



Prime Minister

Yes no

Mr Walsby seeks formal agreement to the Coal Mining Subsidence Bill being drafted. The Bill is not controversial; financial & manpower implications have been cleared.

Content? BHP 19/7

COAL MINING SUBSIDENCE BILL

In 1984 the Waddilove Committee reported on the operation of the repair and compensation arrangements for coal mining subsidence damage. The White Paper of 1987 in response broadly endorsed the Waddilove proposals for reform and the Government's Consultative Document of 1988 sought views on detailed legislative proposals. Cabinet has agreed that a Coal Mining Subsidence Bill should be included in the legislative programme for the coming Session.

Colleagues have already agreed the need for, and broad content of, this Bill when endorsing the White Paper and Consultative Document. I now enclose a Memorandum summarising the main policy intentions. This needs to be formally agreed before drafting authority can be given. There have been extensive consultations with officials of interested Departments and the preparation of Instructions is now well advanced. Given the nature of this Bill, I very much hope the Memorandum can be cleared in correspondence.

I would be grateful to know if you and others to whom I am copying this minute are content.

Copies of this letter and enclosure go to other Members of E(A), the Lord Chancellor, Sir Robin Butler and First Parliamentary Counsel.

SECRETARY OF STATE FOR ENERGY

19 July 1990

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COAL MINING SUBSIDENCE BILL

Memorandum by the Secretary of State for Energy

1. I seek the agreement of colleagues to the policy content of the Coal Mining Subsidence Bill which has a provisional place in the legislative programme for the 1990/91 Session (CC(90)13th).
2. In 1983 the Government appointed a Committee under Lewis Waddilove to examine the practical problems of the operation of the repair and compensation system for coal mining subsidence damage, and to consider possible improvements. This followed concern about the way the National Coal Board had been dealing with subsidence damage, particularly in Nottinghamshire. The Waddilove Committee reported in 1984. The White Paper of 1987 broadly endorsed Waddilove's proposals for detailed reform, including the need for new legislation to consolidate and revise the two existing and inconsistent statutes. The Government's Consultative Document of 1988 sought views on the detailed legislative proposals. The Bill that is being prepared reflects the main recommendations of the Waddilove Committee as endorsed by the White paper, taking into account the views of consultees, including British Coal, as well as of interested Government Departments.

Main Proposals

3. The main elements of the proposed regime for the repair of damage arising from coal mining subsidence are as follows:
 - a. the primary duty on British Coal will be to repair damage caused by coal mining subsidence. Compensation in lieu will only be permitted in carefully defined circumstances. In this way blight and dereliction in mining areas will be avoided.

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- b. British Coal will be required to make good the damage to the property owner's reasonable satisfaction and without expense to him. The standard of repair will in general be no less in practice than a requirement to restore to the pre-damaged condition, as proposed by Waddilove, but should avoid disputes about the state of the property or land prior to the damage occurring.
- c. Although the primary duty to repair is to be imposed on British Coal, the Corporation will not be permitted to refuse unreasonably a request by the property owner that he be reimbursed the reasonable costs of using his own contractor to effect the repairs. This will allow the property owner to merge subsidence repairs with other works or developments, as well as to use the contractor of his choice.
- d. Compensation payments in lieu of repair will be permitted only in the following circumstances, and not as at present at the discretion of British Coal: where the cost of repairs exceeds by at least 20% the depreciation in value of the property from its undamaged state (this figure will be variable by order in the light of experience); where the extent of dilapidation of a property is such that subsidence damage could not separately be repaired; and where full repairs are not physically possible, for example when the tilting of a building cannot be corrected.
- e. Reasonable costs incurred by the property owner arising incidentally to the occurrence of subsidence damage and the pursuit of a claim will be reimburseable. These include damage to chattels, the cost of any temporary move from the property, compensation for loss of home if repairs are not possible (over and above the market value), professional fees, and - in the case of agricultural land - compensation for depreciation of crops and for any permanent damage.

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Controversy and Timing

6. The Government has been under pressure to introduce subsidence legislation from Members representing mining constituencies on both sides of the House. The Opposition have offered to co-operate in the passage of a Bill. The Bill's proposals are unlikely to be controversial in themselves, although the Opposition may treat them as a pre-privatisation measure.

