



# Coal Mining Subsidence Act 1991

## 1991 CHAPTER 45

### PART V

#### SUPPLEMENTAL

##### Commencement Information

**II** Part V wholly in force at 30. 11. 1991 see [s. 54\(2\)](#) and [S.I. 1991/2508, art.2](#)

#### *Claims*

##### **37** Avoidance of double claims.

- (1) A person entitled to give a damage notice under Part II of this Act in respect of subsidence damage to any property shall not be entitled to proceed at the same time in respect of the same damage to that property with both—
  - (a) such a notice; and
  - (b) a claim against the Corporation or a licensee of the Corporation for damages or compensation arising apart from this Act;but a person so entitled may, subject to subsection (2) below, elect which notice or claim he will proceed with for the time being.
- (2) Where any person proceeds with such a notice or claim as is mentioned in paragraph (a) or (b) of subsection (1) above (“the original notice or claim”), he shall not be entitled to proceed with such a notice or claim as is mentioned in the other of those paragraphs unless—
  - (a) it is determined, whether by agreement or otherwise, that he is entitled to none of the relief claimed by the original notice or claim; or
  - (b) that notice or claim is withdrawn before it is determined.
- (3) Where two or more persons are entitled to give a damage notice under Part II of this Act in respect of the same subsidence damage to any property, subsections (1) and (2)

*Status: Point in time view as at 31/10/1994.*

*Changes to legislation: There are currently no known outstanding effects for the Coal Mining Subsidence Act 1991, Part V. (See end of Document for details)*

above shall apply as if any election made by any one of them to proceed with such a notice had also been made by the other or others of them.

- (4) The provisions of this Act and of any other enactment making provision with respect to rights and liabilities between the Corporation and any government department, local authority or statutory undertakers in respect of—

- (a) the working of minerals under or adjacent to any property; or
- (b) the leaving of minerals unworked for the support of any property,

shall have effect subject to the terms of any agreement with respect to such rights and liabilities which has been entered into between the Corporation and the department, authority or undertakers otherwise than in connection with a disposition of an interest in land and is for the time being subsisting.

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

- C1** S. 37 amended (31.10.1994) by 1994 c.21, s. 43, **Sch. 6 para. 7** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**

**Commencement Information**

- I2** S. 37 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, **art.2**

**38 Reimbursement of successful claimants' expenses.**

- (1) Where the Corporation—
- (a) take any remedial action; or
  - (b) make any payment to, or make any living accommodation available to, any person under Part III of this Act,
- they shall also pay any costs or expenses to which subsection (2) below applies.
- (2) Subject to subsections (3) to (5) below, this subsection applies to any costs or expenses reasonably incurred by the claimant or any other person interested or, as the case may be, by the person in question—
- (a) for the purposes of, or for purposes connected with, the preparation and prosecution of his damage notice or claim; or
  - (b) in the case of costs or expenses incurred by the claimant before the subsidence damage became evident, with a view to the possible preparation and prosecution of his damage notice.
- (3) Subsection (2) above does not apply to any costs or expenses incurred by the claimant or any other person interested—
- (a) in securing or attempting to secure the agreement or consent of any other person to the exercise by the Corporation of any such power as is mentioned in subsection (1)(a) of section 41 below; or
  - (b) in pursuing an application under subsection (2) of that section.
- (4) Subsection (2) above does not apply to any costs or expenses incurred by the claimant or any other person interested more than four years before the giving of his damage notice.
- (5) Subsection (2) above does not apply to any costs or expenses incurred in or in connection with any proceedings before any tribunal, court or other person if an order

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for their payment has been or could have been made by that tribunal, court or other person.

- (6) The Secretary of State may by order—
- (a) substitute for the period specified in subsection (4) above (whether as originally enacted or as previously amended under this subsection) such other period as he thinks fit; or
  - (b) direct that that subsection shall not apply in such circumstances as may be specified in the order.

