

**EXECUTIVE NOTE TO**  
**THE DISPOSAL OF LAND BY LOCAL AUTHORITIES (SCOTLAND)**  
**REGULATIONS 2010**

**S.S.I. 2010/160**

The above instrument is proposed to be made in exercise of the powers conferred by section 74 of the Local Government (Scotland) Act 1973 as amended by section 11 of the Local Government in Scotland Act 2003. The instrument is subject to negative resolution procedure.

**Policy Objectives**

The purpose of the Regulations is to provide for the circumstances in which and the procedures by which a local authority may dispose of land for less than the best consideration that can reasonably be obtained. (Best consideration in accordance with section 74(2E) of the Local Government (Scotland) Act 1973 is that consideration as assessed by a suitably qualified valuer.) The Regulations set threshold and marginal amounts in relation to the consideration. These amounts affect the situations in which the local authority needs to dispose of the land in accordance with the regulations, as set out below.

The Regulations are being laid following the Local Government in Scotland Act 2003 (Commencement No. 5 and Saving) Order 2010 (S.S.I. 2010/119), which will commence section 11 of the Local Government in Scotland Act 2003 on 1<sup>st</sup> June 2010 and remove the current requirement under section 74(2) of the Local Government (Scotland) Act 1973 for local authorities to obtain the consent of Scottish Ministers when disposing of land at less than best consideration. The Regulations will come into force on that date and be issued alongside Statutory Guidance which clarifies that a “suitably qualified valuer” for the purposes of assessment of value when disposing of land at less than best consideration, should be a member of the Royal Institute of Chartered Surveyors (RICS) and the basis for the valuation should take account of the RICS valuation standards. Non-statutory Guidance to accompany the Regulations has also been prepared to provide local authorities with information to help them implement the new regime.

**Regulation 2**

The threshold amount is set at £10,000. What this means in practice is, if the best consideration for the land is less than £10,000 (the threshold), then a local authority may dispose of the land for less than that consideration without requiring to follow the procedures set out in the Regulations.

The marginal amount is set at 25%. What this means in practice is, if the difference between the proposed sale price and the best consideration is within 25% of the best consideration, then again a disposal for less than the best consideration may take place without the local authority requiring to follow the procedures set out in the

### **Regulation 3**

This regulation provides for the procedure on a disposal for less than best consideration. Local authorities must appraise and compare the costs and other disbenefits and the benefits of the disposal, and be satisfied that the circumstances set out in regulation 4 apply to the proposed transaction.

### **Regulation 4**

This regulation provides for the circumstances in which a disposal for less than best consideration may take place. The circumstances require that the local authority be satisfied that disposal is reasonable and likely to contribute to the achievements of one or more of a set of objectives (promotion or improvement of economic development or regeneration, health, social well-being or environmental well-being).

### **Consultation**

Public consultation took place in 2007. Twenty six organisations with an interest in land disposal and all thirty-two local authorities were sent copies of the consultation papers. Information was also posted on the Scottish Government website. To address issues raised as a result of the consultation a Working Group comprising of representatives from local authorities, COSLA, Chartered Institute of Public Finance & Accountancy and Audit Scotland was set up in 2008. The draft Regulations, statutory and non-statutory guidance reflect the comments received in the consultation and from the Working Group.

### **Financial Effects**

Local authorities should incur no additional costs as a result of these regulations. Removal of the requirement for Ministerial consent is a reduction in the bureaucratic burden. The introduction of the procedures is consistent with the requirements on local authorities that already exist through the Best Value regime.