

2010 No. 160

LOCAL GOVERNMENT

**The Disposal of Land by Local Authorities (Scotland)
Regulations 2010**

<i>Made</i> - - - -	<i>20th April 2010</i>
<i>Laid before the Scottish Parliament</i>	<i>21st April 2010</i>
<i>Coming into force</i> - -	<i>1st June 2010</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 74(2B), (2C) and (2D) of the Local Government (Scotland) Act 1973(a) and all other powers enabling them to do so.

In accordance with section 74(2H) of that Act, they have consulted with such associations of local authorities and such other persons as they have thought fit.

Citation and commencement

1. These Regulations may be cited as the Disposal of Land by Local Authorities (Scotland) Regulations 2010 and come into force on 1st June 2010.

Threshold amount and marginal amount

2.—(1) The threshold amount for the purposes of section 74(2A)(a) of the Local Government (Scotland) Act 1973 is £10,000.

(2) The marginal amount for the purposes of section 74(2A)(b) of that Act is 25% of the best consideration that can reasonably be obtained.

Procedure

3.—(1) The procedure for a disposal of land for a consideration less than the best that can reasonably be obtained is as follows.

(2) The local authority must—

- (a) appraise and compare the costs and other disbenefits and the benefits of the proposal; and
- (b) determine that the circumstances set out in regulation 4 are met.

Circumstances

4.—(1) The circumstances in which a local authority may dispose of land for a consideration less than the best that can reasonably be obtained are that—

(a) 1973 c.65; subsections (2A) to (2H) were inserted by the Local Government in Scotland Act 2003 asp 1, section 11(1)(b).

- (a) the local authority is satisfied that the disposal for that consideration is reasonable; and
 - (b) the disposal is likely to contribute to any of the purposes set out in paragraph (2), in respect of the whole or any part of the area of the local authority or any persons resident or present in that area.
- (2) Those purposes are the promotion or improvement of—
- (a) economic development or regeneration;
 - (b) health;
 - (c) social well-being; or
 - (d) environmental well-being.
- (3) In this regulation, references to “well-being” are to be construed as for the purposes of section 20 of the Local Government in Scotland Act 2003^(a).

JOHN SWINNEY
A member of the Scottish Executive

St Andrew's House,
Edinburgh
20th April 2010

(a) 2003 asp 1.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to the disposal by local authorities of land, for a consideration less than the best that can reasonably be obtained.

Under section 74 of the Local Government (Scotland) Act 1973 (“the 1973 Act”) in its original form, a local authority required the consent of the Scottish Ministers (formerly of the Secretary of State) to dispose of land for a consideration less than the best that can reasonably be obtained.

The interpretation of “land” in the 1973 Act is that it includes land covered with water and any interest, right or servitude in or over land.

Section 74(2A) permits disposals at less than best consideration where either the best consideration that can reasonably be obtained is less than the threshold amount, or the difference between that consideration and the proposed consideration is less than the marginal amount. Regulation 2 sets the threshold amount at £10,000 and the marginal amount at 25% of the best consideration.

Regulation 3 provides that a disposal for a consideration less than the best that can reasonably be obtained may take place where the local authority has carried out an appraisal of the proposed disposal, and the circumstances in regulation 4 are met.

Regulation 4 provides that the disposal may take place if the local authority is satisfied that the disposal is reasonable and that the disposal contributes to one or more of a list of purposes in paragraph (2).

© Crown Copyright 2010

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, the Queen’s Printer for Scotland.