STATUTORY INSTRUMENTS

1967 No. 325 (S. 24)

LAND COMMISSION

BETTERMENT LEVY

The Case F Supplemental (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 section 98 of and paragraph 5(4) of Schedule 5 and paragraph 10 of Schedule 7 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:—

PRELIMINARY

Citation, extent and commencement

1. These regulations, which may be cited as the Case F Supplemental (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;

"disposition falling within the antecedent period" has the meaning assigned to it by paragraph 2(2) of Schedule 5 to the Act; and

"the General Regulations" means the Case F General (Scotland) Regulations 1967(c).

(2) Any expression used in these regulations of which there is a definition in the Act, or in respect of which there is in the Act any provision relating to the construction thereof or of any reference thereto, has the meaning assigned to it by the Act, whether for the purpose of the Act as a whole or for the purpose only of Part III thereof or of any Schedule to the Act or any Part of any such Schedule.

(3) Except in so far as the context otherwise requires, any reference in these regulations to any provision of the Act shall be construed as a reference to that provision as modified by these regulations or any other regulations made under the Act.

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

EFFECT OF CASE F EVENT ON SCHEDULE 5 BASE VALUE

3.—(1) For the purpose of assessing levy in respect of any chargeable act or event, a previous disposition of the chargeable interest (whether made before,

(a) 1967 c. 1. (b) *See* S.I. 1967/146 (1967 I, p. 241). (c) S.I. 1967/ 492 (1967 I, p. 1631).
(d) 1889 c. 63.

on or after the first appointed day) shall not be taken to have been a relevant disposition of that interest if, after that disposition was made but before the relevant date, there has occurred a chargeable act or event to which this regulation applies.

(2) This regulation applies to any chargeable act or event falling within Case F which consisted of:—

(*a*) such a disposition as is mentioned in sub-section (3) of section 35 of the Act, being a disposition to which regulation 4 of the General Regulations applies, or

(*b*) the accrual of such a right to compensation as is mentioned in sub-section (5) of that section, being a right to compensation to which regulation 8 of the General Regulations applies,

in such circumstances that the interest which, for the purpose of assessing levy in respect of that act or event, constituted the relevant interest, was the chargeable interest in so far as it subsisted in the land which for that purpose was the relevant land.

(3) For the purpose of this regulation a chargeable act or event to which this regulation applies shall be taken to have occurred on the date which was the relevant date for the purpose of assessing levy in respect of it.

MODIFIED VALUE OF A DUTIABLE INTEREST

4. Where for the purpose of assessing levy in respect of an act or event designated for the purposes of Case F, as mentioned in section 27(2) of the Act, an appropriate allowance falls to be made in accordance with the provisions of Schedule 7 to the Act (Allowance in respect of Estate Duty), the modified value of the dutiable interest shall be ascertained in accordance with the following provisions of these regulations.

5.—(1) This regulation applies to a disposition to which regulation 3 of the General Regulations (Renewals, extensions and variations of tenancies) applies.

(2) If for the purpose of assessing levy in respect of the disposition paragraph 16 of Schedule 5 to the Act would have effect if that disposition had been made in the manner described in sub-paragraphs (*a*) and (*b*) of paragraph (4) of Regulation 3 of the General Regulations, the modified value of the dutiable interest shall be taken to be an amount equal to the aggregate of:—

(*a*) a sum (in this regulation referred to as "the normal reversionary element") ascertained in accordance with paragraph (3) or (4) below; and

(*b*) the amount which for the purpose of assessing levy in respect of the disposition needs to be ascertained under paragraph 8 of Schedule 1 to the General Regulations.

(3) Where the old tenancy (which expression has in this regulation the meaning assigned to it by regulation 3(3) of the General Regulations) was granted by a disposition falling within the antecedent period, the normal reversionary element shall be an amount equal to what would have been the consideration given for the last relevant disposition of the chargeable interest if that interest had been the interest which the chargeable owner in fact had in the relevant land immediately before the disposition (no regard being had to the hypotheses which are required to be adopted under paragraph (4) of that regulation for the purpose of assessing levy in respect of that disposition).

(4) Where the old tenancy was granted by a disposition made on or after the first appointed day and constituted a chargeable act or event which was or is notified in accordance with the provisions as to notification contained in Part III of the Act, and for the purpose of assessing levy in respect of the grant of that tenancy paragraph 16 of Schedule 5 had effect—

(*a*) that disposition shall be treated as a previous disposition of the chargeable interest;

(*b*) the amount of the consideration given for that disposition shall be ascertained in accordance with paragraphs (3) to (5) of Regulation 8 of the Betterment Levy (Tenancies and Reversions) (Scotland) Regulations 1967(a) in like manner as if the chargeable interest were a reversion to which that regulation applies; and

(*c*) the amount so ascertained shall be taken to be the normal reversionary element.

