1967 No. 326 (S. 25)

LAND COMMISSION

The Betterment Levy (Notification) (Scotland) Regulations 1967

Made - - - -	*6th March* 1967
Laid before the House of Commons	*8th March* 1967
Coming into Operation	*6th April* 1967

In exercise of the powers conferred on me by sections 37, 38, 40, 41, 60, 62, 96 and 98 of the Land Commission Act 1967(a), and of all other powers enabling me in that behalf, I, being for the purposes of these regulations the appropriate Minister in relation to Scotland, hereby make the following regulations:—

Citation, extent and commencement

1. These regulations, which may be cited as the Betterment Levy (Notification) (Scotland) Regulations 1967, apply to Scotland and shall come into operation on 6th April 1967 (being the first appointed day under the Act(b)).

Interpretation

2.—(1) In these regulations—

"the Act" means the Land Commission Act 1967;

"the Commission" means the Land Commission,

and, in Schedule 2 to these regulations, "developing owner" and "project of material development" have the meanings respectively assigned to them in sections 32 and 64(1) of the Act.

(2) Other expressions used in these regulations of which there are definitions in the Act have the meanings thereby respectively assigned to them.

(3) The Interpretation Act 1889(c) applies for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

Case A and Case B

Compulsory and permissive notification

3.—(1) In relation to any such disposition of land as is mentioned in Part I of Schedule 1 to these regulations, if within 30 days after the date of the disposition the grantee—

(*a*) in the case of a disposition which may lawfully be recorded in the general register of sasines, presents the disposition for registration in that register; and

(*b*) in the case of any other disposition, falling within the provisions of section 28 of the Finance Act 1931(d), pursuant to said Section 28,

(a) 1967 c. 1.
(b) See S.I. 1967/146 (1967 I, p. 241).
(c) 1889 c. 63.
(d) 1931 c. 28.

furnishes to the Commissioners of Inland Revenue a document fulfilling the requirements of Schedule 2 to that Act,

the presenting of such a disposition as aforesaid or the furnishing of such a document as aforesaid, as the case may be, shall for the purposes of these regulations constitute sufficient notification to the Commission of such disposition.

(2) If—

(*a*) in relation to any such disposition of land as is mentioned in Part I of Schedule 1 to these regulations, that disposition may not be lawfully recorded as aforesaid and does not fall within the provisions of said section 28; or

(*b*) in relation to any such a disposition as is mentioned in paragraph (1)(*a*) of this regulation, that disposition is not within the said period of 30 days, presented as aforesaid or in relation to any such a disposition as is mentioned in paragraph (1)(*b*) of this regulation no such document as is mentioned in said paragraph (1)(*b*) is within the said period of 30 days, furnished as aforesaid, as the case may be; or

(*c*) the disposition is one to which section 79 of the Act (exchanges) applies, but within the said period of 30 days the disposition, being such a disposition as is mentioned in paragraph (1)(*a*) of this regulation, is is not presented as aforesaid or no such document as is mentioned in paragraph (1)(*b*) of this regulation is furnished as aforesaid in respect of the disposition, as the case may be; or

(*d*) the disposition falls within section 85(3)(*a*) of the Act (which relates to the effect of the surrender of a tenancy),

the grantee shall notify to the Commission such particulars of the disposition as are referred to in Part III of Schedule 1 to these regulations.

(3) If, in relation to any such disposition of land as is mentioned in Part II of Schedule 1 to these regulations, the grantee in accordance with section 37(2) of the Act elects to notify the disposition to the Commission, he shall notify such particulars thereof as are referred to in the said Part III of that Schedule.

(4) The reference in this regulation to section 28 of the Finance Act 1931, and to Schedule 2 to that Act, are references respectively to that section and Schedule in their application to Scotland and as amended by section 87 of, and Schedule 14 to, the Act, and (in the case of the said Schedule 2) as having effect as set out in Schedule 15 to the Act.

Case C

Compulsory notification

4. For the purposes of section 38 of the Act (which requires notification to the Commission of the intention to carry out projects of material development) a notice under that section shall contain particulars of the matters referred to in Part I of Schedule 2 to these regulations.

Notice seeking a direction under section 60

5. For the purposes of section 60 of the Act (exemption from levy in Case C shortly after disposition falling within Case A or Case B) a notice of application under that section shall contain particulars of the matters referred to in paragraphs 1 to 4 of the said Part I of Schedule 2 to these regulations.

Notice claiming exemption under section 62

6. Subsection (1) of section 62 of the Act (limited exemption for builders and developers of residential property) shall not as respects any land have effect in relation to such land unless before 1st November 1967 (or such later date as the Commission may in any particular case direct) the builder or developer serves on the Commission a notice containing particulars relating to such land of the matters referred to in Part II of Schedule 2 to these regulations, being particulars for the purpose of indicating to the Commission that a question of exemption under the said section 62 is likely to arise.

