



Coal-Mining (Subsidence) Act 1957

1957 CHAPTER 59

7 Powers of Board to recover expenditure in certain cases

- (1) Where the Board incur expenditure under section one or section twelve of this Act as a result of subsidence damage caused in connection with the working and getting of coal or of coal and other minerals in accordance with the terms of a licence granted by the Board to some other person, the Board shall be entitled to recover that expenditure as a civil debt from that other person.
- (2) Subject to subsection (4) of this section, where the Board incur expenditure under subsections (2) to (5) of section one of this Act in respect of subsidence damage to any property and—
 - (a) the Board have made payments in respect of the working of coal or of coal and other minerals under an agreement made before the passing of this Act whereby, but for the provisions of this Act, the Board would by reason of those payments have been relieved of liability for that subsidence damage ; and
 - (b) the recipient of any of those payments was on the tenth day of January, nineteen hundred and fifty-seven, or has at any time thereafter before the occurrence of the subsidence damage become, the owner of that property or liable to make good in whole or in part such damage to that property,

the Board shall be entitled, so far as may be necessary to recoup that expenditure, to exercise either or both of the rights specified in the next following subsection; and where the person to whom the Board have made any payment under the agreement has paid over the whole or part of that payment to any other person by virtue of that other person's being entitled to the beneficial interest therein, any reference in this or the next following subsection to the recipient of payments under the agreement shall be construed in relation to that payment or that part thereof as including a reference to that other person.

- (3) The rights referred to in the last foregoing subsection are—
 - (a) to recover as a civil debt from any person who has received any payments made by the Board under the agreement in question in respect of the property in question an amount not exceeding the aggregate of those payments less—
 - (i) any sums shown by that person to have been expended by him while he was entitled to those payments for the purposes of making good in

Status: This is the original version (as it was originally enacted).

- whole or in part other damage to that property of a kind for which the Board are relieved of liability by the agreement; and
- (ii) any amount by which it is shown by that person that the aggregate of any other sums expended by him for the purposes aforesaid since the making of the agreement exceeds the aggregate of any other payments received by him under the agreement in respect of that property; and
 - (iii) any amounts shown by that person to have been borne by him by way of tax which he would not have borne but for periodical payments made by the Board under the agreement;
- (b) to retain for their own use any further payments falling to be made under the agreement in question in respect of the property in question, unless the person otherwise entitled to those payments shows that the aggregate of the sums expended by him for the purposes aforesaid since the making of the agreement exceeds the aggregate of any payments under the agreement in respect of that property received by him.
- (4) So much, if any, of any payment under an agreement such as is mentioned in subsection (2) of this section as may fairly be regarded as paid otherwise than in satisfaction of any liability of the Board for damage shall be disregarded for the purposes of the two last foregoing subsections; and where the Board are entitled to exercise the right specified in paragraph (a) of the last foregoing subsection against two or more persons by virtue of payments in respect of different periods, they shall not exercise that right against any of those persons until they have exhausted it so far as it is exercisable against any other of those persons by virtue of payments in respect of a more recent period.
- (5) Where under subsection (1) of this section the Board have recovered any expenditure incurred by them under section one of this Act from a licensee of the Board, then, so far as that expenditure was incurred under subsections (2) to (5) of the said section one, the three last foregoing subsections shall have effect as if that expenditure had been incurred by the licensee and as if for any reference in those three subsections to the Board there were substituted a reference to the licensee:
- Provided that the licensee shall not be entitled to recover the amount of any payment made by him before he became a licensee of the Board.
- (6) In determining in any case to which subsection (1) or (2) of this section applies the expenditure incurred by the Board under section one of this Act or, as the case may be, subsections (2) to (5) thereof, any amount by which that expenditure exceeds what was necessary or reasonable for the discharge by the Board of their obligations under the said section one or, as the case may be, subsections (2) to (5) thereof shall be left out of account.