STATUTORY INSTRUMENTS

1975 No. 1462

BUILDING AND BUILDINGS

The House-Building Standards (Approved Scheme etc.) Order 1975

Made - - - -	*8th September* 1975
Laid before Parliament	*10th September* 1975
Coming into Operation	*1st October* 1975

The Secretary of State for the Environment, in exercise of the powers conferred on him by section 2(3) and (4) of the Defective Premises Act 1972**(a)** and of all other powers enabling him in that behalf, hereby makes the following order:—

1.—(1) This order may be cited as the House-Building Standards (Approved Scheme etc.) Order 1975 and shall come into operation on 1st October 1975.

(2) The Interpretation Act 1889**(b)** shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

(3) In this order—

"the Act" means the Defective Premises Act 1972; and

"the Council" means the National House-Building Council.

2. The National House-Building Council Scheme 1975 which is scheduled to this order (hereinafter called "the Scheme") is hereby approved for the purposes of section 2 of the Act.

3. The types of document headed "Full Certificate" and numbered respectively "HB6A (1975 edition)" and "HB6B (1975 edition)", which are issued by the Council under the Scheme and which have been respectively certified by the Secretary of State as being one of the forms of Full Certificate comprised in the Scheme, are hereby approved for the purposes of section 2 of the Act.

(a) 1972 c. 35.

(b) 1889 c. 63.

Article 2

SCHEDULE

THE NATIONAL HOUSE-BUILDING COUNCIL SCHEME 1975

The National House-Building Council (hereinafter called "the Council") has resolved to bring into force on 1st October 1975 the following Scheme:—

1.—(1) The Scheme may be cited as the National House-Building Council Scheme 1975.

(2) In the Scheme, where the context so admits, words importing the singular number include the plural number and words in the plural number include the singular number; and "person" includes any body of persons corporate or unincorporate.

2. The Council will operate the Rules, certified by the Secretary of State for the Environment as being the Rules comprised in the Scheme, under, or pursuant to, which—

(i) dwellings provided, or to be provided, in England or Wales by the erection of buildings (and not by the conversion or the enlargement of buildings) by House-Builders and Developers whose names are for the time being entered on the National Register of House-Builders and Developers maintained by the Council are to be designed and constructed in a manner at least sufficient to satisfy, in all respects, the Council's Requirements as to design and construction adopted by the Council and approved by the Secretary of State for the Environment (otherwise than by order) and in force when the concreting of the foundations of the dwellings is begun; and

(ii) the said House-Builders and Developers, and Public Authorities authorised by the Council, enter into agreements with Purchasers in one of the forms numbered respectively "HB5 (1975 edition)", "HB5B (1975 edition)" and "HB5C (1975 edition)", and respectively certified by the Secretary of State for the Environment as being one of the forms of agreement comprised in the Scheme; and

(iii) where the Council's Requirements as to design and construction have, or appear to have, been substantially complied with in relation to the said dwellings, the Council certifies to that effect by means in each case of a document ("the Full Certificate") in the form numbered "HB6A (1975 edition)" or, as the case may be, "HB6B (1975 edition)" and respectively certified by the Secretary of State for the Environment as being one of the forms of Full Certificate comprised in the Scheme.

3. The Council offers to Purchasers who have entered into agreements in one of the forms referred to in paragraph 2(ii) above ("the first agreements"), so as to give rise to binding agreements where the offers are accepted, optional increased benefits as set out in the said forms of agreement, in consideration of payments to be made by Purchasers to the Council not later than three months from the date of the first agreements.

4. By virtue of agreements entered into under the Scheme with persons having or acquiring an interest in the said dwellings, rights are conferred on such persons in respect of defects in the state of the said dwellings.

For an on behalf of the National House-Building Council

A. W. Tait,
Director General.
A. P. de B. Tapping,
Secretary.

4th September 1975.

Anthony Crosland,
Secretary of State for
the Environment.

8th September 1975.

EXPLANATORY NOTE

(This Note is not part of the Order.)