CASE D

Compulsory notification

7. For the purposes of section 40 of the Act (notification in Case D), a notice served under that section in respect of a right to compensation to which section 33 of the Act applies shall contain particulars of the matters referred to in Part I of Schedule 3 to these regulations.

CASE E

Permissive notification

8. For the purposes of section 41 of the Act (which relates to cases where the grantee elects to serve notice on the Commission in respect of a disposition to which if notified section 34(1) of the Act applies) a notice served under that section shall contain particulars of the matters referred to in Part II of Schedule 3 to these regulations.

MISCELLANEOUS

Notification

9.—(1) Any notification to the Commission of any disposition required or authorised by these regulations to be notified to the Commission shall be given within 30 days after the date of the disposition or such extended period as the Commission may in any particular case allow.

(2) Where under any provision of these regulations particulars are required or authorised to be given of the situation of any land, the particulars shall include a description of the situation and boundaries thereof, or a plan, save that, in the case of urban subjects having a full postal address, a statement of such address shall constitute sufficient particulars of the situation of the land.

(3) Any particulars required or authorised by the Act or these regulations to be notified to the Commission shall be signed by the person required or authorised to notify the Commission or by his duly authorised agent.

(4) Where under any provision of these regulations any disposition or other act or event relating to land is required or authorised to be notified to the Commission it shall be notified to the Commission at the following address—

Land Comission,
Office for Scotland,
Town Centre,
Cumbernauld,
Glasgow

Provided that any notification made to the Commission shall not be invalidated by reason only that it is made to one of the offices of the Commission in England and Wales specified in Schedule 4 to the Betterment Levy (Notification) Regulations 1967(a).

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

St. Andrew's House,
Edinburgh, 1.
6th March 1967.

Regulation 3

SCHEDULE 1

CASE A AND CASE B

PART I—COMPULSORY NOTIFICATION

1. A conveyance on sale of the *dominium utile.*

2. The grant of a feu or the creation of a ground annual.

3. An assignation on sale of a tenancy granted, renewed or extended for a term of years certain of not less than seven years.

4. A disposition granting a tenancy for a term of years certain of not less than seven years.

PART II—PERMISSIVE NOTIFICATION

1. An assignation on sale of a tenancy granted, renewed or extended for a term of years certain of less than seven years.

2. A disposition granting a tenancy for a term of years certain of less than seven years.

PART III—COMPULSORY AND PERMISSIVE NOTIFICATION

Particulars of disposition required where disposition not presented for registration or where particulars not already furnished under section 28 *of Finance Act* 1931

1. The description of the disposition.

2. The date of the disposition.

3. The names and addresses of the grantor and grantee.

4. The situation of the land to which the disposition relates.

5. The estate or interest transferred, including, where the disposition is or is to be treated as, the assignation or grant of a tenancy or the transfer of any *dominium utile* subject to a tenancy, the term of the tenancy, the date of the commencement of the term, and the rent stipulated for in respect of the tenancy.

6. The consideration (if any) other than the rent shown under paragraph 5 above, showing separately any capital payment, any debt released, any debt agreed to be paid or to which the disposition is made subject, any periodical payment (including any charge) agreed to be paid, any terms surrendered, any land exchanged and any other thing representing money or money's worth comprised in the consideration for the disposition.

7. Any minerals, mineral rights, sporting rights, timber or servitudes reserved, and any restrictions, obligations, agreements, real burdens or conditions affecting the value of the estate or interest transferred or granted.

(a) S.I. 1967/309 (1967 I, p. 1062).

8. Any information given to the grantee by any local authority in reply to any request made in connection with the disposition whereby that authority was requested to state what entries (if any) relating to the land to which the disposition relates were shown in any register kept by that authority under section 12(5) of the Town and Country Planning (Scotland) Act 1947(a).

Regulations 4 and 5

SCHEDULE 2

PART I

CASE C

PARTICULARS OF PROJECT OF MATERIAL DEVELOPMENT

1. The name and address of the person giving notice and of any agent acting on his behalf.

2. The name of the authority which has granted planning permission or to which application has been made for such permission in accordance with which the project of material development in question is to be carried out, details of such planning permission granted (including a copy thereof) or sought and the date of grant or application for the same.

3. The situation of the land intended to be comprised in the project.

4. A description of the nature and scope of the project, the date on which it is proposed to begin to carry it out and (if the project involves a change of use) the existing use of the land.

5. (Except where the notice is served otherwise than by or on behalf of the developing owner) details of every interest, contract or notice to treat by virtue of which the person giving notice is the developing owner and (so far as known to such person) of every other interest subsisting in the land to be comprised in the project with the name and address of the owner thereof.

6. Details of any expenditure to which Part V of Schedule 4 to the Act applies (expenditure on improvements and ancillary rights).

7. Details of any contract for disposing of any interest in the land to be comprised in the project to which the person by whom or on whose behalf the notice is served is a party.

