

SCHEDULES

SCHEDULE 3

Section 20.

CLAIMS FOR COMPENSATION BY OWNERS AND CONTRIBUTORS

- 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 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

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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.
- (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
 - (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 subparagraph (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.