



Coal Mining Subsidence Act 1991

1991 CHAPTER 45

PART II

REMEDIAL ACTION

Further damage

16 Stop notices where further damage is likely.

- (1) This section applies where at any time—
 - (a) a damage notice has been given to the Corporation in respect of subsidence damage to any property; and
 - (b) it appears ^{F1} . . . to be probable that further subsidence damage will occur to that property within the period of eighteen months beginning with that time;and it shall be the duty of the Corporation, as soon as reasonably practicable after receiving such a notice, to consider whether [^{F2}the condition mentioned in paragraph (b) above is satisfied].
- (2) The Corporation may give to the claimant and any other person interested a notice to the effect that, except for—
 - (a) emergency works; and
 - (b) such other works (if any) as may be specified in the notice (“excepted works”),the Corporation will neither execute any works for making good the damage while the notice remains in force nor make any payments in respect of such works executed while the notice remains in force.
- (3) It shall be the duty of the Corporation to specify in such a notice such works (if any) as are required in order to render the damaged property reasonably fit to be used for the purposes for which it was used immediately before the damage became evident, not being—
 - (a) emergency works; or
 - (b) works the execution of which is not reasonably practicable in all the circumstances of the case.

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

- (4) References in this Act, in relation to any damage, to a stop notice are references to a notice under this section relating to the damage.
- (5) Except in such circumstances as may be prescribed, where the Corporation give a stop notice to any person with respect to any damage—
- (a) the Corporation’s remedial obligation to that person in respect of the damage shall be subject to the terms of that notice;
 - (b) any notice affecting the required remedial action in respect of the damage given by the Corporation before the stop notice is given shall cease to have effect, except in so far as it relates to excepted works;
 - (c) any schedule of remedial works relating to the damage sent to that person before the stop notice is given shall not take effect or (as the case may be) shall cease to have effect, except in so far as it relates to excepted works and related costs;
 - (d) any period during which the stop notice is in force shall be disregarded in reckoning the period mentioned in subsection (4) of section 9 above (claim for obligatory payments in lieu), except for the purposes of the application of that section in relation to any excepted works;
 - (e) so long as the stop notice is in force the Corporation shall not be required to give any notice of proposed remedial action in respect of the damage or to send to that person any schedule of remedial works, except so far as any such notice or schedule is required for the purposes of excepted works; and
 - (f) in the case excepted from paragraph (e) above, the provisions of this Part shall apply as if—
 - (i) the Corporation’s remedial obligation in respect of the damage were limited to such part of the damage as can be remedied or alleviated by the excepted works; and
 - (ii) references to such works as are necessary in order to make good the damage to that person’s reasonable satisfaction were references to the excepted works.
- (6) A stop notice given to any person with respect to any damage shall not have effect unless it is given within the period of three months beginning with the relevant time, or such longer period beginning with that time as may be agreed between the Corporation and that person.
- (7) In subsection (6) above “the relevant time” means—
- (a) the time when it first appears ^{F1} . . . to be probable that further subsidence damage will occur to the property within the next succeeding period of eighteen months; or
 - (b) any later time when it first appears ^{F3} . . . that any such damage will be substantially more serious than appeared to them at that earlier time.
- (8) The Secretary of State may by order substitute for the period specified in subsection (6) above (whether as originally enacted or as previously amended under this subsection) such other period as he thinks fit.

Textual Amendments

F1 Words in s. 16(1)(b)(7)(a) 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**

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- F2** Words in s. 16(1) substituted (31.10.1994) by 1994 c. 21, s. 43, **Sch. 6 para. 3(2)(a)** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**
- F3** Words in s. 16(7)(b) repealed (31.10.1994) by 1994 c. 21, ss. 43, 67(8), Sch. 6 para. 3(2)(b), **Sch. 11 Pt. II** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**

