
STATUTORY INSTRUMENTS

2016 No. 562

The Nuclear Installations (Liability for Damage) Order 2016

Damage to property and measures of reinstatement

15. After section 13 of the 1965 Act insert—

“13A Damage to property and measures of reinstatement

- (1) Subsection (2) applies if—
 - (a) a person claims compensation under this Act in respect of damage to property,
 - (b) the property is affected by relevant measures of reinstatement (as defined by section 11A) that have been taken by, or under arrangements made by, a qualifying public authority (as defined in section 11A), and
 - (c) the damage to property and the significant impairment of the environment were caused by the same occurrence.
- (2) The court that is determining the person’s claim in respect of damage to property must take into account, as affecting the amount of the person’s loss, any benefit or loss that—
 - (a) arises from or in connection with the measures of reinstatement, and
 - (b) is gained or suffered by the person.
- (3) Subsection (4) applies if—
 - (a) a person claims compensation under this Act in respect of damage to property,
 - (b) the property is affected, or likely to be affected by, relevant measures of reinstatement—
 - (i) that have been started by, or under arrangements made by, a qualifying public authority but have not been completed, or
 - (ii) that are proposed to be taken by, or under arrangements made by, a qualifying public authority, and
 - (c) the damage to property and the significant impairment of the environment were caused by the same occurrence.
- (4) The court in determining the person’s claim in respect of damage to property may, if it considers it just to do so, take into account, as affecting the amount of the person’s loss, any benefit or loss that is likely to—
 - (a) arise from or in connection with the measures of reinstatement as proposed to be carried out and be gained by the person, and
 - (b) be gained or suffered (as the case may be) by the person.
- (5) Where the court determines a person’s claim in the manner described in subsection (2) or (4), the person may not claim to be further compensated under this Act in respect of measures of reinstatement affecting the property that are taken because of the same occurrence.
- (6) Subsection (7) applies if—

- (a) a qualifying public authority claims compensation under this Act by virtue of section 11A(1) in relation to significant impairment of a part of the environment (“the section 11A(1) claim”),
 - (b) some or all of the significant impairment also constitutes damage to property, and
 - (c) the amount of compensation payable in respect of the section 11A(1) claim falls to be determined after—
 - (i) a court has determined, in proceedings for compensation under this Act for damage to a person’s property, that compensation is payable in accordance with section 16 for the damage to the property, or
 - (ii) the persons who are, or would be, parties to such proceedings have agreed for the purposes of such proceedings that compensation is payable in accordance with section 16 for the damage to the property.
- (7) The court in determining the section 11A(1) claim may, if it considers it just to do so, reduce the amount of compensation otherwise payable in accordance with section 16 so that compensation claimed by virtue of section 11A(1) is not payable by reference to matters for which compensation for damage to property is already payable.
- (8) Subsections (1) to (7) apply in relation to—
- (a) relevant measures of reinstatement (as defined by paragraph 1 of Schedule 1A),
 - (b) persons who satisfy the condition in paragraph 2 of Schedule 1A, and
 - (c) claims made by virtue of paragraph 1 of Schedule 1A,
- as they apply in relation to relevant measures of reinstatement (as defined by section 11A), qualifying public authorities and claims made by virtue of section 11A(1).”