STATUTORY INSTRUMENTS

1977 No. 432 (S. 42)

LANDS TRIBUNAL

The Lands Tribunal for Scotland (Amendment) Rules 1977

Made - - - -	*3rd March* 1977
Coming into Operation	*21st March* 1977

In exercise of the powers conferred upon me by section 3 of the Lands Tribunal Act 1949**(a)** as amended by section 50 of the Conveyancing and Feudal Reform (Scotland) Act 1970**(b)**, as read with article 2 of the Transfer of Functions (Secretary of State and Lord Advocate) Order 1972**(c)** and of all other powers enabling me in that behalf, and after consultation with the Council on Tribunals, and with the approval of the Treasury in regard to the fees prescribed by these rules in respect of proceedings before the Lands Tribunal for Scotland, I hereby make the following rules:—

Citation and commencement

1. These Rules may be cited as the Lands Tribunal for Scotland (Amendment) Rules 1977 and shall come into operation on 21st March 1977.

Interpretation

2.—(1) In these rules "the principal Rules" means the Lands Tribunal for Scotland Rules 1971**(d)**, and a Rule, Schedule or Form referred to by number means the Rule, Schedule or Form so numbered in the principal Rules.

(2) The Interpretation Act 1889**(e)** shall apply for the interpretation of these rules as it applies for the interpretation of an Act of Parliament.

Amendments to the principal Rules

3. For paragraph (1) of Rule 5 the following paragraph shall be substituted—

"(1) Subject to the provisions of paragraphs (2) and (3) of this rule, an order made by the Tribunal varying or discharging a land obligation shall take effect on the occurrence of whichever of the following events last occurs after the Tribunal has made the order, that is to say—

(*a*) the expiry of a period of twenty-one days after the date when the order was made by the Tribunal;

(*b*) the disposal by the Court of Session of a case stated by the Tribunal on appeal to that Court or, if there is an appeal to the House of Lords, the disposal of the case by the House of Lords;

(*c*) the abandonment or other termination of the proceedings on a case so stated without a decision having been given;

(*d*) the abandonment or other termination of an appeal against the decision of the Court of Session on a case so stated or the expiry of the time for bringing any such appeal without it having been brought; or

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(a) 1949 c. 42. (b) 1970 c. 35. (c) S.I. 1972/2002 (1972 II, p. 5957).
(d) S.I. 1971/218 (1971 I, p. 629). (e) 1889 c. 63.

(*e*) the variation by the Tribunal of the order in compliance with any directions given by the Court of Session or the House of Lords in proceedings relating to such a case;

Provided, that where the application is unopposed or all persons who have opposed or made representations in respect of the application have informed the Tribunal that they consent to the order taking effect immediately, and it is so certified in the order, such order shall take effect on the date on which it is made by the Tribunal."

4. For Part V there shall be substituted the following Part—

"PART V

REFERENCES UNDER THE TAXES MANAGEMENT ACT 1970 AND THE DEVELOPMENT LAND TAX ACT 1976

General

16. The provisions of this Part and of Part VI of these Rules shall apply for the determination of a question referred to the Tribunal under subsection (1) of section 47 of the Taxes Management Act 1970**(a)** as read with subsection (2) of that section or under section 47A of that Act as enacted by paragraph 13 of Schedule 8 to the Development Land Tax Act 1976**(b)** or for the determination of any question to which sub-paragraph (6) of paragraph 8 of Schedule 7 to the said Act of 1976 applies.

Making of References

17.—(1) Where the reference is for the determination of a question to be referred to the Tribunal—

(*a*) under subsection (1) of section 47 aforesaid it shall be made by General Commissioners, Special Commissioners or an Inspector of Taxes;

(*b*) under section 47A aforesaid it shall be made by Special Commissioners, an Inspector of Taxes or by another officer of the Commissioners of Inland Revenue authorised in that behalf.

