STATUTORY INSTRUMENTS

1969 No. 1127 (S.93)

MINES AND QUARRIES

The Disused Mine and Quarry Tips (Prescribed Forms) (Scotland) Regulations 1969

Made - - -	31*st July* 1969
Laid before Parliament	15*th August* 1969
Coming into Operation	29*th August* 1969

In exercise of the powers conferred on me by sections 14, 16, 17 and 36(1) of, and paragraph 2 of Schedule 2 to, the Mines and Quarries (Tips) Act 1969(**a**), I hereby make the following regulations :—

Title and commencement

1. These regulations may be cited as the Disused Mine and Quarry Tips (Prescribed Forms) (Scotland) Regulations 1969, and shall come into operation on 29th August 1969.

Interpretation

2.—(1) The Interpretation Act 1889(**b**) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

(2) In these regulations, any reference to a numbered form is a reference to the form bearing that number in the schedule hereto, or a form substantially to the like effect.

Prescribed forms for purposes of remedial operations on disused tips

3. The prescribed forms for the undermentioned provisions of Part II of the Mines and Quarries (Tips) Act 1969 (which provide for the carrying out of remedial operations on disused mine and quarry tips constituting a public danger) shall be as follows :—

(*a*) for the purposes of section 14(1), the form of notice by a local authority requiring the owner of a disused tip to carry out remedial operations shall be form 1 ;

(*b*) for the purposes of section 14(5), the form of counter-notice by an owner requiring the local authority to exercise its powers under section 17 shall be form 2 ;

(*c*) for the purposes of section 16(1), the form of notice by a local authority cancelling a notice given under section 14 shall be form 3 ;

(*d*) for the purposes of section 17(2), the form of notice by a local authority to the owner of its intention to carry out remedial operations shall be form 4 ;

(**a**) 1969 c. 10. (**b**) 1889 c. 63.

(*e*) for the purposes of section 17(3), the form of notice by a local authority to the owner where possible danger to the public requires it to proceed before serving a notice under section 17(2) shall be form 5 ;

(*f*) for the purposes of paragraph 2 of Schedule 2, the form of notice by a local authority specifying remedial operations which it proposes to carry out on a disused tip of which it is the owner shall be form 6.

William Ross,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh.
31st July 1969.

SCHEDULE

FORM 1

MINES AND QUARRIES (TIPS) ACT 1969

SECTION 14(1)

REMEDIAL OPERATIONS ON DISUSED TIP

NOTICE TO OWNER

To:

The council of.....("the council") hereby gives you notice under section 14(1) of the above-mentioned Act as follows:—

1. It appears to the council that the disused mine or quarry refuse tip at ....., which is 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.

2. The council requires you, as owner of the tip, to carry out the remedial operations specified in the schedule below.

3. The remedial operations should be carried out within a period beginning ....* days after the date of service of this notice and ending on.....

4. The council proposes, in accordance with section 14(4) of the Act, to serve a copy of this notice on the following persons:—

OR

The council does not propose to serve copies of this notice in accordance with section 14(4) of the Act.

If you consider that any [other] person comes within the terms of section 14(4) (Note 1), you are asked to notify the council immediately, as copies have to be served within seven days of service of this notice. (Your interests may be affected.)

5. Section 14(6) of the Act gives you the right to enter on to any land referred to in the notice which is not in your occupation but in which you have an estate or interest superior to that of the occupier, and the right to take with you such other persons and such equipment as may be necessary, in order to carry out remedial operations and works of reinstatement.

6. Section 15 of the Act gives you [and any person referred to in paragraph 4] the right within 21 days beginning with the date of service of this notice, to appeal to the sheriff for an order varying or cancelling the notice on certain grounds (Note 2).

7. Under section 19 of the Act you may apply to the sheriff for an order that a contribution towards your expenses shall be made by certain persons (Note 3). If you do not appeal to the sheriff under section 15, you may apply for a contribution order within three months beginning with the date of service of this notice; or if you do appeal you may apply within a period ending three months after the date on which your appeal has been finally determined (or withdrawn).

8. If, without reasonable excuse, an owner fails to carry out specified remedial operations within the specified period (or any extended period granted in the course of an application to the sheriff) he commits an offence under the Act.

9. Under section 23(2) of the Act, the council has certain powers for the recovery of the expenses of carrying out exploratory tests. Any account for such expenses will be submitted separately.

