STATUTORY INSTRUMENTS

1967 No. 322 (S. 21)

LAND COMMISSION

The Betterment Levy (Planning Assumptions) (Scotland) Regulations 1967

Made - - - - - 6*th March* 1967

Laid before the House of Commons 8*th March* 1967

Coming into Operation 6*th April* 1967

In exercise of the powers conferred on me by section 98 of, and paragraph 11 of Schedule 6 to, 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 (Planning Assumptions) (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 following expressions have the meanings hereby assigned to them respectively, that is to say—

"the Act" means the Land Commission Act 1967, and "Schedule 4" and "Schedule 6" mean Schedule 4 and Schedule 6 to the Act respectively;

"gas authority" has the meaning assigned to it by section 28(1) of the Gas Act 1965(c);

"gas undertaking" means an undertaking for the supply of gas;

"electricity undertaking" means an undertaking for the supply of electricity;

"storage authorisation order" has the meaning assigned to it by section 4(1) of the Gas Act 1965; and

"underground gas storage" has the meaning assigned to it by section 28(1) of the Gas Act 1965.

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

(a) 1967 c. 1.
(b) *See* S.I. 1967/146 (1967 I, p. 241)
(c) 1965 c. 36.
(d) 1889 c. 63.

Development to be treated as material development

3.—(1) This regulation applies for the purposes of the following provisions of the Act, that is to say—

(*a*) paragraph 3 (current use value in Case A) of Schedule 4,

(*b*) paragraph 11 (current use value in Case B) of Schedule 4,

(*c*) paragraph 21(5) (market value in Case C) of Schedule 4,

(*d*) paragraph 29 (current use value in Case C) of Schedule 4,

(*e*) paragraph 38(2) (current use value in Cases D and E) of Schedule 4, and

(*f*) paragraph 9(2) (depreciation in value of other land) of Schedule 6,

each of which requires certain assumptions to be made in relation to planning permission for material development.

(2) Development of the descriptions specified in the Schedule to these regulations, not being development which constitutes material development in accordance with section 99(2) of the Act, shall be treated as material development.

William Ross,

One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,

Edinburgh, 1.

6th March 1967.

SCHEDULE

1.—(1) Development of any of the classes to which this paragraph applies specified in Schedule 1 to the Town and Country Planning (General Development) (Scotland) Order 1950(a), as amended(b), which in accordance with Article 3 thereof is permitted by that order and may be undertaken upon land to which that order applies without the permission of the local planning authority referred to in section 2 of the Town and Country Planning (Scotland) Act 1947(c) or the Secretary of State.

(2) The classes so specified to which this paragraph applies are as follows—

Class XI	Development under local or private Acts, or Orders
Class XII	Development by local authorities
Class XIII	Development by local highway authorities
Class XIV	Land drainage works
Class XV	Development by sewerage authorities
Class XVI	Development by Statutory Undertakers

2.—(1) Development consisting of the installation or erection for the purposes of an electricity undertaking, of any plant or machinery, electric lines or supports or apparatus in, on, over or under any land other than operational land of the statutory undertakers carrying out such development.

(a) S.I. 1950/942 (1950 II, p. 1107).
(b) The relevant amending instrument is S.I. 1964/1791 (1964 III, p. 3934).
(c) 1947 c. 53.

(2) Development consisting of the bringing into use or operation for the purposes of a gas undertaking of an underground gas storage in accordance with a storage authorisation order made by the Minister of Power under the Gas Act 1965, in or under the land, other than operational land, of the gas authority carrying out such development, or the carrying out or construction on, in, or under such land by the gas authority of any surface works, boreholes, or pipes associated with an underground gas storage which in a storage authorisation order are shown as approved by the said Minister for the purpose of subsection (6) as read with subsection (7) of section 4 of that Act, or prospecting operations carried out by a gas authority for the purposes of finding or proving a site for the underground storage of gas.

(3) Development for the purposes of a gas undertaking, consisting of the installation in a gas distribution system of gas valve governor houses irrespective of their capacity.

(4) Development for the purposes of a gas undertaking consisting of the laying at any level of mains, pipes or other apparatus.

3. Development consisting of the carrying out of any operations necessary for searching and boring for and getting petroleum (as defined in section 1(2) of the Petroleum (Production) Act 1934(a)) pursuant to a licence granted by the Minister of Power under the said Act, or under the said Act as extended by the Continental Shelf Act 1964(b); and the erection or construction and the maintenance, improvement or other alteration of any buildings (including plant and equipment) certified by the Secretary of State and the Minister of Power to be, or falling within a class so certified to be, requisite for the purposes of the said operations.

4. In relation to a pipe-line as defined in section 65 of the Pipe-lines Act 1962(c), development consisting of—

(i) the carrying out on land in accordance with the provisions of the said Act of pipe-line works as defined in section 66 thereof;

(ii) the carrying out on land in accordance with the provisions of any local or private Act of works of a nature similar to pipe-line works as mentioned above.

EXPLANATORY NOTE

(This Note is not part of the regulations.)

For the purposes of assessing betterment levy in Cases A to E several paragraphs in Schedules 4 and 6 to the Land Commission Act 1967 require certain planning assumptions to be made as regards material development, namely (in general) that planning permission—

(*a*) would be granted for any development which does not constitute material development, but

(*b*) would not be granted for any development which constitutes material development.

The expression "material development" is defined in section 99(2) of the Act as meaning any development other than (broadly) development for which planning permission is granted by a General Development Order made under the Town and Country Planning (Scotland) Act 1947, development falling within Schedule 3 to that Act and development of any class prescribed by regulations (see the Material Development (Scotland) Regulations 1967 (S.I. 1967/491)).

(a) 1934 c. 36. (b) 1964 c. 29. (c) 1962 c. 58.

These regulations made under Schedule 6, paragraph 11 provide that development of the descriptions scheduled to the regulations, which does not constitute material development as mentioned above, shall, nevertheless, be treated as material development for the purposes of the relevant paragraphs of Schedules 4 and 6.

The regulations apply to Scotland.