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STATUTORY INSTRUMENTS

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**2003 No. 412**

**The Housing (Northern Ireland) Order 2003**

**PART III**

**GRANTS, &c. FOR RENEWAL OF PRIVATE SECTOR HOUSING**

**CHAPTER II**

**THE MAIN GRANTS**

*Grant conditions and repayment*

**Grant conditions: introductory**

**75.**—(1) The following Articles have effect with respect to the conditions to be observed where an application for a grant has been approved by the Executive.

In this Chapter a “grant condition” means a condition having effect in accordance with any of those Articles.

(2) Except as otherwise provided—

- (a) the grant conditions as to repayment on disposal (Articles 76 to 78) have effect from the date on which the application is approved until the end of the grant condition period;
- (b) the grant conditions as to occupation (Articles 79 to 81) have effect from the certified date until the end of the grant condition period; and
- (c) a grant condition imposed under Article 83 (power to impose other conditions) has effect for such period as may be specified by the Executive.

(3) In this Chapter—

- (a) the “grant condition period” means the period of 5 years, or such other period as the Department may by order specify, beginning on the certified date; and
- (b) the “certified date” means the date certified by the Executive as the date on which the execution of the eligible works is completed to its satisfaction.

(4) The Executive may not impose any condition requiring a grant to be repaid except in accordance with the following Articles.

This applies whether the condition purports to operate as a condition of the grant, as a personal covenant or otherwise.

**Condition for repayment on disposal: renovation grants**

**76.**—(1) It is a condition of a renovation grant that if an owner of the premises to which the application relates makes a relevant disposal (other than an exempt disposal)—

- (a) of the whole or part of the premises to which the application relates,
- (b) after any instalment of grant has been paid, and

(c) before the certified date,

he shall repay to the Executive on demand the amount of grant that has been paid.

(2) It is a condition of a renovation grant that if an owner of the dwelling to which the application relates or, in the case of a conversion application, any dwelling provided by the relevant works, makes a relevant disposal (other than an exempt disposal)—

- (a) of the whole or part of the dwelling,
- (b) on or after the certified date, and
- (c) before the end of the grant condition period,

he shall repay to the Executive on demand the amount of grant that has been paid.

In the case of a conversion application the grant shall be treated for this purpose as apportioned equally between the dwellings provided.

(3) A condition under this Article shall be a statutory charge and binding on any person who is for the time being an owner of the premises concerned and any amount of grant which is repayable under paragraph (1) or (2) shall, until recovered, be deemed to be a charge on the premises.

(4) Where the Executive has the right to demand repayment of an amount mentioned in paragraph (1) or (2), it may determine not to demand payment or to demand a lesser amount.

(5) Any condition under this Article shall cease to be in force with respect to any premises if there is a relevant disposal of the premises that is an exempt disposal, other than—

- (a) a disposal within Article 85(1)(a) (disposal to associates of person making disposal), or
- (b) a disposal within Article 85(1)(b) (vesting under will or on intestacy).

### **Condition for repayment on disposal: common parts grants**

77.—(1) It is a condition of a common parts grant approved on a landlord's application that if the applicant makes a relevant disposal (other than an exempt disposal)—

- (a) of the whole or part of the building,
- (b) after any instalment of grant has been paid, and
- (c) before the certified date,

he shall repay to the Executive on demand the amount of grant that has been paid.

(2) It is a condition of a common parts grant approved on a landlord's application that if the applicant makes a relevant disposal (other than an exempt disposal)—

- (a) of the whole or part of the building,
- (b) on or after the certified date, and
- (c) before the end of the grant condition period,

he shall repay to the Executive on demand the amount of grant that has been paid.

(3) A condition under this Article shall be a statutory charge and binding on any person who is for the time being a successor in title to the interest in the building by virtue of which the applicant made his application; and any amount of grant which is repayable under paragraph (1) or (2) shall, until recovered, be deemed to be a charge on the building.

(4) Where the Executive has the right to demand repayment of an amount mentioned in paragraph (1) or (2), it may determine not to demand payment or to demand a lesser amount.

(5) Any condition under this Article shall cease to be in force with respect to any premises if there is a relevant disposal of the premises that is an exempt disposal.

**Condition as to repayment on disposal: HMO grants**

78.—(1) It is a condition of an HMO grant that if an owner of the house makes a relevant disposal (other than an exempt disposal)—

- (a) of the whole or part of the house,
- (b) after any instalment of grant has been paid, and
- (c) before the certified date,

he shall repay to the Executive on demand the amount of grant that has been paid.

(2) It is a condition of an HMO grant that if an owner of the house makes a relevant disposal (other than an exempt disposal)—

- (a) of the whole or part of the house,
- (b) on or after the certified date, and
- (c) before the end of the grant condition period,

he shall repay to the Executive on demand the amount of grant that has been paid.

(3) A condition under this Article shall be a statutory charge and binding on any person who is for the time being an owner of the house; and any amount of grant which is repayable under paragraph (1) or (2) shall, until recovered, be deemed to be a charge on the house.

