

## SCHEDULES

### SCHEDULE 1

Section 1.

#### MODIFICATIONS OF MINES AND QUARRIES ACT 1954

- 1 In paragraph (b) of section 1(1) of the principal Act (which imposes a general duty on the owner of every mine and quarry to secure compliance with the provisions of that Act, so far as applicable to the mine or quarry) and in the words following that paragraph, after the words " the mine or quarry " there shall be inserted the words " and any closed tip associated with the mine or quarry ".
- 2 In subsection (2) of section 2 of the principal Act (general duties and powers of mine managers), subsection (2) of section 11 of that Act (responsibilities of surveyors) and section 99 of that Act (general powers and duties of quarry managers) the expression " the following provisions of this Act" shall be deemed to include the provisions of Part I of this Act.
- 3 In section 89 of the principal Act (penalisation of failure to observe safety directions, etc.) after the word " support" in paragraph (a) and paragraph (b) there shall be inserted the words " or tipping " , and, notwithstanding that in the application of section 89 of the principal Act to quarries by section 115 of that Act, so much of section 89 as relates to transport or support rules is excluded, so much of section 89 as relates to tipping rules shall not be excluded.
- 4 (1) For the purposes of Part VI of the principal Act (notification and investigation of accidents and diseases) a closed tip shall be deemed to form part of the mine or quarry with which it is associated.  
(2) In relation to accidents or dangerous occurrences which happen at a closed tip, any reference in section 116 of that Act to the responsible person shall be construed as a reference to the owner of the mine.
- 5 In section 135 of the principal Act (which requires that copies of the principal Act and of other instruments shall be provided at mines and quarries) after the words " this Act", in the first place where they occur, there shall be inserted the words " and of Part I of the Mines and Quarries (Tips) Act 1969 " and after the words " support rules " there shall be inserted the words " tipping rules ".
- 6 (1) For the purposes of sections 145 and 146 of the principal Act (general powers of inspectors and power of an inspector to require remedy for immediate or apprehended danger) a closed tip shall be deemed to form part of the mine or quarry with which it is associated.  
(2) In section 145(2) of the principal Act (penalties relating to powers of inspectors) after the words " this section " in paragraph (a) and the words " the foregoing subsection" in paragraph (b) there shall be inserted the words " or subsections (4) and (5) of section 3 of the Mines and Quarries (Tips) Act 1969 " .  
(3) In so far as a notice under section 146 of the principal Act relates to, or to any matter, thing or practice at, a closed tip, any reference in that section to the responsible person shall be construed as a reference to the owner of the mine.

- 7 For the purposes of Part XIV of the principal Act (offences, penalties and legal proceedings) a closed tip shall be deemed to form part of the mine or quarry with which it is associated.

## SCHEDULE 2

Section 17(7).

