entitled or permitted by reason of his interest to occupy the dwelling-house, he shall be treated for the purposes of this paragraph as occupying it by virtue of an interest in the dwelling-house.
- (6) In the application of sub-paragraph (5) above to Scotland, the words “(other than a sole tenant for life within the meaning of the Settled Land Act 1925)” shall be omitted.
- [^{F4}(7) In this paragraph the following terms have the same meaning as in the Renting Homes (Wales) Act 2016 (anaw 1)—
- “introductory standard contract” (see section 16 of that Act);
- “secure contract” (see section 8 of that Act).]

Textual Amendments

- F1** Words in Sch. 4 para. 1(4)(d) inserted (12.2.1997) by S.I. 1997/74, art. 2, **Sch.**
- F2** Semicolon in Sch. 4 para. 1(4) substituted (E.W.) (1.12.2022) by The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2022 (S.I. 2022/1166), regs. 1(1), **19(2)(a)(i)**
- F3** Sch. 4 para. 1(4)(f) inserted (E.W.) (1.12.2022) by The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2022 (S.I. 2022/1166), regs. 1(1), **19(2)(a)(ii)**
- F4** Sch. 4 para. 1(7) inserted (E.W.) (1.12.2022) by The Renting Homes (Wales) Act 2016 (Consequential Amendments) Regulations 2022 (S.I. 2022/1166), regs. 1(1), **19(2)(b)**

Commencement Information

- I2** Sch. 4 para. 1 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, **art. 2**

Marginal Citations

- M1** 1977 c. 42.
- M2** 1984 c. 58.
- M3** 1985 c. 68.
- M4** 1925 c. 18.

Amount of home loss payment

- 2 (1) In the case of a person who on the date of displacement is occupying, or is treated for the purposes of paragraph 1 above as occupying, the dwelling-house by virtue of an interest in it which is an owner’s interest, the amount of the home loss payment shall be the aggregate of—

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- (a) 10 per cent. of the value of his interest in the dwelling-house or, as the case may be, the interest in the dwelling-house vested in trustees, subject to a maximum of £15,000 and a minimum of £1,500; and
 - (b) his reasonable expenses in removing from the dwelling-house.
- (2) In the case of any other person, the amount of the home loss payment shall be the aggregate of £1,500 and his reasonable expenses in removing from the dwelling-house.
- (3) The Secretary of State may from time to time by regulations prescribe a different maximum or minimum for the purposes of sub-paragraph (1)(a) above and a different amount for the purposes of sub-paragraph (2) above.
- (4) In this paragraph any reference to the value of an interest in the dwelling-house shall be taken to be a reference to the value of that interest immediately before the deterioration in the condition of the dwelling-house; and paragraph 2 of Schedule 1 to this Act shall apply for the purpose of determining that value as it applies for the purpose of determining the value of a unit of property at any time for the purposes of section 10 or 11 of this Act.
- (5) In this paragraph “owner’s interest” means—
 - (a) in relation to a dwelling-house situated in England and Wales, the interest of a person who is an owner as defined in section 7 of the ^{M5}Acquisition of Land Act 1981; or
 - (b) in relation to a dwelling-house situated in Scotland, the interest of a person who is an owner as defined in section 45(1) of the ^{M6}Land Compensation (Scotland) Act 1963.

Commencement Information

I3 Sch. 4 para. 2 wholly in force at 30. 11. 1991 see [s. 54\(2\)](#) and [S.I. 1991/2508](#), [art. 2](#)

Marginal Citations

M5 [1981 c. 67](#).

M6 [1963 c. 51](#).

Supplementary provisions

- 3 (1) The Corporation shall not be liable to make a home loss payment except on a claim made by the person entitled to it (“the claimant”) giving such particulars as the Corporation may reasonably require for the purpose of determining whether the payment should be made and, if so, its amount.
- (2) Where a person is entitled to a home loss payment, the payment shall be made within the period of three months beginning with the date on which the claim is made.
- (3) Where the claimant has satisfied, throughout any period, the conditions mentioned in sub-paragraph (2) of paragraph 1 above, that period shall be treated for the purposes of that sub-paragraph as including any immediately preceding period throughout which—
 - (a) he has resided in the dwelling-house as his only or main residence but without satisfying those conditions; and
 - (b) another person or other persons have satisfied those conditions,

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and references in this sub-paragraph and sub-paragraph (4) below to a dwelling-house include a reference to a substantial part of it.

- (4) Where the claimant has satisfied, throughout any period, the conditions mentioned in paragraph 1(2) above, that period (or that period as extended under sub-paragraph (3) above) shall be treated for the purposes of paragraph 1(2) above as including any immediately preceding period, or successive periods, throughout which he satisfied the conditions mentioned in paragraph 1(2) above in relation to another dwelling-house or, as the case may be, other dwelling-houses (applying sub-paragraph (3) above to determine the length of any period or periods).
- (5) Where a person (“the deceased”) entitled to a home loss payment dies without having claimed it, a claim to the payment may be made, by any person (not being under the age of eighteen years) who, throughout a period of not less than one year ending with the date of displacement of the deceased, has resided in the dwelling-house, or a substantial part of it, as his only or main residence, and is entitled to benefit—
 - (a) in England and Wales, by virtue of testamentary dispositions taking effect on, or the law of intestate succession or the right of survivorship between joint tenants as applied to, the death of the deceased; or
 - (b) in Scotland, by virtue of a testamentary disposition or any other deed with testamentary effect taking effect on, or the law of intestate succession as applied to, the death of the deceased or a right to *jus relictii*, *jus relictiae* or *legitim* out of the deceased’s estate.
- (6) Where the claimant has successively been in occupation of or resided in different dwelling-houses in the same building, being dwelling-houses consisting of a room or rooms not constructed or structurally adapted for use as a separate dwelling, paragraph 1(2) above and sub-paragraphs (3) to (5) above shall have effect as if those dwelling-houses were the same dwelling-house.
- (7) Where there are two or more persons entitled to make a claim to a home loss payment in respect of the same dwelling-house (whether by virtue of joint occupation or of sub-paragraph (5) above) the payment to be made on each claim shall be equal to the whole amount of the home loss payment divided by the number of such persons.

Commencement Information

I4 Sch. 4 para 3 wholly in force at 30.11.1991 see s. 54(2) and S.I. 1991/2508, [art.2](#)

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