1967 No. 491 (S. 34)

LAND COMMISSION

The Material Development (Scotland) Regulations 1967

Made - - - -	*27th February* 1967
Laid before Parliament	*8th March* 1967
Coming into Operation	*6th April* 1967

In exercise of the powers conferred on me by sections 98 and 99 of 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:—

Citation, extent and commencement

1. These regulations, which may be cited as the Material Development (Scotland) Regulations 1967, apply to Scotland and shall come into operation on 6th April 1967.

Material development (exceptions)

2.—(1) For the purposes of subsection (2) of section 99 of the Land Commission Act 1967 there shall be excepted from the definition of "material development" contained in that subsection:—

(*a*) any carrying out on land of operations or works, and

(*b*) the making of any use or change in the use of land

described in paragraphs 1 to 16 of Part I of the Schedule to these regulations in so far as it may constitute development.

(2) Without prejudice to any definition contained in the said Part I, Part II of the said Schedule shall have effect for the purpose of the interpretation of the said Part I.

Saving

3. These regulations have effect without prejudice to the Betterment Levy (Planning Assumptions) (Scotland) Regulations 1967(b) (which treat certain development, described in the Schedule to these regulations, as material development for the purpose of ascertaining certain values).

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

St. Andrew's House,
Edinburgh, 1.
27th February 1967.

(a) 1967 c. 1. (b) S.I. 1967/322 (1967 I, p. 1095).

SCHEDULE
PART I
EXCEPTED DEVELOPMENT

Advertisements

1.—(1) The carrying out of operations on land for the purpose of, or the use of land for, the display of an advertisement of any of the following kinds:—

(*a*) An advertisement employed wholly for the purposes of announcement or direction in relation to any of the functions of a local authority or to the operation of a statutory undertaking or of a public transport undertaking engaging in the carriage of passengers in a manner similar to that of a statutory transport undertaking;

(*b*) An advertisement for the purpose of identification, direction or warning with respect to the land or building on which it is displayed;

(*c*) An advertisement relating to any person, partnership or company separately carrying on a profession, business or trade at the premises where any such advertisement is displayed;

(*d*) An advertisement relating to any institution of a religious, educational, cultural, recreational or medical or similar character, or to any hotel, inn or public house, block of flats, club, boarding house or hostel situate on the land on which any such advertisement is displayed;

(*e*) An advertisement relating to the sale or letting of the land on which it is displayed;

(*f*) An advertisement announcing a sale of goods or livestock, and displayed on the land where such goods or livestock are situated;

(*g*) An advertisement relating to the carrying out of building or similar work on the land on which it is displayed, not being land which is normally used, whether at regular intervals or otherwise, for the purpose of carrying out such work;

(*h*) An advertisement announcing any local event of a religious, educational, cultural, political, social or recreational character, or an advertisement relating to any temporary matter in connection with an event or local activity of such a character, not in either case being an event or local activity promoted or carried on for commercial purposes;

(*i*) an advertisement relating to any demonstration of agricultural methods or processes on the land on which it is displayed;

(*j*) An advertisement displayed on business premises wholly with reference to all or any of the following matters, namely—

(i) the business or other activity carried on;

(ii) the goods sold or services provided, and

(iii) the name and qualification of the person carrying on such business or activity or supplying such goods or services, on those premises;

(*k*) An advertisement falling within regulation 26 (advertisements relating to travelling circuses and fairs) of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1961(a).

(2) In this paragraph the expressions "advertisement", "building", "business premises", "land", and "recreational" have the meanings assigned to them respectively in regulations 2(1) and 12(3) of the said Regulations of 1961 or in such other regulations made under section 29 of the Act of 1947 as may for the time being be in force.

Agriculture
Building and other operations

2.—(1) The carrying out on land used for agriculture of any building or other operations requisite for the use of that land for the purposes of agriculture, other than operations, for the erection, enlargement, improvement or alteration of dwellinghouses.

(a) S.I. 1961/195 (1961 I, p. 308).

(2) The carrying out on land used for agriculture of any building or other operations requisite for the use of part of that land as a timber yard to be used in connection with the use for agriculture of the remainder thereof.

(3) The erection or construction and the maintenance, improvement or other alteration of roadside stands for milk churns.

Changes of use

3.—(1) In this paragraph references to Classes are to the Classes set out in the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order 1950(a), as amended (b), and for the purpose of the interpretation of this paragraph, Article 2 of that Order shall apply as it applies for the purpose of the interpretation of the Schedule to that Order.

