



Coal-Mining (Subsidence) Act 1957

1957 CHAPTER 59

1 Duty of National Coal Board in respect of subsidence damage

(1) This Act shall apply in relation to any subsidence damage occurring after the passing of this Act; and in this Act the expression "subsidence damage" means any damage (including an alteration of the level or gradient of property not otherwise damaged such as to affect the fitness of that property for use for the purposes mentioned in the next following subsection)—

- (a) to a building or structure or to any of the following works, that is to say, any sewer or drain situated in a building or structure which it serves and any pipes, wires or other fixed apparatus installed in a building or structure for the purpose of providing gas, electricity, water, heating or telephone services for use in that building or structure, and any fixed apparatus (other than pipes or wires) installed outside, but within the curtilage of, a building or structure for the purpose of supplying any such service as aforesaid to that building or structure for use therein; or
- (b) to works of the following descriptions, that is to say, sewers, drains, and any pipes or wires for the supply of gas, electricity, water, heating, telephone or other comparable services, being either works situated outside any building or structure or works in the nature of mains situated in a building or structure in which they neither begin nor end; or
- (c) to any land, not being damage to that land only as the site of an existing building or structure or of existing works such as are mentioned in the two foregoing paragraphs and being damage such as to affect the fitness of that land for use for the purposes mentioned in the next following subsection,

caused by the withdrawal of support from land in connection with the lawful working and getting of coal, or of coal and other minerals worked therewith, or the lawful getting of any product from coal in the course of working it, not being—

- (i) damage caused in connection with the working and getting of coal and other minerals where the working and getting of the coal was ancillary to the working of those other minerals; or
- (ii) damage caused in connection with the working and getting of coal or of coal and other minerals by virtue of the grant of a gale in the Forest of Dean or any other part of the Hundred of St. Briavels in the county of Gloucester.

Status: This is the original version (as it was originally enacted).

- (2) Subject to the provisions of this Act, as soon as reasonably practicable after the occurrence of any subsidence damage the National Coal Board (in this Act referred to as " the Board ") shall execute such works (in this Act referred to as " remedial works ") as may be necessary to render the damaged property reasonably fit for use for the purposes for which, at the date immediately before the damage occurred, it was or might in all the circumstances reasonably have been expected to be used :

Provided that no works shall be deemed to be necessary as aforesaid over and above such as may be sufficient to render the property not less fit for those purposes than it was at that date.

In this subsection the expression " works " includes works of redecoration.

- (3) Subject to the provisions of this Act, the Board may, instead of executing remedial works under the last foregoing subsection, elect—

- (a) to make a payment equal to the cost reasonably incurred by any other person in executing remedial works; or
- (b) in a case where it is proposed to merge the execution of other works in connection with the damaged property with the execution of any remedial works or to redevelop, instead of executing remedial works in connection with, the damaged property, to make payments equal to any sums from time to time shown to have been expended by any other person in executing the merged works or, as the case may be, the redevelopment works up to an aggregate amount equal to the expenditure which it is estimated would have been incurred by the Board or by any other person, whichever estimate is the less, in executing remedial works in connection with the damaged property ;

and, without prejudice to the next following subsection, the Board—

- (i) where the damaged property is a highway maintainable or repairable by the inhabitants at large or a highway in Scotland managed and maintained by the Secretary of State or by a county or town council; or
- (ii) in any case where the execution of remedial works falls within a duty with respect to the damaged property imposed by virtue of any enactment on a government department, local authority or statutory undertakers in connection with the maintenance of public services ; or
- (iii) where it is certified by the Minister, on an application made to him by any other person or of his own motion, that in his opinion it is not in the public interest that the Board should themselves execute the remedial works,

shall make the appropriate election under this subsection, and, in any other case where it is proposed to execute such merged works or redevelopment works as aforesaid or where the remedial works required are of a special character not suitable for execution by the Board, shall not unreasonably refuse any request to make the appropriate election under this subsection received from a person entitled to serve a damage notice in respect of the property:

Provided that the Board shall not be deemed to act unreasonably in refusing any such request received after the Board have begun to execute remedial works .

