STATUTORY INSTRUMENTS

1975 No. 2001

HOUSING, ENGLAND AND WALES

The Housing Rents and Subsidies (North Eastern Housing Association) Order 1975

Made - - - -	4*th December* 1975
Laid before Parliament	11*th December* 1975
Coming into Operation	1*st January* 1976

The Secretary of State for the Environment, in exercise of the powers conferred on him by sections 15(1) and (5) and 17(3) of and paragraph 23 of Schedule 1 to the Housing Rents and Subsidies Act 1975(a) and of all other powers enabling him in that behalf, hereby makes the following order:—

Citation and commencement

1. This order may be cited as the Housing Rents and Subsidies (North Eastern Housing Association) Order 1975 and shall come into operation on 1st January 1976.

Interpretation

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

(2) In this order, unless the context otherwise requires—

"the Act of 1972" means the Housing Finance Act 1972(c);

"the Act of 1975" means the Housing Rents and Subsidies Act 1975;

"the 1972 order" means the Housing Finance (North Eastern Housing Association) Order 1972(d);

"Area Account" means an Area Account kept by the Association under article 11 of the 1972 order;

"the Association" means the company (limited by guarantee and not having a share capital) incorporated on 19th December 1935 under the Companies Act 1929(e) under the name of The North Eastern Housing Association Limited; and

"local authority" means a local authority in relation to which the 1972 order applies.

(3) In this order, unless the context otherwise requires, references to any enactment or instrument shall be construed as references to that enactment or instrument as amended, extended or applied by or under any other enactment or instrument including this order.

(4) Any reference in this order to a numbered article shall, unless the reference is to an article of a specified order, be construed as a reference to the article bearing that number in this order.

(a) 1975 c. 6. (b) 1889 c. 63. (c) 1972 c. 47.
(d) S.I. 1972/1193. (e) 1929 c. 23.

(5) Any reference in any article of this order to a numbered paragraph shall, unless the reference is to a paragraph of a specified article, be construed as a reference to the paragraph bearing that number in the first-mentioned article.

Application of section 2 of, and Part I of Schedule 1 to, the Act of 1975

3. Section 2 of, and paragraphs 1 to 8 and 10 to 12 of Schedule 1 to, the Act of 1975 shall apply to the Association, in relation to the area of each local authority, as if the Association were the local authority for that area and subject to the following further modifications:

(*a*) except as provided in paragraph (*d*) below, references in any of those provisions to local authorities shall be construed as references to the Association;

(*b*) references in any of those provisions to a local authority's Housing Revenue Account shall be construed as references to the appropriate Area Account;

(*c*) references in paragraphs 1, 10 and 11 of Schedule 1 to subsidies under the Act of 1972 shall be construed as references to residual subsidy and deficit subsidy under Part II of the 1972 order;

(*d*) the reference in paragraph 11(1) of Schedule 1 to the performance by a local authority of their functions under section 111 of the Housing Act 1957(**a**), as amended by section 1 of the Act of 1975, shall be construed as a reference to the exercise by a local authority of the powers and the performance by them and by the Association of the duties conferred and imposed by paragraph 22 of Schedule 1; and

(*e*) references in paragraph 11 of Schedule 1 to rate fund contributions associated with subsidies under the Act of 1972 shall be construed as references to rate fund contributions under articles 7, 8, and 9 of the 1972 order.

Application of section 3 of the Act of 1975

4.—(1) Section 3 of the Act of 1975 shall apply to the Association, in relation to the area of each local authority, as if the Association were, except as provided in paragraph (2), the local authority for that area and subject to the following further modifications:

(*a*) except in section 3(4), references to local authorities shall be construed as references to the Association;

(*b*) references to a local authority's Housing Revenue Account shall be construed as references to the appropriate Area Account; and

(*c*) "standard amount of rent rebates" shall be taken to have the meaning assigned to it by article 8 of the 1972 order.

