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STATUTORY INSTRUMENTS

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**1992 No. 1725**

**The Housing (Northern Ireland) Order 1992**

**PART III**

**GRANTS**

**CHAPTER I**

**GRANTS TOWARDS COST OF IMPROVEMENTS AND REPAIRS, ETC.**

*Restrictions on grant aid*

**Certain dwellings and works excluded from grant aid**

**45.**—(1) In each of the cases in paragraph (2), the Executive may not approve an application for a grant unless—

- (a) it is an application which it is required to approve by virtue of Article 50 and completion of the relevant works is necessary to comply with a notice under Article 41 of the Order of 1981 (repair notice requiring works to render premises fit for human habitation); or
- (b) it is an application which it is required to approve by virtue of Article 51.

(2) The cases referred to in paragraph (1) are as follows—

- (a) if, in the case of an application in respect of a dwelling or house which is not fit for human habitation, the Executive considers that the carrying out of the relevant works will not be sufficient to cause the dwelling or house to be fit for human habitation;
- (b) if or to the extent that the relevant works have been completed before the date of service of the notice of refusal under Article 54(1);
- (c) if, within the period of 3 months beginning on the date of service of the notice of refusal, the Executive intends to make a demolition or closing order relating to the dwelling, house or building under Article 35 or 38 of the Order of 1981;
- (d) if, within the period of 12 months beginning on the date of service of the notice of refusal, the Executive intends to declare a clearance area under Article 32 of the Order of 1981 or a re-development area under Article 47 of that Order for an area which includes the dwelling, house or building;
- (e) if the dwelling, house or building is or forms part of a building of a class designated under Article 4 of the Order of 1986 (defective dwellings), the applicant is eligible for assistance under Part II of that Order in respect of a defective dwelling which is or forms part of the dwelling, house or building concerned and the relevant works are, within the meaning of that Part, work required to reinstate that defective dwelling; and
- (f) if, in the case of an application for a common parts grant, the Executive considers that the carrying out of the relevant works will not be sufficient to cause the building to meet the requirements mentioned in sub-paragraphs (a) to (e) of Article 46(2) of the Order of 1981 (fitness for human habitation).

(3) Where a group repair scheme has been approved by the Department, the Executive may not approve an application for a grant in so far as it relates to works which will be carried out in pursuance of agreements entered into, or to be entered into, in pursuance of the scheme.

(4) The Executive may not approve an application for a grant so far as it relates to works which are of a description excluded from grant aid by directions made by the Department.

(5) Unless it is an application which it is required to approve by virtue of Article 51, the Executive may not approve an application for an HMO grant so far as it relates to works—

- (a) which relate to means of escape from fire or other fire precautions; and
- (b) which are required to be carried out under or by virtue of any statutory provision (whenever passed).

(6) If directions made by the Department under paragraph (4) specify a description of works for which grant aid is not to be available without its consent, the Executive may not approve an application for a grant, so far as it relates to works of that description, unless the Department has given its consent with respect to those works.

(7) The Department may give its consent for the purposes of paragraph (6) with respect to applications generally or to a particular description of applications.

#### **Restriction on grants for works already begun**

**46.**—(1) Subject to paragraphs (2) and (3), the Executive may not approve an application for a grant if the relevant works have been commenced before the application is approved and shall serve a notice of refusal to that effect on the applicant.

(2) Paragraph (1) does not apply to—

- (a) an application which the Executive is required to approve by virtue of Article 50 if completion of the relevant works is necessary to comply with a notice under Article 41 of the Order of 1981 (repair notice requiring works to render premises fit for human habitation); or
- (b) an application which the Executive is required to approve by virtue of Article 51.

(3) Where the relevant works have not been completed, the Executive may approve the application for a grant if it is satisfied that there were good reasons for beginning the works before the application was approved.

(4) Where the Executive decides to approve an application in accordance with paragraph (3)—

- (a) it may, with the consent of the applicant, treat the application as varied so that the relevant works are limited to those that remain to be completed at the date of the application; and
- (b) in determining for the purposes of Articles 51, 52 and 53 the physical condition of the dwelling, common parts or house or other building concerned, it shall consider the condition of the premises at the date of the application.

#### **Owner-occupiers and tenants**

**47.**—(1) Where an application for a grant is accompanied by an owner-occupier certificate, a tenant's certificate or a special certificate, then, if the financial resources of the applicant exceed the applicable amount, the amount of any grant which may be paid shall be reduced from what it would otherwise have been in accordance with regulations made by the Department with the consent of the Department of Finance and Personnel.

(2) For the purposes of this Chapter, the Department may by regulations made with the consent of the Department of Finance and Personnel—

- (a) make provision for the determination of the amount which is to be taken to be the financial resources of an applicant for a grant; and
- (b) make provision for the determination of the applicable amount referred to in paragraph (1).
- (3) Without prejudice to the generality of paragraph (2), regulations under this Article—
  - (a) may make provision for account to be taken of the income, assets, needs and outgoings not only of the applicant himself but also of his spouse, any person living with him or intending to live with him and any person on whom he is dependent or who is dependent on him;
  - (b) may make provision for amounts specified in or determined under the regulations to be taken into account for particular purposes.