### PROVISIONS APPLICABLE WHERE LOCAL AUTHORITY CARRIES OUT REMEDIAL OPERATIONS ON DISUSED TIP OF WHICH IT IS OWNER

- 1 The provisions of this Schedule apply where a local authority is the owner of a disused tip situated wholly or partly within its area and the local authority—
- (a) considers that the disused tip is unstable and, by reason of that instability, constitutes or is likely to constitute a danger to members of the public ; and
  - (b) determines accordingly to carry out remedial operations in relation to that tip ; and
  - (c) requires to enter on to any land which is not in its occupation in order to carry out those remedial operations or consequential works of reinstatement or considers that it may be entitled to claim a contribution from any person under Part II of this Act.
- 2 Before commencing remedial operations, or as soon thereafter as is reasonably practicable, the local authority shall serve a notice in the prescribed form, specifying the nature and extent of the remedial operations and of any consequential works of reinstatement which it proposes to carry out, on every person falling within paragraphs (a) to (e) of section 14(4) and, for this purpose, for the words " service of the notice on the owner of the tip " in paragraph (b) of section 14(4) there shall be substituted the words " commencement of the remedial operations ".
- 3 Where a local authority has served a notice under paragraph 2 above on any person.
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- (a) section 14(7) shall apply as if the reference therein to a notice under section 14 were a reference to the notice under paragraph 2 above ; and
  - (b) in so far as the local authority requires to enter on to any land which is not in its occupation, section 18 shall apply as it applies where a local authority has served a notice under section 17(2).
- 4 Where a local authority has served a notice under paragraph 2 above on any person then, at any time within the period of three months beginning with the date of the commencement of the remedial operations specified in that notice, the local authority may make an application under section 19 and, for this purpose, that section shall have effect subject to the following modifications, namely.—
- (a) in subsection (1), the words from " a notice " to " section 17 and " shall be omitted, and in paragraph (a), for the words " service of the notice under section 14 or section 17 " there shall be substituted the words " commencement of the remedial operations "; and
  - (b) subsections (2) and (3) shall be omitted.
- 5 Where remedial operations are carried out by a local authority in the circumstances referred to in paragraph 1 above, section 20 shall apply as it applies where remedial operations are carried out by a local authority under section 17(1).
- 6 (1) Subject to the following provisions of this paragraph, where a local authority has carried out remedial operations in the circumstances referred to in paragraph 1

above and an order has been made under section 19 requiring any person to make a contribution towards the expenses otherwise falling to be borne by the local authority, as owner of the disused tip, the local authority shall be entitled to recover from the contributory the specified percentage of—

- (a) the expenditure reasonably incurred by the authority in carrying out those remedial operations and any works of reinstatement reasonably necessary in consequence of the carrying out of those operations ; and
- (b) the amount of any such compensation as is mentioned in paragraph (b) of section 20(2) (being compensation referable to those remedial operations or consequential works of reinstatement) which is recoverable (or has been recovered) from the local authority in pursuance of a claim under section 20 ; and
- (c) the amount of any such compensation as is referred to in paragraph (b) of section 20(2) in respect of which the local authority could itself have made a claim under section 20 if the disused tip had been situated in the area of another local authority and that other authority had carried out those remedial operations (and any consequential works of reinstatement).

(2) No sum shall be recoverable under this paragraph by a local authority from a contributory unless a demand therefor is served on the contributory specifying, in addition to the sum claimed by way of contribution.—

- (a) the total amount in respect of which the contribution is claimed; and
- (b) the separate amounts which comprise that total, distinguished by reference to paragraphs (a), (b) and (c) of sub-paragraph (1) above.

(3) Section 23(5) shall apply to any sum recoverable under this paragraph as it applies to sums recoverable under section 23.

(4) Within the period of six weeks beginning with the date of the service on a contributory of a demand under sub-paragraph (2) above, the contributory may apply to the court for an order varying or cancelling the demand—

- (a) on any one or more of the grounds specified in paragraphs (b) to (f) of section 24(2); or
- (b) on the ground that the amount of the expenses incurred by the local authority in carrying out the remedial operations was greater than was reasonable ; or
- (c) on the ground that the amount claimed in the demand is greater than the specified percentage of the aggregate of the expenditure referred to in paragraphs (a) to (c) of sub-paragraph (1) above.

(5) Section 24(4) shall apply in relation to an application under sub-paragraph (4) above as it applies in relation to an application under section 24 and, subject to the right to make an application under that sub-paragraph, a demand under sub-paragraph (2) above shall be final and conclusive.

7 (1) In any case where—

- (a) a local authority has carried out remedial operations in the circumstances referred to in paragraph 1 above, and
- (b) an order has been made under section 19 requiring any person to make a contribution towards the expenses otherwise falling to be borne by the local authority, as owner of the disused tip, and
- (c) a grant has been made under section 25 and the Minister proposes to give a direction under section 25(4),

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section 25(4) shall have effect as if, for the words from " recoverable " to " section 23(1)" there were substituted the words " recoverable from any contributories under paragraph 6 of Schedule 2 to this Act in respect of the expenditure referred to in paragraphs (a) to (c) of sub-paragraph (1) of that paragraph " , and section 25(5) shall not apply.