(2) In section 3(4) of the Act of 1975 as applied to the Association by this article the reference to a rate fund contribution to be made by a local authority shall be construed as a reference to a rate fund contribution to be made by the authority to the Association of an amount equal to the total of—

(*a*) 25 per cent of the Association's standard amount of rent rebates for the area of the local authority for the year;

(*b*) the amount, if any, by which the rent rebates granted by the Association for the year, under the scheme made by the Association for the area of the local authority under article 12 of the 1972 order, exceed the said standard amount; and

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(**a**) 1957 c. 56.

(*c*) the Association's costs of administering for the year its rebate scheme under article 12 of the 1972 order for the area of the local authority, arrived at in accordance with article 8(6) of that order.

Application of section 11 of the Act of 1975

5. Section 11 of the Act of 1975 shall apply to the Association subject to the modification that the reference in the definition of "rent" in section 11(11) to dwellings of local authorities shall be construed as including a reference to dwellings provided by the Association under an agreement made with the approval of the Secretary of State between a local authority and the Association.

Application of Part II of Schedule 1 to the Act of 1975

6. Part II of Schedule 1 to the Act of 1975 shall apply to the Association subject to the exceptions and modifications specified in Schedule 1 to this order.

Application of paragraphs 10 and 14(2) of Schedule 1 to the Act of 1972

7.—(1) Paragraph 10 of Schedule 1 to the Act of 1972 shall apply to the Association subject to the following modifications:

(*a*) the reference in paragraph 10(1) to benefits or amenities arising from the exercise of a local authority's housing functions under Part V of the Housing Act 1957 (and provided for the persons housed by the local authority) shall be construed as a reference to benefits or amenities arising from the carrying out by the Association of any agreement made by it, with the approval of the Secretary of State, with a local authority (being benefits or amenities provided for persons housed by the Association); and

(*b*) the duty of the local authority to make rate fund contributions shall have effect as a duty to make rate fund contributions to the Association.

(2) Paragraph 14(2) of Schedule 1 to the Act of 1972 shall apply to the Association subject to the following modifications:

(*a*) references to a deficit in the account shall be construed as references to a deficit in the Area Account kept by the Association in respect of the area of a local authority; and

(*b*) the duty of the local authority to carry to the credit of the account a rate fund contribution of an amount equal to the deficit shall have effect as a duty to make a rate fund contribution of that amount to the Association.

(3) For the purposes of paragraph (2) there is a deficit in an Area Account if, after making all credits required or authorised by paragraph 1(1) (except paragraph 1(1)(*d*)(iii)) of Schedule 2 to the 1972 order, and all debits required by paragraph 2 of that Schedule, a debit balance is shown in that account.

Variation of the 1972 order

8. Schedule 2 to this order shall have effect for varying the 1972 order.

Supplemental

9.—(1) Any power to make an order conferred by any provision of the Act of 1975 shall be construed as including power to make an order varying or revoking any order previously made under that provision.

(2) Any power of making determinations or directions conferred by any provision of the Act of 1972 or of the Act of 1975 shall be construed as including power to vary or revoke determinations or directions made under that provision.

(3) Any order, determination or direction made under any provision of the Act of 1975 may contain supplemental or incidental provisions, and may be made to apply to the Association in relation to, or to the areas of, any specified description of local authorities.

(4) Any determination or direction made under any provision of the Act of 1975 may be made to apply to the Association in relation to, or to the area of, a specified local authority.

SCHEDULE 1 — Article 6

Application of Part II of Schedule 1 to Act of 1975

1. In paragraph 14(1)—

(*a*) for the words "a dwelling which is within a local authority's Housing Revenue Account or a new town corporation's housing account" there shall be substituted the words "one of the Association's dwellings"; and

(*b*) for the words "the local authority or new town corporation" there shall be substituted the words "the Association".