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

**C2** S. 38 amended (31.10.1994) by 1994 c. 21, s. 43, **Sch. 6 para. 7** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**

**Commencement Information**

**I3** S. 38 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, **art. 2**

**F139** .....

**Textual Amendments**

**F1** S. 39 repealed (31.10.1994) by 1994 c. 21, s. 67, **Sch. 11 Pt. II** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**

*Disputes and complaints*

**40 Disputes: general.**

- (1) Except as otherwise provided by or under this Act, any question arising under this Act shall, in default of agreement, be referred to and determined by the Lands Tribunal.
- (2) Where in any proceedings under this Act the question arises whether any damage to property is subsidence damage, and it is shown that the nature of the damage and the circumstances are such as to indicate that the damage may be subsidence damage, the onus shall be on the Corporation to show that the damage is not subsidence damage.
- (3) The tribunal, court or other person by whom any question is heard and determined under this Act may make such orders as may be necessary to give effect to its or his determinations and in particular may by order—
  - (a) require the Corporation to carry out any obligations imposed upon them by this Act within such period as the tribunal, court or person may direct;
  - (b) award damages in respect of any failure of the Corporation to carry out any such obligations.

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

**C3** S. 40 amended (31.10.1994) by 1994 c. 21, s. 43, **Sch. 6 para. 7** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**

*Status: Point in time view as at 31/10/1994.*

*Changes to legislation: There are currently no known outstanding effects for the Coal Mining Subsidence Act 1991, Part V. (See end of Document for details)*

- C4** S. 40 extended (31.10.1994) by 1994 c. 21, s. 47(1) (with ss. 40(7), 66); S.I. 1994/2552, art. 2, **Sch. 1**
- C5** S. 40(2)(3) applied (31.10.1994) by 1994 c. 21, s. 47(3) (with ss. 40(7), 66); S.I. 1994/2552, art. 2, **Sch. 1**

#### Commencement Information

- I4** S. 40 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, **art. 2**

### 41 Disputes about withholding of agreement or consent.

- (1) This section applies where in the case of any property—
- (a) the agreement or consent of two or more persons is required for the Corporation to exercise any power conferred by section 5(3) or (5), 10(2)(b) or 33(2)(a) above; and
  - (b) the Corporation have reached agreement with or obtained the consent of one or more, but not both or all, of those persons.
- (2) If, on an application made by any of those persons or the Corporation, it appears—
- (a) in the case of property in England and Wales, to a county court; or
  - (b) in the case of property in Scotland, to the sheriff,
- that any person whose agreement or consent is so required has withheld his agreement or consent unreasonably, the court or the sheriff may order that the provision conferring the power in question shall apply in the case of the property as if the Corporation had reached agreement with or obtained the consent of that person.

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

- C6** S. 41 amended (31.10.1994) by 1994 c. 21, s. 43, **Sch. 6 para. 7** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**

#### Commencement Information

- I5** S. 41 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, **art. 2**

### 42 Disputes about access etc. to premises.

- (1) If the occupier of any premises refuses to afford the Corporation such facilities as they may require for the purposes of any provision of this Act (other than section 36 above) to enter upon, inspect and execute works on those premises, then—
- (a) in the case of premises in England and Wales, a magistrates' court on a complaint made by the Corporation;
  - (b) in the case of premises in Scotland, the sheriff on an application so made, may confer such powers to enter, inspect and execute works on the premises as may appear to the court or the sheriff to be necessary, and may order the occupier to permit the exercise of those powers.
- (2) Nothing in subsection (1) above shall apply to any premises occupied by or on behalf of the Crown.

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

**C7** S. 42 amended (31.10.1994) by 1994 c. 21, s. 43, **Sch. 6 para. 7** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**

**Commencement Information**

**I6** S. 42 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, **art. 2**

<sup>F2</sup>**43** .....

