HOUSING, SCOTLAND

1960 No. 910 (S. 49)

The Housing (Declaration of Unfitness) (Scotland) Regulations, 1960

Made - - - -	20*th May*, 1960
Laid before Parliament	27*th May*, 1960
Coming into Operation	28*th May*, 1960

In exercise of the powers conferred on me by section 172 of the Housing (Scotland) Act, 1950(**a**), as read with paragraph 1 of the Second Schedule to the Town and Country Planning (Scotland) Act, 1959(**b**), and of all other powers enabling me in that behalf, I hereby make the following regulations:—

1.—(1) These regulations may be cited as the Housing (Declaration of Unfitness) (Scotland) Regulations, 1960, and shall come into operation on the 28th day of May, 1960.

(2) The Interpretation Act, 1889(**c**), shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

2. The forms set out in the Schedule to these regulations, or forms substantially to the like effect, shall be the forms to be used in the cases to which those forms are applicable in connection with the powers and duties, under paragraph 1 of the Second Schedule to the Town and Country Planning (Scotland) Act, 1959, of the local authority for the purposes of the Housing (Scotland) Act, 1950.

3. The Housing (Declaration of Unfitness) (Scotland) Regulations, 1948(**d**), are hereby revoked, but this revocation shall not affect the validity of any order made in a form prescribed by the said Regulations and submitted for confirmation before the coming into operation of the said Town and Country Planning (Scotland) Act, 1959.

Dated this 20th day of May, 1960.

John S. Maclay,

One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

(**a**) 14 Geo. 6. c. 34. (**b**) 7 & 8 Eliz. 2. c. 70.
(**c**) 52 & 53 Vict. c. 63. (**d**) S.I. 1948/2225 (Rev. X, p. 202: 1948 I, p. 1597).

SCHEDULE

FORM No. 1

Form of Declaration of Unfitness Order

HOUSING (SCOTLAND) ACTS 1950 TO 1959

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1959

DECLARATION OF UNFITNESS ORDER

Whereas the (1) (hereinafter called "the local authority") are a local authority for the purposes of the provisions of Part III of the Housing (Scotland) Act, 1950, relating to clearance areas;

And Whereas the land comprising the house specified in the Schedule hereto [(and coloured on the map annexed hereto)] is in the district of the local authority;

And Whereas [the land is within an area designated as the site of a new town and] it is proposed that the land should be acquired compulsorily under (2) [in pursuance of (3)];

And Whereas the said house is, in the opinion of the local authority, unfit for human habitation and not capable at reasonable expense of being rendered so fit;

Now Therefore the local authority, in exercise of the powers conferred on them by sub-paragraph (2) of paragraph 1 of the Second Schedule to the Town and Country Planning (Scotland) Act, 1959, hereby declare the said house to be unfit for human habitation and not capable at reasonable expense of being rendered so fit.

This Order may be cited as the (4) (Declaration of Unfitness) Order, 19 .

Dated this day of 19 .(5)

.....
(Signature of Clerk to the local authority)

SCHEDULE

Description and situation of house	*Owner or reputed owner*

Notes for guidance in completing this form

(1) Insert name of local authority.

(2) Specify relevant powers.

(3) Insert the title of any compulsory purchase order made or a reference to any notice served under section 17 of the Town and Country Planning (Scotland) Act, 1947, or section 38 of the Town and Country Planning (Scotland) Act, 1959, whichever is appropriate.

(4) Insert suitable short title.

(5) See section 347 of the Local Government (Scotland) Act, 1947, as to the signing of orders.

FORM NO. 2

Form of Notice to Owners, Superiors and Holders of Heritable Securities of the making of a Declaration of Unfitness Order

HOUSING (SCOTLAND) ACTS 1950 TO 1959

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT, 1959

Notice of the making of a Declaration of Unfitness Order

The (1) (Declaration of Unfitness) Order, 19 .

To (2)

Take Notice that—

(I) the (3), in exercise of the powers conferred on them by sub-paragraph (2) of paragraph 1 of the Second Schedule to the Town and Country Planning (Scotland) Act, 1959, made on the day of 19 , and are about to submit to the Secretary of State for confirmation the above-mentioned Order (hereinafter referred to as "the unfitness order") declaring to be unfit for human habitation and not capable at reasonable expense of being rendered so fit the house specified in the first column of the Schedule hereto, [and shown coloured on the map annexed to the unfitness order] being a house comprised in land which (4);

(II) the principal grounds upon which the local authority are of opinion that the said house is unfit for human habitation and not capable at reasonable expense of being rendered so fit are set out in the second column of the Schedule hereto;

(III) any objection to the unfitness order must be made in writing stating the grounds on which it is made and must be lodged with the Secretary of State by being addressed to the Secretary, Department of Health for Scotland, St. Andrew's House, Edinburgh, 1, on or before the day of 19 .(5)

Dated this day of 19 .

.....
(Signature of Clerk to the local authority)

SCHEDULE

Description and situation of House	*Principal grounds upon which the local authority are of opinion that the house is unfit*

Notes for guidance in completing this form

(1) Insert title of order.

(2) Insert name and address of person on whom the notice is to be served.

(3) Insert name of local authority making the order.

(4) Insert a reference to the relevant provisions of paragraph 1 (1) of the Second Schedule to the Town and Country Planning (Scotland) Act, 1959, adapting the terms of the third recital in the Declaration of Unfitness Order.

(5) Insert a date not less than 28 days after the date of service of the notice.

NOTES

(To be incorporated in the notice and any copies thereof)

If no objection is duly made by any of the persons on whom notices are required to be served, or if all objections are withdrawn, the Secretary of State may, if he thinks fit, confirm the order, but in any other case he is required before confirming the order to consider any objection not withdrawn and, if either the person by whom the objection was made or the local authority so desire. he must afford that person and the authority an opportunity of appearing before and being heard by a person appointed by him for the purpose.

If the unfitness order is confirmed, the compensation (exclusive of any compensation for disturbance or for severance or for injurious affection) payable for a house to which the order applies, if it is purchased compulsorily in any of the ways mentioned in paragraph 1 (1) of the Second Schedule to the Town and Country Planning (Scotland) Act, 1959, and either—

(*a*) the compulsory purchase order was confirmed concurrently with or after the confirmation of the unfitness order, or

(*b*) where the acquisition is in pursuance of a notice to treat deemed to have been served as mentioned in paragraph 1 (2) (*b*) of the said Second Schedule, the unfitness order was made before the date on which the notice to treat is deemed to have been served

will be the lesser of—

(i) the market value of the house as it stands,

(ii) the value of the site cleared of the house and available for development in accordance with the requirements of the building regulations for the time being in force in the district.

If the Secretary of State is satisfied that a house to which this order relates, notwithstanding its unfitness, has been well maintained, he may give direction that the acquiring authority shall make a payment in respect of the house in accordance with section 40 of the Housing (Scotland) Act, 1950, as read with section 20 of the Housing and Town Development (Scotland) Act, 1957.

The total amount payable in respect of the interest of the owner-occupier of a private dwelling excluding any compensation attributable to disturbance or to severance or injurious affection will not, in any event, be less than the gross annual value of the dwelling for rating purposes.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations prescribe the forms of order and notice to be used under paragraph 1 of the Second Schedule to the Town and Country Planning (Scotland) Act, 1959, for the purpose of declaring that a house which is to be compulsorily purchased is unfit for human habitation.