(2) Where the question to be determined is one to which sub-paragraph (6) of paragraph 8 aforesaid applies, proceedings may be begun by the making of a reference by any of the persons mentioned in that paragraph.

Giving of Notices

18. A reference to which the provisions of the last preceding Rule apply shall be made by notice in or as nearly as may be in accordance with Form 5 and the person giving the notice shall supply the Tribunal with such number of copies as will enable the Tribunal to supply a copy to each of the other parties to the proceedings and the Tribunal shall forthwith send a copy to each of those parties."

5. After Rule 18 the following Parts shall be inserted—

"PART VA

APPEALS UNDER THE FINANCE ACT 1975

General

18A. The provisions of this Part and of Part VI of these Rules shall apply in an appeal to the Tribunal under sub-paragraph (4) of paragraph 7 of Schedule 4 to the Finance Act 1975**(c)**.

(a) 1970 c. 9. **(b)** 1976 c. 24. **(c)** 1975 c. 7.

Transmission of Appeals

18B. Where the Commissioners of Inland Revenue receive a notice of appeal under sub-paragraph (1) of paragraph 7 of the said Schedule for the disposal of which a question as to the value of land requires to be determined they may at any time after receiving the notice, and shall, upon being requested in writing by the appellant so to do, transmit the notice of appeal to the Tribunal and shall at the same time furnish the Tribunal with a copy of the notice of the determination appealed against.

PART VB

REFERENCES UNDER SECTION 184 OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972

General

18C. The provisions of this Part and of Part VI of these Rules shall apply to a reference to the Tribunal under section 184 of the Town and Country Planning (Scotland) Act 1972**(a)**.

Making of References

18D. Where in accordance with section 183 of the said Act of 1972 the appropriate authority have served on a claimant a counter-notice objecting to a blight notice served on them by the claimant and the claimant requires that the objection be referred to the Tribunal in terms of section 184(1) of the said Act of 1972 then the claimant shall at any time before the end of the period of two months beginning with the date of service of the counter-notice send or deliver to the Tribunal a notice of reference in or as nearly as may be in accordance with Form 6 and he shall enclose with the notice of reference a copy of the blight notice and of the counter-notice and the Tribunal shall forthwith send a copy of the notice of reference to the appropriate authority.

Interpretation of this Part

18E. In this Part the expressions "claimant", "objection", "counter-notice", and "appropriate authority" have the same meanings as in the said Act of 1972."

6. In paragraph (1) of Rule 25 the words "by notice in writing" shall be inserted after the words "*ex proprio motu*".

7.—(1) For head (*c*) of paragraph (1) of Rule 25 there shall be substituted the following head:

"(*c*) grant to a party such commission and diligence for the recovery of documents, or provide such other means of recovery thereof, as could be granted or provided by the Court of Session in a cause before them, such recovery being effected, where a commission and diligence has been granted, by execution thereof or in that or any other case in any manner in which recovery could be provided for by the Court of Session in such a cause; and"

(2) For paragraph (2) of the said Rule there shall be substituted the following paragraphs:

"(2) The Tribunal may also by notice in writing order any party who intends, at a proof or hearing,

(a) 1972 c. 52.

(*a*) to use or put in evidence any documents, or

(*b*) to rely for valuation purposes on properties comparable to those to which the proceedings relate

to produce the documents, or, as the case may be, to supply, in such form as may be required by the Tribunal, a list of the properties, on such date before the proof or the hearing as the Tribunal may specify.

(3) Any notice given under head (*c*) or head (*d*) of paragraph (1) or under paragraph (2) of this Rule shall contain a reference to the provisions of section 3(12)(*c*) of the Act of 1949**(a)** (by which any person who, without reasonable excuse, fails to comply with any such notice shall be liable on summary conviction to a fine not exceeding £50 or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.)".

8. In Rule 31 after the word "application" there shall be inserted the words—

"(Including any application relating to a disputed claim for compensation to which section 3(6B) of the 1949 Act as enacted by paragraph 3(1) of Schedule 10 to the Community Land Act 1975**(b)** applies)."