### **Landlords**

- 48.**—(1) Subject to Article 64, this Article applies—
- (a) where an application for a grant is accompanied by a certificate of intended letting with respect to a dwelling and is not a tenant’s application;
  - (b) where an application for an HMO grant is accompanied by a certificate under Article 44(7);
  - (c) where, by virtue of Article 42(5) or 44(9), Article 42 or, as the case may be, Article 44 does not apply to an application for a grant; and
  - (d) where an application for a grant is a landlord’s common parts application.
- (2) Subject to the following provisions of this Article and to Article 54(5), the amount of the grant (if any) shall be such as may be determined by the Executive, having regard to—
- (a) the cost of the relevant works;
  - (b) where a regulated tenancy (within the meaning of the Rent (Northern Ireland) Order 1978(1)) subsists in the dwelling, the amount of the rent recoverable and of any increase which might reasonably be expected in that rent to take account of the relevant works, when completed;
  - (c) where the dwelling is currently let, but sub-paragraph (b) does not apply, the amount of the rent payable and of any increase which might reasonably be expected in that rent to take account of the relevant works, when completed;
  - (d) where the dwelling is not currently let, the amount of rent which might reasonably be expected to be obtained on a letting of the dwelling on the open market when the relevant works are complete; and
  - (e) such other matters as the Department may direct.
- (3) In making a determination under paragraph (2), the Executive may take account—
- (a) in relation to sub-paragraph (b) of that paragraph, of any certificate of future rent issued under Article 32 of the Rent (Northern Ireland) Order 1978(2); and
  - (b) in relation to sub-paragraph (c) or (d) of that paragraph, of any assessment of rent undertaken by a rent officer in pursuance of regulations made under paragraph (4).
- (4) The Department may by regulations make such provision as it thinks fit with respect to assessments of rent for the purposes of paragraph (3)(b).
- (5) Without prejudice to the generality of paragraph (4), the regulations may, in particular, make provision as to—
- (a) the functions of the rent officer;

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- (b) the procedure to be followed in making an assessment of rent; and
- (c) the basis on which an assessment of rent is to be made.

(6) In paragraphs (3) and (5) “rent officer” means the rent officer nominated under paragraph 3 of Schedule 5 to the Rent (Northern Ireland) Order 1978 and includes the deputy rent officer.

(7) Where the applicant is a charity or the application is in respect of a religious denomination or body, the Executive shall also have regard—

- (a) to any obligation or practice on the part of the applicant to let dwellings at a rent less than that which could be obtained on the open market;
- (b) to any financial resources available to the applicant in addition to the rent from the dwelling; and
- (c) generally to the circumstances of the applicant concerned.

(8) In the case of an application for an HMO grant, in paragraphs (2) to (7), any reference to rent shall be construed as a reference to the aggregate of the consideration under licences or lettings of the house in question and any reference to letting a dwelling shall be construed accordingly.

(9) Where the application is for a grant in respect of the residence house of a religious denomination, paragraphs (b) to (d) of paragraph (2) shall not apply and the Executive shall also have regard—

- (a) to any financial resources available to the applicant; and
- (b) generally to the circumstances of the applicant.

(10) In a case where the application is a landlord’s common parts application, each of the dwellings in the building concerned shall be taken into account under sub-paragraph (b) or (c) of paragraph (2) so as to determine an aggregate rent for the purposes of that paragraph.

### **Tenants' common parts applications**

**49.**—(1) This Article applies where an application for a grant is a tenants' common parts application.

(2) The Executive shall decide how much of the cost of the relevant works is attributable to the applicants (in this Article referred to as “the attributable cost”); and, for the purposes of this Article, the attributable cost is an amount equal to the proportion, referred to in paragraph (3), of the cost of the relevant works.

(3) The proportion mentioned in paragraph (2) is as follows—

- (a) where it can be ascertained, the proportion that the aggregate of each of the applicant’s respective liabilities to carry out or contribute to the carrying out of the relevant works bears to the aggregate of all such liabilities on the part of all persons (including the applicants) so liable; or
- (b) where the proportion mentioned in sub-paragraph (a) cannot be ascertained, the proportion that the number of applicants bears to the number of persons (including the applicants) liable to carry out or contribute to the carrying out of works to the building;

and in any case where the interest by virtue of which the liability referred to in sub-paragraph (b) arises is held jointly by 2 or more persons, those persons shall be regarded as a single person in deciding for the purposes of that sub-paragraph the number of persons so liable.

(4) The Executive shall then apportion the attributable cost to each of the applicants—

- (a) in a case where the attributable cost is calculated by reference to the proportion mentioned in sub-paragraph (a) of paragraph (3), according to the proportion that his liabilities to carry out or contribute to the carrying out of the relevant works bears to the aggregate of the applicants' liabilities mentioned in that sub-paragraph; or

- (b) in a case where the attributable cost is calculated by reference to the proportion mentioned in sub-paragraph (b) of that paragraph, equally;

and the amount of grant payable shall be the aggregate of the grants that would be payable to each of the applicants under Article 47 or, in the case of a participating landlord, Article 48 if each of the applicants was an individual applicant under Article 47 or, as the case may be, Article 48 in respect of his apportionment of the attributable cost under sub-paragraph (a) or, as the case may be, sub-paragraph (b).