9. DEVELOPMENT CHARGE

The Town and Country Planning (Development Charge) (Scotland) Regulations, 1948*

1948 No. 1381 (S. 106)

Made - - - - *28th April*, 1948
Coming into Operation *1st July*, 1948

Whereas the Central Land Board (hereinafter called " the Board ") in determining whether any, and if so what, development charge is to be paid in respect of any operations or any use of land, are under a statutory duty by virtue of subsection (2) of section 67 of the Town and Country Planning (Scotland) Act, 1947(a) (hereinafter called " the Act ") to have regard to the amount by which the value of the land with the benefit of planning permission for those operations or that use, calculated as provided in that subsection, exceeds the value which it would have without the benefit of such permission and are also under a statutory duty not to give any undue or unreasonable preference or advantage to one applicant over another:

And Whereas by subsection (3) of section 67 of the Act it is provided that subject to these statutory duties, regulations made under the Act with the consent of the Treasury may prescribe general principles to be followed by the Board in determining under Part VI of the Act whether any and if so what development charge is to be paid thereunder in respect of any operations or use of land and such regulations may in particular provide for securing that the amount of the said charge shall be determined on different principles in relation to operations or uses of different classes or to operations or uses carried out or begun at different periods:

And Whereas by section 107 of the Act, the Secretary of State may make regulations under the Act for any purpose for which regulations are authorised to be made under the Act and in particular for prescribing anything which by the Act is authorised to be prescribed by regulations:

Now therefore the Secretary of State by virtue of the hereinbefore recited powers hereby makes, with the consent of the Treasury, the following regulations:—

PART I

Interpretation

1.—(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) These regulations may be cited as the Town and Country Planning (Development Charge) (Scotland) Regulations, 1948.

PART II

General

2. Subject to the provisions of the Act and of any regulations made thereunder and for the time being in force, the General Principles set out in the

(a) 10 & 11 Geo. 6. c. 53. (b) 52 & 53 Vict. c. 63.

* These Regulations were approved by Resolution of the House of Commons, May 26th, 1948, and the House of Lords, June 3rd, 1948, in accordance with Section 67(5) of the Town and Country Planning (Scotland) Act, 1947.

Schedule to these regulations shall be followed by the Board in determining under Part VI of the Act whether any, and if so what, development charge is to be paid thereunder in respect of any operations or use of land.

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

St. Andrew's House,
Edinburgh, 1.
28th April, 1948.

We consent.

Joseph Henderson,
C. James Simmons,
Two of the Lords Commissioners of His Majesty's Treasury.

28th April, 1948.

SCHEDULE

1. Development charge shall be determined so as to secure, so far as is practicable, that land can be freely and readily bought and sold or otherwise disposed of in the open market at a price neither greater nor less than its value for its existing use. This object is the Governing Principle by which the Board are to be guided in determining development charge.

2. Development charge shall not be more than the amount which, to the satisfaction of the Board, represents the additional value, measured by normal processes of valuation, of the land due to planning permission for a particular development.

3. Development charge shall not be less than the amount referred to in paragraph 2 of this Schedule, unless in the opinion of the Board the charge ought properly to be less in order to comply with the Governing Principle.

4. Where in the special case of any land of a class referred to in Part VII of the Act (which provides for the application of the Act to special cases) the application of the foregoing principles would, in the opinion of the Board, be inappropriate, the Board shall apply the Governing Principle subject to such modification as is in their opinion appropriate to that special case.

EXPLANATORY NOTE

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

Under Section 67 (3) of the Town and Country Planning (Scotland) Act, 1947, regulations made under the Act may prescribe general principles to be followed by the Central Land Board in determining whether any and if so what development charge is to be paid in respect of any operations or use of land. These regulations provide that the development charge shall represent the full additional value resulting from planning permission subject to the governing consideration that land can be freely and readily bought and sold at existing use value. In special cases, where the application of the foregoing principles would be inappropriate, the Central Land Board are to apply the governing principle subject to such modification as they consider appropriate to the case.