9. In Rule 32:

(*a*) the following proviso shall be added to paragraph (1)—

"Provided that a decision given on an application under section 4 of the Act of 1970 shall include a statement of the Tribunal's reasons for giving the decision only if a party to the proceedings requests that the Tribunal should do so."

(*b*) the following paragraphs shall be added to the Rule—

"(4) An accidental or arithmetical error in any decision of the Tribunal may be corrected by the Tribunal if, before making the correction, they have given notice of their intention to make it to all those who were parties to the proceedings.

(5) When a correction is made under the last foregoing paragraph, or for the purpose of giving effect to any decision of the Court of Session in a case stated for their opinion, the Tribunal shall give notice that it has been made to all the parties to the proceedings by sending to each of them a copy of the decision as corrected."

10. In Rule 34(1) the words "in connection with proceedings under Part I of these rules" shall be omitted.

11. In Form 1 in Schedule 1 the following words shall be added to Note 1 of the "Notes for the Information of Applicants"—

", a large scale plan of the location identifying adjacent properties and any grant of planning permission which has been obtained for any proposed development, with any plans relating to it."

12. For Form 5 in Schedule 1 the following Form shall be substituted—

(a) *Note:*—S. 3 of the Act of 1949 was amended by s. 50(2) of the Act of 1970.
(b) 1975 c. 77.

"FORM 5 *Rule 18*

TAXES MANAGEMENT ACT 1970 AND DEVELOPMENT LAND TAX ACT 1976

Notice of Reference under Part V of the Lands Tribunal for Scotland Rules 1971

To: The Lands Tribunal for Scotland

(*address*)

Description of Land to which this reference relates

I/We [Name and Designation] in accordance with the provisions of Section 47(1) and (2) of the Taxes Management Act 1970 [or Section 47A of the Taxes Management Act 1970] [or Paragraph 8(6) of Schedule 7 to the Development Land Tax Act 1976] hereby apply for the determination by the Lands Tribunal for Scotland of the question of which particulars are set out below.

All communications regarding this reference should be addressed to [as appropriate] at the address shown above.

Particulars

Signed.....

Date....."

13. The following Form shall be added to the forms in Schedule 1—

Rule 18D

"FORM 6

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972

Notice of Reference of Objection to a Blight Notice contained in a Counter Notice served under Section 183 of the Act of 1972

To: The Lands Tribunal for Scotland

(*address*)

Description of property to which this reference relates—.....

.....

.....

.....

Here state usual address. I/We..... of .....

.....

.....

Here state nature of interest. being entitled as..... to .....

in the property described above hereby apply for the determination by the Lands Tribunal of the question of which particulars are set out below.

All communications regarding this reference should be addressed to me/us at the address shown above [or to my/our solicitor/agent.....

.....

of .....]

Particulars

The question which in terms of section 184 of the above-mentioned Act the Lands Tribunal is requested to determine is whether the objection by.....

State name(s) and address(es) of objecting authority and authority served. .....dated the..... day of ..... 19.....

contained in a counter-notice served under section 183 of the above-mentioned Act in respect of my/our interest in the above-mentioned property is well founded or not.

Dated..... Signed.....

NOTE:—

A copy of the Blight Notice served on the authority and a copy of the Counter Notice containing the objection served by the authority must accompany this notice of reference."

14. For the Table of Fees contained in Schedule 2 there shall be substituted the Table set out in the Schedule hereto.

Ronald King Murray,
Lord Advocate.

Lord Advocate's Chambers,
24th February 1977.

We approve the fees prescribed by these rules in respect of proceedings before the Lands Tribunal for Scotland.

T. E. Graham,
David Stoddart,
Two of the Lords Commissioners
of Her Majesty's Treasury.

3rd March 1977.

