



# Coal Mining Subsidence Act 1991

## 1991 CHAPTER 45

### PART II

#### REMEDIAL ACTION

##### *Special cases*

#### **19 Ancient monuments and listed buildings.**

- (1) This section applies where any property which—
- (a) is for the time being included in the Schedule of monuments compiled and maintained under section 1 of the <sup>M1</sup>Ancient Monuments and Archaeological Areas Act 1979;
  - (b) has been notified to the Corporation by the Secretary of State as an ancient monument within the meaning of that Act for the time being under the care of the Secretary of State; or
  - (c) is a listed building within the meaning of section 1 of the <sup>M2</sup>Planning (Listed Buildings and Conservation Areas) Act 1990, or [<sup>F1</sup>section 1 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997], and is not of a description specified in an order made by the Secretary of State,
- is affected by subsidence damage and the character of the property as one of historic, architectural, archaeological or other special interest is or may be affected by that damage.
- (2) If and to the extent that it is reasonably practicable and in the public interest so to restore the property to its former condition as to maintain its character as one of special interest, this Part shall have effect in relation to the damage as if—
- (a) section 6(2)(a) above defined “remedial works” as such works as are necessary for the purpose of so restoring the property; and
  - (b) section 10 above were omitted.

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- (3) Any question arising by virtue of subsection (2) above as to whether or how far it is reasonably practicable or in the public interest to restore any property as mentioned in that subsection shall be determined by the Secretary of State.
- (4) In this section “former condition”, in relation to any property, means a condition comparable to its condition immediately before the subsidence damage occurred.

#### Textual Amendments

**F1** Words in s. 19(1)(c) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 50**

#### Commencement Information

**I1** S. 19 wholly in force at 30.11.1991 see s. 54(2) and S.I. 1991/2508, **art. 2**.

#### Marginal Citations

**M1** 1979 c. 46.

**M2** 1990 c. 9.

## 20 Ecclesiastical property etc.

- (1) In the case of subsidence damage to any ecclesiastical property—
- (a) the [<sup>F2</sup>Diocesan Board of Finance for the diocese in which the land is situated] shall be entitled, in addition to any other person who is so entitled, to give a damage notice; and
  - (b) where any other such person is the claimant, the [<sup>F2</sup>Diocesan Board of Finance for the diocese in which the land is situated] shall be treated as another person interested whether or not [<sup>F3</sup>it gives] such a notice.
- (2) Any payment under section 10 or 11 above in respect of ecclesiastical property which would, apart from this subsection, fall to be made to the owner of the property—
- (a) shall be made to the [<sup>F2</sup>Diocesan Board of Finance for the diocese in which the land is situated]; and
  - (b) shall be applied by [<sup>F4</sup>it] for the purposes for which the proceeds of a sale of the property by agreement would be applicable under any enactment or Measure authorising, or disposing of the proceeds of, such a sale.
- (3) Where, in relation to any property other than ecclesiastical property—
- (a) any payment under section 10 or 11 above would, apart from this subsection, fall to be made to a person whose interest in the property is held for religious purposes; and
  - (b) a request for payment is made to the Corporation by or on behalf of the representative body,
- the payment shall be made to that body.
- (4) In this section—
- “ecclesiastical property” means property in England belonging to any ecclesiastical benefice [<sup>F5</sup>of the Church of England], or being or forming part of a church subject to the jurisdiction of a bishop of any diocese [<sup>F5</sup>of the Church of England] or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction;

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“the representative body”, in relation to property of any description held for religious purposes, means the body of persons (if any) which, in relation to that property or property of that description, has been notified to the Corporation by the Secretary of State, after consultation with such persons and organisations as he may think appropriate.

#### Textual Amendments

- F2** Words in s. 20 substituted (E.) (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\), s. 16\(2\), Sch. 5 para. 29\(1\)\(a\)](#); 2006 No. 2, Instrument made by Archbishops
- F3** Words in s. 20(1)(b) substituted (E.) (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\), s. 16\(2\), Sch. 5 para. 29\(1\)\(b\)](#); 2006 No. 2, Instrument made by Archbishops
- F4** Word in s. 20(2)(b) substituted (E.) (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\), s. 16\(2\), Sch. 5 para. 29\(1\)\(c\)](#); 2006 No. 2, Instrument made by Archbishops
- F5** Words in s. 20(4) inserted (E.) (1.10.2006) by [Church of England \(Miscellaneous Provisions\) Measure 2006 \(No. 1\), s. 16\(2\), Sch. 5 para. 29\(1\)\(d\)](#); 2006 No. 2, Instrument made by Archbishops

#### Commencement Information

- I2** S. 20 wholly in force at 30. 11. 1991 see s. 54(2) and [S.I. 1991/2508, art.2](#)

## 21 Property belonging to protected tenants.

- (1) Where property belonging to a protected tenant is affected by subsidence damage, Schedule 3 to this Act (which provides for the protected tenant to be treated, in certain circumstances, as a person liable to make good the damage in whole or in part) shall apply if, apart from the provisions of that Schedule, neither the protected tenant nor any other person would be liable to make good the damage in whole or in part.
- (2) For the purposes of this section and Schedule 3 to this Act, property affected by subsidence damage belongs to a protected tenant if he would have been entitled under any enactment contained in the relevant Act or Acts to remove the property, or to be paid compensation in respect of it by his landlord, if his tenancy had terminated immediately before the damage occurred.
- (3) In this section and Schedule 3 to this Act “protected tenant” means a person who is—
- (a) a tenant for the purposes of Part I of the <sup>M3</sup>Landlord and Tenant Act 1927, the <sup>M4</sup>Agricultural Holdings Act 1986 or the <sup>M5</sup>Agricultural Holdings (Scotland) Act 1949;
  - [<sup>F6</sup>(aa) a tenant under a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995;]
  - (b) a landholder for the purposes of the Small Landholders (Scotland) Acts 1886 to 1931; or
  - (c) a crofter for the purposes of the <sup>M6</sup>Crofters (Scotland) Act 1955;
- and references, in relation to a protected tenant, to the relevant Act or Acts shall be construed accordingly.

#### Textual Amendments

- F6** S. 21(3)(aa) inserted (1.9.1995) by 1994 c. 21, ss. 40, 41(2), [Sch. para. 36](#) (with s. 37)

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**Commencement Information**

**I3** S. 21 wholly in force at 30.11.1991 see s. 54(2) and S.I. 1991/2508, **art. 2**

**Marginal Citations**

**M3** 1927 c. 36.

**M4** 1986 c. 5.

**M5** 1949 c. 75.

**M6** 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](#)