- (2) Where sub-paragraph (1) above applies, then, in relation to the recovery of any sum from a contributory under paragraph 6 above, that paragraph shall have effect subject to the following modifications—
- (a) the amount recoverable under sub-paragraph (1) thereof shall be limited to the specified percentage of the amount specified in the direction ;
  - (b) a demand under sub-paragraph (2) shall state that the direction has been given and shall state the amount specified in the direction;
  - (c) in sub-paragraph (2), paragraph (a) shall be construed as applying to the total amount which would have been recoverable by the local authority under paragraph 6 if no direction had been given; and
  - (d) in paragraph (c) of sub-paragraph (4), for the words from " aggregate " onwards there shall be substituted the words " amount specified in the direction ".

### SCHEDULE 3

Section 20.

#### CLAIMS FOR COMPENSATION BY OWNERS AND CONTRIBUTORIES

- 1 (1) This Schedule applies to the owner of a disused tip if—
  - (a) a local authority has carried out remedial operations in relation to that tip or has carried out any such exploratory tests as are referred to in section 23(1) (a); and
  - (b) the owner has served on the local authority a claim for compensation under section 20 in respect of damage or disturbance resulting from the carrying out of those exploratory tests or remedial operations ; and
  - (c) either no order for contribution has been made under section 19 in respect of the expenses otherwise falling to be borne by the owner in respect of the carrying out of those exploratory tests or remedial operations or one or more such orders have been made but the specified percentage or, as the case may be, the aggregate of the specified percentages is less than 100.
- (2) This Schedule applies to a contributory if—
  - (a) the expenses in respect of which a contribution may be claimed under section 21 or section 23 include expenses incurred in carrying out remedial operations or any such exploratory tests as are referred to in subsection (1) or subsection (2) of section 23 ; and
  - (b) the contributory has served on the owner of the disused tip or, as the case may be, the local authority concerned a claim for compensation under section 20 in respect of damage or disturbance resulting from the carrying out of those exploratory tests or remedial operations.
- 2 (1) Where this Schedule applies to the owner of a disused tip then, subject to sub-paragraph (2) below, until the expiry of the period of twelve months beginning with the date on which the remedial operations referred to in paragraph 1(1)(a) above were completed, the owner shall not be entitled to enforce his claim for compensation

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otherwise than by way of set-off against any sum demanded from him by the local authority under section 23.

- (2) Where a demand under subsection (4) of section 23 in respect of the expenditure referred to in subsection (1) or subsection (2) of that section is served by the local authority concerned on the owner of a disused tip to whom this Schedule applies and the amount recoverable by virtue of that demand (having regard to any application made by the owner under section 24) is less than the amount of the owner's claim for compensation against the local authority, sub-paragraph (1) above shall not apply to any proceedings brought by the owner to recover the balance of that compensation from the local authority.
- 3 (1) Where this Schedule applies to a contributory then, subject to sub-paragraph (2) below, until the expiry of the relevant period, the contributory shall not be entitled to enforce his claim for compensation otherwise than by way of set-off against any sum demanded from him by way of contribution under section 21 or, as the case may be, section 23.
- (2) Where a demand for contribution under section 21 or section 23 in respect of the expenses referred to in paragraph 1(2)(a) above is served on a contributory to whom this Schedule applies and the amount recoverable by virtue of that demand (having regard to any application made by the contributory under section 22 or section 24) is less than the amount of the contributory's claim for compensation against the person or local authority making the demand, sub-paragraph (1) above shall not apply to any proceedings brought by the contributory to recover the balance of that compensation from that person or local authority.
- (3) For the purposes of this paragraph, the relevant period shall be determined as follows.
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- (a) in relation to a claim by a contributory for compensation recoverable from the owner of a disused tip, the period of twelve months beginning with the date of the completion by the owner of the remedial operations referred to in paragraph 1(2)(a) above ;
- (b) in relation to a claim by a contributory for compensation recoverable from a local authority in a case where the expenses in respect of which a contribution may be claimed from him by the local authority are such as are mentioned in section 23(1), the period of twelve months beginning with the date of the completion of the remedial operations referred to in that section ; and
- (c) in relation to a claim by a contributory for compensation recoverable from a local authority in a case where the expenses in respect of which a contribution may be claimed from him by the local authority are such as are mentioned in section 23(2), the period of twelve months beginning with the date of the completion of the exploratory tests referred to in that section.
- 4 Any reference in this Schedule to remedial operations includes a reference to works of reinstatement consequential on those remedial operations.
- 5 Where Schedule 2 to this Act applies, the preceding provisions of this Schedule shall apply as if—
- (a) any reference in paragraph 1(2), paragraph 3(1) or paragraph 3(2) to section 23 included a reference to paragraph 6 of Schedule 2 to this Act;
- (b) the reference in paragraph 3(2) to section 24 included a reference to paragraph 6(4) of that Schedule ; and