*Insert a figure. The period must, however, begin not less than 21 days after the date of service—see section 14(1).

10. Section 14(5) of the Act gives you the right, within 21 days beginning with the day on which this notice was served, to serve a counter-notice in the prescribed form (Note 4). Where such a counter-notice is served—

(*a*) the council must serve a copy on the persons (if any) on whom it served a copy of this notice;

(*b*) this notice is deemed never to have been served;

(*c*) the council must, as soon as is reasonably practicable, exercise its powers under section 17 in relation to the tip described in paragraph 1.

Section 17 empowers the council to carry out remedial operations itself. Section 23 would then entitle the council to recover its expenses from you; but both you and the council would be entitled to apply to the sheriff for a contribution order. (A government grant might, however, be payable towards the council's expenses, and this would reduce the amount payable by all concerned.)

(Signed).....

Date.....

SCHEDULE

Remedial operations

NOTES

1. Persons on whom a copy of this notice must be served are:—

(*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 creditor in a heritable security, 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 creditor in a heritable security, 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

(*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.

Their position in relation to the notice is very similar to the owner's: in particular, they have rights of appeal to the sheriff and are liable to a contribution order.

2. The grounds on which application may be made to the sheriff are:—

(*a*) that there is no reasonable ground for believing that the tip is unstable or that, by reason of instability, the tip constitutes or is likely to constitute a danger to members of the public;

(*b*) that the remedial operations specified in the notice are more extensive than is necessary to secure the safety of members of the public;

(*c*) that the stability of the tip could be ensured by the carrying out of operations different, in whole or in part, from the remedial operations specified in the notice and that the owner is prepared to undertake those alternative operations;

(*d*) that the owner or some other person has already begun, or has entered into a contract with a third party to begin, operations different, in whole or in part, from the remedial operations specified in the notice and those alternative operations will ensure the stability of the tip;

(*e*) that the time within which the remedial operations are to be carried out is not reasonably sufficient for the purpose;

(*f*) that there is some defect or error in, or in connection with the notice.

3. The persons liable to a contribution order are:—

(*a*) any person who at the date of the service of the notice under section 14 had an estate or interest, otherwise than as a creditor in a heritable security, in the land on which the tip is situated and any person who had such an estate or interest at any time within the period of twelve years immediately preceding that date;

(*b*) any other person who has, at any time within that period, used the tip for the purpose of the deposit of refuse from a mine or quarry, and

(*c*) any other person who, in the opinion of the sheriff, 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;

and circumstances to which the sheriff must have particular regard are:—

(*a*) the extent to which it appears to the sheriff that that person has, by any act or omission, caused or contributed to the instability of the tip;

(*b*) the extent to which that person has used the tip for the deposit of refuse;

(*c*) the nature and extent of any estate or interest which that person had, at the date of the service of the notice under section 14, in the land on which the tip is situated;

(*d*) in the case of a person who had an estate or interest in that land but disposed of it before that date, whether, in the opinion of the sheriff, he disposed of his estate or interest for the purpose of evading any liability (whether under this Part of this Act or otherwise) in connection with the disused tip; and

(*e*) the terms of any covenant, agreement or statutory provision affecting the rights and obligations in relation to the tip of that person and the owner thereof.

4. The form of counter-notice is set out as form 2 in the Disused Mine and Quarry Tips (Prescribed Forms) Regulations 1969, obtainable through Her Majesty's Stationery Office or any bookseller. [If the council prefers to offer the owner a copy of the prescribed form of counter-notice, it should say so at this point, and the reference to the regulations may be omitted.]

FORM 2

MINES AND QUARRIES (TIPS) ACT 1969

SECTION 14(5)

REMEDIAL OPERATIONS ON DISUSED TIP

OWNER'S COUNTER-NOTICE

To the council of

I, ..., having been served with a notice under section 14(1) of the above-mentioned Act requiring me to carry out remedial operations at ..... hereby give notice under section 14(5) that I require the council to exercise its powers under section 17.

Signature.....

Address.....

Date.....

