

1973 No. 1843

BUILDING AND BUILDINGS**The House-Building Standards (Approved Scheme etc.)****Order 1973**

Made - - - 1st November 1973
Laid before Parliament 13th November 1973
Coming into Operation 1st January 1974

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 1973 and shall come into operation on 1st January 1974.

(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 1973 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” and “HB6B”, 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.

SCHEDULE

Article 2

THE NATIONAL HOUSE-BUILDING COUNCIL SCHEME 1973

The National House-Building Council (hereinafter called “the Council”) (formerly the National House-Builders Registration Council) has resolved to bring into force on 1st January 1974 the following Scheme

1.—(1) The Scheme may be cited as the National House-Building Council Scheme 1973.

(a) 1972 c. 35.

(b) 1889 c. 63.

(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.

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 "HB5A", "HB5B" and "HB5C", and respectively certified by the Secretary of State 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" or, as the case may be, "HB6B", 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. 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 and on behalf of the National House-Building Council,

A. W. Tait,
Director General.

A. P. de B. Tapping,
Secretary.

29th October 1973.

Signed by authority of
the Secretary of State.
1st November 1973.

Paul Channon,
Minister for Housing and Construction,
Department of the Environment.

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 January 1974 by the National House-Building Council ("the Council") (formerly known as the National House-Builders Registration 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 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 the 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.

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 4BL

Wellbar House
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 W1N 4BU

Birchfield Avenue
Widnes, Lancs

1 Gardens Road
Clevedon, Somerset
BS 21 7QQ

8 The Stonebow
York YO1 2NY

78 Worcester Road
West Hagley
Stourbridge, Worcs

6 Gold Street
Saffron Walden
Essex CB10 1GJ

Hill House
Hill Avenue
Amersham, Bucks

Welsh Office

Oxford House
The Hayes
Cardiff CF1 2SY

SI 1973/1843
ISBN 0-11-031843-9