2. For paragraph 15 there shall be substituted the following:—

"15.—(1) Where—

(*a*) there was a duty under section 52 of the Housing Finance Act 1972 provisionally to assess a fair rent for a dwelling, but a rent has neither been determined for the dwelling under section 56 of that Act nor specified in a report under subsection (3) of that section, or

(*b*) a dwelling became one of the Association's dwellings after 10th August 1972 and before 25th February 1975, but a rent has not been determined for the dwelling under section 60 of the Housing Finance Act 1972,

and where in either case the appropriate fair rent finally determined for the dwelling is less than the rent paid for any relevant rental period during which the dwelling was one of the Association's dwellings, it shall be the duty of the Association to make a refund of rent in accordance with paragraphs 15A to 18 and paragraph 20 below.

(2) In sub-paragraph (1) above "relevant rental period" means a rental period which ended on or after 1st October 1971 but began before 25th February 1975.

15A.—(1) No refund of rent shall be made by the Association in any case to which paragraph 15 above applies unless an application in writing therefor is made by the relevant person and is received by the Association not later than 30th September 1976.

(2) For the purposes of this paragraph "the relevant person" means—

(*a*) the tenant who paid the rent, whether or not he is still the tenant, or

(*b*) the personal representatives of that tenant.

15B.—(1) On receipt of an application under paragraph 15A the Association shall transmit the application to the authority concerned, which shall be under a duty to determine the appropriate fair rent for the dwelling and to notify the applicant and the Association in writing of that determination.

(2) Subject to sub-paragraph (3), any such determination shall be made on the principles which would have been applicable to the determination on 31st March 1974 of a fair rent for the dwelling under Part V of the Housing Finance Act 1972.

(3) In determining the appropriate fair rent for a dwelling, the authority concerned shall have regard to any determinations made under section 56 of the Housing Finance Act 1972 and to any reports under section 56(3) of that Act

relating to dwellings within their area; and where there are no such determinations or reports, they shall have regard to any such determinations and reports which appear to them to be relevant relating to dwellings in neighbouring areas.

(4) Within one month beginning with the date of such a notification as is referred to in sub-paragraph (1), the applicant may make representations in writing to the authority concerned regarding the determination made by them.

(5) The authority concerned, after considering any such representations as are referred to in sub-paragraph (4), shall either re-determine the appropriate fair rent for the dwelling or confirm the determination and shall notify the applicant and the Association in writing accordingly; and in relation to any such re-determination or confirmation sub-paragraphs (2) and (3) shall apply as they apply in relation to the determination of a rent under sub-paragraph (1).

(6) For the purposes of this Part of this Schedule an appropriate fair rent for a dwelling is finally determined—

(*a*) in a case in which the applicant has made representations in accordance with sub-paragraph (4), when the authority re-determine or, as the case may be, confirm the determination in accordance with sub-paragraph (5); and

(*b*) in a case in which no such representations are as referred to in sub-paragraph (4) are made, when the authority determine it in accordance with sub-paragraph (1).

(7) Any reference in the foregoing provisions of this paragraph to an applicant shall, where the tenant who paid the rent made the application, be construed as including a reference to the personal representatives of that tenant.

15C.—(1) In connection with the determination of the appropriate fair rent for any dwelling, the authority concerned are hereby authorised to consult the president of the panel drawn up under Schedule 5 to the Rent Act 1968(a) (panels for the constitution of rent assessment committees) for the area in which the dwelling to which the determination will relate is situated.

(2) In the case of the president's absence or incapacity, the authority concerned are hereby authorised to consult the vice-president or, as the case may be, one of the vice-presidents of the panel.

(3) The president or any such vice-president is hereby authorised to consult with regard to any matter submitted to him by the authority concerned in pursuance of the foregoing provisions of this paragraph any of the panel's other members and any of the panel's staff.

(4) Any reference in this paragraph to a determination includes any re-determination or confirmation of a determination under paragraph 15B.".