**Textual Amendments**

**F2** S. 43 repealed (31.10.1994) by 1994 c. 21, s. 67(8), **Sch. 11 Pt. II** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**

**44 Time limits for certain disputes.**

- (1) This section applies to any question arising under this Act as to whether the Corporation are in breach of their remedial obligation in respect of any subsidence damage.
- (2) No question to which this section applies shall be heard and determined by any tribunal, court or other person unless the necessary reference is made, or the necessary proceedings are instituted, before the end of whichever of the following periods last expires, namely—
  - (a) the period of three years beginning with the earliest date on which the Corporation are in breach of their remedial obligation; and
  - (b) the period allowed by section 3 above for giving a damage notice with respect to the damage (the period of six years beginning with the date given by subsection (3) of that section).
- (3) For the purposes of subsection (2) above, any period during which the Corporation's remedial obligation is subject to the terms of a stop notice shall be disregarded.

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

**C8** S. 44(1) amended (31.10.1994) by 1994 c. 21, s. 43, **Sch. 6 para. 7** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**

**Commencement Information**

**I7** S. 44 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, **art. 2**.

<sup>F3</sup>**45** .....

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**Textual Amendments**

**F3** S. 45 repealed (31.10.1994) by 1994 c. 21, s. 67(8), **Sch. 11 Pt. II** (with ss. 40(7), 66); S.I. 1994/2553, art. 2

*Notices, information and reports*

**46 Notices to property owners etc.**

- (1) Subject to subsection (2) below, where it is proposed to carry on any underground coal-mining operations, the Corporation—
  - (a) shall give to the owners or occupiers of any land which might be affected by subsidence as a result of the operations notice that there is a risk of their land being so affected; and
  - (b) shall give notice that they have done so to any organisation appearing to them to be representative of those owners or occupiers.

<sup>F4</sup>(2) .....

- (3) Where notice has been given under subsection (1)(a) above in respect of any land, the Corporation shall give to the owners or occupiers notice of any of the following facts, that is to say—
  - (a) any decision not to proceed with the proposed operations;
  - (b) anything which gives the Corporation reason to believe that there is no longer any risk of the land being affected by subsidence; and
  - (c) the discontinuance of any operations which have been carried on.
- (4) Where notice has been given under subsection (1)(a) above in respect of any land, the Corporation shall from time to time, until notice is given under subsection (3) above in respect of that land, give notice to the owners or occupiers reminding them of any risk there may be of the land being, or having been, affected by subsidence.
- (5) The Secretary of State may by regulations make provision as respects—
  - (a) the contents and form of notices under this section;
  - (b) the times at which and the manner in which such notices are to be given;
  - (c) any information [<sup>F5</sup>, forms and documents which are] to accompany such notices.
- (6) If no other time for giving a notice under subsection (4) above is prescribed under subsection (5)(b) above, the Corporation shall give the notice within the period of one year beginning with the date on which the most recent notice under this section was given.
- (7) If no other manner for giving a notice under this section is so prescribed, the Corporation shall take all reasonably practicable steps for bringing the notice to the attention of the person to whom the notice is to be given.
- (8) In this section—
  - (a) references to land include references to any buildings, structures or works on, in or over land; and
  - (b) references, in relation to any land, to the owners or occupiers include references to any person who is the owner or occupier of any part of the land

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or is liable to make good in whole or in part any subsidence damage affecting the land.

**Textual Amendments**

**F4** S. 46(2) repealed (31.10.1994) by 1994 c. 21, s. 67(8), **Sch. 11 Pt. II** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**

**F5** Words in s. 46(5)(c) substituted (31.10.1994) by 1994 c. 21, s. 45(4) (with ss. 40(7), 66); S.I. 1994/2552, **art. 2, Sch. 1**

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

**C9** S. 46 modified (31.10.1994) by 1994 c. 21, s. 43, **Sch. 6 para. 8** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**

**Commencement Information**

**I8** S. 46 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, **art. 2**

**47 Notices to local authorities.**

(1) Subject to subsection (3) below, where it is proposed to carry on any underground coal-mining operations, the Corporation shall give notice of the operations to any local authority whose area includes land which may be affected by subsidence as a result of the operations.

(2) Subject to subsection (3) below, where any underground coal-mining operations are being carried on, the Corporation shall give notice of such facts as may be prescribed to any local authority whose area includes land which has been or may be affected by subsidence as a result of the operations.

<sup>F6</sup>(3) .....