(2) (*a*) In the case of a building which is used for any of the purposes included in Classes I and II or for a fried fish shop, a tripe shop, a shop for the sale of pet animals, or birds, a cats-meat shop, a shop for the sale of motor vehicles, a betting office or a funfair, the use of that building for any other of those purposes;

(*b*) in the case of a building which is used for any of the purposes included in Classes III to XI inclusive, the use of that building for any other of those purposes;

(*c*) in the case of a building which is used for any of the purposes included in Classes XIII to XVIII inclusive, or for the purpose of a dwellinghouse, the use of that building for any other of those purposes;

(*d*) in the case of a building which is used for any of the purposes included in Classes XIX and XX, the use of that building for any other of those purposes.

4. In the case of a dwellinghouse, the use as a shop of any part of the dwellinghouse having a gross floor space not exceeding 200 square feet provided that such use is combined with the residential use of the dwellinghouse.

Dwellinghouses

5. The carrying out of any of the following works, that is to say—

(*a*) the rebuilding, as often as the person having the right to rebuild may desire, of any original building used as one or more dwellinghouses, so long as the gross floor space after rebuilding does not exceed by more than one-tenth or 1,000 square feet (whichever is the greater) the gross floor space of the building as originally erected;

(*b*) the enlargement, improvement or other alteration, as often as the person having the right to carry out such works may desire, of any original building of the kind mentioned in sub-paragraph (*a*) hereof or of such a building as may be substituted therefor by rebuilding, so long as the gross floor space of the original building is never exceeded by more than one-tenth or 1,000 square feet (whichever is the greater):

Provided that for the purpose of this paragraph the erection of a garage, stable, loosebox or coach-house within the curtilage of the building and required for any purpose incidental to the enjoyment of the building as such shall be treated as part of the rebuilding or of the enlargement, improvement or alteration, as the case may be.

Conversion of houses into separate dwellinghouses

6. The use as any number of separate dwellinghouses of not more than three adjacent buildings each of which—

(*a*) existed for residential purposes on the first appointed day and has not since that day been used for any other purpose; or

(*b*) was erected or constructed after that day for residential purposes and has not since it was erected or constructed been used for any other purpose.

(a) S.I. 1950/1133 (1950 II, p. 1140).
(b) S.I. 1960/2014, 1965/230 (1960 III, p. 3298; 1965 I, p. 585).

Industrial Development

7.—(1) For the purposes of the interpretation of this paragraph Article 2 of the General Development Order (except in relation to any expression defined in these regulations) shall apply as it applies for the interpretation of Schedule 1 to that Order.

(2) Development carried out by industrial undertakers on land used for the carrying out of any industrial process, and for the purposes of such process, or on land used as a dock, harbour, or quay for the purposes of an industrial undertaking, being development of the following descriptions—

(*a*) the provision, rearrangement or replacement of private ways or private railways, sidings or conveyors;

(*b*) the provision or rearrangement of sewers, mains, pipes, cables or other apparatus;

(*c*) the installation or erection, by way of addition or replacement, of plant or machinery, or structures or erections of the nature of plant or machinery;

(*d*) the extension or alteration of buildings so long as the gross floor space of the original building is not exceeded by more than 5,000 square feet, so, however, that this sub-paragraph shall not apply where a certificate of the Board of Trade would be required under section 12(4) of the Act of 1947 if an application for planning permission for that development were to have effect.

(3) For the purposes of sub-paragraph 2(*d*) of this paragraph the erection on land within the curtilage or any original building of an additional building to be used in connection with the original building shall be treated as an extension of the original building, and where any two or more original buildings comprised in the same curtilage are used as one unit for the purposes of the undertaking, the reference in this paragraph to the gross floor space shall be construed as a reference to the total gross floor space of those buildings.

Petroleum (Production) Act 1934

8. The carrying out of any operations necessary for searching and boring for and getting petroleum (as defined in section 1(2) of the Petroleum (Production) Act, 1934(a)) pursuant to a licence granted by the Minister of Power under the said Act, or under the said Act as extended by the Continental Shelf Act 1964(b); and the erection or construction and the maintenance, improvement or other alteration of any buildings (including plant and equipment) certified by the Secretary of State and the Minister of Power to be, or falling within a class so certified to be, requisite for the purposes of the said operations.