3. For paragraph 16 there shall be substituted the following:

"16.—(1) Excess rent shall be recoverable from the Association by the tenant who paid it, whether or not he is still the tenant.

(2) In a case to which paragraph 15 applies, overpaid rent shall be recoverable from the Association by the tenant who paid it, whether or not he is still the tenant, or by his personal representatives (whether they or the tenant made the required application for the refund of rent).".

4. For paragraph 17 there shall be substituted the following:

"17. Where—

(*a*) the excess rent, or

(*b*) in a case to which paragraph 15 above applies, the overpaid rent,

was paid under a tenancy the terms of which (other than terms as to rent) are different from the terms of the tenancy for which the proper rent is determined or specified or, as the case may be, for which the appropriate fair rent is finally

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(a) 1968 c. 23.

determined, the amount of the excess rent or overpaid rent shall be adjusted to reflect the difference.".

5. For paragraph 18 there shall be substituted the following:

"18.—(1) Where a rent rebate was granted to the tenant for any rental period, and if he paid no more than—

(*a*) the proper rent, or

(*b*) in a case to which paragraph 15 above applies, the appropriate fair rent finally determined,

with any adjustment under paragraph 17 above, his rebate would have been less, the difference between the rebates shall be deducted from the primary amount.

(2) In sub-paragraph (1) above 'the primary amount' means—

(*a*) in a case to which paragraph 15 above applies, the amount of the overpaid rent, and

(*b*) in any other case, the amount arrived at under paragraph 14 above,

as adjusted, where relevant, under paragraph 17 above.

(3) Where this paragraph requires the deduction of one amount from another, but the amount to be deducted is the greater, the two amounts shall be taken to cancel each other out.".

6. In paragraph 19, for the words "the local authority or new town corporation" there shall be substituted the words "the Association".

7. For paragraph 20 there shall be substituted the following:

"20. If the authority concerned receive a statutory declaration—

(*a*) in a case to which paragraph 15 above applies where the tenant who paid the rent makes the required application for a refund of rent, that he, being the person entitled to recover any overpaid rent, has died, or

(*b*) in any other case, that the person entitled to recover any excess rent has died,

and that a person specified in the declaration is entitled to it under his will or intestacy, together with satisfactory evidence of the death, the authority concerned shall notify the Association accordingly and the Association may discharge their liability to make a refund of rent by paying the overpaid rent or excess rent to that person, but such payment shall not prejudice any right of recourse against him which is vested in any other person.".

8. After paragraph 21 there shall be inserted the following:

"22.—(1) In this Schedule—

"the appropriate fair rent finally determined", in relation to any dwelling falling within paragraph 15, means the rent finally determined for that dwelling in accordance with paragraph 15B;

"the Association" means the company (limited by guarantee and not having a share capital) incorporated on 19th December 1935 under the Companies Act 1929 under the name of the North Eastern Housing Association Limited;

"the Association's dwellings" means dwellings provided by the Association under an agreement made with the approval of the Secretary of State between a local authority and the Association;

"the authority concerned", in relation to any dwelling, means the local authority having housing functions under Part V of the Housing Act 1957 in relation to the area in which the dwelling is situated; and

"overpaid rent", in relation to any dwelling falling within paragraph 15, means the amount, if any, by which the rent paid for any relevant rental period exceeded the appropriate fair rent finally determined for that dwelling.

(2) References in this Schedule to provisions of the Housing Finance Act 1972 shall be construed as references to those provisions as applied by article 14 of the Housing Finance (North Eastern Housing Association) Order 1972.".

SCHEDULE 2 Article 8

VARIATION OF HOUSING FINANCE (NORTH EASTERN HOUSING ASSOCIATION) ORDER 1972

1. In article 2(1) after the definition of "the Act" there shall be inserted the following definition:

"'the Act of 1975' means the Housing Rents and Subsidies Act 1975 as applied by the Housing Rents and Subsidies (North Eastern Housing Association) Order 1975;".