(4) The Secretary of State may by regulations make provision as respects—

- (a) the contents and form of notices under this section;
- (b) the times at which such notices are to be given;
- (c) any information [<sup>F7</sup>, forms and documents which are] to accompany such notices.

(5) Each local authority shall—

- (a) secure that copies of all notices and other information received by them under this section are made available, at all reasonable times, for inspection by the public free of charge; and
- (b) provide facilities for obtaining copies of such documents on payment of a reasonable fee.

(6) In this section “local authority” means—

- (a) in relation to England and Wales, the council of a district or non-metropolitan county;
- (b) in relation to Scotland, a district or islands council.

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**Textual Amendments**

- F6** S. 47(3) repealed (31.10.1994) by 1994 c. 21, s. 67(8), **Sch. 11 Pt. II** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**
- F7** Words in s. 47(4)(c) substituted (31.10.1994) by 1994 c. 21, s. 45(4) (with ss. 40(7), 66); S.I. 1994/2552, **art. 2, Sch. 1**

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

- C10** S. 47 modified (31.10.1994) by 1994 c. 21, s. 43, **Sch. 6 para. 8** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**

**Commencement Information**

- I9** S. 47 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, **art. 2**

<sup>F8</sup>**48** .....

**Textual Amendments**

- F8** S. 48 repealed (31.10.1994) by 1994 c. 21, s. 67(8), **Sch. 11 Pt. II** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**

**49 Reports on operation of Act.**

- (1) The Secretary of State may give directions to the Corporation requiring them, on or before a specified date or at specified intervals, to make a report to him on, or on any specified matters relating to, the operation of this Act during any specified period or periods.
- (2) Directions given under this section may—
  - (a) specify the matters to be dealt with, and any particular information to be given, in any such report and the form in which any such report is to be made; and
  - (b) require the Corporation to publish any such report in any specified manner.
- (3) The Secretary of State shall lay before Parliament a copy of every report received by him under this section.
- (4) In consequence of the preceding provisions, it shall not be necessary for any annual report made under section 54 of the <sup>M1</sup>Coal Industry Nationalisation Act 1946 after the commencement of this section to include any report on the operation of this Act.

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

- C11** S. 49 amended (31.10.1994) by 1994 c. 21, s. 43, **Sch. 6 para. 10** (with ss. 40(7), 66); S.I. 1994/2553, **art. 2**

**Commencement Information**

- I10** S. 49 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, **art. 2**.



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### Marginal Citations

**M1** 1946 c. 59.

## General

### 50 Regulations and orders.

- (1) Any power of the Secretary of State or the Ministers to make regulations or orders under this Act shall be exercisable by statutory instrument and shall include power—
  - (a) to make different provision for different cases or classes of case; and
  - (b) to make such supplementary, incidental, consequential or transitional provisions as the Secretary of State or the Ministers consider necessary or expedient.
- (2) A statutory instrument containing any regulations or order under this Act (other than an order under section 54(2) below) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) In this section “the Ministers” means the Secretary of State and the Minister of Agriculture, Fisheries and Food acting jointly.

### Modifications etc. (not altering text)

**C12** S. 50 applied (31.10.1994) by 1994 c. 21, s. 45(3) (with ss. 40(7), 66); S.I.1994/2552, art.2, Sch. 1 s. 50 applied (31.10.1994) by 1994 c. 21, s. 46(7) (with ss. 40(7), 66); S.I. 1994/2552, art. 2, Sch. 1 s. 50 applied (31.10.1994) by 1994 c. 21, s. 47(10) (with ss. 40(7), 66); S.I. 1994/2552, art. 2, Sch. 1

### Commencement Information

**I11** S. 50 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, art.

### [<sup>F9</sup>51 Service of documents

Section 63 of the Coal Industry Act 1994 (service of documents) shall apply in relation to any notice, request, claim or other document which is required or authorised by virtue of this Act to be served on any person (whether by being given, made or sent to that person or otherwise) as it applies in relation to any document which is required or authorised to be served on any person by virtue of that Act.]