Commencement Information

- I1** S. 16 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, **art. 2**

17 Revocation and review of stop notices.

- (1) It shall be the duty of the Corporation to revoke any stop notice relating to any damage to any property if—
- (a) at any time, it no longer appears^{F4} . . . to be probable that further damage will occur to that property within the period of eighteen months beginning with that time; or
 - (b) at any time after the end of the period of three years beginning with the relevant date, the claimant and any other person interested request the Corporation to revoke it.
- (2) Where a stop notice has been given with respect to any damage, it shall be the duty of the Corporation to consider, initially not later than twelve months after the date on which the notice was given and subsequently at intervals not exceeding twelve months, whether to revoke it.
- (3) Where a stop notice given to any person with respect to any damage is revoked—
- (a) a fresh notice of proposed remedial action relating to the damage (or so much of it as has not been made good by any emergency works or any excepted works within the meaning of section 16 above) shall be given by the Corporation to that person as soon as reasonably practicable after the date of the revocation;
 - (b) any such notice of proposed remedial action which is effective immediately before that date shall cease to have effect on the giving of a fresh notice in accordance with paragraph (a) above; and
 - (c) any schedule of remedial works relating to the damage which is effective immediately before that date shall cease to have effect when the schedule of remedial works sent under section 6(1) above in connection with the fresh notice of proposed remedial action comes into effect.
- (4) In subsection (1)(b) above “the relevant date”, in relation to a stop notice, means—
- (a) the date on which the stop notice was given; or
 - (b) where one or more previous stop notices had been given in respect of the whole or any part of the damage, the date on which that notice or, as the case may be, the first of those notices was given.
- (5) The Secretary of State may by order substitute for the period mentioned in subsection (1)(b) above (whether as originally enacted or as previously amended under this subsection) such other period as he thinks fit.
- (6) On any occasion when in pursuance of subsection (2) above the Corporation consider whether to revoke a stop notice they shall give notice of their decision to the person to whom the stop notice was given as soon as they have made it.

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Textual Amendments

F4 Words in s. 17(1)(a) 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**

Commencement Information

I2 S. 17 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, **art. 2**

18 Effect of further damage.

- (1) This section applies where—
 - (a) a damage notice has been given to the Corporation in respect of subsidence damage to any property (“the original damage”); and
 - (b) further subsidence damage to that property becomes evident in the circumstances mentioned in subsection (2) below.
- (2) The circumstances referred to in subsection (1)(b) above are that—
 - (a) the further damage becomes evident before the completion of remedial works or, in a case falling within section 8(4) above, before all sums in respect of which the Corporation are liable to make payments have been expended; and
 - (b) at the time when it becomes evident, the Corporation have neither elected under section 10 above, nor become liable under section 11(1) above, to make a depreciation payment in respect of the damaged property.
- (3) In any case to which this section applies the original damage and the further damage shall be treated as one (“the combined damage”) and, subject to subsection (5) below—
 - (a) a fresh damage notice shall be required if, and only if, before the further damage becomes evident, the Corporation have elected under section 8 above to make a payment in lieu under that section instead of executing any remedial works;
 - (b) any notice affecting the required remedial action in respect of the original damage given before the further damage becomes evident shall cease to have effect and this Part shall apply as if that notice had not been given;
 - (c) where a fresh damage notice is not required, a fresh notice of proposed remedial action relating to the combined damage shall be given by the Corporation to the claimant and any other person interested as soon as reasonably practicable after the further damage becomes evident;
 - (d) any schedule of remedial works relating to the original damage sent to the claimant or any other person interested before the further damage becomes evident shall not take effect or (as the case may be) shall cease to have effect;
 - (e) where a fresh schedule of remedial works relating to the combined damage satisfies the requirements of subsection (4) below—
 - (i) subsections (3) and (4) of section 6 above shall not apply; and
 - (ii) subsection (5)(a) of that section shall have effect as if for subparagraphs (i) and (ii) there were substituted a reference to the date on which the schedule is sent to the claimant or any other person interested;
 - (f) any stop notice given to any person with respect to the original damage shall have effect in relation to the combined damage as if there were specified in it

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- as excepted works such works (if any) as may be specified in a notice given to that person by the Corporation; and
- (g) the references to remedial works in section 8(8) and (10) above shall not include any remedial works begun before the further damage becomes evident.
- (4) A fresh schedule of remedial works relating to the combined damage satisfies the requirements of this subsection if the aggregate amount of the costs specified in that schedule does not exceed, by more than 20 per cent., the aggregate amount of the costs specified in any schedule of remedial works to which subsection (3)(d) above applies.
- (5) It shall be the duty of the Corporation to specify in a notice under subsection (3)(f) above such works (if any) as are required in order to render the damaged property reasonably fit to be used for the purposes for which it was used immediately before the original damage became evident, not being—
- (a) emergency works; or
- (b) works the execution of which is not reasonably practicable in all the circumstances of the case.
- (6) In any case to which this section applies it may be agreed between the Corporation, the claimant and any other person interested—
- (a) that paragraphs (a) to (e) of subsection (3) above shall not apply; and
- (b) that any such notice or schedule as is mentioned in paragraph (b) or (d) of that subsection shall have effect in relation to the combined damage with such modifications as may be so agreed.
- (7) This section is without prejudice to any liability of the Corporation in respect of the cost of any works executed before the further damage becomes evident.
- (8) The Secretary of State may by order substitute for the percentage specified in subsection (4) above (whether as originally enacted or as previously amended under this subsection) such other percentage as he thinks fit.

Commencement Information

I3 S. 18 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, art. 2

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