(6) LANDHOLDERS AND COTTARS (BUILDING GRANT)

The Landholders and Cottars (Building Grant) (Scotland) Regulations, 1949

1949 No. 946 (S. 56)

Made - - - -	16*th May*, 1949
Laid before Parliament	18*th May*, 1949
Coming into Operation	19*th May*, 1949

In exercise of the powers conferred on me by subsection (3) of section 77 of the Agriculture (Scotland) Act, 1948(a), and of all other powers enabling me in that behalf, I hereby make the following regulations :—

Short title, extent and commencement.

1. These regulations may be cited as the Landholders and Cottars (Building Grant) (Scotland) Regulations, 1949, shall extend to the Highlands and Islands only and shall come into operation on the 19th day of May, 1949.

Interpretation.

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them—

"grant" means a grant by the Secretary of State under subsection (1) of section 77 of the Agriculture (Scotland) Act, 1948.

"house" means a dwellinghouse, and "building" means a farm building other than a dwellinghouse, towards the erection or improvement or rebuilding of which assistance by way of grant has been or is to be provided.

"landlord" has the like meaning as in the Small Landholders (Scotland) Acts, 1886 to 1931(b).

"period of the grant" means the period specified in paragraph (2) of regulation 5 hereof.

"tenant" means "landholder" or "cottar", as the case may be.

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

Application for grant.

3.—(1) Application by a tenant for a grant towards the erection, improvement or rebuilding of a house or building shall be made in such manner as the Secretary of State may require.

(2) The Secretary of State shall give to the landlord written notice of the receipt of such an application and if the landlord within fourteen days from the service of the notice submits any objection to the making of a grant the Secretary of State shall not make a grant except after affording to the landlord and to the tenant an opportunity of making representations to the Secretary of State either in writing or by being heard by a person appointed for the purpose by the Secretary of State.

(a) 11 & 12 Geo. 6. c. 45.
(b) 49 & 50 Vict. c. 29; 50 & 51 Vict. c. 24; 54 & 55 Vict. c. 41; 8 Edw. 7. c. 50; 1 & 2 Geo. 5. c. 49; 9 & 10 Geo. 5. c. 97; 21 & 22 Geo. 5. c. 44.
(c) 52 & 53 Vict. c. 63.

Notice and payment of grant.

4.—(1) When the Secretary of State has decided either to make or to withhold a grant he shall forthwith inform the landlord and the tenant of his decision.

(2) A grant may be made by payment in one sum upon completion of the work of erection, improvement or rebuilding, or, in the discretion of the Secretary of State, by instalments upon completion of such portions of the said work as he may from time to time determine.

(3) The said work shall be completed to the satisfaction of the Secretary of State in accordance with proposals approved by him at the time he decides to make a grant.

(4) On payment of the grant or, in a case where the grant is made by instalments, on payment of the last instalment, the Secretary of State shall:

(*a*) forthwith give to the landlord written notice of the amount of the grant, and

(*b*) record in the appropriate Register of Sasines a notice of the grant in the form set out in the First Schedule hereto or in a form to the like effect.

Conditions of grant.

5.—(1) Subject to the provisions of regulation 10 hereof the following conditions shall apply for the period specified in paragraph (2) of this regulation in relation to a house or building in respect of which a payment by way of grant has been made:

(*a*) the house or building shall be let on landholder's or cottar's tenure, as the case may be, and the landlord shall from time to time, on being so required by the Secretary of State, furnish to the Secretary of State a certificate to that effect;

(*b*) the tenant shall, to the satisfaction of the Secretary of State, so maintain the house as to be in all respects fit for human habitation and so maintain the building as to be in all respects fit for the agricultural use for which it was designed;

(*c*) unless the Secretary of State on the application of the tenant agrees otherwise in writing, the house or building shall be occupied by the tenant or by his family;

(*d*) the tenant shall keep the house or building insured against destruction or damage by fire for such sum and with such insurance company as the Secretary of State may from time to time approve, and shall pay the premiums thereon as these fall due and exhibit the premium receipts to the Secretary of State on being requested so to do.

(2) The period during which the conditions contained in this regulation shall apply to a house or building shall be:

(*a*) in the case of work consisting of erection or rebuilding, a period of forty years, and

(*b*) in the case of work certified by the Secretary of State to consist of improvement only, a period of twenty years,

and in each case the said period shall commence from the completion of the work.

Entry and inspection.

6.—(1) Any person authorised by the Secretary of State in that behalf shall, on giving at least twenty-four hours notice, have power at all reasonable times to enter on and inspect any house or building for the

purpose of determining whether the condition contained in sub-paragraph (*b*) of paragraph (1) of regulation 5 hereof is being complied with.

(2) Any person so authorised by the Secretary of State who proposes to exercise any power of entry and inspection conferred by this regulation shall, if so required, produce some duly authenticated document showing his authority to exercise the power.

Breach of conditions.

7.—(1) In the event of failure by a tenant to comply with the provisions of paragraph (3) of regulation 4 hereof the Secretary of State may withhold the grant or any part thereof which has not been paid, and the Secretary of State may also recover any part which has been paid.

