



Coal Mining Subsidence Act 1991

1991 CHAPTER 45

PART III

ADDITIONAL REMEDIES

Miscellaneous

29 Purchase etc. of property affected by blight

- (1) The Secretary of State may, after consultation with the Corporation, make regulations with respect to the action to be taken by the Corporation for alleviating cases of hardship suffered as a result of property being blighted by subsidence damage or the possibility of such damage.
- (2) The action which may be required by the regulations is—
 - (a) the purchase of any blighted property at a price equivalent to its unblighted value; or
 - (b) the payment of an amount equivalent to the difference between the value of any such property and its unblighted value.
- (3) Regulations under this section may make provision as to—
 - (a) the making of claims under the regulations and the descriptions of persons who may make them;
 - (b) the descriptions of property in respect of which such claims may be made and the circumstances in which such property is to be regarded as blighted for the purposes of the regulations;
 - (c) the circumstances in which action is or is not required to be taken (including the circumstances in which a person is to be regarded as suffering hardship);
 - (d) the determination of the value or unblighted value of any blighted property.
- (4) In this section “unblighted value”, in relation to any blighted property, means the value which it would have if it were not blighted.

30 Compensation for consequential losses of small firms

- (1) Where at any time any property—
- (a) which is used wholly or partly for the purposes of a small firm; and
 - (b) as respects which one or more notices have been or should have been given by the Corporation under section 46(1) below,

is affected by subsidence damage, this section shall apply as respects the period beginning with that time and ending with the discharge by the Corporation of their remedial obligation with respect to the damage.

- (2) For each year or part of a year—
- (a) which falls within that period; and
 - (b) in which any consequential loss resulting from the damage is suffered by the firm,

the Corporation shall be under an obligation to make to the firm a payment of such amount as would have been payable to the firm by way of damages in respect of that loss if the damage had been attributable to the negligence of the Corporation; and in determining the amount (if any) of such a payment regard shall be had to the rules of law relating to remoteness and the mitigation of losses.

- (3) The Corporation shall not be liable to make a payment under this section unless, as soon as reasonably practicable after the first time—
- (a) when the firm suffers any consequential loss resulting from the damage; or
 - (b) if later, when the firm has such knowledge as is mentioned in subsection (4) (read with subsection (5)) of section 3 above,

the firm gives notice of the loss to the Corporation.

- (4) Where a notice is given under subsection (3) above, the Corporation may, by notice given to any person who is entitled to give a damage notice in respect of the subsidence damage, elect to treat the notice under that subsection as if it were also a damage notice given by that person in respect of that damage.

- (5) The Corporation shall not be liable to make a payment under this section except on a claim made by the firm within the period of twelve months beginning with the end of the year or part of a year to which the payment relates.

- (6) A payment under this section shall carry interest at the applicable rate (if any) from the end of the period mentioned in subsection (5) above until payment.

- (7) In this section—

“associated employer” shall be construed in accordance with section 153(4) of the Employment Protection (Consolidation) Act 1978;

“consequential loss” does not include—

- (a) any loss for which provision is made by section 27(2) or (3) above; or
- (b) any loss resulting from subsidence damage as respects which the Corporation’s remedial obligation is excluded by section 33(3) or 34(4) or (7) below;

“employee” has the meaning given by section 153(1) of the Employment Protection (Consolidation) Act 1978;

“small firm” means any person who, at the time when the property is affected by subsidence damage, is carrying on a business and satisfies the requirements of subsection (8) below;

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

“year” means a calendar year.

- (8) A person satisfies the requirements of this subsection at any time if, at that time, the number of employees employed by him, added to the number of employees employed by any associated employer of his, does not exceed 20.
- (9) The Secretary of State may by order substitute for the number of employees specified in subsection (8) above (whether as originally enacted or as previously amended under this subsection) such other number of employees as he thinks fit.

31 Compensation for damage to moveable property

- (1) Where damage is caused to any moveable property by the happening of subsidence damage, the Corporation shall be liable to pay to any person having an interest in the property such amount by way of compensation as would have been payable to that person by way of damages if—
 - (a) the damage to the moveable property had been attributable to the negligence of the Corporation; and
 - (b) subject to subsection (2) below, liability for any consequential loss resulting from the damage were excluded.

- (2) Subsection (1)(b) above shall not apply to a claim made by a small firm where—
 - (a) the moveable property was used wholly or partly for the purposes of the firm; and
 - (b) the property affected by subsidence damage was property as respects which one or more notices had been or should have been given by the Corporation under section 46(1) below;

and in determining the amount (if any) of so much of a payment as is payable by virtue of this subsection regard shall be had to the rules of law relating to remoteness and the mitigation of losses.

- (3) The Corporation shall not be liable under this section to pay compensation to any person in respect of damage to any moveable property where—
 - (a) at the time when it was damaged, the property was on any land in circumstances such that its presence constituted a trespass to that land or, in Scotland, was on any land without lawful authority; or
 - (b) the damage was wholly attributable to the fault of that person or any person in lawful possession of the property;

and if the damage was partly attributable to the fault of that person or any person in lawful possession of the property, the liability of the Corporation shall be reduced proportionately.

- (4) In this section—

“fault” includes any act or omission which would, if the damage to the moveable property had been caused by the negligence of the Corporation, have constituted fault for the purposes of the Law Reform (Contributory Negligence) Act 1945;

“moveable property” means—

- (a) in relation to England and Wales, any chattel personal other than a thing in action or money;
- (b) in relation to Scotland, any corporeal moveable other than money;

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

“small firm” has the meaning which would be given by section (30)(7) above if the reference to the time when the property is affected by subsidence damage were a reference to the time when damage is caused to the moveable property.

32 Compensation for death or disablement

- (1) This section applies where—
 - (a) as the result of an injury caused by the happening of subsidence damage, any person dies or is disabled (whether permanently or temporarily); and
 - (b) apart from this section, no action to recover damages is maintainable in respect of the death or disablement.
- (2) Subject to subsection (4) below, the Corporation shall be liable, in the case of a death, to pay the like damages, recoverable in the like manner and within the like time, as would have been payable if—
 - (a) the death had been attributable to the negligence of the Corporation; and
 - (b) the persons by or on behalf of whom an action could have been brought against the Corporation for damages in respect of the death if it had been so attributable included any person who at the time of the death was, or but for the injury would have been, wholly or partly maintained by the deceased; and
 - (c) the damages were claimed under the Fatal Accidents Act 1976 where the death resulted from an injury caused in England or Wales, or the Damages (Scotland) Act 1976 where the death resulted from an injury caused in Scotland.
- (3) Subject to subsection (4) below, the Corporation shall be liable, in a case of disablement, to pay the like damages, recoverable in the like manner and within the like time, as would have been payable if the disablement had been attributable to the negligence of the Corporation.
- (4) No liability shall attach to the Corporation under subsection (2) or (3) above in respect of the death or disablement of any person as a result of an injury if—
 - (a) at the time when that person incurred the injury he was on any land as a trespasser or, in Scotland, without lawful authority; or
 - (b) the injury was wholly attributable to the fault of that person;and if the injury was partly attributable to the fault of that person the liability of the Corporation under that subsection shall be reduced proportionately.
- (5) In this section “fault” includes any act or omission which would, if the death or disablement had been caused by the negligence of the Corporation, have constituted fault for the purposes of the Law Reform (Contributory Negligence) Act 1945.