(5) If paragraph 16 of Schedule 5 to the Act would not have effect in the circumstances described in sub-paragraph (2) above, the modified value of the dutiable interest shall be taken to be an amount equal to the aggregate of:—

(*a*) the amount described in paragraph (2)(b) above, and

(*b*) eleven-tenths of the current use value of the chargeable interest.

6. In the case of a disposition to which regulation 4 (Rights in the nature of wayleaves) of the General Regulations applies the modified value of the dutiable interest shall be ascertained in accordance with sub-paragraph (*a*) or sub-paragraph (*b*) of paragraph 7 of Schedule 7 to the Act (whichever of those sub-paragraphs would be applicable if the chargeable act or event had fallen within Case E).

7. In the case of a disposition to which regulation 5 (Waiver or modification of feudal obligations) or regulation 6 (Imposition of an augmentation of feu-duty) or regulation 7 (Conveyances of Superiority and interest of creditor in Ground Annual) of the General Regulations applies the modified value of the dutiable interest shall be ascertained in accordance with sub-paragraph (*a*) or sub-paragraph (*b*) of paragraph 7 of Schedule 7 to the Act (whichever of those sub-paragraphs would be applicable if the chargeable act or event had fallen within Case A or Case E).

8. In the case of a right to compensation to which regulation 8 (Statutory rights to compensation for depreciation) of the General Regulations applies the modified value of the dutiable interest shall be ascertained in accordance with sub-paragraph (*a*) or sub-paragraph (*b*) of paragraph 7 of Schedule 7 to the Act (whichever of those sub-paragraphs would be applicable if the chargeable act or event had fallen within Case D).

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

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

EXPLANATORY NOTE

(*This note is not part of the Regulations.*)

These Regulations supplement the Case F General (Scotland) Regulations 1967 (S.I. 1967/492). They provide for disallowing the use, on the occasion of a chargeable act or event subsequent to certain acts or events falling within Case F, of a base value derived from the last relevant disposition which was used in the Case F assessment. They also provide for determining the "modified value of the dutiable interest" for the purpose of giving an allowance in respect of estate duty in a Case F assessment.

(a) S.I. 1967/324. (1967 I, p. 1102).

Regulation 3 is concerned with an adaptation of the provisions of paragraph 5 of Schedule 5 to the Act relating to Cases D and E to acts or events falling within Case F which are of a similar nature. Two of the types of occurrence covered by the Case F Regulations are concerned, respectively, with statutory provisions conferring rights of the nature of wayleaves and specified enactments under which compensation for depreciation in the value of land can become payable. The former correspond closely to servitudes which are assessed under Case E and the latter to rights to compensation assessed under Case D. The Case F General (Scotland) Regulations therefore apply the assessment formula for those cases to these two types of Case F occurrence. The formula used in the assessment of levy in Cases D and E takes fully into account any development value paid for on a previous disposition under Schedule 5 to the Act. Accordingly, that Schedule extinguishes the previous disposition base value so that it cannot be used a second time. Regulation 3 applies the same rule of extinguishing the previous disposition base value following the occurrence of a chargeable act or event falling within Case F which is of the same nature as an act or event of Case D or E and is treated in the same way.

Regulations 4 to 8 are concerned with the ascertainment of the modified value of the dutiable interest which is used in determining, when appropriate, the amount of any allowance to be made for estate duty payable in respect of a death occurring before a chargeable act or event falling within Case F. The modified value of the dutiable interest under Schedule 7 to the Act (Allowance in respect of Estate Duty), is a modification of base value used for the purposes of assessing levy on a chargeable act or event in respect of which an allowance for estate duty falls to be made. When the chargeable act or event in Case F is the renewal, extension, or variation of the terms of a tenancy (as mentioned in section 35(2) of the Act), levy is assessed as on a Case B assessment but there are some adaptations to base value made by the Case F General (Scotland) Regulations. These are adaptations to base value, whether found under Schedule 4 or 5 to the Act, by an amount to take account of the notional surrender of the tenancy and by an amount to offset (where appropriate) the additional consideration deemed to have been given by the tenant for the renewal extension or variation of the tenancy.

Regulation 5 of the present regulations, for the purpose of ascertaining the modified value, provides for the addition to base value, whether found under Schedule 4 or 5 to the Act, of the amount which is added to base value in the Case F assessment to take account of the notional surrender of the tenancy. The other amount mentioned above is not appropriate for the purpose of finding the modified value.

In the case of the other chargeable acts or events falling within Case F (by virtue of section 35(3) to (5) of the Act and the Case F General (Scotland) Regulations) no adaptations to base value are necessary in finding the modified value of the dutiable interest, since the Case F General (Scotland) Regulations attract the provisions of Schedule 7 to the Act as applied to Cases E, A and D as the case may be.

These Regulations apply to Scotland.