2. Articles 4, 5, 6, 7, 8 (except for the purposes of article 4(1)(*c*) and 4(2)(*c*) of this order), 9, and 10 shall be omitted.

3. In article 11—

(*a*) for the words "the Surpluses Account", wherever they occur, there shall be substituted the words "the Central Maintenance and Management Account";

(*b*) paragraph (2)(*b*) shall be omitted; and

(*c*) In paragraph (2)(*c*), the words "and from the Surpluses Account to Area Accounts" shall be omitted.

4. In article 12(2), the words ", subject to article 16," shall be omitted.

5. In article 13(1)—

(*a*) the words "Subject to article 16" shall be omitted; and

(*b*) after the figures "25" there shall be inserted ", 25A".

6. Article 14 shall be omitted.

7. In Schedule 2—

(*a*) for the words "the Surpluses Account", wherever they occur, there shall be substituted the words "the Central Maintenance and Management Account";

(*b*) for paragraph 1(1)(*c*) and (*d*) there shall be substituted the following:

"(*c*) (i) the housing subsidy, if any, and

(ii) the modified rent rebate subsidy

payable to the Association for that year under sections 2 and 3 of the Act of 1975;

(*d*) the rate fund contributions payable to the Association for that year by the local authority, that is to say—

(i) the rate fund contribution under section 3(4) of the Act of 1975;

(ii) any rate fund contributions under paragraph 10 of Schedule 1 to the Act;

(iii) any rate fund contribution under paragraph 14(2) of Schedule 1 to the Act;";

(*c*) after paragraph 1(1)(*e*)(iv) there shall be inserted the following:

"(v) Part VII of the Housing Act 1974(a);";

(*d*) for paragraph 1(1)(*h*) there shall be substituted the following:

"(*h*) any working balance carried forward from the preceding year under paragraph 3 of this Schedule.";

(*e*) for paragraph 2(1)(*d*) there shall be substituted the following:

"(*d*) any working balance for that year for which provision is made by the local authority under paragraph 22(4) of Schedule 1 to the Housing Rents and Subsidies Act 1975.";

(a) 1974 c. 44.

(*f*) for paragraph 3 there shall be substituted the following:

"*Working balances*

3. Any amount debited to an Area Account by way of working balance for the year 1975–76 or any later year shall be carried forward and credited to that account for the next following year.";

(*g*) in paragraph 4(*a*), the word "improvement," shall be omitted;

(*h*) paragraph 4(*c*), (*d*), and (*e*) shall be omitted;

(*i*) paragraph 5(*b*) and (*c*) shall be omitted;

(*j*) for paragraph 6 there shall be substituted the following:

"6.—(1) The Association shall not make provision for a working balance in the Central Maintenance and Management Account.

(2) The Association shall transfer any working balance debited to the Surpluses Account at the end of the year 1974–75 to the Area Accounts in accordance with sub-paragraph (3) below.

(3) The amount to be transferred to each Area Account under sub-paragraph (2) above is the amount of the working balance debited to the Surpluses Account at the end of the year 1974–75 multiplied by the fraction $\frac{X}{Y}$, where—

X is the number of the Association's houses in the area in respect of which the Area Account is kept, and

Y is the total number of the Association's houses,

which were let or available for letting at the end of that year."; and

(*k*) paragraphs 7, 8, 10, and 11 shall be omitted.

