

SCHEDULES

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.
 - (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),
- 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".