TOWN AND COUNTRY PLANNING, SCOTLAND

The Town and Country Planning (Development Charge Exemptions) (Scotland) Regulations, 1950

1950 No. 1232 (S. 87)

Made - - - -	11*th July*, 1950
Coming into Operation	25*th July*, 1950*

In exercise of the powers conferred on me by proviso (*b*) to subsection (2) of section 66 of the Town and Country Planning (Scotland) Act, 1947(a), and of all other powers enabling me in that behalf I hereby with the consent of the Treasury make the following Regulations:—

Citation

1. These Regulations may be cited as the Town and Country Planning (Development Charge Exemptions) (Scotland) Regulations, 1950.

Interpretation

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 following expressions have the meanings respectively assigned to them, namely:—

" the Act " means the Town and Country Planning (Scotland) Act, 1947 ;

" the appointed day " means the day appointed for the coming into force of the Act, namely, the first day of July, 1948 ;

" cubic content " means cubic content as ascertained by external measurement.

" private way " means a road or footpath which is not a highway.

Exemptions from Development Charge

3. Operations and uses of any description specified in the Schedule to these Regulations shall be exempted from the provisions of Part VI of the Act.

Revocation of Previous Regulations

4. The Town and Country Planning (Development Charge Exemptions) (Scotland) Regulations, 1948(c), are hereby revoked.

Hector McNeil,
One of His Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

We consent.

R. J. Taylor,
W. A. Wilkins,
Two of the Lords Commissioners of His Majesty's Treasury.

11th July, 1950.

(a) 10 & 11 Geo. 6. c. 53. (b) 52 & 53 Vict. c. 63. (c) S.I. 1948 (No. 1382) I, p. 4306.

* Being the date on which the Regulations were approved by Resolution of the House of Lords in accordance with section 66 (5) of the Town and Country Planning (Scotland) Act, 1947, they having previously (24th July, 1950) been approved by the House of Commons in accordance with that section.

SCHEDULE

1. *Rebuilding, enlargement, improvement or alteration of buildings*

For the purposes of this paragraph:—

(*a*) the erection on land within the curtilage of any such building as is mentioned in this paragraph of an additional building to be used in connection with the original building shall be treated as the enlargement of the original building; and where any two or more buildings comprised in the same curtilage are used as one unit for the purposes of any institution or undertaking, the references in this paragraph to the cubic content of the original building shall be construed as references to the aggregate cubic content of those buildings.

(*b*) "Building erected after the appointed day" includes a building in the course of erection on that day, but does not include a building substituted for a building erected before the appointed day by the carrying out of any rebuilding operations.

Buildings to which the Third Schedule to the Act applies

(1) The rebuilding, as often as the person having the right to rebuild may desire, of any building which was in existence on the appointed day and of any building which was in existence before that day but has been destroyed or demolished since the seventh day of January, nineteen hundred and thirty-seven (including the making good of war damage which has been sustained by any such building), so long as the cubic content of the original building is not exceeded in the case of a dwelling-house, by more than one-tenth or seven thousand five hundred cubic feet, whichever is the greater, and in any other case by more than one-tenth or where the original building or any building substituted therefor has been enlarged in conformity with the provisions of the Act by more than one-tenth or seven thousand five hundred cubic feet as the case may be, so long as the cubic content after rebuilding will not exceed the cubic content of the building as so enlarged.

(2) The enlargement, improvement or other alteration, as often as the person having the right to carry out such operations may desire, of any such building as is mentioned in the preceding sub-paragraph or any building substituted therefor by the carrying out of any such operations as are mentioned in that sub-paragraph, so long as the cubic content of the original building is not increased or exceeded, in the case of a dwelling-house, by more than one-tenth or seven thousand five hundred cubic feet, whichever is the greater, and in any other case by more than one-tenth.

Buildings erected after the appointed day

(3) The rebuilding, as often as the person having the right to rebuild may desire, of any building erected after the appointed day, so long as the cubic content of the building first erected after the appointed day is not exceeded, in the case of a dwelling-house, by more than one-tenth or seven thousand five hundred cubic feet, whichever is the greater, and in any other case by more than one-tenth, or where the building first erected after the appointed day or any building substituted therefor has been enlarged in conformity with the provisions of the Act by more than one-tenth or seven thousand five hundred cubic feet as the case may be, so long as the cubic content after rebuilding will not exceed the cubic content of the building as so enlarged.

