STATUTORY INSTRUMENTS

1975 No. 1114

HOUSING, ENGLAND AND WALES
HOUSING, SCOTLAND

The Assistance for House Purchase and Improvement (Miscellaneous Provisions) Regulations 1975

Made - - - -	*7th July* 1975
Laid before Parliament	16*th July* 1975
Coming into Operation	1*st September* 1975

The Secretary of State, in exercise of the powers conferred upon him by section 119(4)(*b*) and (5) of the Housing Act 1974(**a**) and section 24A(5) of the Housing Subsidies Act 1967(**b**) (inserted in that Act by section 119(1) of, and paragraph 2 of Schedule 11 to, the Housing Act 1974) and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Assistance for House Purchase and Improvement (Miscellaneous Provisions) Regulations 1975 and shall come into operation on 1st September 1975.

Interpretation

2.—(1) The Interpretation Act 1889(**c**) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

(2) In these regulations "the 1967 Act" means the Housing Subsidies Act 1967, and "the 1974 Act" means the Housing Act 1974.

(3) In these regulations, unless the context otherwise requires, any reference to an enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any enactment.

Transitional provisions for certain existing loans

3. Subject to regulation 5 below, in any case where section 119(3) of the 1974 Act applies to any loan, Part II of the 1967 Act shall have effect in relation to that loan subject to the modifications set out in Schedule 1 to these regulations.

(**a**) 1974 c. 44. (**b**) 1967 c. 29. (**c**) 1889 c. 63.

Modifications of the 1967 *Act for late optant cases*

4. Subject to regulation 5 below and paragraph 3 of Schedule 2 to these regulations, in any case where the option notice in respect of any loan is one to which a direction under section 24(5) of the 1967 Act applies, subsections (1) to (4) of section 24A of that Act shall have effect in relation to that loan subject to the modifications set out in Schedule 2 to these regulations.

Circumstances in which regulations not to apply

5. These regulations shall not apply in relation to a loan to a housing association within the meaning of section 341 of the Income and Corporation Taxes Act 1970**(a)** or a self-build society within the meaning of Part I of the 1974 Act.

(Regulation 3)

SCHEDULE 1

TRANSITIONAL PROVISIONS FOR CERTAIN EXISTING LOANS

1. Part II of the 1967 Act shall have effect as if the amendments to that Act contained in sub-paragraphs (2), (5) and (6) of paragraph 1 of Schedule 11 to the 1974 Act had not been made.

2. In section 24 of the 1967 Act—

(1) in subsection (3) for paragraphs (ix), (x) and (xi) there shall be substituted the following paragraphs—

"(ix) if any relevant subsection of this Act applies and the lender receives a notification in accordance with that subsection, 1st December 1975 or the expiry of the period of one month beginning with the date on which the lender receives a notification (or, if he receives more than one notification, the first notification) under that subsection, whichever is the later; and, if any relevant subsection applies but the lender does not receive such a notification, 1st December 1975 or the expiry of the period of one month beginning with the date on which the lender first becomes aware that the borrower has failed to notify him in accordance with that subsection, whichever is the later;

(x) if subsection (6C) of section 24B of this Act applies and the lender receives a notification in accordance with that subsection, the expiry of the period of twelve months beginning with the date specified in that notification; and, if that subsection applies but the lender does not receive such a notification, 1st December 1975 or the expiry of the period of one month beginning with the date on which the lender first becomes aware that the residence condition is not fulfilled as mentioned in that subsection, whichever is the later.";

(2) at the end of section 24 there shall be added the following subsection—

"(7) For the purposes of this section, the relevant subsections are as follows—

(*a*) subsection (4A) of section 24A of this Act;

(*b*) subsection (5) of section 24B of this Act;

(*c*) subsection (6A) of section 24B of this Act; and

(*d*) subsection (6B) of section 24B of this Act.".