(2) In the event of a breach of any of the conditions specified in regulation 5 hereof after the grant or any part thereof is made, the Secretary of State may recover from the person in breach a sum bearing the same proportion to the grant, or such part thereof as has been made, as the period between the date of the breach of the condition and the expiration of the period of the grant bears to the last mentioned period, together with interest on such sum from the date on which the grant or part thereof as aforesaid was made to the date of recovery calculated at the rate of 3 per centum per annum.

Destruction or damage by fire.

8. In the event of the house or building being destroyed by fire, or so damaged by fire as to be rendered in the case of a house unfit for human habitation and in the case of a building unfit for the agricultural use for which it was designed, the Secretary of State may recover from the tenant such sum, together with such interest, as the Secretary of State would, in terms of paragraph (2) of regulation 7 hereof, be entitled to recover in respect of a breach of any of the conditions contained in regulation 5 hereof occurring at the date of such destruction or damage.

Repayment of grant.

9. The tenant or the landlord may at any time make repayment of the grant by paying to the Secretary of State either

(*a*) such sum together with such interest as the Secretary of State would, in terms of paragraph (2) of regulation 7 hereof, be entitled to recover in respect of a breach at that time of any of the conditions contained in regulation 5 hereof, or

(*b*) such lesser sum as in the circumstances of any particular case the Secretary of State in his discretion may agree to accept.

Cesser of conditions.

10. On expiration of the period of the grant or on payment to the Secretary of State of such sum together with interest as is specified in any of the three preceding regulations, the conditions contained in regulation 5 hereof shall cease to apply in relation to the house or building in respect of which the grant was made, and the Secretary of State shall record in the appropriate Register of Sasines a notice in the form set out in the Second Schedule hereto or in a form to the like effect.

Grants in relation to compensation.

11. If at any time within the period of the grant compensation becomes payable under the Small Landholders (Scotland) Acts, 1886 to 1931, for a house or building in respect of which a grant has been made, then, except in so far as the grant has been recovered by or repaid to the Secretary of State in terms of these regulations, so much

of the value of the house or building as is attributable to the grant shall be taken into account in assessing the compensation so payable and shall be deducted therefrom.

Grants in relation to rent, etc.

12. The landlord of a house or building shall not at any time, while the conditions contained in regulation 5 hereof apply in relation to the house or building, be entitled to obtain any consideration by way of rent or otherwise in respect of so much of the value of the house or building as is attributable to a grant.

Dated this sixteenth day of May, 1949.

Arthur Woodburn,
One of His Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

FIRST SCHEDULE

Form of Notice of Grant

County of.....

Parish of .....

Take Notice that the Secretary of State for Scotland, in exercise of his powers under section 77 of the Agriculture (Scotland) Act, 1948, and in terms of the provisions of the Landholders and Cottars (Building Grant) (Scotland) Regulations, 1949, has made a grant of(1) sterling towards the(2) of the subjects described in the Schedule hereto, and that, subject to the provisions of the said regulations, the conditions of grant specified in regulation 5 of the said regulations apply to the said subjects for a period of(3) years from the day of nineteen hundred and being the date of completion of the work.

Schedule

Description of subjects, stating parish and county	Name and designation of present landlord	Name and designation of present landholder or cottar

Given under the Seal of the Secretary of State for Scotland this day of 19 .

(Signed) .....

(1) Amount of grant.
(2) Erection *or* improvement *or* rebuilding, *as the case may be.*
(3) Forty *or* Twenty, *as the case may be.*

SECOND SCHEDULE

FORM OF NOTICE OF CESSER OF CONDITIONS OF GRANT

County of.....

Parish of .....

TAKE NOTICE that:

(1) the Secretary of State for Scotland, in exercise of his powers under section 77 of the Agriculture (Scotland) Act, 1948, and in terms of the provisions of the Landholders and Cottars (Building Grant) (Scotland) Regulations, 1949, made a grant of(1) sterling towards the (2) of the subjects described in the Schedule hereto;

(2) notice of the said grant dated(3) was recorded(4) ;

(3) (5) ; and

(4) the conditions of grant specified in regulation 5 of the said regulations ceased to apply to the said subjects as from the(6) day of nineteen hundred and .

SCHEDULE

Description of subjects, stating parish and county	Name and designation of present landlord	Name and designation of present landholder or cottar

Given under the Seal of the Secretary of State for Scotland this day of 19 .

(Signed) .....

(1) Amount of grant.
(2) Erection *or* improvement *or* rebuilding, *as the case may be.*
(3) Date of notice.
(4) Particulars of recording in the Register of Sasines.
(5) Narrative of the circumstances in which the conditions of grant have ceased to apply.
(6) Date of cesser of conditions.

EXPLANATORY NOTE

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

Section 77 of the Agriculture (Scotland) Act, 1948, empowers the Secretary of State to provide assistance by way of grants towards the erection or improvement or rebuilding of dwellinghouses and other buildings for landholders and cottars in the Highlands and Islands. The regulations prescribe the conditions attaching to the making of such grants.