



Coal Mining Subsidence Act 1991

1991 CHAPTER 45

PART V

SUPPLEMENTAL

Claims

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.

Changes to legislation: *Coal Mining Subsidence Act 1991, Section 38 is up to date with all changes known to be in force on or before 17 January 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*

- (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 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- (a) substitute for the period specified in subsection (4) above (whether as originally enacted or as previously amended under this subsection) such other period as he thinks fit; or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)

- C1** 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

- I1** S. 38 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, Section 38 is up to date with all changes known to be in force on or before 17 January 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](#)