FORM 3

MINES AND QUARRIES (TIPS) ACT 1969
SECTION 16(1)

REMEDIAL OPERATIONS ON DISUSED TIP

CANCELLATION OF NOTICE TO OWNER

To:

The council of ..... ("the council") hereby gives you notice under section 16(1) of the above-mentioned Act as follows:

1. The notice dated ..... requiring you to carry out remedial operations on the disused mine or quarry refuse tip at..... .....is hereby cancelled; and you are no longer required to carry out these operations.

2. The council proposes to serve you with another notice specifying different operations from those previously specified.

OR

2. The council proposes to carry out remedial operations itself and a notice under section 17 will be served in due course.

OR

2. The council does not propose to take any further action.

OR

2. The council has not yet decided what (if any) further action should be taken.

3. If you have incurred expenditure in compliance with the cancelled notice, you may apply to the sheriff for an order directing the council to reimburse to you the whole, or such part as the sheriff thinks fit, of any expenditure incurred by you in consequence of the cancelled notice and of any expenditure attributable to its cancellation (i.e. on the reinstatement of any land or on the cancellation of any contract or otherwise). The sheriff would have regard to all the circumstances of the case and particular regard to the grounds of cancellation and to the future intentions of the council.

4. If you have carried out any work under the notice and a contribution order has been or is made by the sheriff, your rights of recovery from a contributory will be curtailed by Schedule 4 to the Act, having regard to your right to seek compensation from the council.

(Signed).....

Date.....

FORM 4

MINES AND QUARRIES (TIPS) ACT 1969
SECTION 17(2)

REMEDIAL OPERATIONS ON DISUSED TIP

NOTICE TO OWNER

To:

The council of .....("the council") hereby gives you notice under section 17(2) of the above-mentioned Act as follows:

1. It appears to the council that the disused mine or quarry refuse tip at ....., which is situated wholly or partly within its area, and of which you are the owner, is unstable and, by reason of that instability, constitutes or is likely to constitute a danger to members of the public.

2. Instead of requiring you to carry out remedial operations yourself, the council proposes itself to carry out the remedial operations specified in the schedule below and works of reinstatement.

3. The remedial operations will be begun not less than 21 days after the day on which this notice is served, unless an earlier start is made because of possible danger to members of the public.

4. In accordance with sections 14(4) and 17(5) of the Act a copy of this notice has been or will be served on the following persons:—

OR

The council does not propose to serve copies of this notice in accordance with sections 14(4) and 17(5) of the Act.

If you consider that any [other] person comes within the terms of section 14(4) (Note 1), you are asked to notify the council as soon as possible. (Your interests may be affected.)

5. Section 18(1) gives any person authorised in writing by the council the right at any reasonable time to enter upon the land upon which the disused tip is situated or upon any neighbouring land for any purpose connected with the carrying out of remedial operations or works of reinstatement; but twenty-four hours' notice in writing has to be given to the occupier except in case of urgency. Obstruction of or interference with the carrying out of remedial operations is an offence under the Act.

6. Under section 19 of the Act you may apply to the sheriff for an order that a contribution towards the expenses otherwise falling on you (see paragraph 7) shall be made by certain persons (Note 2). You may apply for a contribution order within 3 months beginning with the date of service of this notice.

7. Section 23 gives the council the right to recover from you—

(*a*) expenses reasonably incurred on any exploratory tests which gave rise to the remedial operations;

(*b*) expenses reasonably incurred on the remedial operations and consequential works of reinstatement ;

(*c*) establishment charges not exceeding 5 per cent of (*a*) and (*b*) ; and

(*d*) any compensation payable by the council to persons other than yourself for damage and disturbance.

8. If the sheriff makes a contribution order under section 19 (on application by yourself or by the council), the council will recover the specified percentage of its expenses direct from the contributory. (A government grant might, however, be payable towards the council's expenses, and this would reduce the amount payable by all concerned.)

9. You will be entitled, within 6 weeks beginning with the date of service of a demand for expenses, to appeal against it to the sheriff on any of certain grounds (Note 3).

(Signed).....

Date.....

NOTES

1. Persons on whom a copy of this notice must be served are—

(*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 creditor in a heritable security, 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 creditor in a heritable security, 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

(*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.

They are liable to a contribution order, as referred to in this notice.