- (4) Subject to the provisions of this Act, if in the case of any property affected by subsidence damage—

- (a) the reasonable cost of executing remedial works would, in the opinion of the Board, exceed the amount of the depreciation in the value of the property caused by the damage; or

- (b) the property is a dwelling-house and it appears to the Board that a notice to treat for the compulsory purchase thereof is likely to be served under Part III of the Housing Act, 1936, or Part III of the Housing (Scotland) Act, 1950 (which relate to clearance and redevelopment) in such circumstances that compensation payable for the purchase will fall, but if the subsidence damage had not occurred would not have fallen, to be assessed subject to subsection (2) or (3) of section forty of the said Act of 1936 or, as the case may be, subsection (2) of section thirty-six of the said Act of 1950 (which provide for compensation by reference to site value); or
- (c) the property is a dwelling-house and it appears to the Board that a clearance order under either of the said Parts III is likely to be made in respect thereof in such circumstances that the making of the clearance order will be attributable to the subsidence damage,

the Board may, instead of executing any works or making any payment under the foregoing provisions of this section, elect to make a payment equal to the amount mentioned in paragraph (a) of this subsection; and if in the case of any dwelling-house affected by subsidence damage the Board do not elect to make a payment under this subsection but, before the completion of remedial works or, in a case falling within paragraph (b) of the last foregoing subsection, before all sums in respect of which the Board are liable to make payments have been expended, a notice to treat is served under either of the said Parts III either in respect of the dwelling-house in such circumstances as are mentioned in paragraph (b) of this subsection or in respect of the cleared site of the dwelling-house, or a clearance order is made under either of the said Parts III in such circumstances as are mentioned in paragraph (c) of this subsection, then, notwithstanding and without prejudice to any expenditure or liability of the Board in respect of works already executed, the Board shall make a payment in respect of the dwelling-house equal to the amount mentioned in paragraph (a) of this subsection in like manner as if they had originally elected so to do under paragraph (b) or (c) thereof and shall be absolved from any further obligations in respect of the dwelling-house under the two last foregoing subsections:

Provided that the Board shall not make a payment under paragraph (a), (b) or (c) of this subsection—

- (i) in respect of subsidence damage to any agricultural land or to any building or structure occupied in connection with such land except after consultation with the Minister of Agriculture, Fisheries and Food or, in the case of property situated in Scotland, the Secretary of State; or
- (ii) in respect of subsidence damage to a dwelling-house except after consultation with the local authority for the purposes of Part II of the Housing Act, 1936, or, in Scotland, for the purposes of the Housing (Scotland) Act, 1950, in whose area the dwelling-house is situated,

and if such a payment is made in respect of a dwelling-house the local authority aforesaid shall not in the exercise of any power to require the repair of that dwelling-house require the execution of any works of repair in respect of that subsidence damage.

- (5) Notwithstanding anything in the foregoing provisions of this section, but subject to the provisions of this Act, the Board shall, if works of a temporary nature urgently and reasonably required in order that the damaged property may continue to be used for the purposes for which it was used immediately before the damage occurred or in order to prevent further damage to that property arising from the subsidence damage (in this

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Act referred to as " emergency works") have been executed by any other person, make a payment equal to the cost reasonably incurred in executing those works.

- (6) Where a dwelling-house is affected by subsidence damage, the provisions of the First Schedule to this Act shall have effect.
- (7) The provisions of the Second Schedule to this Act shall have effect for the purpose of determining—
 - (a) the unit of property to be taken into account for the purposes of subsection (4) of this section as being affected by subsidence damage ;
 - (b) the amount of the depreciation in the value of any such unit caused by the damage ; and
 - (c) the persons who are to receive any payments made under subsection (3), (4) or (5) of this section.