8. The grounds (if any) on which exemption from levy in Case C is claimed by or on behalf of the developing owner pursuant to section 56 (local authorities and other bodies), section 57 (charities), section 58 (statutory undertakers), section 59 (Housing Associations), section 61 (single family dwelling-house), or section 62 (builders and developers of residential property) of the Act.

9. For the purpose of establishing a base value under Schedule 5 to the Act for the person serving the notice who is the developing owner in relation to the project

(*a*) the date of the disposition (whether a conveyance, assignation or grant of a tenancy) by which every assessable interest in the land or part of the land comprised in the project was acquired, the name and address of the grantor, the consideration given, and, where applicable, the date on which notification was made to the Commission and their reference number;

(*b*) the date of every contract to grant a tenancy which is an assessable interest in that land or part of that land, the name and address of the person contracting to grant that tenancy and the consideration to be given therefor;

(*c*) the date of every contract to purchase an interest in that land or part of that land being an interest fulfilling the conditions specified in subsection (1) of section 32 of the Act or the date of service of notice to treat for the compulsory acquisition of such an interest, the name and address of the person contracting to sell that interest or of the person on whom the notice to treat was served, and the consideration or compensation to be given therefor;

(*d*) whether the developing owner is a builder or developer of residential property (as defined by section 62(7) of the Act).

(a) 1947 c. 53.

Regulation 6

PART II

PARTICULARS TO BE CONTAINED IN NOTICE UNDER SECTION 62 SERVED ON COMMISSION BY BUILDER OR DEVELOPER

1. The name and address of the Claimant and of any agent acting on his behalf.

2. Evidence that immediately before 23rd September 1965 the claimant carried on business as a builder or developer of residential property as defined in section 62(7) of the Act.

3. The situation of the land in respect of which the claimant seeks to establish his right to exemption under section 62 of the Act.

4. Details of every interest in or contract affecting such land subsisting on 23rd September 1965 by virtue of which the claimant would have been the developing owner in relation to such project if the project had started on that date, including a statement whether or not the claimant has since that date disposed of such interest.

5. Details of any planning permission in force on 23rd September 1965, or of any such permission granted on or after that date on appeal from a decision of the local planning authority made (or for the purposes of the appeal, treated as made) before that date, including in either case a copy of the permission so granted.

Regulation 7

SCHEDULE 3

PART I

CASE D

PARTICULARS TO BE CONTAINED IN NOTICE UNDER SECTION 40 SERVED ON COMMISSION BY AUTHORITY PAYING COMPENSATION

1. The interest in respect of which the right to compensation has accrued, the situation of the land in which that interest subsists, and the name and address of the person entitled to that interest.

2. The enactment by virtue of which the right to compensation has accrued.

3. The relevant order or decision and the date on which it became operative.

4. The amount of the compensation, the date on which it was paid and the date by reference to which the compensation was assessed.

5. How much of the compensation is in respect of depreciation of the value of the interest in land in respect of which the right has accrued.

Regulation 8

PART II

CASE E

PARTICULARS OF DISPOSITION TO BE CONTAINED IN NOTICE UNDER SECTION 41 SERVED ON COMMISSION BY GRANTEE

1. The names and addresses of the grantor and grantee and of any agent acting on behalf of either party.

2. The relevant land and the relevant interest (as respectively defined in section 41(4) of the Act), including the situation of the relevant land.

3. The interest in the relevant land which the grantor had at the date of the disposition, the effect of the disposition (so far as known to the grantee) and the consideration given for it.

4. In the case of a disposition granting a servitude, the situation of the land in which at the date of the disposition the grantee had an interest and which was land to which immediately after the disposition the benefit of the servitude was annexed or was land held with land to which that benefit was then annexed.

5. In the case of any other disposition, the situation of the land (if any) in which at the date of the disposition the grantee had an interest which was land which immediately before that date was subject to the servitude or restrictive right in question.

EXPLANATORY NOTE

(This Note is not part of the regulations.)

These regulations made under the Land Commission Act 1967 prescribe, for the purposes of betterment levy, the manner in which various chargeable acts or events arising under Cases A, B, C, D and E shall be notified to the Land Commission; and, in the case of dispositions, require their notification to the Commission within 30 days (unless exceptionally the Commission extend such period). The Act itself (Schedule 9, paragraphs 11–14) specifies further requirements for giving information in connection with certain kinds of acquisition of land by public authorities possessing compulsory purchase powers.

The regulations also prescribe—

(i) the particulars to be included in applications made under section 60 for a direction that no levy be chargeable in Case C where a disposition under Case A or B has taken place shortly beforehand; and

(ii) the particulars to be included in notices served under section 62 on the Commission by builders and developers of residential property claiming exemption from levy in Case C in respect of certain interests in land which they held on 23rd September 1965.

The regulations apply to Scotland.