### Textual Amendments

**F9** S. 51 substituted (31.10.1994) by 1994 c. 21, s. 67(1), Sch. 9 para. 41(3) (with ss. 40(7), 66); S.I. 1994/2553, art. 2

### 52 Interpretation etc.

- (1) In this Act, unless the context otherwise requires—

“agriculture”, “agricultural” and “agricultural land”—

  - (a) in relation to England and Wales, have the meanings given by section 109 of the <sup>M2</sup>Agriculture Act 1947;

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- (b) in relation to Scotland, have the meanings given by section 86 of the <sup>M3</sup>Agriculture (Scotland) Act 1948;
  - “agricultural unit”—
- (a) in relation to England and Wales, has the meaning given by section 171(1) of the <sup>M4</sup>Town and Country Planning Act 1990;
- (b) in relation to Scotland, has the meaning given by section 196(1) of the <sup>M5</sup>Town and Country Planning (Scotland) Act 1972;
  - “claim” means a claim in writing;
  - “the claimant” and “any other person interested” have the meanings given by section 3(6) above;
  - “coal” has the same meaning as in Part I of the <sup>M6</sup>Coal Act 1938;
  - “the Corporation” means the British Coal Corporation;
  - “damage notice” has the meaning given by section 3(2) above;
  - “depreciation payments” has the meaning given by section 2(5)(b) above;
  - “dwelling-house”—
- (a) in relation to England and Wales, means any building or part of a building used wholly or partly as a private dwelling, together with any yard, garden, outhouses and appurtenances belonging to or usually enjoyed with that building or part;
- (b) in relation to Scotland, means a house including any part of a building, being a part which is occupied or intended to be occupied as a separate dwelling, and including, in particular, any flat, together with any yard, garden, outhouses and pertinents belonging to and usually enjoyed with the house;
  - “emergency works” has the meaning given by section 12(1) above;
  - “ground lease” means a lease for building purposes at a rent (or, where the rent varies, at a maximum rent) which does not substantially exceed the rent which a tenant might reasonably have been expected, at the date when the lease was granted, to pay for the land comprised in the lease, excluding any buildings, for a term equal to the term created by the lease;
  - “housing clearance powers” means Part IX of the <sup>M7</sup>Housing Act 1985 (slum clearance) or Part VI of the <sup>M8</sup>Housing (Scotland) Act 1987 (closing and demolition orders);
  - “the Lands Tribunal”, in relation to Scotland, means the Lands Tribunal for Scotland;
  - “notice” means notice in writing and “notify” shall be construed accordingly;
  - “notice of proposed remedial action” has the meaning given by section 4(4) above;
  - “owner”—
- (a) in relation to any real property in England and Wales, means the lessee under the ground lease if it is held on such a lease, and the owner of the fee simple if it is not;
- (b) in the case of any heritable property in Scotland, means the proprietor of the *dominium utile* if the property is feudal property, and the owner of the property if it is not;
  - “payments in lieu” has the meaning given by section 2(5)(a) above;
  - “prescribed” means prescribed by regulations made by the Secretary of State;
  - “remedial obligation” has the meaning given by section 2(3) above;

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“remedial works” has the meaning given by subsection (2) of section 6 above (subject to subsection (7) of that section);

“request” means a request in writing;

“schedule of remedial works” has the meaning given by section 6(8) above;

“statutory undertakers” means—

- (a) any persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of hydraulic power; and
- (b) any of the following, namely, any licence holder within the meaning of the <sup>M9</sup>Electricity Act 1989, any public gas supplier, any water or sewerage undertaker, the National Rivers Authority, any public telecommunications operator, the Post Office, the Civil Aviation Authority and any relevant airport operator within the meaning of Part V of the <sup>M10</sup>Airports Act 1986;

“stop notice” has the meaning given by section 16(4) above;

“structure” includes any works providing passage or hard standing for persons, animals or vehicles (including railway or tramway vehicles and aircraft);

“subsidence damage” has the meaning given by section 1 above;

“works” includes sewers, drains, pipes, cables, wires and any other apparatus.