2. The persons liable to a contribution order are:—

(*a*) any person who at the date of the service of the notice under section 17 had an estate or interest, otherwise than as a creditor in a heritable security, in the land on which the tip is situated and any person who had such an estate or interest at any time within the period of 12 years immediately preceding that date;

(*b*) any other person who has, at any time within that period, used the tip for the purpose of the deposit of refuse from a mine or quarry; and

(*c*) any other person who, in the opinion of the sheriff, 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;

and circumstances to which the sheriff must have particular regard are:—

(*a*) the extent to which it appears to the sheriff that that person has, by any act or omission, caused or contributed to the instability of the tip;

(*b*) the extent to which that person has used the tip for the deposit of refuse;

(*c*) the nature and extent of any estate or interest which that person had, at the date of the service of the notice under section 17, in the land on which the tip is situated;

(*d*) in the case of a person who had an estate or interest in that land but disposed of it before that date, whether, in the opinion of the sheriff, he disposed of his estate or interest for the purpose of evading any liability (whether under this Part of this Act or otherwise) in connection with the disused tip; and

(*e*) the terms of any covenant, agreement or statutory provision affecting the rights and obligations in relation to the tip of that person and the owner thereof.

3. Grounds of appeal against a demand for expenses are:—

(*a*) that the amount of the expenses incurred by the local authority in carrying out exploratory tests or remedial operations was greater than was reasonable;

(*b*) that the amount of the expenses incurred by the local authority in carrying out works of reinstatement was greater than was reasonably necessary to reinstate the land in consequence of the remedial operations;

(*c*) that, at the time the remedial operations were begun, there was no reasonable ground for believing that the disused tip concerned was unstable or that, by reason of instability, the tip constituted or was likely to constitute a danger to members of the public;

(*d*) that the remedial operations carried out by the local authority were more extensive than was necessary to secure the safety of members of the public;

(*e*) that, because the time taken by the local authority to carry out the exploratory tests or the remedial operations or any consequential works of reinstatement was unreasonably long, the compensation paid or payable to any person in pursuance of a claim under section 20 in respect of damage or disturbance is greater than it would otherwise have been;

(*f*) that the amount of the compensation paid or payable to any person in pursuance of a claim under section 20 is greater than is necessary to compensate him in respect of any damage or disturbance suffered;

(*g*) that, in the case of a demand served on a contributory, the amount claimed in the demand is greater than the specified percentage of the total amount recoverable by the local authority under section 23(1);

(*h*) that, in the case of a demand served on the owner of the disused tip concerned, the amount claimed in the demand does not give proper allowance for any sum or sums which the local authority is entitled to recover from any contributory or contributories.

FORM 5

MINES AND QUARRIES (TIPS) ACT 1969
SECTION 17(3)

REMEDIAL OPERATIONS ON DISUSED TIP

NOTICE TO OWNER

To:

The council of .....("the council") hereby gives you notice under section 17(3) of the above-mentioned Act as follows:—

1. The council has reasonable ground for believing that the disused mine or quarry tip at ....., which is situated wholly or partly within its area, and of which you are the owner, is unstable and that possible danger to members of the public requires the immediate carrying out of remedial operations.

2. Accordingly the council has commenced operations, and in the schedule below there are specified the nature and extent of the operations and of the consequential works of reinstatement which it proposes to carry out.

3. In accordance with sections 14(4) and 17(5) of the Act a copy of this notice has been or will be served on the following persons:—

OR

The council does not propose to serve copies of this notice in accordance with sections 14(4) and 17(5) of the Act.

If you consider that any [other] person comes within the terms of section 14(4) (Note 1), you are asked to notify the council as soon as possible. (Your interests may be affected.)

4. Section 18(1) and (4) gives any person authorised in writing by the council the right at any reasonable time to enter upon the land upon which the disused tip is situated or upon any neighbouring land for any purpose connected with the carrying out of remedial operations or works of reinstatement without notice. Obstruction of or interference with the carrying out of remedial operations is an offence under the Act.

5. Under section 19 of the Act you may apply to the sheriff for an order that a contribution towards the expenses otherwise falling on you (see paragraph 6) shall be made by certain persons (Note 2). You may apply for a contribution order within 3 months beginning with the date of service of this notice.

6. Section 23 gives the council the right to recover from you—

(*a*) expenses reasonably incurred on any exploratory tests which gave rise to the remedial operations;

(*b*) expenses reasonably incurred on the remedial operations and consequential works of reinstatement;

(*c*) establishment charges not exceeding 5 per cent. of (*a*) and (*b*); and

(*d*) any compensation payable by the council to persons other than yourself for damage and disturbance.

