



Mines And Quarries (Tips) Act 1969

1969 CHAPTER 10

PART II

PREVENTION OF PUBLIC DANGER FROM DISUSED TIPS

14 Notice requiring owner of disused tip to carry out remedial operations.

- (1) If it appears to a local authority that a disused tip situated wholly or partly within its area is unstable and, by reason of that instability, constitutes or is likely to constitute a danger to members of the public, the authority may by notice in the prescribed form served on the owner thereof require him to carry out, within such period as may be specified in the notice, being a period beginning not earlier than twenty-one days after the date of service of the notice, such remedial operations as may be so specified.
- (2) In this Part of this Act “remedial operations”, in relation to a disused tip, means operations which, in the opinion of the local authority concerned, are necessary to ensure the stability of the tip.
- (3) A notice under this section may require the carrying out of remedial operations on the tip itself, on the land on which it is situated or on any neighbouring land which is in the occupation of the owner of the tip or in which he has, otherwise than as a mortgagee, an estate or interest superior to that of the occupier.
- (4) Where a local authority serves a notice under this section on the owner of a disused tip, then, within the period of seven days beginning with the day on which the notice was served, the authority shall serve a copy of the notice on—
 - (a) any other person who is in occupation of the whole or part of the land on which any remedial operations specified in the notice are required to be carried out and any other person who, to the knowledge of the local authority, has an estate or interest, otherwise than as a mortgagee, in that land; and
 - (b) any other person who, to the knowledge of the local authority, either has an estate or interest, otherwise than as a mortgagee, in the land on which the tip is situated, or had such an estate or interest at any time within the period of twelve years immediately preceding the date of the service of the notice on the owner of the tip; and

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- (c) any other person who, to the knowledge of the local authority, has an interest in (including a right to acquire) all or any of the material comprised in the tip; and
 - (d) any other person who, to the knowledge of the local authority, has at any time within the period referred to in paragraph (b) above used the tip for the purpose of the deposit of refuse from a mine or quarry; and
 - (e) any other person who the local authority has reason to believe has, at any time within that period, caused or contributed to the instability of the tip by the carrying out of any operations on the tip, on the land on which it is situated or on neighbouring land or by failing to take any steps which he might reasonably have taken to prevent the tip from becoming unstable.
- (5) Where a local authority serves a notice under this section on the owner of a disused tip, then, within the period of twenty-one days beginning with the day on which the notice was served, the owner may serve a counter-notice under this subsection in the prescribed form requiring the local authority to exercise its powers under section 17; and where such a counter-notice is served—
- (a) the local authority shall serve a copy of the counter-notice on every person on whom, under subsection (4), it served a copy of the notice under this section;
 - (b) the notice under this section and any copy thereof served under subsection (4) shall be deemed for the purposes of the following provisions of this Part of this Act never to have been served; and
 - (c) the local authority shall, as soon as reasonably practicable, exercise its powers under section 17 in relation to the disused tip in question.
- (6) Where the owner of a disused tip is required by a notice under this section to carry out remedial operations on any land which is not in his occupation but in which he has an estate or interest superior to that of the occupier, then, as against the occupier and any other person having an estate or interest in the land in question, the owner of the disused tip shall have the right to enter on to the land in order to carry out the remedial operations and any consequential works of reinstatement and to take with him on to the land such other persons and such equipment as may be necessary.
- (7) Where, in the course of carrying out remedial operations specified in a notice under this section, material which is not the property of the owner of the disused tip is removed from the tip, the owner may sell the material but shall account to the owner thereof for the proceeds of sale; but nothing in this subsection shall prevent the owner of a disused tip from setting off the proceeds of sale or any part thereof against any sum which he is entitled to recover from the owner of the material under the following provisions of this Part of this Act.
- (8) If, without reasonable excuse, the owner of a disused tip on whom a notice is served under this section fails to carry out the remedial operations specified in the notice within the period specified therein or, if that period is extended on an application under subsection (3) or subsection (4) of section 15, within that period as so extended, he shall be liable on summary conviction to a fine not exceeding [^{F1}level 5 on the standard scale].

Textual Amendments

- F1** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#)

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