



Coal Mining Subsidence Act 1991

1991 CHAPTER 45

PART V

SUPPLEMENTAL

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 [^{F1}appropriate 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.

Textual Amendments

- F1** Words in s. 40(1) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, [Sch. 1 para. 218](#) (with Sch. 5)

Changes to legislation: Coal Mining Subsidence Act 1991, Section 40 is up to date with all changes known to be in force on or before 27 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

Modifications etc. (not altering text)

- C1** 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**
- C2** 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**
- C3** 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

- I1** S. 40 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 40 is up to date with all changes known to be in force on or before 27 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](#)