6. CONSTRUCTION AND IMPROVEMENT OF PRIVATE STREETS

The Town and Country Planning (Construction and Improvement of Private Streets, etc.) (Scotland) Regulations, 1948

1948 No. 1630 (S. 144)

Made - - - -	14*th July*, 1948
Laid before Parliament	14*th July*, 1948
Coming into Operation	15*th July*, 1948

In exercise of the powers conferred on me by subsections (4) and (5) of section 45 of the Town and Country Planning (Scotland) Act, 1947(**a**), and of 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 (Construction and Improvement of Private Streets, etc.) (Scotland) Regulations, 1948, and shall come into operation on the fifteenth day of July, 1948.

(2) In these Regulations—

" the land " means any land defined by a development plan as the site of a proposed road or as land required for the widening of an existing road;

" the street " means any street on the land.

(3) 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. The amount of the expenses incurred by a local highway authority on the execution of works for the construction, widening or improvement of the street and charged by them on the owners of land, frontagers or other persons—

(*a*) where the land is situated in the landward area of a county, under the provisions of the Burgh Police (Scotland) Acts, 1892 to 1903(**c**), as applied in relation to the land by subsection (2) of section 45 of the Act; or

(*b*) where the land is situated in a burgh to which the provisions of the Burgh Police (Scotland) Acts, 1892 to 1903, apply, under the provisions of those Acts as having effect in relation to the land by virtue of subsection (3) of section 45 of the Act; or

(*c*) where the land is situated in a burgh to which the provisions of the Burgh Police (Scotland) Acts, 1892 to 1903, do not apply, under the corresponding provisions of any local enactments as having effect in relation to the land by virtue of subsection (3) of section 45 of the Act,

shall not exceed the amount which would at the date of the commencement of the works have been the cost of the execution of street works in the course of the construction, widening or improvement if it had been carried out so as to comply with any enactments, byelaws or regulations in operation in the area and, as respects matters for which no provision is made in any such enactments, byelaws or regulations, so as to comply with such specification as the local highway authority would at the date of the commencement of the works have required as a condition of taking over the street as a street maintainable by that authority.

(**a**) 10 & 11 Geo. 6. c. 53.
(**b**) 52 & 53 Vict. c. 63.
(**c**) 55 & 56 Vict. c. 55; 56 & 57 Vict. c. 25; 1 Edw. 7. c. 24 and 3 Edw. 7. c. 33.

3. As soon as the street has been made up or widened by or to the satisfaction of the local highway authority it shall become a street maintainable by that authority.

4. No expenses incurred in the execution of any street works in connection with the street shall be recoverable against agricultural land or buildings until such land or buildings cease to be agricultural land or buildings.

5. No expenses incurred in the execution of street works for the purpose of making the street as a new street shall be recoverable in respect of any land (whether the site of a building or not) unless and until access is provided for and used by persons or vehicles from that land to the new street.

6. Any expenses incurred by a local authority after the date on which the land has been defined by a development plan as the site of a proposed road or as land required for the widening of an existing road and before the street is constructed on the land, in the construction of sewers in or under the land, shall be included in the expenses recoverable as aforesaid in respect of street works from the owners of land, frontagers or other persons.

7. The local highway authority may enter on any land adjoining the street for the purpose of executing street works on land comprised in the street.

Dated this fourteenth day of July, 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 the Regulations, but is intended to indicate their general purport.)

Section 45 of the Town and Country Planning (Scotland) Act, 1947, contains special provisions relating to the construction and improvement of private streets. The section provides that in the landward area of a county certain provisions of the Burgh Police (Scotland) Acts, 1892 to 1903, relating to private streets, the laying out of new streets and the improvement of streets, shall apply, subject to any necessary modifications, to any land defined by a development plan as the site of a proposed road or as land required for the widening of an existing road. Similarly, in burghs the provisions of the Burgh Police (Scotland) Acts or the corresponding provisions of any local enactments relating to the laying out and improvement of streets are applied to any land in a burgh defined by a development plan as the site of a proposed road or as land required for the widening of an existing road.

These Regulations prescribe certain limitations as to the expenses on street works on land so defined which may be recovered from owners, frontagers or other persons. The Regulations also confer on local highway authorities powers of entry for the purposes of executing such street works and provide for the taking over of streets when works thereon have been completed.