Physical recreation

9. In the case of land used or intended to be used wholly or mainly for the purpose of or in connection with physical recreation taken otherwise than within the confines of a building, the carrying out of any building or other operations (other than the erection, enlargement, improvement or alteration of dwellinghouses) requisite for any of the following purposes:—

(*a*) the use of that land or any part thereof by persons when participating in that recreation;

(*b*) the erection or construction of a clubhouse, refreshment room, changing-room or other premises to be used wholly or mainly by persons who participate in physical recreation on that land or of other buildings incidental to the use mentioned in sub-paragraph (*a*) above which may be required for the storage of apparatus and equipment used for the purpose of physical recreation or for the maintenance of the land for such purpose;

(*c*) the construction on that land of anything necessary to secure the safety of such persons as are mentioned in sub-paragraphs (*a*) and (*b*) above or of members of the public or to prevent damage to property.

Pipe-lines

10. In relation to a pipe-line as defined in section 65 of the Pipe-lines Act 1962(c)—

(i) the carrying out on land in accordance with the provisions of the said Act of pipe-line works as defined in section 66 thereof;

(a) 1934 c. 36. (b) 1964 c. 29.
(c) 1962 c. 58.

(ii) the carrying out on land in accordance with the provisions of any local or private Act of works of a nature similar to pipe-line works as mentioned above.

Statutory undertakers—electricity and gas undertakings

11.—(1) Development consisting of the installation or erection for the purposes of an electricity undertaking of any plant or machinery, electric lines or supports or apparatus, in, on, over, or under any land other than operational land of the statutory undertakers carrying out such development.

(2) Development consisting of the bringing into use or operation for the purposes of a gas undertaking of an underground gas storage in accordance with a storage authorisation order made by the Minister of Power under the Gas Act 1965(a), in or under the land, other than operational land, of the gas authority carrying out such development, or the carrying out or construction on, in, or under such land by the gas authority of any surface works, boreholes, or pipes associated with an underground gas storage which in a storage authorisation order are shown as approved by the said Minister for the purpose of sub-section 6 as read with sub-section 7 of section 4 of that Act, or prospecting operations carried out by a gas authority for the purposes of finding or proving a site for the underground storage of gas.

(3) Development for the purposes of a gas undertaking, consisting of the installation in a gas distribution system of gas valve governor houses irrespective of their capacity.

(4) Development for the purposes of a gas undertaking consisting of the laying at any level of mains, pipes or other apparatus.

(5) In this paragraph the following expressions have the meanings hereby assigned to them respectively, that is to say—

"gas authority" has the meaning assigned to it by section 28(1) of the Gas Act 1965;

"gas undertaking" means an undertaking for the supply of gas;

"electricity undertaking" means an undertaking for the supply of electricity;

"storage authorisation order" has the meaning assigned to it by section 4(1) of the Gas Act 1965; and

"underground gas storage" has the meaning assigned to it by section 28(1) of the Gas Act 1965.

Sundry minor operations

12. The erection or construction of any gates, fences, walls or other means of enclosure.

Temporary buildings and uses and use as caravan sites

13.—(1) The erection or construction on any such land as is described in paragraph (1) of Column (1) relating to Class IV in Part I of Schedule 1 to the General Development Order or on adjoining land of buildings, works, plant or machinery needed temporarily as mentioned in the said paragraph (1) without compliance with standard conditions (1) and (2) referred to in Column (2) opposite such paragraph.

(2) The use of any such land as is described in paragraph (2) of Column (1) relating to the said Class IV for any purpose, except as a caravan site, on not more than 28 days in total in any calendar year, and the erection or placing of movable structures on the land for the purposes of that use, in any of the cases mentioned in this sub-paragraph without compliance with standard conditions (1) and (2) mentioned in Column (2) opposite the said paragraph (2).

14. The use of any such land as is described in Class XXIII in Part I of Schedule 1 to the General Development Order in any of the circumstances therein mentioned without compliance with standard condition (2) referred to in Column (2) opposite the use mentioned in that Class.

The General Development Order
(All Classes other than Classes IV, V, VII and XXIII)

15. All development of a description and carried out in the circumstances mentioned in Column (1) relating to any Class in Part I of Schedule 1 to the General Development

(a) 1965 c. 36.

Order (other than Classes IV, V, VII and XXIII) without compliance with any one or more of the conditions mentioned in Column (2) opposite such Class.