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- (c) the reference in paragraph 3(3)(b) to section 23(1) included a reference to paragraph 6(1) of that Schedule.
- 6 (1) The time within which the owner of a disused tip or contributory to whom this Schedule applies may bring proceedings to recover the whole or any part of the compensation to which his claim under section 20 refers shall be six years from—
- (a) the expiry of the period referred to in sub-paragraph (1) of paragraph 2 or, as the case may be, of paragraph 3 above; or
  - (b) where sub-paragraph (2) of paragraph 2 or of paragraph 3 above applies, the date of the service of the demand referred to in that sub-paragraph.
- (2) In relation to England and Wales, sub-paragraph (1) above shall be construed as one with Part I of the Limitation Act 1939.
- (3) In relation to Scotland, in reckoning the period of six years mentioned in sub-paragraph (1) above, no account shall be taken of any period during which the owner or, as the case may be, the contributory was in minority or less age or was under legal disability.

#### SCHEDULE 4

Sections 21, 22.

##### MODIFICATIONS OF SECTIONS 21 AND 22 WHERE NOTICE UNDER SECTION 14 IS CANCELLED

- 1 In any case where—
- (a) a local authority has served a notice on the owner of a disused tip under section 14, and
  - (b) the owner has carried out remedial operations in compliance with the notice, and
  - (c) the local authority has cancelled the notice by a notice under section 16,
- sections 21 and 22 shall have effect subject to the modifications specified in the following provisions of this Schedule.
- 2 Any reference in those sections to remedial operations carried out in compliance with the notice under section 14 shall be construed as a reference to remedial operations so carried out before the notice was cancelled.
- 3 (1) In determining, for the purpose of sections 21 and 22, the amount of the expenses reasonably incurred by the owner in carrying out remedial operations, there shall be deducted any sum which—
- (a) is recoverable (or has been recovered) by the owner from the local authority by virtue of an order under section 16(4); and
  - (b) is referable to expenditure incurred by the owner in consequence of the service of the notice under section 14.
- (2) No sum shall be recoverable by the owner under section 21 in respect of expenses incurred by him in carrying out works of reinstatement.
- 4 Where, by virtue of an order under section 16(4), the owner is entitled to recover (or has recovered) from the local authority any sum in respect of expenditure incurred by him in consequence of the service of a notice under section 14—
- (a) a demand under section 21(3) shall specify the total sum recoverable (or recovered) by virtue of the order, distinguishing between the part which is referable to expenditure incurred in consequence of the service of the notice

under section 14 and the part which is referable to expenditure incurred by the owner which is attributable to the cancellation of the notice ; and

- (b) any reference in section 21(3) to the total amount in respect of which the contribution is claimed shall be construed as a reference to the amount in respect of which the contribution could have been claimed if no such order had been made ; and
- (c) an application may be made under section 22 on the ground that the amount claimed in the demand does not give proper allowance for any sum which is required to be deducted by virtue of paragraph 3 above.