1. By this Order, made under section 2 of the Defective Premises Act 1972 ("the 1972 Act") (which does not apply to Scotland or Northern Ireland), the Secretary of State for the Environment approves the Scheme to be operated from 1st October 1975 by the National House-Building Council ("the Council") and the forms of "Full Certificate" issued by the Council in relation to dwellings erected pursuant to the Scheme. The Full Certificate states that the Council's Requirements as to design and construction, which are imposed under the Scheme, and are approved from time to time by the Secretary of State for the Environment without making an order, have, or appear to have, been substantially complied with in relation to those dwellings.

2. In relation to any dwelling falling within the approved Scheme and in respect of which a Full Certificate is issued, no action can be brought by any person having or acquiring an interest in the dwelling for breach of the duty imposed by section 1 of the 1972 Act (which relates to building standards). Section 6(2) of the 1972 Act, however, provides that any duty imposed by or enforceable by virtue of any provision of the 1972 Act is in addition to any duty a person may owe apart from that provision.

3. The Scheme is essentially designed to benefit any person for whom a dwelling is built or to whom a newly built dwelling is sold (whether leasehold or freehold) for occupation by him or his family as a dwelling. Such persons' mortgagees in possession and subsequent purchasers who occupy, or whose family occupy, the dwelling are also within the scope of the Scheme. Non-occupying purchasers of dwellings covered by the Scheme including local authorities and certain other public bodies also gain certain rights in respect of defects in the state of those dwellings.

4. The Scheme applies to dwellings erected by House-Builders and Developers whose names are entered on the Council's Register and who must observe the Council's Rules. Under the Scheme rights in respect of defects in the state of dwellings are conferred on purchasers by virtue of agreements entered into in the appropriate form approved by the Council with House-Builders or Developers, or in certain cases Public Authorities.

5. Under the said agreements such House-Builders and Developers and Public Authorities—

(A) Warrant that the particular dwelling has been built or agree that it will be built—

(1) in an efficient and workmanlike manner and of proper materials and so as to be fit for habitation (this undertaking is similar in form to the duty imposed by section 1 of the 1972 Act); and

(2) so as to comply in all respects with the Council's Requirements; and

(3) so as to qualify for a Full Certificate;

(B) Undertake certain obligations regarding the remedying of defects in, and the making good of damage to, dwellings consequent upon any breach of the Council's Requirements, and duly reported within a specified period, which is usually 2 years from the date of the Full Certificate.

6. In addition to the obligations undertaken by such House-Builders and Developers and Public Authorities, the Council gives certain guarantees in relation to arbitration awards and judgments obtained against them which have not been met, owing for example to liquidation. In the case of major

damage to dwellings occasioned by any defect in the structure caused by a breach of the Council's Requirements, or in the case of major damage to the structure of dwellings consequent upon subsidence, settlement or heave, the Council undertakes to make good or defray the cost of making good that damage and the defect subject to certain terms and conditions, if duly reported to the Council within 10 years from the date of the Full Certificate. Where a Full Certificate has been issued which bears a prefix letter 'G' before the number, the Council undertakes to pay a sum representing the cost of making good that damage and the defect as at the date of the Certificate. In these cases, the Scheme also provides for optional extra cover to meet the increases in cost in subsequent years, on payment of a premium and subject to certain terms and conditions.

Copies of the Scheme are available for inspection on application within normal working hours at any of the undermentioned offices of the Department of the Environment, the Welsh Office or the National House-Building Council.

Department of the Environment

2 Marsham Street,
London, SW1P 3EB

Five Ways House,
Islington Row,
Edgbaston,
Birmingham B15 1SR

City House,
Leeds LS1 4JD

Sunley Buildings,
Piccadilly Plaza,
Manchester M1 4BE

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Gallowgate,
Newcastle-upon-Tyne,
NE1 4TD

Froomsgate House,
Rupert Street,
Bristol BS1 2QN

Cranbrook House,
Cranbrook Street,
Nottingham NG1 1FB

National House-Building Council

58, Portland Place,
London, WIN 4BU

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Widnes, Lancs.

1, Gardens Road,
Clevedon, Somerset,
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Stourbridge, Worcs.

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