(4) The enlargement, improvement or other alteration, as often as the person having the right to carry out such operations may desire, of any building erected after the appointed day, so long as the cubic content of the building first erected after the appointed day is not increased or exceeded, in the case of a dwelling-house, by more than one-tenth or seven thousand five hundred cubic feet, whichever is the greater, and in any other case by more than one-tenth.

2. *The conversion of houses into separate dwelling-houses*

The use as any number of separate dwelling-houses of not more than three adjacent buildings, each of which was originally erected as a single dwelling-house, and either

(*a*) was used for residential purposes on the appointed day, or

(*b*) in the case of a building which was requisitioned land on the appointed day, was so used at the beginning of the period of requisition, or

(*c*) is a building substituted for a building which was destroyed or demolished between the seventh day of January, nineteen hundred and thirty-seven, and the appointed day (other than a building which sustained war damage in respect of which the War Damage Commission have determined that the war damage involved total loss and that a value payment is appropriate), and was so used at the time immediately preceding its destruction or demolition, or would have been so used but for the fact that it was requisitioned land.

3. *Changes of use of certain buildings*

(In this paragraph any reference to a Class is to be construed as a reference to a Class of the number specified in the Schedule to the Town and Country Planning (Use Classes) (Scotland) Order, 1950.(a)).

(1) In the case of a dwelling-house, the use as a shop (as defined in the Town and Country Planning (Use Classes) (Scotland) Order, 1950), of any part of the dwelling-house having an aggregate floor space not exceeding two hundred square feet provided that such use is combined with the residential use of the dwelling-house.

(2) In the case of a dwelling-house which was in existence on the appointed day, the use of that dwelling-house for any of the purposes included in Classes XIV, XV, XVI, XVII and XVIII.

(3) 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 or a cats-meat shop, the use of that building for any other of those purposes.

(4) In the case of a building which is used for a purpose included in Class IV, the use of that building for a purpose included in Class III.

(5) In the case of a building which is used for any of the purposes included in Classes V, VI, VII, VIII, IX and X, the use of that building for any other of those purposes.

(6) In the case of a building which is used for any of the purposes included in Classes XV, XVI, XVII and XVIII, the use of that building for any other of those purposes.

4. *Changes of Use in a building used for more than one purpose*

(1) In the case of any building or other land which is in the occupation of a person by whom it is used in accordance with a planning permission granted or deemed to have been granted under Part II of the Act as to part only for a particular purpose, the use for that purpose of any additional part of the building or land not exceeding one-tenth of the cubic content of the part of the building used as aforesaid for that purpose, or as the case may be, one-tenth of the area of the land so used.

(2) In the case of any building which is in the occupation of a person by whom it is used as to part for one of the purposes included in Classes III to X of the Town and Country Planning (Use Classes) (Scotland) Order, 1950, and as to part for any other of those purposes, the use of any additional part of the building for any of the purposes for which the building is so used.

(a) S.I. 1950 No. 1133, p. 1140 below.

5. *Development under the Housing (Scotland) Act, 1949*

The carrying out of operations and the institution of uses in accordance with proposals, arrangements or applications approved under Part II of the Housing (Scotland) Act, 1949(a).

6. *Development within the curtilage of a dwelling-house*

The erection, construction or placing and the maintenance, improvement or other alteration within the curtilage of a dwelling-house of any building, shelter or enclosure (other than a dwelling, garage, stable, loose-box or coach-house) required for a purpose incidental to the enjoyment of the dwelling-house as such or for keeping poultry, bees, pet animals, birds or other live-stock for the domestic needs or personal enjoyment of the occupants of the dwelling-house.

7. *Temporary uses*

(1) The temporary use of land for any purpose for not more than twenty-eight days in total in any calendar year and the erection or placing of moveable structures on the land for the purposes of that use.