- (2) References in this Act, in relation to any damage, to a notice affecting the required remedial action in respect of the damage are references to—
  - (a) any notice of proposed remedial action with respect to that damage; and
  - (b) any notice with respect to a decision by the Corporation to make or revoke an election to take in respect of that damage any remedial action other than that indicated in any such notice as is mentioned in paragraph (a) above.
- (3) References in this Act, in relation to any interest payable by the Corporation, to the applicable rate are references to such rate as may from time to time be prescribed by order made by the Secretary of State; and an order under this subsection—
  - (a) may apply different rates in relation to different periods;
  - (b) may include provision for a nil rate to apply in relation to any period; and
  - (c) may fix any rate by specifying it or by applying any rate for the time being applicable for any other purpose (whether statutory or otherwise).

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

**C13** S. 52(1) amended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(2)(I)**; S.I. 1996/218, **art. 2**

**C14** S. 52(1) applied (31.10.1994) by 1994 c. 21, **s. 45(3)** (with ss. 40(7), 66); S.I. 1994/2552, **art. 2, Sch. 1**

#### **Commencement Information**

**I12** S. 52 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, **art. 2**

#### **Marginal Citations**

**M2** 1947 c. 48.

**M3** 1948 c. 45.

**M4** 1990 c. 8.

**M5** 1972 c. 52.

**M6** 1938 c. 52.

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<b>M7</b>	1985 c. 68.
<b>M8</b>	1987 c. 26.
<b>M9</b>	1989 c. 29.
<b>M10</b>	1986 c. 31.

## 52 Interpretation etc. **E+W+S**

- (1) In this Act, unless the context otherwise requires—
- “agriculture”, “agricultural” and “agricultural land”—
- (a) in relation to England and Wales, have the meanings given by section 109 of the <sup>M12</sup>Agriculture Act 1947;
  - (b) in relation to Scotland, have the meanings given by section 86 of the <sup>M13</sup>Agriculture (Scotland) Act 1948;
- “agricultural unit”—
- (a) in relation to England and Wales, has the meaning given by section 171(1) of the <sup>M14</sup>Town and Country Planning Act 1990;
  - (b) in relation to Scotland, has the meaning given by section 196(1) of the <sup>M15</sup>Town and Country Planning (Scotland) Act 1972;
- “claim” means a claim in writing;
- “the claimant” and “any other person interested” have the meanings given by section 3(6) above;
- “coal” has the same meaning as in Part I of the <sup>M16</sup>Coal Act 1938;
- “the Corporation” means the British Coal Corporation;
- “damage notice” has the meaning given by section 3(2) above;
- “depreciation payments” has the meaning given by section 2(5)(b) above;
- “dwelling-house”—
- (a) in relation to England and Wales, means any building or part of a building used wholly or partly as a private dwelling, together with any yard, garden, outhouses and appurtenances belonging to or usually enjoyed with that building or part;
  - (b) in relation to Scotland, means a house including any part of a building, being a part which is occupied or intended to be occupied as a separate dwelling, and including, in particular, any flat, together with any yard, garden, outhouses and pertinents belonging to and usually enjoyed with the house;
- “emergency works” has the meaning given by section 12(1) above;
- “ground lease” means a lease for building purposes at a rent (or, where the rent varies, at a maximum rent) which does not substantially exceed the rent which a tenant might reasonably have been expected, at the date when the lease was granted, to pay for the land comprised in the lease, excluding any buildings, for a term equal to the term created by the lease;
- “housing clearance powers” means Part IX of the <sup>M17</sup>Housing Act 1985 (slum clearance) or Part VI of the <sup>M18</sup>Housing (Scotland) Act 1987 (closing and demolition orders);
- “the Lands Tribunal”, in relation to Scotland, means the Lands Tribunal for Scotland;
- “notice” means notice in writing and “notify” shall be construed accordingly;
- “notice of proposed remedial action” has the meaning given by section 4(4) above;

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*Status: Point in time view as at 31/10/1994.*

*Changes to legislation: There are currently no known outstanding effects for the Coal Mining Subsidence Act 1991, Part V. (See end of Document for details)*