7. If the sheriff makes a contribution order under section 19 (on application by yourself or by the council), the council will recover the specified percentage of its expenses direct from the contributory. (A government grant might, however, be payable towards the council's expenses, and this would reduce the amount payable by all concerned.)

8. You will be entitled, within 6 weeks beginning with the date of service of a demand for expenses, to appeal against it to the sheriff on any of certain grounds (Note 3).

(Signed).....

Date.....

SCHEDULE

NOTES

1. Persons on whom a copy of this notice must be served are:—

(*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 creditor in a heritable security, 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 creditor in a heritable security, 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

(*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.

They are liable to a contribution order, as referred to in this notice.

2. The persons liable to a contribution order are:—

(*a*) any person who at the date of the service of the notice under section 17 had an estate or interest, otherwise than as a creditor in a heritable security, in the land on which the tip is situated and any person who had such an estate or interest at any time within the period of twelve years immediately preceding that date;

(*b*) any other person who has, at any time within that period, used the tip for the purpose of the deposit of refuse from a mine or quarry; and

(*c*) any other person who, in the opinion of the sheriff, 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;

and circumstances to which the sheriff must have particular regard are:—

(*a*) the extent to which it appears to the sheriff that that person has, by any act or omission, caused or contributed to the instability of the tip;

(*b*) the extent to which that person has used the tip for the deposit of refuse;

(*c*) the nature and extent of any estate or interest which that person had, at the date of the service of the notice under section 17, in the land on which the tip is situated;

(*d*) in the case of a person who had an estate or interest in that land but disposed of it before that date, whether, in the opinion of the sheriff, he disposed of his estate or interest for the purpose of evading any liability (whether under this Part of this Act or otherwise) in connection with the disused tip; and

(*e*) the terms of any covenant, agreement or statutory provision affecting the rights and obligations in relation to the tip of that person and the owner thereof.

3. Grounds of appeal against a demand for expenses are:—

(*a*) that the amount of the expenses incurred by the local authority in carrying out exploratory tests or remedial operations was greater than was reasonable;

(*b*) that the amount of the expenses incurred by the local authority in carrying out works of reinstatement was greater than was reasonably necessary to reinstate the land in consequence of the remedial operations;

(*c*) that, at the time the remedial operations were begun, there was no reasonable ground for believing that the disused tip concerned was unstable or that, by reason of instability, the tip constituted or was likely to constitute a danger to members of the public;

(*d*) that the remedial operations carried out by the local authority were more extensive than was necessary to secure the safety of members of the public;

(*e*) that, because the time taken by the local authority to carry out the exploratory tests or the remedial operations or any consequential works of reinstatement was unreasonably long, the compensation paid or payable to any person in pursuance of a claim under section 20 in respect of damage or disturbance is greater than it would otherwise have been;

(*f*) that the amount of the compensation paid or payable to any person in pursuance of a claim under section 20 is greater than is necessary to compensate him in respect of any damage or disturbance suffered;

(*g*) that, in the case of a demand served on a contributory, the amount claimed in the demand is greater than the specified percentage of the total amount recoverable by the local authority under section 23(1);

(*h*) that, in the case of a demand served on the owner of the disused tip concerned, the amount claimed in the demand does not give proper allowance for any sum or sums which the local authority is entitled to recover from any contributory or contributories.

FORM 6

MINES AND QUARRIES (TIPS) ACT 1969
SCHEDULE 2, PARAGRAPH 2

REMEDIAL OPERATIONS ON DISUSED TIP

The council of .....("the council") hereby gives you, ...being—

(*a*)

notice under paragraph 2 of Schedule 2 to the above-mentioned Act as follows:—

1. The council, as owner of a disused mine or quarry refuse tip at..... ....., and situated wholly or partly in its area—

(i) considers that the tip is unstable and, by reason of that instability, constitutes or is likely to constitute a danger to members of the public;

(ii) has determined to carry out remedial operations in relation to that tip;

(iii)(*b*) requires to enter on land at..... in order to carry out those operations or works of reinstatement;

(iv)(*b*) considers that it may be entitled to claim a contribution from some person.

