

1970 No. 717 (S. 54)

LAND COMMISSION

**The Betterment Levy (Tenancies and Reversions)
(Scotland) (Amendment) Regulations 1970**

Made - - - - - 6th May 1970

Laid before the House of Commons 20th May 1970

Coming into Operation - - - 25th May 1970

In exercise of the powers conferred on me by section 98 of, and paragraph 12 of Schedule 6 and paragraph 8 of Schedule 7 to, the Land Commission Act 1967^(a) section 47(3) of the Finance Act 1969^(b), and of all other powers enabling me in that behalf, I being for the purposes of these regulations the appropriate Minister in relation to Scotland, hereby make the following regulations:—

Citation, extent, commencement and interpretation

1.—(1) These regulations, which may be cited as the Betterment Levy (Tenancies and Reversions) (Scotland) (Amendment) Regulations 1970, apply to Scotland and shall come into operation on 25th May 1970.

(2) The Interpretation Act 1889^(c) applies for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

Amendment of the Betterment Levy (Tenancies and Reversions) (Scotland) Regulations 1967

2. The Betterment Levy (Tenancies and Reversions) (Scotland) Regulation 1967^(d) as amended^(e) shall be deemed always to have had effect as if further amended and are hereby further amended.

- (a) by the addition after regulation 7(2)(a) of the following sub-paragraph “(aa) was a disposition made on or after 23rd September 1965 and before the first appointed day to which paragraph 10A or paragraph 10B of Schedule 5 applies, or”;
- (b) in regulation 7(3) by the substitution for the words “paragraphs (5) and (6)” of the words “paragraphs (5), (6) and (7)”;
- (c) in regulation 7(5)(a) by the substitution for the words “falling within the antecedent period” of the words “to which paragraph 2(a) or (2)(aa) refers”;
- (d) in regulation 7(6) by the addition at the end of the words “subject to paragraph (7) of this regulation”; and

(a) 1967 c. 1. (b) 1969 c. 32. (c) 1889 c. 63. (d) S.I. 1967/324 (1967 I, p. 1102).

(e) The amending regulations are not relevant to the subject matter of these regulations.

- (e) by the addition after regulation 7(6) of the following paragraph:
“(7) Where the grant was a disposition to which paragraph 10B of Schedule 5 applies, the amount of the consideration given for the grant shall be taken to be the amount determined under paragraph (6) of this regulation but subject to any adjustment made under sub-paragraphs (1), (2) or (3) of the said paragraph 10B which shall be construed as if the references therein to the amount of the consideration given for the disposition were references to the amount determined under paragraph (6) of this regulation.”

3. The Betterment Levy (Tenancies and Reversions) (Scotland) Regulations 1967 as amended shall from the date on which these regulations come into operation be further amended by the addition at the end of regulation 15(1)(a) of the following words “and not being a mining lease the subject of a disposition to which Part II of the Betterment Levy (Minerals) (Scotland) (Amendment) Regulations 1969(a) applies and in respect of which an operative assessment of effective rate occurs or has occurred under that Part of those regulations”.

William Ross,

One of Her Majesty's Principal
Secretaries of State.

St. Andrew's House,
Edinburgh.

6th May 1970.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations contain amendments to the Betterment Levy (Tenancies and Reversions) (Scotland) Regulations 1967 consequential upon the Finance Act 1969 and the Betterment Levy (Minerals) (Scotland) (Amendment) Regulations 1969.

Firstly, Regulation 2 amends Regulation 7 of the 1967 Regulations, which concerns the base value of tenancies derived from the consideration given for the grant of a tenancy, to take account of the modifications to Schedule 5 of the Land Commission Act 1967 introduced by section 47 of the Finance Act 1969. Under the power conferred by section 47(3) of that Act this amendment is made retrospective to 6th April 1967, the first appointed day under the Land Commission Act 1967.

Grants of tenancies during the interim period (23rd September 1965 to 5th April 1967) were excluded from Regulation 7 because a disposition during that period is not a relevant disposition under paragraph 3 of Schedule 5 to the Act of 1967. It is now, however, provided by section 47 of the Act of 1969 which introduces into that Schedule a new paragraph 10A (plots for single houses) and a new paragraph 10B (certain other dispositions), that, if it is to the levypayer's advantage, a disposition during that period, and falling within either of those paragraphs, may be treated as a relevant disposition. Regulation 2 makes corresponding amendments to paragraph 7 of the 1967 Regulations, which are to be read as if always so amended.

Secondly, Regulation 3 disapplies Regulation 15 of the 1967 Regulations in certain circumstances to which the Betterment Levy (Minerals) (Scotland (Amendment) Regulations 1969 apply.

Levy is normally assessed in Case B on the grant of a tenancy as a single principal amount which takes into account, amongst other things, the capital value of the right to receive rent payable in respect of the tenancy on the assumption that the tenancy will run its course and that the landlord will receive all the consideration in respect of which he is assessed to levy. Regulation 15 of the 1967 regulations deals with the situation which arises upon the tenancy being prematurely determined, e.g. by abandonment. If this happens the assumption referred to is falsified. Regulation 15 accordingly makes provision for adding to the landlord's base value on an assessment on a future chargeable act or event an amount which will reflect the capitalised value of the rent he failed to obtain during the tenancy which has been determined but which he would have received, had the tenancy run its course. This provision requires modification in the case of a mining lease which has been granted, renewed, extended or varied by a disposition assessed to levy under Part II of the 1967 Regulations. That Part of those Regulations provides that levy shall be charged from time to time on the actual amount of rents, royalties, etc. As levy is payable only in respect of rent etc., actually received or receivable, no levy is charged on rents etc., which would have been received or receivable but for the premature determination of the mining lease. Regulation 3 accordingly provides that Regulation 15 of the 1967 Regulation shall not apply to dispositions assessed to levy on this basis.

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