

**Changes to legislation:** Coal Mining Subsidence Act 1991, SCHEDULE 3 is up to date with all changes known to be in force on or before 18 January 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) View outstanding changes

## SCHEDULES

### SCHEDULE 3

Section 21(1).

#### PROPERTY BELONGING TO PROTECTED TENANTS

##### Commencement Information

**II** Sch. 3 wholly in force at 30. 11. 1991 see [s. 54\(2\)](#) and [S.I. 1991/2508, art.2](#)

##### *Protected tenant treated as liable to make good the damage*

- 1 (1) Subject to paragraph 2 below, the protected tenant shall be treated for the purposes of this Part of this Act—
- (a) as a person liable to make good the whole of the damage to the property; or
  - (b) in the circumstances mentioned in sub-paragraph (2) below, as a person liable to meet such part of the cost of making good the whole of that damage as is given by the formula mentioned in sub-paragraph (3) below.
- (2) The circumstances referred to in sub-paragraph (1)(b) above are that, by reason of any other enactment contained in the relevant Act or Acts, compensation in respect of the damaged property would have been payable to the protected tenant of less than the amount provided for by whichever of the following enactments would otherwise have been applicable, namely—
- (a) section 1(1) of the <sup>M1</sup>Landlord and Tenant Act 1927;
  - (b) section 66(1) of and paragraph 2(1) of Part I of Schedule 9 to the <sup>M2</sup>Agricultural Holdings Act 1986;
  - [<sup>F1</sup>(bb) section 20 of the Agricultural Tenancies Act 1995;]
  - (c) sections 38 and 49(1) of the <sup>M3</sup>Agricultural Holdings (Scotland) Act 1949;
  - (d) so much of section 10 of the <sup>M4</sup>Crofters Holdings (Scotland) Act 1886 as precedes the proviso; and
  - (e) section 6(2) of the <sup>M5</sup>Crofters (Scotland) Act 1961.
- (3) The formula referred to in sub-paragraph (1)(b) above is—

$$P = \frac{C}{A}$$

where—

P is such part of the cost of making good the whole of the damage to the property as the protected tenant is to be treated as a person liable to meet;

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C is the compensation which would have been payable to the protected tenant by reason of the other enactment contained in the relevant Act or Acts;

A is the amount provided for by whichever of the enactments mentioned in sub-paragraph (2) above would otherwise have been applicable.

- (4) Any question arising under this paragraph in relation to any property—
- (a) as to whether or not any person is a protected tenant; or
  - (b) as to the amount of any compensation which would have been payable to him under the relevant Act or Acts,
- shall be determined in like manner as if it had arisen under the relevant Act or Acts.

#### Textual Amendments

**F1** Sch. 3 para. 1(2)(bb) inserted (1.9.1995) by 1995 c. 8, ss. 40, 41(2), **Sch. para. 37** (with s. 37)

#### Commencement Information

**I2** Sch. 3 para. 1 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, **art. 2**

#### Marginal Citations

**M1** 1927 c. 36.

**M2** 1986 c. 5.

**M3** 1949 c. 75.

**M4** 1886 c. 29.

**M5** 1961 c. 58.

#### *Circumstances in which Schedule applies*

- 2 (1) Where in the case of any damaged property—
- (a) it is claimed that a person who, apart from the provisions of this Schedule, is neither the owner of, nor liable to make good in whole or in part the damage to, the property falls to be treated as so liable by virtue of paragraph 1 above; and
  - (b) a damage notice is given in respect of the property, whether by that or any other person,
- that person shall not be treated as so liable except in the circumstances mentioned in sub-paragraph (2) below.
- (2) The circumstances referred to in sub-paragraph (1) above are—
- (a) that it is agreed between the person in question and his landlord before the end of the period of one month beginning with the first giving of a damage notice in respect of the property, or it is determined in proceedings by virtue of paragraph 1(4) above begun before the end of that period, that he is a protected tenant and the property belongs to him; and
  - (b) that notice of that agreement or of the beginning of those proceedings has been given to the Corporation before the end of that period.
- (3) Where the liability of the Corporation to comply with any requirement of this Part of this Act in consequence of the giving of a damage notice depends on the determination of the question whether or not a person falls to be treated as liable as mentioned in sub-paragraph (1) above, the Corporation shall not be required to

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comply with that requirement until it is established in accordance with the provisions of that sub-paragraph whether or not that person falls to be so treated.

- (4) For the purposes of sub-paragraph (2) above, proceedings to determine by arbitration whether or not a person is a protected tenant by virtue of the <sup>M6</sup>Agricultural Holdings Act 1986 or the <sup>M7</sup>Agricultural Holdings (Scotland) Act 1949 shall be deemed to be begun when either—
- (a) an arbitrator or, as the case may be, an arbiter has been appointed by agreement between that person and his landlord; or
  - (b) an application for the appointment of an arbitrator or, as the case may be, an arbiter has been made by that person or his landlord to the President of the Royal Institution of Chartered Surveyors or, as the case may be, the Secretary of State.

#### Commencement Information

**I3** Sch. 3 para. 2 wholly in force at 30. 11. 1991 see [s. 54\(2\)](#) and [S.I. 1991/2508, art. 2](#)

#### Marginal Citations

**M6** 1986 c. 5.

**M7** 1949 c. 75.

#### *Supplemental*

- 3 The following enactments, namely—
- (a) section 8(1) of the <sup>M8</sup>Small Landholders (Scotland) Act 1911 other than the provisos (which provides that an agreement for a loan by the Secretary of State to a landholder shall effect a transfer to the Secretary of State of all rights of the landholder to compensation for permanent improvements); and
  - (b) section 23(3) of the <sup>M9</sup>Crofters (Scotland) Act 1955 (which makes corresponding provision in relation to an agreement for a loan by the Secretary of State to a crofter),
- shall have effect as if the references to such compensation included references to any amount payable to a landholder or crofter by virtue of this Schedule.

#### Commencement Information

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

#### Marginal Citations

**M8** 1911 c. 49.

**M9** 1955 c. 21.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 19(1A) inserted by [2023 asc 3 Sch. 13 para. 162](#)