7. On timing, I would wish enactment by the Summer recess of 1991.

Financial and Manpower Implications

8. British Coal will show in their 1990 Accounts provision for subsidence liabilities of some £250m. This provision, together with other elements contributing to the Corporation's accumulated group deficit at 31 March 1990, will establish the limit to deficiency grant available under the Coal Industry Act 1990. The Corporation's policy is to adjust the provision for subsidence liabilities in each financial year to reflect the increase in liability as new undermining takes place as well as expenditure on repair and compensation. British Coal's disbursements in respect of subsidence damage have been declining in recent years (£41m in 1988-89), reflecting changes in mining practice and location aimed at reducing the extent of such damage, notwithstanding anticipation of the likely new legislative regime. It is not expected that the measures included in the Bill will have a material effect on the Corporation's provisions for subsidence damage or on disbursements.

9. No changes in Departmental manpower are expected.

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Community Implications

10. There are no European Community implications.

Recommendations

11. I invite colleagues to endorse a Coal Mining Subsidence Bill to include the matters described in paragraphs 3 and 4 above, on the basis that officials of the Departments concerned will agree more detailed matters.

Secretary of State for Energy
16 July 1990

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*File
PMH*

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

20 July 1990

Down John,

COAL MINING SUBSIDENCE BILL

The Prime Minister was grateful for your Secretary of State's minute of 19 July seeking drafting authority for the Coal Mining Subsidence Bill.

The Prime Minister is content for the Bill to be drafted as proposed, subject to any comments on the details from the other members of E(A) and the Lord Chancellor.

I am copying this letter to the Private Secretaries to members of E(A), Paul Stockton (Lord Chancellor's Office), Sonia Phippard (Cabinet Office) and P.J. Moore (Office of the First Parliamentary Counsel).

*Yours,
Barry*

BARRY H. POTTER

John Neilson, Esq.,
Department of Energy.

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the department for Enterprise

The Rt. Hon. Peter Lilley MP
Secretary of State for Trade and Industry

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n.b.P.M.
BHP
27/7

Rt Hon John Wakeham MP
Secretary of State for Energy
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SW1E 5HE

Department of
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Our ref JW4ANN
Your ref
Date 27 July 1990

Dear John

COAL MINING SUBSIDENCE BILL

Thank you for copying to me your letter of 19 July to the Prime Minister and its enclosure concerning your proposed Coal Mining Subsidence Bill.

I am content with your memorandum, though my officials have raised some detailed points about the Mines (Working Facilities and Support) Acts which I administer. Your officials are considering these.

I am copying this letter to the Prime Minister, other Members of E(A), the Lord Chancellor, Sir Robin Butler and First Parliamentary Counsel.

Yours ever

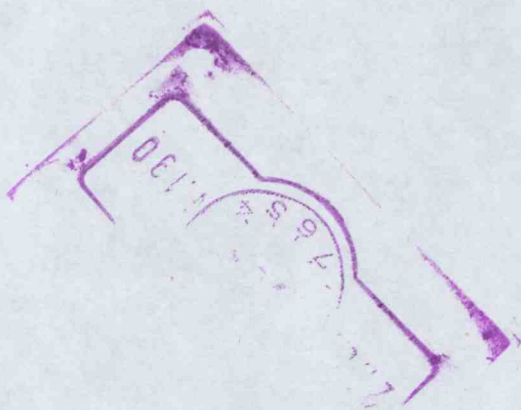
Peter

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NAT IND : COOL PRZ





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Northern Ireland Office
Stormont Castle
Belfast BT4 3ST

Rt Hon John Wakeham MP
Secretary of State for Energy
Department of Energy
1 Palace Street
LONDON
SW1E 5HE

26/8/90

3 August 1990

Dear John,

COAL MINING SUBSIDENCE BILL

FILE WITH BP.

Thank you for sending me a copy of your letter of ~~19~~ July to the Prime Minister, together with a copy of the Memorandum summarising the policy intentions of the Bill.

The proposed Bill does not extend to Northern Ireland. There are no coal mining operations in the Province and the National Coal Board, on whom the duties imposed by the Bill would fall, does not operate here.

I have, therefore, no comments to offer on the memorandum.

Copies of the letter go to other Members of E(A), the Lord Chancellor, Sir Robin Butler and First Parliamentary Counsel.