Rule 34

SCHEDULE

FEES

Item	*Fee*
Applications, etc.	
1. On an application under section 1 of the Conveyancing and Feudal Reform (Scotland) Act 1970	£7.50
2. On an application under section 4 of the Conveyancing and Feudal Reform (Scotland) Act 1970 and in respect of all subsequent proceedings	£5.00
3. On an application under Part III of these rules or in relation to any dispute relating to the assessment of betterment levy referred to the Tribunal under section 47 of the Land Commission Act 1967(a) or where the Tribunal is acting under a reference by consent	£3.00
4. On any other application (not being an appeal under Part IV or Part VA or a reference under Part V of these rules)	75p
Hearing Fees	
5. On the hearing of an application under section 1 of the Conveyancing and Feudal Reform (Scotland) Act 1970	£22.50
6. On the hearing of an application under Part III of these rules or in relation to any dispute relating to the assessment of betterment levy referred to the Tribunal under section 47 of the Land Commission Act 1967, or where the Tribunal is acting under a reference by consent:—	
(*a*) where the amount determined (in terms of a lump sum)	
(i) is nil or does not exceed £250.00 ..	£7.50
(ii) exceeds £250.00 but does not exceed £500.00	£7.50 with an addition of £1.50 in respect of every £50.00 or part of £50.00 by which the amount determined exceeds £250.00.
(iii) exceeds £500.00 but does not exceed £5,000.00	£15.00 with an addition of £1.50 in respect of every £100.00 or part of £100.00 by which the amount determined exceeds £500.00.
(iv) exceeds £5,000.00	£82.50 with an addition of £1.50 in respect of every £200.00 or part of £200.00 by which the amount determined exceeds £5,000.00 but not exceeding in any case £250.00.

(a) 1967 c. 1.

Item	*Fee*
(*b*) where the amount determined (in terms of rent or other annual payment)—	
(i) does not exceed £10.00 per annum	£7.50
(ii) exceeds £10.00 per annum but does not exceed £25.00 per annum ..	£7.50 with an addition of £1.50 in respect of every £2.50 or part of £2.50 by which the rent, etc., determined exceeds £10.00 per annum.
(iii) exceeds £25.00 per annum but does not exceed £250.00 per annum ..	£16.50 with an addition of £1.50 in respect of every £5.00 or part of £5.00 by which the rent, etc., determined exceeds £25.00 per annum.
(iv) exceeds £250.00 per annum ..	£84.00 with an addition of £1.50 in respect of every £10.00 or part of £10.00 by which the rent, etc., determined exceeds £250.00 but not exceeding in any case £250.00.
(*c*) where there is a settlement as to amount	£15.00 with an addition of £15.00 for each day the Tribunal sits beyond the first day.
7. On the hearing of any other appeal or reference (not being an appeal under Part IV or Part VA or a reference under Part V of these rules) in which no fee is payable by reference to an amount determined	£7.50
Miscellaneous Fees	
8. On supplying and certifying a copy of an order or determination of the Tribunal.. ..	75p
9. For a copy of all or part of any document (other than a copy to which item 8 applies)—for each sheet	30p
10. On a case for the decision of the Court of Session—an application for appeal by way of stated case (to include drafting of case and any necessary copies)	£3.50

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules are made under Section 3 of the Lands Tribunal Act 1949 as amended by Section 50 of the Conveyancing and Feudal Reform (Scotland) Act 1970 and amend the Lands Tribunal for Scotland Rules 1971. They make new provision about the date on which Orders made by the Lands Tribunal for Scotland varying or discharging land obligations are to take effect, bring the Rules and Forms relating to references under the Taxes Management Act 1970, the Development Land Tax Act 1976, and the Finance Act 1975 into line with amending legislation now in force, make provision to enable the Tribunal to deal with "blight notices" under the Town and Country Planning (Scotland) Act 1972 and in Rules 6 to 11 make minor amendments of a procedural nature which experience of the 1971 Rules have shown to be necessary or desirable. The Schedule sets out fees to be payable to the Tribunal.

SI 1977/432
ISBN 0-11-070432-0

