STATUTORY INSTRUMENTS

1976 No. 331

COMMUNITY LAND

The Community Land (Excepted Development) Regulations 1976

Laid before Parliament in draft

Made - - - - 1*st March* 1976

Coming into Operation 6*th April* 1976

The Secretary of State for the Environment, in relation to England, the Secretary of State for Scotland, in relation to Scotland, and the Secretary of State for Wales, in relation to Wales, in exercise of the powers conferred on them by sections 3(2) and 53(2) of the Community Land Act 1975(a), and of all other powers enabling them in that behalf, hereby make the following regulations in the terms of a draft which has been laid before and approved by a resolution of each House of Parliament:—

Citation and commencement

1. These regulations may be cited as the Community Land (Excepted Development) Regulations 1976 and shall come into operation on 6th April 1976.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

"the Act" means the Community Land Act 1975;

"builder or developer of residential or industrial property" means any person carrying on a business which—

(*a*) consists wholly or mainly of the carrying out of building operations or of building and engineering operations and includes the building of dwelling-houses or industrial buildings, or

(*b*) consists wholly or mainly of building, or arranging for the building of, dwelling-houses or industrial buildings, and of selling, feuing or letting them;

"building" includes part of a building;

(a) 1975 c. 77.

"industrial building" has in relation to England and Wales the meaning assigned to it by section 66 of the Act of 1971 and in relation to Scotland the meaning assigned to it by section 64 of the Scottish Act of 1972;

"industrial undertaker" in relation to England and Wales means any person carrying on any such process or research as is mentioned in section 66(1) of the Act of 1971 and in relation to Scotland means any person carrying on any such process or research as is mentioned in section 64(1) of the Scottish Act of 1972.

(2) Any expression not referred to in paragraph (1) above which is used in these regulations and which is also used in the Act shall, unless the context otherwise requires, have the same meaning as it has in the Act.

(3) In these regulations any reference to the time when planning permission is or was granted, in the case of planning permission granted on an appeal, is a reference to the time of the decision appealed against or, in the case of planning permission granted on an appeal in the circumstances mentioned in section 37 of the Act of 1971 or section 34 of the Scottish Act of 1972, a reference to the time when in accordance with that section notification of the decision is or was deemed to have been received.

(4) For the purposes of these regulations a material interest in land shall be treated as owned by any person at any time if, at that time, that person has or had entered into a binding contract for its acquisition.

(5) For the purposes of these regulations if at any time a company is

(*a*) a member of a group of companies for any of the purposes of the Income and Corporation Taxes Act 1970**(a)**, and

(*b*) a builder or developer of residential or industrial property or, as the case may be, an industrial undertaker,

then all the companies who are (at that time) members of that group of companies shall, at that time, be deemed to be builders or developers of industrial or residential property or, as the case may be, industrial undertakers.

(6) For the purposes of these regulations the amount of the gross floor space in or to be comprised in a building shall be ascertained by external measurement of that space whether or not the building is to be bounded (wholly or partly) by external walls.

(7) References in these regulations to any enactment shall, except where the context otherwise requires, be construed as references to that enactment as amended or extended by or under any other enactment.

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

Excepted Development

3. The classes of development described in the Schedule to these Regulations are prescribed for the purposes of section 3(2)(*c*) of the Act so that development of such classes is excepted from the definition of "relevant development" contained in section 3(2) of the Act.

(a) 1970 c. 10.

(b) 1889 c. 63.

SCHEDULE

PART I

EXCEPTED DEVELOPMENT

Class 1

Any development the carrying out of which is authorised by planning permission granted on or before 12th September 1974.

Class 2

Development consisting wholly or mainly of the building of dwelling-houses or industrial buildings on any land so long as—

(*a*) during the whole of the period beginning with 12th September 1974 and ending with the relevant time, the freehold of that land has been owned by a builder or developer of residential or industrial property (but not necessarily the same builder or developer of residential or industrial property throughout), and

(*b*) notice in the appropriate form as set out in Part II of this Schedule (or in a form substantially to the like effect) was given to any one of the authorities whose areas include the land by a builder or developer of residential or industrial property who, at the time of giving such notice, owned the freehold of the land described in that notice, and the notice was received by that authority not later than 5th October 1976, or where application is made before that date for planning permission to carry out the development not later than whichever of the following dates is appropriate (if it is earlier than 5th October 1976)—

(i) if it appears from a certificate under section 27 of the Act of 1971 or section 24 of the Scottish Act of 1972 that notices have been served or published under either of those sections, the date of expiration of a period of 21 days beginning with the date appearing from the certificate to be the latest of the dates of service of notices as mentioned in the certificate, or with the date of publication of a notice as therein mentioned, whichever is the later, or

(ii) if it appears from the certificate mentioned in (i) above that no such notices as therein mentioned have been served or published, the date of the application.

