1957 No. 1405

The Coal-Mining (Subsidence) (Damage Notice) Regulations, 1957

Made - - - -	1*st August*, 1957
Laid before Parliament	2*nd August*, 1957
Coming into Operation	3*rd August*, 1957

The Minister of Power in exercise of the powers conferred upon him by subsection (1) of section two of the Coal-Mining (Subsidence) Act, 1957(a), and of all other powers him enabling, hereby makes the following regulations:—

1. These regulations shall come into operation on the third day of August, nineteen hundred and fifty-seven, and may be cited as the Coal-Mining (Subsidence) (Damage Notice) Regulations, 1957.

2.—(1) In these regulations the following expressions have the meanings hereby assigned to them respectively, that is to say:—

" the Act " means the Coal-Mining (Subsidence) Act, 1957;

" the Board " means the National Coal Board;

" damage notice " has the meaning assigned to it by subsection (1) of section two of the Act;

" licensee of the Board " means a person working and getting coal or coal and other minerals in accordance with the terms of a licence granted by the Board;

" the Minister " means the Minister of Power;

" subsidence damage " has the meaning assigned to it by subsection (1) of section one of the Act.

(2) Expressions to which meanings are assigned by the Act or by these regulations shall (unless the contrary intention appears) have the same meanings in any document issued under the provisions of these regulations.

(3) The Interpretation Act, 1889(b), shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

3. Subject to the provisions of regulations four and five hereof, the time, within which a damage notice must be given for the purposes of subsection (1) of section two of the Act, shall be—

(*a*) in the case of subsidence damage which occurred before the passing of the Act but after the thirty-first day of December, nineteen hundred and fifty-five, being damage to which section eight of the Act applies, within four months of the passing of the Act;

(*b*) in the case of subsidence damage occurring after the passing of the Act, within two months of the occurrence of such damage.

(a) 5 & 6 Eliz. 2. c. 59. (b) 52 & 53 Vict. c. 63.

4. The Minister or the Board may on written application being made in that behalf extend the time for giving a damage notice, whether it has expired or not, in any case in which it appears to him or them that there is a reasonable ground for the notice not being given or not having been given within that time, or that the liabilities of the Board in respect of that subsidence damage have not been substantially increased by the notice not having been given within that time.

5. Where any person in exercise of the election provided for in section six of the Act proceeds with a claim against the Board or a licensee of the Board for damages or compensation under a liability arising apart from the Act and that claim was made before the expiration of the time otherwise prescribed in these regulations for the service of a damage notice in respect of the same subsidence damage, the time within which a damage notice must be served by that person in respect of such damage shall not begin to run until that claim is either determined or withdrawn before determination.

6. A damage notice shall be given in the form set out in the Schedule hereto or in a form containing the like declaration and information, and may be served by delivering it at, or sending it by post in a registered letter addressed to, any office of the Board.

Dated this first day of August, nineteen hundred and fifty-seven.

Mills,
Minister of Power.

SCHEDULE

COAL-MINING (SUBSIDENCE) ACT, 1957, SECTION 2 (1)
DAMAGE NOTICE

Notice is hereby given that the property referred to below, being property to which the Act applies, has sustained subsidence damage.

PART I

DAMAGE TO DWELLING-HOUSES

(To be completed only when damage occurs to a dwelling-house or to a building or structure appurtenant to a dwelling-house.)

A. General

1. Address of damaged property (*use block letters*).
2. Nature of property (e.g. house or flat).
3. Date when damage occurred.
4. Brief description of damage (e.g. walls cracked, windows jammed, etc.).
5. Are you:—
(*a*) the owner of the freehold of the property (in England and Wales), or the proprietor of the dominium utile or the owner of the property (in Scotland), or
(*b*) a tenant liable to make good the damage or a ground lessee, or
(*c*) a tenant entitled to serve a damage notice under section 10 of the Act?
6. Give as full particulars as you can of any other persons having an interest in the property including their names and addresses and the nature of their interest.
7. Are you the occupier of the property?
If so, state days and times (mornings or afternoons) when it can be inspected.

B. Past Damage

(To be completed only if damage occurred on or after 1st January, 1956, and before 31st July, 1957, to a dwelling-house to which the Coal-Mining (Subsidence) Act, 1950, does not apply.)

8. Has the damage been repaired?

If so, give name and address of the builder or other person who did the repairs.

9. If the damage has been repaired, were you at that time the owner of the damaged property or liable to make good the damage? If so, have you paid or are you still liable to pay for the repairs?

PART II

DAMAGE TO PROPERTY OTHER THAN DWELLING-HOUSES

(To be completed in all cases when damage occurs to any property other than a dwelling-house or a building or structure appurtenant to a dwelling-house.)

10. Postal address of the damaged property. (If there is no postal address, state the locality of the damaged property.)

11. Describe the nature of the property and the purposes for which it is normally used.

12. Date when damage occurred.

13. Brief description of the damage.

14. Are you:—

(*a*) the owner of the freehold of the property (in England and Wales), or the proprietor of the dominium utile or the owner of the property (in Scotland), or

(*b*) a tenant liable to make good the damage or a ground lessee, or

(*c*) a tenant entitled to serve a damage notice under section 10 of the Act?

15. Give as full particulars as you can of any other persons having an interest in the property, including their names and addresses and the nature of their interest.

16. Will the repair of the damage fall within a statutory duty in connection with the maintenance of public services imposed on a Government Department, local authority or statutory undertakers?

PART III

GENERAL

A. To be completed in all cases

17. Is the property or any part of it specified in the Schedule to the Ancient Monuments Protection Act, 1882, or for the time being specified in a list published under Section 12 of the Ancient Monuments Consolidation and Amendment Act, 1913?

B. To be completed in all cases in England only (excluding Wales and Monmouthshire).

18. Is the property:—

(*a*) the property of an ecclesiastical benefice of the Church of England?

(*b*) a Church of England church or the site of such a church?

(*c*) a burial ground subject to a bishop of the Church of England?

19. If the answer to any part of question 18 is "yes", is this notice being served by the Church Commissioners?

I/We declare that to the best of my/our knowledge and belief the above information is true.

Name in block letters ..... Signed .....

Address ..... Date .....

.....

(If the person completing this notice is doing so on behalf of any other person or persons, give:—

The name(s) of such other person(s) (in block letters) .....

The present address(es) of such other person(s) .....

.....)

EXPLANATORY NOTE

(This note is not part of the regulations, but is intended to indicate their general purport.)

These regulations prescribe the time within which and the manner in which a damage notice is to be given to the National Coal Board in respect of the occurrence of subsidence damage to any property to which the Coal-Mining (Subsidence) Act, 1957, applies. (S. 17 (2) of the Act specifies the time when subsidence damage is deemed to occur for this and other purposes.)

In the case of damage which occurred before the passing of the Act, but after 31st December, 1955, to or in connection with a dwelling-house defined in s. 8 of the Act, the notice is to be given within four months of the passing of the Act.

In the case of damage which occurs to any property after the passing of the Act, the damage notice is to be served within two months of the occurrence of the damage.

Special provision is made for cases where a person exercises a right apart from the Act to claim compensation or damages against the Board or a licensee of the Board.

The prescribed periods may be extended by the Minister or the National Coal Board where there is a reasonable ground for not giving the notice within the proper time or where the liabilities of the Board have not been substantially increased by the failure.

The Schedule contains the form in which the damage notice must be given.