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“owner”—

- (a) in relation to any real property in England and Wales, means the lessee under the ground lease if it is held on such a lease, and the owner of the fee simple if it is not;
- (b) in the case of any heritable property in Scotland, means the proprietor of the *dominium utile* if the property is feudal property, and the owner of the property if it is not;

“payments in lieu” has the meaning given by section 2(5)(a) above;

“prescribed” means prescribed by regulations made by the Secretary of State;

“remedial obligation” has the meaning given by section 2(3) above;

“remedial works” has the meaning given by subsection (2) of section 6 above (subject to subsection (7) of that section);

“request” means a request in writing;

“schedule of remedial works” has the meaning given by section 6(8) above;

“statutory undertakers” means—

- (a) any persons authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of hydraulic power; and
- (b) any of the following, namely, any licence holder within the meaning of the <sup>M19</sup>Electricity Act 1989, any public gas supplier, any water or sewerage undertaker, the National Rivers Authority, any public telecommunications operator, the Post Office, the Civil Aviation Authority and any relevant airport operator within the meaning of Part V of the <sup>M20</sup>Airports Act 1986;

“stop notice” has the meaning given by section 16(4) above;

“structure” includes any works providing passage or hard standing for persons, animals or vehicles (including railway or tramway vehicles and aircraft);

“subsidence damage” has the meaning given by section 1 above;

“works” includes sewers, drains, pipes, cables, wires and any other apparatus.

- (2) References in this Act, in relation to any damage, to a notice affecting the required remedial action in respect of the damage are references to—
  - (a) any notice of proposed remedial action with respect to that damage; and
  - (b) any notice with respect to a decision by the Corporation to make or revoke an election to take in respect of that damage any remedial action other than that indicated in any such notice as is mentioned in paragraph (a) above.
- (3) References in this Act, in relation to any interest payable by the Corporation, to the applicable rate are references to such rate as may from time to time be prescribed by order made by the Secretary of State; and an order under this subsection—
  - (a) may apply different rates in relation to different periods;
  - (b) may include provision for a nil rate to apply in relation to any period; and
  - (c) may fix any rate by specifying it or by applying any rate for the time being applicable for any other purpose (whether statutory or otherwise).

*Status: Point in time view as at 31/10/1994.*

*Changes to legislation: There are currently no known outstanding effects for the Coal Mining Subsidence Act 1991, Part V. (See end of Document for details)*

#### Commencement Information

**I15** S. 52 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, **art. 2**

#### Marginal Citations

**M12** 1947 c. 48.

**M13** 1948 c. 45.

**M14** 1990 c. 8.

**M15** 1972 c. 52.

**M16** 1938 c. 52.

**M17** 1985 c. 68.

**M18** 1987 c. 26.

**M19** 1989 c. 29.

**M20** 1986 c. 31.

### 53 Transitional provisions, savings and repeals.

- (1) The transitional provisions and savings contained in Schedule 7 to this Act shall have effect; but nothing in this subsection shall be taken as prejudicing the operation of sections 16 and 17 of the <sup>M11</sup>Interpretation Act 1978 (which relate to the effect of repeals).
- (2) The enactments mentioned in Schedule 8 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

#### Commencement Information

**I13** S. 53 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, **art. 2**

#### Marginal Citations

**M11** 1978 c. 30.

### 54 Short title, commencement and extent.

- (1) This Act may be cited as the Coal Mining Subsidence Act 1991.
- (2) This Act shall come into force on such day as the Secretary of State may by order appoint, and different days may be appointed for different provisions or for different purposes.
- (3) Without prejudice to the provisions of Schedule 7 to this Act, an order under subsection (2) above may make such transitional provisions and savings as appear to the Secretary of State necessary or expedient in connection with any provision brought into force by the order.
- (4) This Act does not extend to Northern Ireland.

#### Commencement Information

**I14** S. 54 wholly in force at 30. 11. 1991 see s. 54(2) and S.I. 1991/2508, **art. 2**

**Status:**

Point in time view as at 31/10/1994.

**Changes to legislation:**

There are currently no known outstanding effects for the Coal Mining Subsidence Act 1991, Part V.