Class 3

The erection of any number of industrial buildings on any land so long as during the whole of the period beginning with 12th September 1974 and ending with the relevant time, a material interest in that land has been owned by an industrial undertaker (but not necessarily the same industrial undertaker throughout).

Class 4

The erection of one or more industrial buildings so long as the gross floor space or the aggregate of the gross floor space to be comprised in that building or those buildings does not exceed 1,500 sq. metres.

Class 5

The erection of one or more buildings other than any industrial building so long as the gross floor space or the aggregate of the gross floor space to be comprised in that building or those buildings does not exceed 1,000 sq. metres.

Class 6

The erection on any land of one or more buildings to be used for agriculture.

Class 7

The rebuilding or the enlargement, improvement or other alteration of any building which was in existence at the relevant time, or of any building which was in existence in the period of 10 years immediately preceding the relevant time but was destroyed or demolished before that time, so long as the gross floor space to be comprised in the building as proposed to be rebuilt, enlarged, improved or altered under this class does not exceed by more than 10 per cent the gross floor space comprised in the building before rebuilding, enlargement, improvement or alteration.

For the purposes of this class—

(*a*) the erection, on land within the curtilage of a building, of an additional building to be used in connection with that building, shall be treated as the enlargement of that building, and

(*b*) where any two or more buildings comprised in the same curtilage are used as one unit for the purposes of any institution or undertaking, the reference in this class to the gross floor space comprised in the building shall be construed as a reference to the aggregate of the gross floor space comprised in those buildings.

Class 8

Any development on any land the freehold in which is owned by the Scottish Development Agency or the Welsh Development Agency.

Class 9

Any development on any land which is operational land of statutory undertakers or would be such land if it were used or held by statutory undertakers for the purposes of the development.

Class 10

Any development for which planning permission would be granted by a general development order for the time being in force but for a condition imposed in any planning permission granted or deemed to be granted otherwise than by such an order, and which is carried out so as to comply with any condition or limitation subject to which planning permission would be so granted.

Class 11

Any development so long as—

(*a*) it does not include the erection of a building, and

(*b*) it is not wholly or mainly connected with and ancillary to the use of one or more buildings not in existence at the relevant time and whose erection would constitute relevant development.

Class 12

Any development consisting of development in any two or more of classes 1-11 inclusive so long as it does not include any development solely in class 4 or class 5.

Class 13

Any development consisting of development in any two or more of classes 1-11 inclusive so long as it does not include any development solely in class 7.

PART II

FORM OF NOTICE (LAND IN ENGLAND AND WALES)

COMMUNITY LAND ACT 1975

NOTICE BY BUILDER OR DEVELOPER OF OWNERSHIP OF LAND ON 12TH SEPTEMBER 1974

To: (insert name and address of authority)

On 12th September 1974 the land described in the Schedule to this notice and delineated on the plan attached hereto was in the freehold ownership of the builder or developer of residential or industrial property named in the Schedule and is now in our freehold ownership.

Signed

on behalf of (insert name and address of the builder or developer of residential or industrial property)

Date

Schedule

1. Description of land.

2. Name and address of builder or developer of residential or industrial property who were freehold owners of the land on 12th September 1974.

Note: Land is treated as being in the freehold ownership of any person at any time if, at that time, that person has entered into a binding contract for the acquisition of the freehold.

FORM OF NOTICE (LAND IN SCOTLAND)

COMMUNITY LAND ACT 1975

NOTICE BY BUILDER OR DEVELOPER OF OWNERSHIP OF LAND IN SCOTLAND ON 12TH SEPTEMBER 1974

To: (insert name and address of authority)

On 12th September 1974 the land described in the Schedule to this notice and delineated on the plan attached hereto was in the ownership of the builder or developer of residential or industrial property named in the Schedule and is now in our ownership.

Signed

on behalf of (insert name and address of builder or developer of residential or industrial property)

Date

Schedule

1. Description of land.

2. Name and address of builder or developer of residential or industrial property who was owner of the land on 12th September 1974.

Note: Land is treated as being in the ownership of any person at any time if, at that time, that person has entered into a binding contract for the acquisition of the land.

Signed by authority of
the Secretary of State.
25th February 1976.

John Silkin,
Minister for Planning and Local Government,
Department of the Environment.

26th February 1976.

William Ross,
Secretary of State for Scotland.

1st March 1976.

John Morris,
Secretary of State for Wales.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

Various provisions of the Community Land Act 1975 (eg. sections 17-24, Schedules 6, 7 and 8, and the definition of "development land" in section 3(1)) depend for their effect on the meaning of "relevant development".

Section 3(2) of the Act defines "relevant development" as meaning any development except

(*a*) development of any class specified in Schedule 1 to the Act,

(*b*) development consisting exclusively of the building of a single dwelling-house, and

(*c*) development of such class or classes as may be prescribed by regulations.

These Regulations prescribe the classes of development which are excepted from the definition of "relevant development" in section 3 of the Act.

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