

7 Types of compensation

(1) Compensation for damage arising out of [subsidence](#) A person is entitled to the following compensation:

(a) compensation for any damage to [improvements](#) or [goods](#) owned by the person that arises from [subsidence](#), unless the [subsidence](#) is due to operations carried on by the owner of the [improvements](#) or [goods](#) or an [affiliate](#) of the owner,

(b) compensation to meet the reasonable and necessary expense incurred or to be incurred as a result of such damage,

(c) in relation to a building or works (or any part of a building or works) that are leased by the owner to another person--reasonable compensation for the rent that would have been paid or payable for any period during which the building or works are uninhabitable, under repair or in the course of construction because of damage arising from [subsidence](#),

(d) in relation to a building or works (or any part of a building or works) that are occupied by the owner--reasonable compensation for accommodation expenses of the owner (including relocation expenses and rent) for any period during which the building or works are uninhabitable, under repair or in the course of construction because of damage arising from [subsidence](#).

(1A) an amount of compensation for frustration, inconvenience, loss of enjoyment of property and psychological harm resulting from damage claimed pursuant to subsection (1).

(1B) the amount payable pursuant to subsection (1A) are to be not more than 20% of the compensation payable in accordance with section 7(1).

(1C) entitlements in accordance with subsection (1A) do not transfer to successors in title in accordance with subsection (3).

(2) Compensation in relation to actions to prevent or mitigate damage A person is entitled to the following compensation:

(a) compensation for [preventative or mitigative expenses](#),

(b) compensation for damage incurred as a result of the [exercise](#) by the [Chief Executive](#) of the [Chief Executive's functions](#) under [section 29](#) (Works for prevention or mitigation of damage from [subsidence](#)).

(3) Entitlement transfers to successors in title For the avoidance of doubt, a successor in title to an original owner of an [improvement](#) or [goods](#) is entitled to compensation under this Act, as if the successor were the original owner, in

relation to [subsidence](#) and damage that occurred before the transfer of ownership of the [improvement](#) or [goods](#) except as provided in subsection (1C)"

(4) In this section:

"affiliate" , in relation to an [entity](#) (

"the entity"), means:

(a) another [entity](#) that is controlled (within the meaning of [section 50AA](#) of the [Corporations Act 2001](#) of the Commonwealth) by [the entity](#), or

(b) if [the entity](#) is a body corporate--an [entity](#) that is a [related entity](#) of [the entity](#).

"entity" and

"related entity" have the same meanings as in [section 9](#) of the [Corporations Act 2001](#) of the Commonwealth.

12 Forwarding of claims relating to [active coal mines](#) to mine [proprietors](#)

- (1) The [Chief Executive](#) is to:
 - (a) forward each claim relating to compensation arising from an [active coal mine](#) to the [proprietor](#) of the [coal mine](#), and
 - (b) determine each other claim for compensation in accordance with this Act.
- (2) The [proprietor](#) of the [coal mine](#) to whom a claim has been forwarded under subsection (1) (a) may request the [Secretary](#) in writing to review the determination of the [Chief Executive](#) that the claim relates to compensation arising from the [proprietor's active coal mine](#).
- (3) A request under this section must be made within 21 days after the date on which the claim was forwarded to the [proprietor](#).
- (4) On receiving a request, the [Secretary](#) is to review the [Chief Executive's](#) determination and may confirm or reject the forwarding of the claim.
- (5) The [Secretary](#) must give the following persons notice in writing of the [Secretary's](#) decision:
 - (a) the [proprietor](#) of the [coal mine](#),
 - (b) the claimant for compensation,
 - (c) the [Chief Executive](#).
- (6) If the [Secretary](#) rejects the forwarding of a claim to the [proprietor](#) of the [coal mine](#), the [Chief Executive](#) may:
 - (a) if the [Chief Executive](#) is of the opinion that the claim relates to compensation arising from another [active coal mine](#), forward the claim to the [proprietor](#) of that other [coal mine](#), or
 - (b) in any other case, determine the claim for compensation in accordance with this Act.
- ~~(7) The [proprietor](#) of a [coal mine](#) to whom a claim has been forwarded under this section is to determine the claim for compensation in accordance with this Act.~~
- (7) A [proprietor](#) of a [coal mine](#) may not request a second or subsequent review in respect of any particular claim unless new and material evidence has been discovered after the determination of the earlier review
- ~~(8) A [proprietor](#) of a [coal mine](#) may not request a second or subsequent review in respect of any particular claim unless new and material evidence has been discovered after the determination of the earlier review.~~

13 Determination of claims in accordance with [approved procedures](#)

(1) Claims for compensation are to be determined in accordance with the [approved procedures](#).

(1A) the approved procedures must contain a rebuttable presumption that damage occurring to improvements or goods located within a mine subsidence district is caused by coal mine subsidence.

