



Coal Mining Subsidence Act 1991

1991 CHAPTER 45

PART II

REMEDIAL ACTION

Payments in lieu and depreciation payments

13 Payments in lieu

- (1) The Corporation shall not be required to make any payment in lieu in respect of any works executed by any other person in connection with any property unless that person—
 - (a) has given to the Corporation the required notice with respect to the works; and
 - (b) has afforded the Corporation reasonable facilities to inspect the property, so far as he was in a position to do so.
- (2) The required notice with respect to any works is a notice which—
 - (a) contains adequate particulars of the works; and
 - (b) except in such circumstances as may be prescribed, is given at the prescribed interval before the works are begun.
- (3) Subject to subsection (5) below, the Corporation may make payments in respect of any proposed expenditure qualifying for a payment in lieu (“advance payments”).
- (4) For the purposes of subsection (3) above, proposed expenditure is expenditure qualifying for a payment in lieu if it is expenditure of a description in respect of which a payment in lieu would be required if it had been incurred.
- (5) An advance payment—
 - (a) may only be made if the Corporation are satisfied that it will be applied in meeting the expenditure in question; and
 - (b) shall be regarded for the purposes of this Act as made in accordance with the provision of section 8 or 9 above which requires the payment in lieu on account of which it is made.

- (6) The Corporation shall not unreasonably refuse any request to make an advance payment received from the person or persons by whom the cost of executing the works in question is to be incurred.
- (7) Any payment in lieu (including an advance payment) shall be made to the person or persons by whom the cost of executing the works in question is (or is to be) incurred; and, if there are two or more such persons, the payment shall be apportioned between them—
 - (a) in such manner as may be determined by agreement; or
 - (b) in default of agreement, in shares corresponding to their respective shares in the cost.
- (8) So far as not made by virtue of subsection (3) above before the expenditure in question is incurred, any payment in lieu shall be made as soon as reasonably practicable after the expenditure in respect of which it is required to be made has been incurred.

14 Depreciation payments: general

- (1) The Corporation shall not make a depreciation payment in respect of subsidence damage to a dwelling-house, other than a payment under section 11(3) above, except after consultation with—
 - (a) the local authority within the meaning of the Housing Act 1985; or
 - (b) the local authority within the meaning of the Housing (Scotland) Act 1987, in whose area the dwelling-house is situated.
- (2) The Corporation shall not make a depreciation payment in respect of subsidence damage to any property other than a dwelling-house, where that property is of any description prescribed for the purposes of this subsection, except after consultation with such Minister of the Crown or other person as may be so prescribed in relation to that description of property.
- (3) Any depreciation payment shall be made as soon as reasonably practicable after the obligation to make it arises.
- (4) Schedule 1 to this Act applies for determining—
 - (a) the unit of property to be taken into account for any purposes of section 10 or 11 above; and
 - (b) the amount of any depreciation in the value of any such unit in respect of which a depreciation payment falls to be made;and interest shall be payable in respect of any depreciation payment in accordance with that Schedule.

15 Recipients of depreciation payments

- (1) Subject to the provisions of this section, a depreciation payment shall be made to the person who is for the time being the owner of the property in question.
- (2) If any other person is liable to make good the whole of the damage to which the payment relates, the payment shall be made to him.
- (3) If any other person is liable to make good any part of that damage, such part of the amount of the payment shall be paid to him as bears to the whole of that amount the

same proportion as the scheduled cost of works for which he is responsible bears to the total scheduled cost.

- (4) In subsection (3) above—
- (a) the reference to the scheduled cost of works for which the other person is responsible is a reference to the aggregate amount of the costs specified in the schedule of remedial works in respect of works required for making good the part of the damage which he is liable to make good; and
 - (b) the reference to the total scheduled cost is a reference to the aggregate amount of all costs specified in the schedule of remedial works.
- (5) Schedule 2 to this Act applies for determining the persons who are to receive depreciation payments in special cases; and references in this section and that Schedule to a depreciation payment or part of such a payment include any interest payable in respect of that payment or that part in accordance with Schedule 1 to this Act.