1955 No. 1404 (S. 128)

The Recoveries from Acquiring Authorities (Scotland) Regulations, 1955

Made - - - -	*6th September*, 1955
Laid before Parliament	*13th September*, 1955
Coming into Operation	*26th September*, 1955

In exercise of the powers conferred on me by subsection (8) of section 54 and section 68 of the Town and Country Planning (Scotland) Act, 1954(a) and of all other powers enabling me in that behalf I hereby, with the consent of the Treasury, make the following regulations :—

1. These regulations may be cited as the Recoveries from Acquiring Authorities (Scotland) Regulations, 1955, and shall come into operation on the 26th day of September, 1955.

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

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

"the Act" means the Town and Country Planning (Scotland) Act, 1954;

"the Board" means the Central Land Board;

"the material date" means in Regulation 3 the 18th day of November, 1952, and in Regulation 4, the commencement of the Act;

"conveyance" means a contract of sale, feu, excambion or lease, implemented at the material date and any contract of sale, feu, excambion or lease entered into before, but not implemented until after, the material date and the conveyance shall in the latter case be deemed for the purposes of these regulations to have taken place at the time of the contract;

and in relation to an interest in land—

"compensation at existing use value" means the compensation which would have been payable in accordance with subsection (1) of section 48 of the Town and Country Planning (Scotland) Act, 1947(c) or section 52 of that Act had the interest been compulsorily acquired without the benefit of any planning permission as is referred to in sections 79, 80, 81 and 82 of that Act;

"consideration not exceeding the existing use value" means a consideration not exceeding the equivalent of the compensation at existing use value which would have been payable had the interest been acquired in pursuance of a notice to treat served at the date of the conveyance.

3. Where an interest in land has been acquired by a public authority possessing compulsory purchase powers and—

(*a*) the Board are entitled to recover an amount from the acquiring authority under subsection (1) or subsection (7) of section 54 of the Act; and

(a) 2 & 3 Eliz. 2. c. 73. (b) 52 & 53 Vict. c. 63. (c) 10 & 11 Geo. 6. c. 53.

(*b*) the acquiring authority has before the material date granted a conveyance of that interest, or of that interest in so far as it subsisted in part of the land, or of an interest in the whole or part of the land created out of the interest acquired, not being a conveyance in favour of another such public authority,

then the amount recoverable under the said subsection (1) or the said subsection (7) shall be reduced as follows :—

(i) if the conveyance was by way of a sale or feu of the whole of the interest acquired for a consideration not exceeding the existing use value, no such amount shall be recoverable ;

(ii) if the conveyance was by way of a sale or feu, for a consideration not exceeding the existing use value, of the interest acquired in so far as it subsisted in part of the land, such amount shall be reduced by the part thereof which was attributable to the interest acquired in so far as it subsisted in that part of the land ;

(iii) in any other case, such amount shall be reduced as in that particular case the Secretary of State may consider appropriate, having regard to the terms of the conveyance and to the extent to which those terms precluded the acquiring authority from realising the development value of the interest acquired.

4. Where an interest in land has been acquired by a public authority possessing compulsory purchase powers and—

(*a*) the Board are entitled to recover an amount from the acquiring authority under subsection (1) or subsection (7) of section 54 of the Act ; and

(*b*) before the material date the land in question or part thereof was the subject of a compulsory acquisition by another public authority possessing compulsory purchase powers or of a conveyance in favour of that other authority,

then the acquiring authority shall be entitled to recover from that other authority :—

(i) where the acquisition from the acquiring authority, in the case of a compulsory acquisition, or the conveyance in the case of a sale or feu, comprised the whole of the interest acquired, or that interest in so far as it subsisted in part of the land, and the compensation did not exceed compensation at existing use value or the consideration was a consideration not exceeding the existing use value, the amount recoverable from the acquiring authority under subsection (1) or subsection (7) of the said section 54 or, as the case may be, so much of that amount as was attributable to the interest acquired so far as it subsisted in that part of the land ;

(ii) in any other case, such sum as may be agreed between those authorities, or in default of agreement as may be determined by the Secretary of State to be appropriate having regard to the extent to which development value of the interest acquired has been realised in the consideration for the conveyance.

5. Where a public authority possessing compulsory purchase powers purchases any interest in land in pursuance of a contract made after the commencement of the Act and, if the purchase were a compulsory acquisition

in pursuance of a notice to treat served on the date of the contract, compensation on the basis of existing use value would be payable, then where

(*a*) compensation under Part II or Part V of the Act or compensation to which Part IV of the Act applies has become payable (of an amount in any case exceeding twenty pounds) in respect of a planning decision or order made before the date of the contract; or

(*b*) by virtue of the Second Schedule to the Act a claim holding relating to the whole or part of the interest in the land comprised in the purchase was treated as extinguished, or reduced in value, by reference to a development charge relating to the other land,

the Secretary of State (in a case falling within paragraph (*a*) of this Regulation) or the Board (in a case falling within paragraph (*b*) thereof) shall be entitled to recover from the authority a sum equal to the amount by which the compensation that would have been payable on such a compulsory acquisition as aforesaid would have been greater if the circumstances referred to in the said paragraph (*a*) or (*b*), as the case may be, had not existed.

Dated this 5th day of September, 1955.

James Stuart,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

We consent

Edward Heath,
R. H. M. Thompson,
Two of the Lords Commissioners of Her Majesty's Treasury.

6th September, 1955.

EXPLANATORY NOTE

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

These regulations, which are made under section 54 of the Town and Country Planning (Scotland) Act, 1954, provide—

(*a*) for reducing the amount recoverable by the Central Land Board under subsection (1) or (7) of that section where before 18th November, 1952, any of the land acquired passed to a private buyer or to an authority not possessing compulsory purchase powers (regulation 3);

(*b*) for enabling an acquiring authority to recover from another authority possessing compulsory purchase powers a contribution towards an amount recoverable from the acquiring authority under either of those subsections where the land passed to the other authority before 1st January, 1955 (regulation 4); and

(*c*) in the case of purchases by agreement after that date by an authority possessing compulsory purchase powers, for the payment by the acquiring authority in certain circumstances of an amount to the Secretary of State or the Central Land Board (regulation 5).