(2) A claim must be determined within:

(a) the period of time specified in the [approved procedures](#) or otherwise prescribed by the regulations,

~~(b) such longer period of time as may be approved by the [Chief Executive](#) in a particular case.~~

(b) the [approved procedures](#) or regulations must contain a provision that requires liability for claims for compensation to be determined within three months of the date in which the claim for compensation is duly made pursuant to section 11.

(c) in circumstances where the extent of the damage to improvements or goods is unable to be ascertained due ongoing subsidence at the property, the approved procedures may make allowances to extend the period in which the amount of compensation (as distinct from liability) may be determined at a later date not more than 12 months after the liability determination has been made.

~~(3) A failure to determine a claim within the period referred to in subsection (2) is taken, for the purposes of this Part, to be a disallowance of the claim.~~

(3) A failure to determine a claim within the period referred to in subsection (2)(b) is taken, for the purposes of this Part, to be an acceptance of liability for the claim.

14 Approved procedures

(1) The Chief Executive may approve procedures for the determination of claims under this Act.

(2) Without limiting subsection (1), approved procedures may deal with the following:

(a) the determination of whether damage is caused by subsidence arising from an active or non-active coal mine,

(b) the determination of claims relating to damage caused by or likely to be caused by subsidence arising from an active coal mine, with the agreement of the claimant, by the proprietor of the coal mine:

(i) purchasing the land, improvements or goods concerned, or

(ii) carrying out or causing to be carried out works to restore the damaged improvements or goods or works to prevent or mitigate damage to improvements or goods,

(c) the independent assessment of claims, including the selection of independent assessors and the processes for such assessment,

(d) the payment of costs, fees and charges (or the prohibition of costs, fees and charges) in connection with the determination of claims under this Act,

(e) any other matters prescribed by the regulations for the purposes of this section.

(3) The Chief Executive may amend, revoke or replace the approved procedures.

(4) The Chief Executive is:

~~(a) to consult the proprietors of coal mines before the Chief Executive approves, amends or replaces the approved procedures, and~~

(a) to provide reasonable notice of any amendment to the approved procedures before the amendment takes effect.

(5) The approved procedures may:

(a) adopt the provisions of other publications, whether with or without modification or addition and whether in force at a particular time or from time to time, and

(b) apply generally or be limited in their application by reference to specified exceptions or factors or apply differently according to different factors of a specified kind (or do a combination of those things).

~~(b) to provide reasonable notice of any amendment to the [approved procedures](#) before the amendment takes effect.~~

~~(5) Subsection (4) (a) does not apply to an amendment of the [approved procedures](#) that, in the opinion of the [Chief Executive](#), is minor or trivial in nature.~~

~~(6) The [approved procedures](#) may:~~

~~(a) adopt the provisions of other publications, whether with or without modification or addition and whether in force at a particular time or from time to time, and~~

~~(b) apply generally or be limited in their application by reference to specified exceptions or factors or apply differently according to different factors of a specified kind (or do a combination of those things).~~

Note : Under [section 380A](#) of the [Mining Act 1992](#), decision-makers may take contraventions of this Act into consideration in determining whether a person is a fit and proper person under that Act

15 Review of claim determinations by [Secretary](#)

(1) A claimant whose claim for compensation under this Act is wholly or partly disallowed (whether by the [Chief Executive](#) or by the [proprietor](#) of a [coal mine](#)) may request the [Secretary](#) in writing to review the decision.

~~(2) A request under this section must be made within 3 months of the decision to disallow the claim.~~

(2) A request under this section must be made within 6 months of the decision to disallow the claim.

(3) On receiving a request, the [Secretary](#):

(a) if the claim is in relation to [infrastructure](#), may:

- (i) review the claim and may allow or disallow the whole or part of the claim, or
- (ii) refuse to review the claim, or

(b) in any other case, is to review the claim and may allow or disallow the whole or part of the claim.

(4) The [Secretary](#) must give the following persons notice in writing of the [Secretary](#)'s decision as to the claim:

(a) the claimant for compensation,

(b) in relation to a claim for compensation in relation to [subsidence](#) arising from an [active coal mine](#)--the [proprietor](#) of the [coal mine](#),

(c) in any case--the [Chief Executive](#).

(5) A claimant may not request more than one review in respect of any particular claim.

(6) Subject to [section 16](#) (Appeals), a [proprietor](#) of a [coal mine](#) must give effect to a decision of the [Secretary](#) under this section.

Maximum penalty:

(a) in the case of an individual--500 penalty units, or

(b) in the case of a corporation--1,000 penalty units.

Note : Under [section 380A](#) of the [Mining Act 1992](#), decision-makers may take contraventions of this Act into consideration in determining whether a person is a fit and proper person under that Act