



Mines and Quarries (Tips) Act 1969

1969 CHAPTER 10

PART II

PREVENTION OF PUBLIC DANGER FROM DISUSED TIPS

23 Right of local authority to recover certain expenses

- (1) Subject to the following provisions of this section and to sections 24 and 25, where a local authority has carried out remedial operations in relation to a disused tip under section 17(1), the authority shall be entitled to recover from the owner of the tip—
 - (a) the expenses reasonably incurred by the authority in carrying out any exploratory tests which gave rise to the remedial operations;
 - (b) the expenses reasonably incurred by the authority in carrying out the remedial operations and any works of reinstatement reasonably necessary in consequence of the carrying out of those operations ;
 - (c) such sum, not exceeding 5 per cent, of the expenses referred to in paragraphs (a) and (b) above, as the authority thinks fit in respect of its establishment charges; and
 - (d) the amount of any such compensation as is mentioned in section 20(2) (being compensation referable to the carrying out of the exploratory tests, remedial operations or works of reinstatement referred to in paragraphs (a) and (b) above) which is recoverable (or has been recovered) from the local authority in pursuance of a claim under section 20.
- (2) Subject to the following provisions of this section and to section 24, where a local authority has carried out, in relation to a disused tip, exploratory tests which resulted in the service of a notice under section 14 requiring the owner of the tip to carry out remedial operations, the local authority shall be entitled to recover from the owner—
 - (a) the expenses reasonably incurred by the authority in carrying out those exploratory tests ;
 - (b) such sum, not exceeding 5 per cent, of the expenses referred to in paragraph (a) above, as the authority thinks fit in respect of its establishment charges; and

Status: This is the original version (as it was originally enacted).

- (c) the amount of any such compensation as is mentioned in paragraph (a) of section 20(2) (being compensation referable to the carrying out of the exploratory tests referred to in paragraph (a) above) which is recoverable (or has been recovered) from the local authority in pursuance of a claim under section 20.
- (3) Where 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 owner of a disused tip as a result of the carrying out of the remedial operations referred to in subsection (1), or, as the case may be, subsection (2).—
 - (a) the local authority referred to in that subsection shall be entitled to recover from the contributory the specified percentage of the amount recoverable (disregarding paragraph (b) below) from the owner of the disused tip under that subsection ; and
 - (b) the amount recoverable from the owner of the disused tip under that subsection shall be reduced by any sum or sums which the local authority is entitled to recover from any contributory or contributories by virtue of paragraph (a) above.
- (4) No sum shall be recoverable under this section by a local authority from the owner of a disused tip or from any contributory unless a demand therefor is served on the owner or, as the case may be, the contributory specifying, in addition to the sum claimed by the local authority.—
 - (a) in the case of a demand served on a contributory, the total amount in respect of which the contribution is claimed;
 - (b) in the case of a demand served on the owner of a dis-used tip, the sums (if any) which the local authority is entitled to recover from any contributory or contributories ; and
 - (c) in either case, the separate amounts which comprise the total amount recoverable by the local authority, distinguished by reference to each of paragraphs (a) to (d) of subsection (1) or, as the case may be, paragraphs (a) to (c) of subsection (2).
- (5) Together with any sum recoverable by a local authority under this section from the owner of a disused tip or from a contributory, the local authority shall be entitled to recover interest from the date of service on him of the demand therefor under subsection (4) until the total amount recoverable from that person is paid, at such rate as may be specified by order made by the Ministers ; and, with the agreement of the authority, any sum so recoverable may be paid by such instalments as may be agreed.
- (6) For the purposes of this section.—
 - (a) the owner of the disused tip, in a case falling within subsection (1), is the person who was the owner at the date of the commencement of the remedial operations referred to in that subsection and, in a case falling within subsection (2), is the person on whom was served the notice under section 14 referred to in that subsection ; and
 - (b) exploratory tests relating to a disused tip shall be deemed to give rise to remedial operations in relation to that tip or, as the case may be, to result in the service of a notice under section 14 if, within the period of six months after the completion of the tests, the local authority began those operations or served the notice under section 14 on the owner of the tip.