Coal-Mining (Subsidence) Act 1957

1957 CHAPTER 59

5 Special provisions with respect to damage affecting land drainage

(1) Subject to the two next following subsections, the Board shall, in any area in England and Wales outside the Doncaster Drainage Area within the meaning of the Doncaster Area Drainage Act, 1929, from time to time carry out such, if any, measures (in this section referred to as " remedial measures") for remedying, mitigating or preventing any deterioration in any land drainage system by reason of subsidence damage which has occurred or appears likely to occur, being a drainage system maintainable by a drainage authority, as may be agreed between the Board and the appropriate drainage authority, or, in default of such agreement, as may be determined in the manner provided by regulations under subsection (5) of this section, to be in all the circumstances reasonably required and not unjustifiable on economic grounds, and any such remedial measures shall be carried out in accordance with such arrangements as to the timing thereof as may be agreed or determined as aforesaid.

(2) Without prejudice to the next following subsection, the Board may elect, in respect of all or any of the remedial measures aforesaid, not to carry out those measures themselves but—

(a) to make to the appropriate drainage authority a payment equal to the cost reasonably incurred by that authority in carrying out those measures; or

(b) if that authority propose to merge the carrying out of those measures with the execution of other works, to make to the authority payments equal to any sums from time to time shown to have been expended by the authority in carrying out the merged operations up to such aggregate amount as may be agreed or determined as aforesaid to be reasonable in all the circumstances having regard to the expenditure which would have been incurred respectively by the Board or by the authority in carrying out the remedial measures;

and the Board, in a case where the remedial measures fall to be carried out in connection with property comprised in a main river for the purposes of Part II of the Land Drainage Act, 1930, shall make the appropriate election under this subsection and in any other case shall not unreasonably refuse any request to make the appropriate election under this subsection received from the appropriate drainage authority:

Provided that the Board shall not be deemed to act unreasonably in refusing any such request received after the Board have begun to carry out the remedial measures.

(3) Notwithstanding anything in the two last foregoing subsections, in any case where it is agreed or determined as aforesaid to be appropriate, the liability of the Board for the cost of any recurring remedial measures may be discharged by a lump sum payment agreed or determined as aforesaid to represent the capital amount of that cost.

(4) Subsection (2) of section three of this Act shall apply in any case where a damage notice has been served on the Board in respect of any property and the Board are of opinion with respect to all or any of the permanent works which would otherwise fall to be executed in connection with the property that the necessity for, or the nature or manner of execution of, those works is likely to be so affected by operations under this section or under Part II of the Doncaster Area Drainage Act, 1929, as to make it unreasonable that those works should be executed for the time being.

(5) Regulations made by the Minister and the Minister of Agriculture, Fisheries and Food, acting jointly—

(a) shall make provision with respect to the procedure to be followed by the Board and by the appropriate drainage authority in giving effect to the provisions of this section and for the determination of questions arising under this section between the Board and the appropriate drainage authority; and

(b) may contain such incidental and supplementary provisions as the Ministers aforesaid may consider expedient.

(6) The Board shall, for the purpose of carrying out any remedial measures under this section, have the like powers of surveying and entering on any land and of doing anything thereon as are conferred on the appropriate drainage authority by the enactments relating to land drainage:

Provided that this subsection shall not apply in relation to any land occupied by or on behalf of the Crown.

(7) In this section, the expression " the appropriate drainage authority " means, in a case where the remedial measures would fall to be carried out either in connection with a main river for the purposes of Part II of the Land Drainage Act, 1930, or outside any internal drainage district as defined by that Act, the river board, or in any other case the internal drainage board as defined as aforesaid, in whose area the remedial works would fall to be carried out.