3. In section 24A of the 1967 Act—

(1) in subsection (1)—

(*a*) for the words "referred to in paragraph (*c*) of subsection (3) of section 24 of this Act" there shall be substituted the words "referred to in subsection (4A) of this section";

(a) 1970 c. 10.

(*b*) for the words "on the date referred to in paragraph (*b*) of that subsection" there shall be substituted the words "on the relevant date"; and

(*c*) in paragraph (*a*) for the words "the said paragraph (*c*)" there shall be substituted the words "paragraph (*c*) of subsection (3) of section 24 of this Act";

(2) in subsection (4)—

(*a*) in paragraph (*a*) after the word "is" there shall be inserted the words "or was";

(*b*) for paragraph (*b*) there shall be substituted the following paragraph—

"(*b*) the previous loan is an existing loan falling within subsection (6B) of section 24B of this Act but the borrower is not under a duty by reason of that loan to notify his lender under that subsection; or";

(*c*) in paragraph (*c*) after the word "is" where third and fourth occurring there shall be inserted the words "or was"; and

(*d*) at the end there shall be added the following words—

"or;

(*d*) the previous loan is a loan to which subsection (5) of section 24B of this Act applies.";

(3) after subsection (4) there shall be inserted the following subsections—

"(4A) If on the relevant date the amount of, or, as the case may be, the amount outstanding by way of capital in connection with, the relevant loan exceeds the appropriate limit determined under this section, the borrower or, in the case of joint borrowers, each of them shall, within the period of two months beginning with the relevant date, notify the lender in writing that the loan is no longer eligible to be subsidised in accordance with this Part of this Act.

(4B) For the purposes of this section and section 24B of this Act, the relevant date for any loan is 1st September 1975 or the date on which the repayment contract in respect of the relevant loan is first entered into, whichever is the later.";

(4) for subsection (5) there shall be substituted the following subsection—

"(5) In any case where the option notice in respect of the relevant loan is one to which a direction under section 24(5) of this Act applies, the preceding provisions of this section shall have effect as if—

(*a*) any reference to the relevant date were construed as a reference to 1st September 1975;

(*b*) in subsection (4)—

(i) paragraph (*a*) were omitted, and

(ii) in paragraph (*c*) the words "is or" where second and third occurring were omitted; and

(*c*) subsection (4B) were omitted.";

(5) after subsection (5) there shall be added the following subsection—

"(6) In any case where the option notice in respect of the relevant loan is one to which a direction under section 24(4) or section 26(2) of this Act applies, the preceding provisions of this section shall have effect as if—

(*a*) in subsection (1) for paragraph (*a*) there were substituted the following paragraph—

"(*a*) the whole or any part of the interest on which is payable (whether alone or jointly with any other person) by or on behalf of the person beneficially entitled to the interest in the land in question (hereinafter called "the beneficiary") or, if there is more than one beneficiary, any of them or, where the beneficiary or any of them is married and is not treated for income tax purposes as living apart from his spouse, that spouse; and";

(*b*) in subsection (4) for sub-paragraph (*c*) there were substituted the following sub-paragraph—

"(*c*) the previous loan was in connection with the only or main residence of the beneficiary or, if there is more than one beneficiary, any of them and the relevant loan is or was made for or in connection with any one or more of the purposes specified in section 24(1)(*b*) of this Act in such circumstances that the dwelling referred to in that section is or was to be used instead as the beneficiary's only or main residence; or".

4. In section 24B of the 1967 Act—

(1) for subsections (5) and (6) there shall be substituted the following subsections—

"(5) Subject to subsection (6) below, if on the relevant date the residence condition is not fulfilled with respect to the dwelling concerned, then, within the period of two months beginning with the relevant date, the borrower or, in the case of joint borrowers, each of them shall notify the lender that the loan is no longer eligible to be subsidised in accordance with this Part of this Act.