Act of 1947 (*Schedule* 3)

16. Any such development as is mentioned in paragraphs 1 and 2 of Part I and paragraphs 1, 2 and 3 and 5 to 7 of Part II of Schedule 3 to the Act of 1947, but as if the references therein to the appointed day (namely 1st July 1948) were references to the first appointed day as defined in Part II of this Schedule.

PART II

Interpretation

17.—(1) In this Schedule the following expressions have the meanings hereby respectively assigned to them, that is to say—

"the Act" means the Land Commission Act 1967:

"the Act of 1947" means the Town and Country Planning (Scotland) Act 1947(a) as amended by the Town and Country Planning (Scotland) Act 1954(b), the Local Employment Act 1960(c), the Town and Country Planning Act 1963(d), the Control of Office and Industrial Development Act 1965(e) and the Industrial Development Act 1966(f);

"the first appointed day" means the first appointed day under the Act, namely 6th April 1967(g);

"the General Development Order" means the Town and Country Planning (General Development) (Scotland) Order 1950 (h), as amended (i);

"original" means, in relation to a building existing on the first appointed day, the building as existing on that day, and, in relation to a building which is completed after the first appointed day, the building as so completed, and "originally erected" has a corresponding meaning;

and the expression "agriculture" has the meaning assigned to it by section 86 of the Agriculture (Scotland) Act 1948 (j).

(2) For the purposes of the said Schedule gross floor space shall be ascertained by external measurement.

(3) Notwithstanding the existence of any one or more directions (made or having effect as if made under Article 4 of the General Development Order) restricting development of any of the Classes, or any particular development of any of the Classes, to which reference is made in paragraphs 14 and 15 of Part I of this Schedule, the exceptions given by those paragraphs from the definition of "material development" shall continue to apply as mentioned in those paragraphs.

(4) The Interpretation Act 1889 (k) applies for the interpretation of this Schedule as it applies for the interpretation of an Act of Parliament.

(a) 1947 c. 53. (b) 1954 c. 73. (c) 1960 c. 18. (d) 1963 c. 17. (e) 1965 c. 33.
(f) 1966 c. 34. (g) See S.I. 1967/146 (1967 I, p. 241). (h) S.I. 1950/942 (1950 II, p. 1107).
(i) The relevant amending instruments are S.I. 1958/1653, 1960/1722, 1963/1767, 1964/1791 (1958 II, p. 2331; 1960 III, p. 3296; 1963 III, p. 3376; 1964 III, p. 3934).
(j) 1948 c. 45. (k) 1889 c. 63.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

The Land Commission's power to acquire land under Part II of the Land Commission Act 1967 arises only where the land is suitable, in their opinion, for material development. The definition of material development is also of first importance in relation to betterment levy under Part III of the Act, since it is the carrying out of a project of material development which is subject to levy in Case C. Material development is further the governing factor in relation to the calculation of current use value, since that value has to be ascertained on the assumption that planning permission will only be granted for development of the relevant land which does not constitute material development.

Section 99(2) of the Act defines "material development" as meaning any development (as defined in Section 10 of the Town and Country Planning (Scotland) Act 1947) other than:—

(*a*) development for which planning permission is granted by a general development order for the time being in force and which is carried out so as to comply with any condition or limitation subject to which planning permission is so granted;

(*b*) development falling within Part I, or within paragraph 1 or any of paragraphs 3 to 7 of Part II of Schedule 3 to the Act of 1947, as read with Part III of that Schedule, sub-sections (2) and (3) of section 108 of that Act and section 2(5) of the Town and Country Planning Act 1963; and

(*c*) development of any class prescribed for the purposes of section 99(2).

These Regulations accordingly prescribe for the purposes of section 99(2) of the Act the additional classes of excepted development. A wide variety of development is excepted, such as, for instance, the rebuilding, and conversion, within prescribed limits of dwellinghouses, certain kinds of industrial development, operations under the Petroleum (Production) Act 1934, building operations requisite for outdoor physical recreation, operations carried out by electricity and gas undertakings, certain kinds of change of use and certain kinds of advertisement. The Regulations also complete the exceptions given by virtue of section 99(2)(*a*) and (*b*) so that development of the class permitted by the Town and Country Planning (General Development) (Scotland) Orders 1950 to 1964 is generally excepted whether or not it complies with the conditions mentioned opposite to that class in Column (2) in Schedule 1 to those Orders.

The Regulations apply to Scotland.