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Pm

PB



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NBPMats

CCPA

2 MARSHAM STREET
LONDON SW1P 3EB
071-276 3000

My ref:

Your ref:

The Rt Hon John Wakeham MP
Department of Energy
1 Palace Street
LONDON
SW1E 5HE

7 August 1990

R. H.

COAL MINING SUBSIDENCE BILL

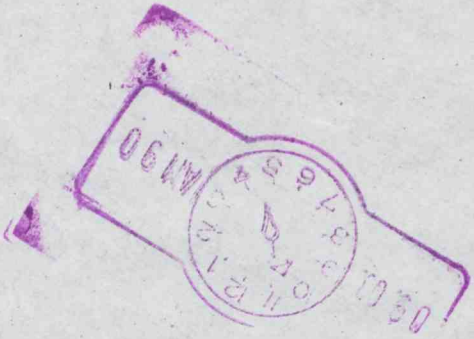
You sent me a copy of your minute of 19 July to the Prime Minister seeking colleagues' agreement to the policy content of the Coal Mining Subsidence Bill, which has a provisional place in the legislative programme for the 1990-91 Session.

My officials have been kept closely informed of your Department's proposals and I fully support the main policy intentions set out in your Memorandum. I am aware that there is considerable pressure to implement these outstanding Waddilove Committee recommendations and I am disappointed to see from the letter from Geoffrey Howe that this Bill no longer has a place in the 1990-91 Session. Nevertheless, I understand that good progress has been made in clarifying what legislation is needed and I hope that it will be possible to introduce the Bill as soon as Parliamentary time allows.

I am copying this letter to members of E(A), and of QL and to Sir Robin Butler and First Parliamentary Counsel.

Chris Patten

CHRIS PATTEN



TJS/AG



NOTE FOR THE RECORD

From: T J Sutton
Date: 23 July 1990

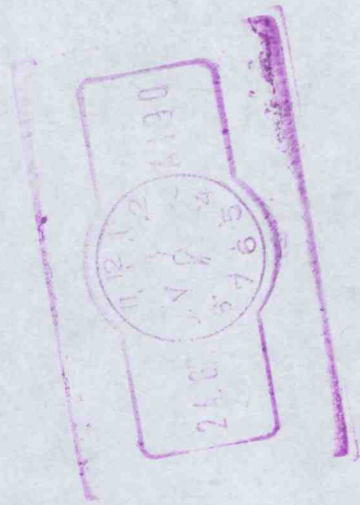
cc Mr Russell
Mrs Bailey
Mr Maclean
Ms Baxendine
Mr Potter (No 10)
Mr Morris (No 10)

COAL MINING SUBSIDENCE BILL

The Lord President spoke to the Secretary of State for Energy on Monday 23 July to follow up his letter of 20 July.

They have agreed that the Coal Mining Subsidence Bill can be included in the 1990/91 legislative programme, on the basis that it is low down, relatively speaking, in terms of the priorities of the programme and that there can be no guarantee that it will be got through. Mr Wakeham continues to hope that the Bill will be suitable for Second Reading Committee Procedure. But he accepts that if there is an early dissolution and the Bill has not completed its stages, it will be necessary to see whether the Opposition will agree to let it go through on the nod, and if not for it to fall.

T J SUTTON
Principal Private Secretary



CCP



PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT
20 July 1990

*Copy to
- Sir Wansley
+ Sir John Naisbitt
K. T. S. H.
KAP*

Dear Secretary of State,

COAL MINING SUBSIDENCE BILL

You minuted the Prime Minister on 19 July seeking colleagues' agreement to the policy content of the Coal Mining Subsidence Bill which has a provisional place in the legislative programme for the 1990-91 Session.

QL Committee have now reviewed the prospects for the legislative programme in the forthcoming Session in the light of the provisional programme accepted by the Cabinet in March and developments since then. As you know, the pressures on the programme are growing. We had not, for example, anticipated having the War Crimes Bill next session.

The Committee were clear that if we are to ensure so far as possible the smooth passage of legislation and a timely finish to the Session, that we could not accommodate all those items which were given places in the provisional programme. They consider that a number of Bills, including the Coal Mining Subsidence Bill, will have to be excluded from the programme.

I recognise the political arguments in favour of the Bill, which you set out very clearly at the Committee's meeting on 26 February. But if we are to achieve our strategy and be in a position to rise for the Summer Recess in mid-July, we must take action to offset the pressures which have arisen since the programme was agreed.

I know that you will be disappointed by this, and if you would like to meet to discuss the matter, my office will make the necessary arrangements.

I am copying this letter to the Prime Minister, members of E(A) and of QL, and to Sir Robin Butler and First Parliamentary Counsel.

[Handwritten signature]

[Handwritten signature]

18. GEOFFREY HOWE

Rt Hon John Wakeham MP

(Approved by the Lord President and signed in his absence.)

NAT IND: Coal pr 22