(2) The temporary use of land as parking ground for moveable dwellings and other vehicles used for the purposes of a travelling circus, round-about or amusement fair.

8. *Fences, walls, etc.*

The erection or construction and the maintenance, improvement or other alteration of any fences, walls, gates, posts or other similar structures.

9. *Advertising*

The carrying out of operations or the use of any land for the display of advertisements.

10. *Development for agriculture and forestry*

(1) The carrying out on land used for any agricultural purpose of any building or other operations (other than the erection, enlargement, improvement or alteration of dwelling-houses) requisite for the farming of the land for that purpose.

(2) The installation of plant and machinery for the supply of water to buildings or other land used for any agricultural purpose.

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

(4) The carrying out on land which has been brought into use for the purposes of forestry after the appointed day of any building or other operations (other than the erection, enlargement, improvement or alteration of dwelling-houses or of buildings used for the purposes of timber-yards or for other purposes not connected with the cultivation or felling of trees) required for the purposes of that use.

11. *Camping*

The use of any land for camping purposes by the placing thereon of any caravan or tent.

12. *Industrial development*

For the purpose of this paragraph:—

" industrial process " means a process for or incidental to any of the following purposes, namely:—

(*a*) the making of any article or part of any article, or

(*b*) the altering, repairing, ornamenting, finishing, cleaning, washing, packing or canning, or adapting for sale, or breaking up or demolition, of any article, or

(*c*) without prejudice to the foregoing, the getting, dressing or treatment of minerals,

(a) 12, 13 & 14 Geo. 6. c. 61.

being a process carried on in the course of trade or business, and for the purposes of this definition the expression "article" means an article of any description, including a ship or vessel;

"industrial undertaker" means an undertaker by whom an industrial process is carried on.

Where land is used by an industrial undertaker for the carrying out of any industrial process, the carrying out on that land of any of the following operations required for the purpose of that process:—

(*a*) the re-arrangement or replacement of private ways or private railways, sidings or conveyors;

(*b*) the re-arrangement of sewers, mains, pipes, cables or other apparatus;

(*c*) the installation or erection, by way of replacement, of plant or machinery.

13. *Development on Dock, Harbour, Pier, Water Transport, Canal or Inland Navigation Undertakings*

For the purposes of this paragraph:—

"undertakers" means persons authorised by any enactment to carry on any dock, harbour, pier, water transport, canal or inland navigation undertaking;

"canal" includes an inland navigation;

"canal premises" means the canal and towing path and any dock, slipway, lay-by, berth or basin forming part of a canal or inland navigation undertaking and any land of the undertakers adjacent to such dock, slipway, lay-by, berth or basin;

"dock" includes a pier, harbour, quay, wharf or jetty.

The carrying out of operations and the institution of uses by the lessees or licensees of the undertakers solely or mainly for the purposes of:—

(*a*) shipping;

(*b*) the building for the undertakers, for use for the carrying on of their undertaking, of vessels which the undertakers are empowered to build;

(*c*) the embarking, disembarking, loading, discharging, handling, storage, warehousing, transport or accommodation of goods and livestock;

(*d*) the embarking, disembarking or transport, the rendering of services to or the accommodation of passengers or workers in course of employment; and

(*e*) the marketing, or the preparation for transport, packing and dispatching of fish and any other goods or livestock customarily so dealt with at a dock (but not including the curing of fish);

at a dock or on canal premises or the premises of any railway forming part of the undertaking being in each case land which on the appointed day was operational land of the undertakers and so remains at the time of carrying out the development.

14. *Development on Railway and Light Railway Undertakings*

For the purposes of this paragraph "undertakers" means persons authorised by any enactment to carry on any railway or light railway.

The carrying out of operations and the institution of uses by the lessees or licensees of the undertakers solely or mainly for the purpose of:—

(*a*) the movement of traffic by rail;

(*b*) the building, repair or maintenance of locomotives, vehicles, plant or equipment for the undertakers for use in connection with the carrying on of the undertaking;

(*c*) the loading, unloading, handling, storage, warehousing, transport or accommodation of goods or livestock awaiting carriage by rail or of goods or livestock carried by rail and awaiting delivery or distribution;

(*d*) the transport of passengers or the rendering of services to or the accommodation of passengers or workers in course of employment;

(*e*) the preparation for transport of milk or any other goods customarily so dealt with at railway depots;

in, on, over or under land which on the appointed day was operational land of the undertakers and so remains at the time of carrying out the development.

