STATUTORY INSTRUMENTS

1979 No. 1515

HOUSING, ENGLAND AND WALES

HOUSING, SCOTLAND

The Assistance for House Purchase and Improvement (Transitional Provisions) Regulations 1979

Made - - - -	*26th November* 1979
Laid before Parliament	*4th December* 1979
Coming into Operation	*1st January* 1980

The Secretary of State, in exercise of the powers conferred upon him by section 119(4)(*a*), (5) and (6) of the Housing Act 1974**(a)** and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Assistance for House Purchase and Improvement (Transitional Provisions) Regulations 1979 and shall come into operation on 1st January 1980.

(2) In these regulations—

"the 1967 Act" means the Housing Subsidies Act 1967**(b)**;

"the 1970 Act" means the Income and Corporation Taxes Act 1970**(c)**;

"the 1974 Act" means the Housing Act 1974;

"housing association" means a housing association for the time being approved for the purposes of section 341 of the 1970 Act; and

"self-build society" means a self-build society for the time being approved for the purposes of section 341A of the 1970 Act **(d)**.

Transitional provisions for certain existing loans

2. Where section 119(2) of the 1974 Act applies to a loan other than a loan to a housing association or self-build society, Part II of the 1967 Act shall have effect in relation to that loan subject to the modifications set out in the Schedule to these regulations.

(a) 1974 c. 44. (b) 1967 c. 29. (c) 1970 c. 10.
(d) inserted by section 120 of the Housing Act 1974.

Regulation 2 SCHEDULE

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(3) of the 1967 Act, for paragraphs (ix), (x) and (xi) there shall be substituted the following paragraphs—

"(ix) if subsection (4A) of section 24A of this Act applies and the lender receives a notification in accordance with that subsection, 6th April 1980 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 that subsection applies but the lender does not receive such a notification, 6th April 1980 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 (5) or (6) of section 24B of this Act applies, and the lender receives a notification in accordance with the subsection, 6th May 1980 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, the first notification) under the subsection, whichever is the later; and if either of those subsections applies but the lender does not receive such a notification, 6th May 1980 or the expiry of the period of one month beginning with the date when the lender first becomes aware that the borrower has failed to notify him in accordance with the subsection, whichever is the later;

(xi) if subsection (6A) 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, 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.".

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 (4) of this section";

(*b*) for the words "on the date referred to in paragraph (*b*) of that subsection" there shall be substituted the words "on 6th April 1980";

(*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"; and

(*d*) in paragraph (*b*), the words from "and" to the end shall be omitted;

(2) in subsection (2), for the words "subsections (3) and (4) below" there shall be substituted the words "subsection (3) below";

(3) for subsections (4) and (5) there shall be substituted the following subsections:—

"(4) If the relevant amount ascertained in accordance with subsection (5) below exceeds the appropriate limit determined under this section, the borrower or, in the case of joint borrowers, each of them shall, not later than 6th March 1980, notify the lender in writing that the loan is no longer to be subsidised in accordance with this Part of this Act.

(5) The relevant amount referred to in subsection (4) above is the amount of the loan or as the case may be the amount, ascertained in accordance with the terms of the repayment contract, which will be the amount outstanding by way of capital in connection with the loan on 6th April 1980.

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

4. In section 24B of the 1967 Act—

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

"(5) If on 6th April 1980 the residence condition is not fulfilled with respect to the dwelling concerned, then, not later than 6th May 1980 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) 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 6th April 1980 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,

then the borrower or, in the case of joint borrowers, each of them shall, not later than 6th May 1980, notify the lender that the loan is no longer eligible to be subsidised in accordance with this Part of this Act.

(6A) If—

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

(*b*) the residence condition is fulfilled with respect to the dwelling concerned on 6th April 1980 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 (4) of section 24A of this Act, or subsection (5), (6) or (6A) 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 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; and

(*c*) in subsection (6)—

(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 (4) of section 24A 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 by virtue of subsection (2)(*a*)(ii) of section 24 of this Act in relation to the loan after 5th April 1980.

(2) If, in a case where subsection (5) or (6) 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 as mentioned in subsection (1) above after 5th May 1980.

(3) 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 the expiry of the period of two months beginning with the date on which the condition specified in the said subsection (6A) first ceased to be fulfilled.".

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 6th January 1980, send to the borrower a statement in writing of the effect of the transitional provisions contained in regulation 2 of, and the Schedule to, the Assistance for House Purchase and Improvement (Transitional Provisions) Regulations 1979.".

Michael R. D. Heseltine,
One of Her Majesty's Principal Secretaries of State.

26th November 1979.

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 5th April 1980 to certain existing option mortgages for which the option notice was signed on or before 26th June 1974 or the loan was made in pursuance of an offer made on or before that date and the option notice was signed not later than the date when the repayment contract was entered into.

2. The Regulations ensure that such mortgages will, in general, only continue to be eligible for option mortgage subsidy if on 6th April 1980:

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

(*b*) the property is 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 send written notification to borrowers affected by the transitional provisions of the effect of them by not later than 6th January 1980, 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 on or shortly after 6th April 1980.

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