
STATUTORY INSTRUMENTS

2016 No. 562

The Nuclear Installations (Liability for Damage) Order 2016

Loss of income derived from the environment

9. After section 11F of the 1965 Act (inserted by article 8) insert—

“Loss of income derived from the environment

11G Loss of income derived from the environment

(1) Where as a result of a breach of a duty imposed by section 7, 7B, 8, 9 or 10 there is significant impairment of the environment, a claim may be made under this Act for compensation in respect of a person’s loss of profits if the circumstances of that loss satisfy the requirements in subsection (2).

(2) The requirements are that—

- (a) the profits are from income that the person generates, or but for the impairment would generate, by means of an activity which entails directly exploiting the resources in a part of the environment,
- (b) the activity is an activity that the person may lawfully carry on, or but for the impairment would be able lawfully to carry on, in that part of the environment,
- (c) the person had started to carry on, and had not ceased to carry on, the activity in that part of the environment before the occurrence began to happen,
- (d) some or all of that part of the environment is significantly impaired as a result of the breach of duty, and
- (e) as a direct consequence of that significant impairment, the person is not able to carry on the activity in question in so much of that part of the environment as is significantly impaired or profits less from carrying on the activity there.

(3) Compensation is not payable to a person by virtue of a claim under subsection (1) if the activity in question is an activity carried on by the person as an employee.

(4) Compensation is not payable to a person by virtue of a claim under subsection (1) if the loss of profits is—

- (a) a loss for which that person may claim compensation under this Act by way of compensation for damage to property, or
- (b) a loss for which that person could make such a claim but for the property being such that damage to it would not constitute damage in breach of a duty imposed by—
 - (i) section 7 (see section 7(1A)(b), (1C)(b), (3) and (3A)),
 - (ii) section 7B (see section 7(1A)(b), (1C)(b), (3) and (3A) as applied by section 7B),
 - (iii) section 8 (see section 7(1A)(b), (1C)(b), (3) and (3A) as applied by section 8),

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(iv) section 9 (see section 7(1A)(b), (1C)(b), (3) and (3A) as applied by section 9), or

(v) section 10 (see section 10(1)(b)),

as the case may be.

(5) Compensation under this Act is not payable by virtue of a claim under subsection (1) if the part of the environment in question is the relevant site by reference to which the claim under subsection (1) is established or a part of it.”