



# Coal Mining Subsidence Act 1991

## 1991 CHAPTER 45

### PART IV

#### PREVENTIVE AND OTHER MEASURES

#### **33 Existing buildings, structures or works.**

- (1) This section applies where it appears <sup>F1</sup> . . .—
- (a) that subsidence damage is likely to occur to any building, structure or works for the time being on, in or over any land; and
  - (b) that the execution of certain works (“preventive works”) on that property, or on that property and some other property which would benefit from those preventive works, would prevent the occurrence or reduce the extent of such damage.
- (2) The Corporation may—
- (a) with the consent of all persons who are owners of any property on which the preventive works would fall to be executed, or who would be liable to make good in whole or in part subsidence damage to any of that property, execute the preventive works; or
  - (b) upon undertaking to pay any cost reasonably incurred in the execution of the preventive works, request their execution by the owner of the property on which they would fall to be executed or any other person who would be liable as mentioned in paragraph (a) above in respect of that property.
- (3) If in the case of any property any person unreasonably withholds his consent to the execution of preventive works by the Corporation under this section, or unreasonably fails to comply with any request to execute such works made by the Corporation under this section, and subsidence damage subsequently occurs to the property, then—
- (a) if the damage could have been prevented by the execution of the preventive works, the Corporation shall not be required to take any remedial action in respect of that damage;
  - (b) if the extent of the damage could have been reduced by the execution of the preventive works, the Corporation shall not be required to take any remedial

**Changes to legislation:** Coal Mining Subsidence Act 1991, Section 33 is up to date with all changes known to be in force on or before 18 December 2023. 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

- action which would not have been required if the preventive works had been executed; and
- (c) if the property is a dwelling-house, the person concerned shall not be entitled, in respect of the damage, to give a notice under paragraph 4 of Schedule 5 to this Act or to receive any relief under that Schedule.
- (4) Where different consents are required in respect of different parts of any property, those different parts shall be treated as different properties for the purposes of subsection (3) above.
- (5) Paragraphs (a) and (b) of subsection (3) above shall not apply in the case of a failure to comply with a request under this section if the failure is the result of an express refusal to comply or permit compliance by one or more, but not both or all, of two or more persons whose compliance or permission is necessary.
- (6) The following, namely—
- (a) the withholding by any person of consent to the execution of preventive works on any property by the Corporation under this section; and
- (b) the failure to comply with any request to execute such works made by the Corporation under this section,
- are not to be regarded as unreasonable in a case to which section 9 above applies.
- (7) Where any such property as is mentioned in paragraph (a) of subsection (2) above is ecclesiastical property within the meaning of section 20 above, the [<sup>F2</sup>Church Commissioners][<sup>F2</sup>Diocesan Board of Finance for the diocese in which the land is situated] shall be included among the persons whose consent is required by that paragraph.

#### Textual Amendments

- F1** Words in s. 33(1) repealed (31.10.1994) by 1994 c. 21, ss. 43, 67(8), Sch. 6 para. 3(1), **Sch. 11 Pt. II** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**
- F2** Words in s. 33(7) substituted (E.) (1.10.2006) by Church of England (Miscellaneous Provisions) Measure 2006 (No. 1), s. 16(2), **Sch. 5 para. 29(2)**; 2006 No. 2, Instrument made by Archbishops

#### Modifications etc. (not altering text)

- C1** S. 33(2)-(6) modified (31.10.1994) by 1994 c. 21, s. 43, **Sch. 6 para. 6** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**

#### Commencement Information

- I1** S. 33 wholly in force at 30.11.1991 see s. 54(2) and S.I. 1991/2508, **art. 2**

**Changes to legislation:**

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**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](#)