(6) Subsection (5) above shall not apply where—

(*a*) the option notice in respect of the loan was signed on or before the date on which the repayment contract in respect of the loan was first entered into, and

(*b*) the repayment contract was first entered into after 1st September 1974, and

(*c*) on the relevant date the borrower or, in the case of joint borrowers, each of them intends that, within the period (in this section and section 28A(2) of this Act referred to as "the relevant period") beginning with the relevant date and ending on the expiry of the period of twelve months beginning with the date on which that repayment contract was first entered into, the residence condition will be fulfilled with respect to the dwelling concerned.

(6A) If—

(*a*) on the relevant date the residence condition is not fulfilled with respect to the dwelling concerned but subsection (5) above does not apply by reason of subsection (6) above, and

(*b*) the residence condition is not fulfilled with respect to the dwelling concerned within the relevant period,

then, within the period of one month beginning with the expiry of the relevant period, the borrower or, in the case of joint borrowers, each of them shall notify the lender in writing to that effect.

(6B) If—

(*a*) the specified person or persons named in the declaration under paragraph (*c*) of subsection (3) of section 24 of this Act is, are or include the borrower or all or any of the joint borrowers, and

(*b*) on the relevant date the borrower or, in the case of joint borrowers, any of them is married and is not treated for income tax purposes as living apart from his spouse, and

(*c*) any such spouse is liable to pay any interest (whether alone or jointly with any other person) on the whole or a part of a loan—

(i) which was an existing loan on the date on which the repayment contract in respect of the borrower's loan was first entered into, and

(ii) in respect of which an option notice for the time being has effect or in respect of which a claim for relief has been or is to be made under section 75 of the Finance Act 1972 (relief for payment of interest), and

(iii) which relates to, or was made with a view to the repayment of a previous loan which related to, land used wholly or partly for the purposes of a dwelling (not being the dwelling to which the declaration mentioned

above relates) which is that spouse's only or main residence or a caravan so used, and

(*d*) the date on which the repayment contract in respect of the borrower's loan was first entered into falls after 1st September 1974,

then, unless the spouse intends that within the relevant period the dwelling referred to in sub-paragraph (iii) above will cease to be the spouse's only or main residence, the borrower or, in the case of joint borrowers, each of them shall, within the period of two months beginning with the relevant date, notify the lender that the loan is no longer eligible to be subsidised in accordance with this Part of this Act.

(6C) If—

(*a*) the borrower is not under a duty to notify the lender under subsection (5) or (6A) above, and

(*b*) the residence condition is fulfilled with respect to the dwelling concerned on or after the relevant date but subsequently ceases to be so fulfilled,

then, within the period of one month beginning with the date on which that condition first ceased to be so fulfilled, the borrower or, in the case of joint borrowers, each of them shall notify the lender in writing of the date on which the condition first ceased, and of the fact that it has ceased, to be so fulfilled.";

(2) in subsection (7) for the words "subsection (5) or subsection (6) above" there shall be substituted the words "subsection (4A) of section 24A of this Act, or subsection (5), (6A), (6B) or (6C) above";

(3) at the end of section 24B there shall be added the following subsection—

"(8) In any case where the option notice in respect of any loan is one to which a direction under section 24(4) or section 26(2) of this Act applies, the preceding provisions of this section shall have effect as if—

(*a*) for subsection (1) there were substituted the following subsection—

"(1) For the purposes of this Part of this Act, the residence condition is fulfilled with respect to a dwelling to which a declaration under section 24(3) (*c*) of this Act relates if and so long as the dwelling is occupied wholly or partly as his only or main residence by the person beneficially entitled to the interest in the land in question (hereinafter called "the beneficiary") or, if there is more than one beneficiary, by each of them.";

(*b*) subsections (2), (3) and (4) were omitted;

(*c*) in subsection (6)(*c*) for the words "borrower or, in the case of joint borrowers" there were substituted the words "beneficiary or, if there is more than one beneficiary"; and

(*d*) in subsection (6B)—

(i) paragraph (*a*) were omitted; and

(ii) in paragraph (*b*) for the words "the borrower or, in the case of joint borrowers" there were substituted "the beneficiary or, if there is more than one beneficiary".

