1955 No. 338 (S. 37)

The Acquisition of Land (Division of Unexpended Balance) (Scotland) Regulations, 1955

Made - - - -	*28th February,* 1955
Laid before Parliament	*7th March,* 1955
Coming into Operation	*8th March,* 1955

In exercise of the powers conferred on me by sections 32 and 68 of the Town and Country Planning (Scotland) Act, 1954(a), and of all other powers enabling me in that behalf, I hereby make the following regulations :—

1. These regulations may be cited as the Acquisition of Land (Division of Unexpended Balance) (Scotland) Regulations, 1955, and shall come into operation on the 8th day of March, 1955.

2.—(1) 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) In these regulations

" the Act " means the Town and Country Planning (Scotland) Act, 1954 ;

" Lands Tribunal " means the Lands Tribunal for Scotland ;

Provided that until sections 1 to 3 of the Lands Tribunal Act, 1949(c), come into force as regards Scotland, for any reference in these regulations to the Lands Tribunal there shall be substituted a reference to an official arbiter appointed under the Acquisition of Land (Assessment of Compensation) Act, 1919(d) and sections 3, 5 and 6 of that Act shall apply, subject to any necessary modifications, in relation to the determination of any question under these regulations by an arbiter so appointed.

" section 32 " and " the Fifth Schedule " mean respectively section 32 of the Act and the Fifth Schedule to the Act ;

" the relevant interest ", " the relevant land ", " the notice to treat " and " excepted interest " have the meanings respectively assigned to them in section 31 of the Act ;

" the relevant area " has the meaning assigned to it in the Fifth Schedule.

3.—(1) Where in the case of a compulsory acquisition to which Part III of the Act applies any of the relevant land has an unexpended balance of established development value at the time immediately before the service of the notice to treat and the acquiring authority propose by virtue of section 32 to pay compensation in excess of compensation on the basis of existing use, the acquiring authority shall, except where there has been referred to the Lands Tribunal such a question as is mentioned in Regulation 4 of these regulations, serve notice of their proposal upon every person entitled to an interest in the relevant land (other than the relevant interest and any excepted interest) as soon as the amount of the said balance is finally ascertained and they are sufficiently informed as to the interests in the relevant land.

(2) The notice required to be served by virtue of the last preceding paragraph of this regulation (in these regulations referred to as a " notice of proposal ") shall specify—

(*a*) the relevant area (describing it) and the amount of the unexpended balance of established development value which that area has ;

(a) 2 & 3 Eliz. 2. c. 73.
(b) 52 & 53 Vict. c. 63.
(c) 12, 13 & 14 Geo. 6. c. 42.
(d) 9 & 10 Geo. 5. c. 57.

(*b*) the nature of the interests in the relevant area (other than excepted interests) and the persons entitled thereto;

(*c*) the portion of the said balance which the acquiring authority find to be attributable to each such interest and the amounts and values by reference to which such portions have been ascertained under the Fifth Schedule; and

(*d*) which of such portions they propose to pay:

and where the whole or no part of the said balance is attributed to any particular interest, the notice shall specify that fact as if a portion were found to be attributable to that interest.

(3) Any notice of proposal shall be accompanied by a statement of the right to object to the proposal given by virtue of paragraph (4) of this regulation.

(4) Any person aggrieved by a proposal in a notice of proposal served on him under this regulation (not being a proposal to pay any portion of the said balance to him) may within 30 days from the date of the notice, unless he has signified to the acquiring authority his agreement with the proposal, give notice in writing to the authority that he objects to the proposal and where such an objection is duly made he may not earlier than 30 days nor later than 60 days from the date of service of such objection (*a*) refer the dispute to the Lands Tribunal and (*b*) give notice in writing to the authority that he has done so and within 14 days from the date of receipt of such notice the authority shall notify all other persons on whom notices were served under paragraph (1) of this regulation and upon the owner of the relevant interest and any such person and the said owner shall on compliance with the rules of the Lands Tribunal for the time being in force be entitled to be parties to the dispute.

(5) Where no objection is made to a notice of proposal or all such objections are withdrawn, then on the expiration of the period within which such objections may be made, or, where that period has expired, on withdrawal of all such objections, the persons on whom such notice of proposal was served shall have no further right of appeal against the notice.

4.—(1) Where any question of the amount of compensation payable to the owner of the relevant interest in respect of the acquisition of that interest is referred to the Lands Tribunal (being a question involving a dispute as to the application of section 32) the acquiring authority shall, if they propose under section 32 to pay compensation in excess of compensation on the basis of existing use value, within 14 days from the date of the reference to the Lands Tribunal or such longer period as the Tribunal may allow, serve a notice upon every person upon whom a notice of proposal is required to be served, stating in the notice that a question involving such a proposal has been referred to the Lands Tribunal and that the person upon whom the notice is served is entitled to be a party to the reference so far as it relates to that proposal and specifying therein the matters which are required in accordance with paragraph (2) of Regulation 3 of these regulations, to be specified in a notice of proposal, unless these matters have been specified in a previous notice under that paragraph.

(2) Before determining the amount of the compensation in any case where no notices such as are referred to in paragraph (1) of this regulation have been served and it appears to the Lands Tribunal that compensation in excess of compensation on the basis of existing use value is payable under section 32, the Tribunal shall direct the acquiring authority to serve such notices as are referred to in the said paragraph (1).

(3) Any person on whom a notice is required to be served by this regulation shall be entitled, on compliance with the rules of the Lands Tribunal for the time being in force, to be a party to the reference.

5. The Lands Tribunal shall by their decision either confirm or vary the proposal of the acquiring authority and shall notify the parties of their decision stating, where the Tribunal vary the proposal, the portion of the unexpended balance of established development value of the relevant area attributable to each of the parties' interests.

Dated this 28th day of February, 1955.

James Stuart,
One of Her 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 32 of the Town and Country Planning (Scotland) Act, 1954, contains provisions whereby, in cases where compensation on a compulsory acquisition falls to be assessed on the basis of existing use any unexpended balance of established development value attached to the land immediately before the service of the notice to treat is to be added to the compensation. (This balance represents the residue of any claim or claims established in respect of interests in the land against the £300m. fund under Part V of the Town and Country Planning (Scotland) Act, 1947.) Where there are several interests in the land, the section and the Fifth Schedule to the Act provide for ascertaining what portion of the balance is attributable to each interest. The interest of a superior, or creditor in ground annual, or tenancies for a year or less or from year to year are excepted interests and are to be disregarded.

These regulations, which are made under subsection (2) of section 32, require that persons holding or owning interests in the land other than those being acquired or excepted interests as above-mentioned shall be notified of any proposal of the acquiring authority to pay a portion of the balance to that person. Persons so notified are enabled to object to the proposal and to appeal against it to the Lands Tribunal (or, until the Tribunal is set up, an arbiter appointed under the Acquisition of Land (Assessment of Compensation) Act, 1919) if their objections are not met or withdrawn. Regulation 3 deals with cases where there is no dispute between the acquiring authority and the owner of the interest which is being acquired as to the amount of compensation which he is to receive, and regulation 4 with the cases where there is such a dispute. In the latter case, persons notified of a proposal to pay out a portion of the balance are entitled to become parties to the dispute as to compensation so far as it relates to the balance.

These regulations do not affect interests in minerals which will be dealt with in regulations to be made under section 56 of the Act.