



Coal Mining Subsidence Act 1991

1991 CHAPTER 45

PART III

ADDITIONAL REMEDIES

Agricultural losses

26 Farm loss payments.

Where land constituting or included in an agricultural unit is affected by subsidence damage, Schedule 6 to this Act (which confers on any occupier displaced from the land a right, in certain circumstances, to receive a farm loss payment) shall apply if, by reason of deterioration due to the damage in the condition of the land, the land cannot profitably be used for agricultural purposes.

Commencement Information

12 S. 26 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, art. 2

27 Crop loss payments.

- (1) Where at any time land constituting or included in an agricultural unit 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 falling within that period, the Corporation shall be under an obligation to make to the occupier of the unit a payment of the amount (if any) given by the formula—

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$$P = R - S + E$$

where—

P is the amount payable under this subsection;

R is any amount by which the occupier's return from crops sown or planted in that year or part of a year is less than it might reasonably have been expected to have been if the subsidence damage had not occurred;

S is any amount by which his expenses in respect of crops so sown or planted are less than they might reasonably have been expected to have been if the damage had not occurred;

E is the amount of any expenses incurred by him in that year or part of a year in taking reasonable steps to protect crops grown in a greenhouse affected by the damage.

- (3) For each year or part of a year falling within the period mentioned in subsection (1) above, the Corporation shall be under an obligation to make to the occupier of the unit a payment of the amount (if any) given by the formula—

$$P = R - S$$

where—

P is the amount payable under this subsection;

R is any amount by which the occupier's yield from land used for pasture in that year or part of a year is less than it might reasonably have been expected to have been if the subsidence damage had not occurred;

S is any amount by which his expenses in respect of land used for pasture are less than they might reasonably have been expected to have been if the damage had not occurred.

- (4) There shall be disregarded for the purposes of subsection (2) above—
- (a) any crops which would normally have been harvested before the subsidence damage became evident;
 - (b) any crops which were or would have been sown or planted after an election by the Corporation under section 10 above to make a depreciation payment in respect of the damage; and
 - (c) if all reasonable steps have not been taken to protect them, any crops grown in a greenhouse affected by the damage;

and there shall be disregarded for the purposes of subsection (3) above any use of land for pasture which was or would have been so used after such an election as is mentioned in paragraph (b) above.

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- (5) The Corporation shall not be liable to make a payment under this section except on a claim made by the person entitled to it within the period of twelve months beginning with the end of the year or part of a year to which the payment relates.
- (6) Where a claim is made under subsection (5) 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 that claim as if it were also such a notice given by that person in respect of that damage.
- (7) A payment under this section shall carry interest at the applicable rate (if any) [^{F1}from the date of the claim on which the payment is made] until payment [^{F2}but any period of delay in determining the amount of any such payment which is attributable to unreasonable conduct on the part of that person shall be disregarded for the purposes of this subsection.]
- (8) In this section—
“greenhouse” includes any building or structure designed to afford protection from the weather or to secure the retention of heat;
“year” means a calendar year;
and in relation to any agricultural activity carried on on land constituting or included in an agricultural unit, the person having the right to carry it on shall be treated as the occupier of that unit.

Textual Amendments

- F1** Words in s. 27(7) substituted (31.10.1994) by 1994 c. 21, s. 67(1), **Sch. 9 para. 5(1)(a)** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**
- F2** Words in s. 27(7) inserted (31.10.1994) by 1994 c. 21, s. 67(1), **Sch. 9 para. 41(1)(b)** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**

Commencement Information

- I3** S. 27 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, **art. 2**

28 Payments for tenant farmers.

- (1) Where the Corporation make a depreciation payment to the owner of any agricultural land which is subject to a tenancy, they shall also make to the tenant a payment of the amount given by the formula—

$$P = \left(C + S \right) \times \frac{D}{V}$$

where—

P is the amount payable under this subsection;

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C is the compensation which, on the assumptions mentioned in subsection (3) below, would have been payable to the tenant for the value of his unexpired term or interest in the land;

S is the sum which, on those assumptions, would have been payable to the tenant under section 12 of the ^{M1}Agriculture (Miscellaneous Provisions) Act 1968 (additional payments on compulsory acquisition of agricultural holdings);

D is the amount of the depreciation payment made to the owner of the land;

V is what would have been the value of the land at the relevant time if it had not been affected by the subsidence damage.

- (2) Where the Corporation make a payment under subsection (1) above to a tenant who has been displaced from the whole or a sufficient part of the land affected by the subsidence damage, they shall also make to him a payment equal to the compensation which—
- (a) on the assumptions mentioned in subsection (3) below; and
 - (b) on the further assumption that the displacement had been caused by the compulsory acquisition mentioned in paragraph (a) of that subsection,
- would have been payable to him for any loss or injury sustained by him.
- (3) The assumptions referred to in subsections (1) and (2) above are—
- (a) that the land had been compulsorily acquired at the relevant time;
 - (b) that the tenant had no greater interest in the land than as tenant for a year or from year to year; and
 - (c) that the land had not been affected by the subsidence damage.
- (4) Paragraph 2 of Schedule 1 to this Act shall apply for the purpose of determining the value mentioned in subsection (1) above as it applies for the purpose of determining the value of a unit of property at any time for the purposes of section 10 or 11 above; and paragraph 4 of that Schedule (interest on depreciation payments) shall apply in relation to any payment under this section as if—
- (a) the payment were a depreciation payment; and
 - (b) the relevant time in relation to the payment were the time immediately after the making of the claim.
- (5) In this section—
- “the relevant time” means the relevant time for the purposes of paragraph 3 of Schedule 1 to this Act;
- “sufficient part” means not less than 0.5 hectares or such area as the Secretary of State may by order specify;
- and any reference to compensation is a reference to compensation under section 20 of the ^{M2}Compulsory Purchase Act 1965 or section 114 of the ^{M3}Lands Clauses Consolidation (Scotland) Act 1845 (compensation to be made to tenants for a year etc.).

Commencement Information

I4 S. 28 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, art. 2

Changes to legislation: There are currently no known outstanding effects for the Coal Mining Subsidence Act 1991, Cross Heading: Agricultural losses. (See end of Document for details)

Marginal Citations

M1 1968 c. 34.

M2 1965 c. 56.

M3 1845 c. 19.

Changes to legislation:

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