5. For section 28A of the 1967 Act there shall be substituted the following section—

"Recovery of subsidy in certain cases.

28A.—(1) If, in a case where subsection (4A) of section 24A or subsection (5) or (6B) of section 24B of this Act applies, the lender does not receive a notification under the appropriate subsection, the Secretary of State may recover from the borrower or, as the case may be, jointly and severally from the borrowers an amount equal to the total of the payments received by the lender by virtue of subsection (2)(*a*)(ii) of section 24 of this Act in relation to the loan after 30th November 1975.

(2) If, in a case where subsection (6A) of section 24B of this Act applies, the lender does not receive a notification under that subsection, the Secretary of State may recover from the borrower or, as the case may be, jointly and severally from the borrowers

an amount equal to the total of the payments received by the lender as mentioned in subsection (1) above after 30th November 1975 or the expiry of the period of two months beginning with the day following the expiry of the relevant period mentioned in the said subsection (6A), whichever is the later.

(3) If, in a case where subsection (6C) of section 24B of this Act applies, the lender does not receive a notification under that subsection, the Secretary of State may recover from the borrower or, as the case may be, jointly and severally from the borrowers an amount equal to the total of the payments received by the lender as mentioned in subsection (1) above after 30th November 1975 or the expiry of the period of two months beginning with the date on which the condition specified in the said subsection (6C) first ceased to be fulfilled,whichever is the later.".

6. After subsection (1) of section 29 of the 1967 Act there shall be inserted the following subsection—

"(1A) The lender shall, by not later than 30th September 1975, send to the borrower a statement in writing of the effect of the transitional provisions contained in regulation 3 of, and Schedule 1 to, the Assistance for House Purchase and Improvement (Miscellaneous Provisions) Regulations 1975.".

(Regulation 4)

SCHEDULE 2

Modifications of the 1967 Act for Late Optant Cases

1. In subsection (1) of section 24A of the 1967 Act for the words "on the date referred to in paragraph (*b*) of that subsection" there shall be substituted the words "on the date on which the option notice in respect of the relevant loan is signed".

2. In subsection (4) of the said section 24A—

(*a*) paragraph (*a*) shall be omitted; and

(*b*) in paragraph (*c*) for the word "is" where third and fourth occurring there shall be substituted the word "was".

3. The foregoing provisions of this Schedule shall not apply to any loan to which section 119(2) or (3) of the 1974 Act applies.

Anthony Crosland,
One of Her Majesty's Principal Secretaries of State.

7th July 1975.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

1. These Regulations make transitional provisions which are consequential upon the amendments which were made to Part II of the Housing Subsidies Act 1967 (option mortgage subsidy) by section 119 of, and Schedule 11 to, the Housing Act 1974. The Regulations secure the proper application of Part II of the 1967 Act after 30th November 1975 to certain existing option mortgages for which the option notice was signed after 26th June 1974 but before 1st September 1975.

2. The Regulations ensure that such mortgages will, in general, only continue to be eligible for option mortgage subsidy if on 1st September 1975:

(*a*) the balance of the mortgage loan outstanding does not exceed the appropriate limit (in most cases £25,000),

(*b*) the property is, or will shortly be, occupied by the borrower as his only or main residence or is so occupied by a qualifying relative of his, and

(*c*) the borrower's spouse has no loan in connection with another property which is that spouse's only or main residence, and which benefits from option mortgage subsidy or tax relief.

3. The Regulations require qualifying lenders to notify borrowers affected by the transitional provisions of the effect of them by not later than 30th September 1975; and, also, require a borrower, where a loan does not fulfil the new conditions, to give notice of this to his lender so that subsidy may be withdrawn after 30th November 1975.

4. The Regulations also modify the appropriate limit in its application to the exceptional case where the option notice is signed after the date on which the mortgage transaction is completed. These modifications apply to option notices signed on or after 1st September 1975.

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