12. LOCAL AUTHORITIES' LAND

The Town and Country Planning (Local Authorities' Land: Exceptions to Section 79) (Scotland) Regulations, 1948

1948 No. 1463 (S. 122)

Made - - - -	*30th June*, 1948
Laid before Parliament	*1st July*, 1948
Coming into Operation	*1st July*, 1948*

In exercise of the powers conferred on me by paragraph (*c*) of subsection (1) of Section 79 of the Town and Country Planning (Scotland) Act, 1947(**a**), and all other powers enabling me in that behalf, I hereby make the following Regulations:—

1.—(1) These Regulations may be cited as the Town and Country Planning (Local Authorities' Land: Exceptions to Section 79) (Scotland) Regulations, 1948, and shall come into force on the appointed day.*

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

(3) In these Regulations—

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

(*b*) " the appointed day " means the day appointed for the coming into force of the Act;

(*c*) " land held for commercial purposes " means land held for the purpose of any activity (including restaurants, theatres, concert halls, holiday camps and airfields) with the intention of making profit therefrom, whether that intention is the main object of that activity or not.

2. The following classes of land shall be excepted from the provisions of Section 79 of the Act:—

(1) Land held for commercial purposes;

(2) Land held solely or mainly for the revenue derived therefrom;

(3) Land held for industrial estates;

(4) Land held by local highway authorities for working and winning minerals for highway purposes;

(5) Land acquired by a local authority—

(*a*) before the appointed day in pursuance of a notice to treat served after the passing of the Act, or in pursuance of a contract (not being a contract which excludes the application of subsections (2) and (3) of Section 87 of the Act) made after the passing of the Act;

(*b*) on or after the appointed day in pursuance of a notice to treat served or a contract made after the passing of the Act;

and not for the time being developed by that authority:

Provided that classes (1) to (4) shall not include the following land:—

(i) land acquired by a local authority—

(*a*) in pursuance of a notice to treat served, or a contract made, before the passing of the Act; or

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

* *See* S.I. 1948 No. 265, p. 4236 above.

(*b*) before the appointed day in pursuance of a contract made after the passing of the Act, being a contract which excludes the application of subsections (2) and (3) of Section 87 of the Act;

under an express statutory power to acquire land for the benefit of the district of the local authority, or for development or recoupment or other general purposes not more particularly identified which is for the time being not developed by that authority or appropriated to any more particular purpose;

(ii) land held for the purpose of any enactment relating to housing;

(iii) land held for the purpose of—

a gymnasium, public library, museum or art gallery;

a cemetery, burial ground, crematorium or mortuary;

the burial of carcases.

Dated this thirtieth day of June, nineteen hundred and forty-eight.

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

St. Andrew's House,
Edinburgh, 1.

EXPLANATORY NOTE

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

By Section 79 of the Town and Country Planning (Scotland) Act, 1947, land held at the appointed day (1st July, 1948) by a local authority for the purposes of their functions is excluded from the provisions of Part V of the Act and no development charge is payable if the land is developed or if it is appropriated or sold, feued or leased for another purpose with a planning permission. Where land held by a local authority at any time for the purposes of their functions is compulsorily acquired from that authority the compensation on such acquisition is to be assessed on the basis that no development charge would be payable for any development by which the use of the land is made to correspond with the generally prevailing use of contiguous or adjacent land.

Certain land is excepted from the benefit of this section, including land of any class excepted by these Regulations.

Class (5) refers to land which a local authority has acquired at restricted value and which is not developed by that authority. The object of taking it out of the section is that upon any compulsory acquisition from that authority, the latter (having acquired it at restricted value) shall not reap the benefit of " prevailing use value " referred to above.

On the other hand the effect of the proviso is that the land therein mentioned (all of which will have been acquired at unrestricted value) falls back into the section and is thus excluded both from a claim under Part V and from a development charge.