

Changes to legislation: Coal Mining Subsidence Act 1991, Cross Heading: Mortgages is up to date with all changes known to be in force on or before 15 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 2

RECIPIENTS OF DEPRECIATION PAYMENTS: SPECIAL CASES

Commencement Information

- II** Sch. 2 para. 1 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, art. 2

Mortgages

- 1 (1) Subject to paragraph 2 below, where ^{F1} . . . the interest in the property in question of any person to whom, apart from this paragraph or paragraph 4 below, the whole or part of a depreciation payment would fall to be made was subject to a mortgage at the time when the subsidence damage became evident (“the relevant time”), the payment or that part of the payment shall be paid to the mortgagee.
- (2) The mortgagee shall be liable to account for such a payment as if it had been proceeds of sale of the mortgaged interest arising under a power of sale exercised by the mortgagee at the relevant time, except that the mortgagee shall not be entitled to credit for any costs incurred by him in connection with the claiming, ascertainment, apportionment or making of the payment.
- (3) In this paragraph and paragraph 2 below “mortgage”, in relation to property situated in Scotland, means a heritable security within the meaning of section 9 of the ^{M1}Conveyancing and Feudal Reform (Scotland) Act 1970, and “mortgagee”, in relation to such property, means the creditor under the heritable security.

Textual Amendments

- F1** Words in Sch. 2 para. 1(1) repealed (31.10.1994) by 1994 c. 21, ss. 43, 67(8), Sch. 6 para. 11, Sch. 11 Pt. II (with ss. 40(7), 66); S.I. 1994/2553, art. 2

Commencement Information

- II** Sch. 2 para. 1 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, art. 2

Marginal Citations

- M1** 1970 c. 35.

- 2 (1) The following provisions of this paragraph apply in the circumstances mentioned in paragraph 1(1) above.
- (2) If at the time when the depreciation payment is made the debt secured by the mortgage (other than any part of it representing costs for which the mortgagee would not be entitled to credit) has been paid in full, the depreciation payment shall be disposed of as if the interest had not been subject to the mortgage.

Changes to legislation: Coal Mining Subsidence Act 1991, Cross Heading: Mortgages is up to date with all changes known to be in force on or before 15 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (3) If the interest was subject to two or more successive mortgages, paragraph 1 above shall have effect with the substitution for references to the mortgagee of references to the first mortgagee or, if sub-paragraph (2) above has effect in relation to the first mortgage, to the second mortgagee, and so on.
- (4) Paragraph 1 above shall have effect in any case, as regards any mortgage, subject to any agreement between the mortgagee and the person who apart from that mortgage would have been entitled to receive the depreciation payment or part of that payment.

Commencement Information

I2 Sch. 2 para. 2 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, art. 2

Changes to legislation:

Coal Mining Subsidence Act 1991, Cross Heading: Mortgages is up to date with all changes known to be in force on or before 15 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

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](#)