8. In Schedule 3—

(*a*) in paragraph 1—

(i) after the figures "25" there shall be inserted ", 25A"; and

(ii) the words ", Parts V and VI," and "except in Parts V and VI of the Act," shall be omitted;

(*b*) after paragraph 7(*e*)(iii) there shall be inserted the following:

"(iv) the words 'or their allowance scheme, as may be appropriate' and 'of Housing Revenue Account dwellings' shall be omitted;";

(*c*) after paragraph 7(*f*)(iv) there shall be inserted the following:

"(v) the words 'or their allowance scheme, as may be appropriate' shall be omitted;";

(*d*) for paragraph 8(*a*) there shall be substituted the following:

"(*a*) in subsection (1), the words 'or an allowance', the words from 'or, in the case of an allowance' to 'those amounts', and the proviso shall be omitted;

(*aa*) in subsection (2), the words ', or of the residue of any rent,' and 'or residue' shall be omitted;";

(*e*) in paragraph 9(*a*)(ii), after the word "subsection" there shall be inserted the words "(8A) or subsection";

(*f*) in paragraph 9(*a*)(viii), for the words "paragraph (*c*)" there shall be substituted the words "paragraphs (*c*) and (*d*)";

(*g*) for paragraph 10(*a*) there shall be substituted the following:

"(*a*) in paragraphs 1 and 3(2) the words 'or allowance', 'or an allowance' and 'and allowances' shall be omitted wherever they occur;

(*aa*) in paragraph 1(3), for the words 'sub-paragraphs (3A) and (3B)' there shall be substituted the words 'sub-paragraph (3A)';

(*aaa*) paragraph 1(3B) shall be omitted;";

(*h*) after paragraph 11(*d*)(ii) there shall be inserted the following:

"(iii) for the words 'sub-paragraphs (2), (2A), and (2B)' there shall be substituted the words 'sub-paragraph (2)';";

(*i*) after paragraph 11(*e*) there shall be inserted the following:

"(*ee*) paragraph 2(2A) and (2B) shall be omitted;";

(*j*) after paragraph 11(1) there shall be inserted the following:

"(11) in paragraph 4(2A)—

(i) the words 'or allowance period' shall be omitted;

(ii) for the words 'the authority', in both places where they occur, there shall be substituted the words 'the Association';";

(*k*) after paragraph 11(*o*) there shall be inserted the following:

"(*oo*) in paragraph 5(4)—

(i) the words 'or an allowance', 'or further allowance', and 'or allowance period' shall be omitted wherever they occur; and

(ii) after paragraph 5(4)(*e*) there shall be inserted the following:

'(*f*) The Association shall comply with any directions given to authorities in general under paragraph (*e*)(i) above.';";

(*l*) for paragraph 11(*u*)(i) there shall be substituted the following:

"(i) except in paragraph (ii)(*a*) of the proviso to paragraph 10(4), the words 'or allowance', 'or allowance period', and 'or the allowance period' shall be omitted wherever they occur, and in paragraph (ii)(*a*) of the proviso to paragraph 10(4) the words 'or allowance' shall be omitted;"; and

(*m*) paragraphs 12 to 23 shall be omitted.

Anthony Crosland,
4th December 1975. Secretary of State for the Environment.

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

The North Eastern Housing Association ("the Association") is a housing association almost all of whose dwellings are provided by it on behalf of the local authorities in whose areas it operates, under arrangements made between the Association and the local authorities with the approval of the Secretary of State.

The Housing Finance (North Eastern Housing Association) Order 1972 ("the 1972 order"), made under section 80 of the Housing Finance Act 1972 ("the 1972 Act"), accordingly provided for the application to the Association of various provisions of the 1972 Act relating to local authorities.

The Housing Rents and Subsidies Act 1975 ("the 1975 Act") has repealed most of the subsidy provisions in Part I of the 1972 Act and introduced new subsidies, and has also repealed Parts V and VI of the 1972 Act (fair rents for housing authority dwellings and progression to fair rents) and made provision for rent limitation and for rent refunds.

This Order provides for the application to the Association, with necessary modifications, of the new housing and rent rebate subsidy and rent limitation and rent refund provisions in the 1975 Act, and of certain provisions in Schedule 1 to the 1972 Act concerning rate fund contributions; and for the variation, largely consequential, of the 1972 order.