15. *Deposit of Waste Materials*

(1) The use for the deposit of waste materials or refuse of any land comprised in a site which was at the appointed day used for the purpose of such deposit.

(2) The use of any land for the spreading of dredgings.

16. *Operations carried out under licence under the Petroleum (Production) Act,* 1934

The carrying out of any operations necessary for searching and boring for and getting petroleum and natural gas and for the recovering of casinghead spirit, licensed by the Minister of Fuel and Power under the Petroleum (Production) Act, 1934(**a**) and the Petroleum (Production) Regulations, 1935(**b**), whether by prospecting licence or mining licence; 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 Fuel and Power to fall within a class necessary for the purposes of the said operations.

17. *Development by local authorities and statutory undertakers*

The erection, construction or installation and the maintenance, improvement or other alteration by local authorities or statutory undertakers of:—

(*a*) such small ancillary buildings, works or equipment as may be required for the purposes of any allotments, cemeteries, parking places, open spaces, playing fields, parks, recreation grounds, gardens, public walks or pleasure grounds belonging to or maintained by them;

(*b*) lamp standards, information kiosks, passenger shelters, public shelters and seats, public lavatories, telephone boxes, fire alarms, public drinking fountains, horse troughs, refuse bins or baskets, or such other similar structures or works as may be required in connection with the operation of any public service administered by them;

(*c*) watercourses or land drainage works;

(*d*) sewers, pipes, mains, cables or other apparatus (including gas valve governor houses in a gas distribution system and pumping stations on the line of sewers) in, under or over any land;

(*e*) electricity sub-stations of a cubic content not exceeding two thousand cubic feet and electric lines, including feeder pillars, transformer kiosks or service lines.

18. *Development for Roads*

(1) The carrying out of any operations (other than mining operations) and any use of land by a local highway authority for the maintenance, improvement, construction or re-alignment of roads, or for the storage of plant or materials required therefor.

(2) The carrying out of any operations by a local highway authority for the purpose of searching for, digging, getting and carrying away gravel, sand, stone or other materials without payment under Section 123 of the Roads and Bridges (Scotland) Act, 1878(**c**), (which incorporates Section 80 of the General Turnpike Act 1831)(**d**).

(3) The carrying out of any operations required for the maintenance or improvement of a private street or private way.

(**a**) 24 & 25 Geo. 5. c. 36.
(**b**) S.R. & O. 1935 (No. 426) p. 1360.
(**c**) 41 & 42 Vict. c. 51.
(**d**) 1 & 2 Will. 4. c. 43.

19. *Repairs to pipes, cables and other apparatus*

The carrying out of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose.

20. *Sea and River Defence Works*

The carrying out of operations solely required for sea or river defence works.

EXPLANATORY NOTE

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

These Regulations, which are made under Section 66 (2) (*b*) of the Town and Country Planning (Scotland) Act, 1947, specify the operations and uses of land which are exempt from development charge. They replace the Town and Country Planning (Development Charge Exemptions) (Scotland) Regulations, 1948. (S.I. 1948, No. 1382).

The main differences from the exemptions in the previous Regulations are that the amount by which a dwellinghouse may be enlarged, on rebuilding or otherwise, is increased (paragraph 1 of the Schedule), that a new exemption is introduced in respect of the conversion of houses into flats (paragraph 2) and that the changes of use which may take place without charge are considerably extended (paragraph 3).

The Town and Country Planning (General Development) (Scotland) Order, 1950

1950 No. 942 (S. 65)

Made - - - -	9*th June*, 1950
Laid before Parliament	9*th June*, 1950
Coming into Operation	20*th June*, 1950

ARRANGEMENT OF ARTICLES

Article

1. Application, citation, and commencement.
2. Interpretation.
3. Permitted development.
4. Directions restricting permitted development.
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