2. The remedial operations proposed are specified in the schedule below.

3. Section 18(1) gives any person authorised in writing by the council the right at any reasonable time to enter upon the land upon which the disused tip is situated or upon any neighbouring land for any purpose connected with the carrying out of remedial operations or works of reinstatement; but twenty-four hours' notice in writing has to be given to the occupier except in case of urgency. Obstruction of or interference with the carrying out of remedial operations is an offence under the Act.

4. At any time within 3 months of starting remedial operations, the council may apply to the sheriff under section 19 for an order requiring a contribution to be made towards its expenses (Note 1). It must give prior notice of any such application.

5. If the sheriff makes a contribution order under section 19, the council will recover the specified percentage of its expenses direct from the contributory. (A government grant might, however, be payable towards the council's expenses, and this would reduce the amount payable by all concerned.)

6. You will be entitled, within 6 weeks beginning with the date of service of a demand for expenses, to appeal against it to the sheriff on any of certain grounds (Note 2).

(Signed).....

Date.....

(*a*) Indicate capacity in which the person is being served: see section 14(*a*) to (*e*)

(*b*) (iii) or (iv) should be deleted where it is not appropriate. The council should note carefully that paragraph 1(*c*) of Schedule 2 presents alternatives, which have been separated in this form.

SCHEDULE

NOTES

1. The persons liable to a contribution order are:—

(*a*) any person who at the date of the commencement of the remedial operations had an estate or interest, otherwise than as a creditor in a heritable security, in the land on which the tip is situated and any person who had such an estate or interest at any time within the period of twelve years immediately preceding that date;

(*b*) any other person who has, at any time within that period used the tip for the purpose of the deposit of refuse from a mine or quarry; and

(*c*) any other person who, in the opinion of the sheriff, 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;

and circumstances to which the sheriff must have particular regard are:—

(*a*) the extent to which it appears to the sheriff that that person has, by any act or omission, caused or contributed to the instability of the tip;

(*b*) the extent to which that person has used the tip for the deposit of refuse;

(*c*) the nature and extent of any estate or interest which that person had, at the date of the commencement of remedial operations, in the land on which the tip is situated;

(*d*) in the case of a person who had an estate or interest in that land but disposed of it before that date, whether, in the opinion of the sheriff, he disposed of his estate or interest for the purpose of evading any liability (whether under this Part of this Act or otherwise) in connection with the disused tip; and

(*e*) the terms of any covenant, agreement or statutory provision affecting the rights and obligations in relation to the tip of that person and the owner thereof.

2. Grounds of appeal against a demand for expenses are:—

(*a*) that the amount of the expenses incurred by the local authority in carrying out exploratory tests or remedial operations was greater than was reasonable;

(*b*) that the amount of the expenses incurred by the local authority in carrying out works of reinstatement was greater than was reasonably necessary to reinstate the land in consequence of the remedial operations;

(*c*) that, at the time the remedial operations were begun, there was no reasonable ground for believing that the disused tip concerned was unstable or that, by reason of instability, the tip constituted or was likely to constitute a danger to members of the public;

(*d*) that the remedial operations carried out by the local authority were more extensive than was necessary to secure the safety of members of the public;

(*e*) that, because the time taken by the local authority to carry out the exploratory tests or the remedial operations or any consequential works of reinstatement was unreasonably long, the compensation paid or payable to any person in pursuance of a claim under section 20 in respect of damage or disturbance is greater than it would otherwise have been;

(*f*) that the amount of the compensation paid or payable to any person in pursuance of a claim under section 20 is greater than is necessary to compensate him in respect of any damage or disturbance suffered;

(*g*) that, in the case of a demand served on a contributory, the amount claimed in the demand is greater than the specified percentage of the total amount recoverable by the local authority under section 23(1);

(*h*) that, in the case of a demand served on the owner of the disused tip concerned, the amount claimed in the demand does not give proper allowance for any sum or sums which the local authority is entitled to recover from any contributory or contributories.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

Part II of the Mines and Quarries (Tips) Act 1969 gives local authorities functions in relation to disused tips which, by reason of instability, constitute a public danger. They may require the owner of the tip to carry out remedial operations ; or they may carry out remedial operations themselves. Also, an owner who is required to carry out such operations may require the local authority to carry out those operations itself. These Regulations prescribe the form of the notices which are required to be served in connection with these procedures.