(4) Where the Executive has the right to demand repayment of an amount mentioned in paragraph (1) or (2), it may determine not to demand payment or to demand a lesser amount.

(5) Any condition under this Article shall cease to be in force with respect to any premises if there is a relevant disposal of the premises that is an exempt disposal.

**Condition as to owner-occupation: renovation grants**

79.—(1) Where an application for a renovation grant was accompanied by an owner-occupation certificate in respect of any dwelling (see Article 41(2)), it is a condition of the grant that throughout the grant condition period the dwelling is occupied in accordance with the intention stated in the certificate.

(2) It is also a condition of the grant that if at any time when that condition is in force the Executive serves notice on the owner of the dwelling requiring him to do so, he will within the period of 21 days beginning on the date on which the notice was served furnish to the Executive a statement showing how that condition is being fulfilled.

(3) A condition under this Article shall be a statutory charge and binding on any person who is for the time being an owner of the dwelling; and any amount of grant and interest which is repayable under paragraph (4) shall, until recovered, be deemed to be a charge on the dwelling.

(4) In the event of a breach of a condition under this Article, the owner for the time being of the dwelling shall on demand repay to the Executive the amount of the grant, together with interest on that amount as from the certified date, at such reasonable rate as the Executive may determine.

(5) The Executive may determine not to make such a demand or may demand a lesser amount.

(6) Any condition under this Article shall cease to be in force with respect to the dwelling if there is a relevant disposal of the dwelling that is an exempt disposal, other than—

- (a) a disposal within Article 85(1)(a) (disposal to associates of person making disposal), or
- (b) a disposal within Article 85(1)(b) (vesting under will or on intestacy).

**Condition as to availability for letting: renovation grants**

**80.**—(1) Where an application for a renovation grant was accompanied by a certificate of intended letting in respect of any dwelling (see Article 41(3)), it is a condition of the grant that throughout the grant condition period the dwelling is let or available for letting in accordance with the intention stated in the certificate.

(2) It is also a condition of the grant that if at any time within the grant condition period the Executive serves notice on the owner of the dwelling requiring him to do so, he will within the period of 21 days beginning on the date on which the notice was served furnish to the Executive a statement showing how the condition in paragraph (1) is being fulfilled.

(3) A condition under this Article—

(a) shall be a statutory charge and binding on any person who is for the time being the owner of the dwelling; and

(b) is enforceable against all other persons having an interest in the dwelling as if it were a condition of the terms of every tenancy of, or of property including, the dwelling; and

any amount of grant and interest which is repayable under paragraph (4) shall, until recovered, be deemed to be a charge on the dwelling.

(4) In the event of a breach of a condition under this Article, the owner for the time being of the dwelling shall on demand repay to the Executive the amount of the grant, together with interest on that amount as from the certified date, at such reasonable rate as the Executive may determine.

(5) The Executive may determine not to make such a demand or may demand a lesser amount.

(6) The terms of any tenancy of the dwelling (or any part of it, or any property including the dwelling or part of it) shall be deemed to include a duty on the part of the tenant, if required to do so by the owner of the dwelling, to furnish him with such information as he may reasonably require to enable him to comply with a notice under paragraph (2).

**Conditions as to occupation: HMO grants**

**81.**—(1) It is a condition of an HMO grant that throughout the grant condition period—

(a) the house is occupied or available for residential occupation in accordance with the intention stated in the certificate of future occupation that accompanied the application (see Article 57(2)); and

(b) that the house is not so occupied as to cause a breach of any direction given by the Executive under Article 85 of the Order of 1992 (power to limit number of occupants of house).

(2) It is also a condition of the grant that if at any time within the grant condition period the Executive serves notice on the owner of the house requiring him to do so, he will within the period of 21 days beginning on the date on which the notice was served furnish to the Executive a statement showing how the condition in paragraph (1)(a) is being fulfilled.

(3) A condition under this Article—

(a) shall be a statutory charge and binding on any person who is for the time being an owner of the house; and

(b) is enforceable against all other persons to whom any part of the house is let or licensed as if it were a condition of the terms of every tenancy or licence of part of the house; and

any amount of grant and interest which is repayable under paragraph (4) shall, until recovered, be deemed to be a charge on the house.

(4) In the event of a breach of a condition under this Article, the owner for the time being of the house shall on demand pay to the Executive the amount of the grant, together with interest on that amount as from the certified date, at such reasonable rate as the Executive may determine.

(5) The Executive may determine not to make such a demand or may demand a lesser amount.

(6) The terms of any tenancy of any part of the house shall be deemed to include a duty on the part of the tenant, if required to do so by the owner of the house, to furnish him with such information as he may reasonably require to enable him to comply with a notice under paragraph (2).

### **Conditions as to repayment in case of other compensation, &c.**

**82.**—(1) Where the Executive approves an application for a grant it may impose a condition requiring the applicant to take reasonable steps to pursue any relevant claim to which this Article applies and to repay the grant, so far as appropriate, out of the proceeds of such a claim.

(2) The claims to which this Article applies are—

- (a) an insurance claim, or a legal claim against another person, in respect of damage to the premises to which the grant relates, or
- (b) a legal claim for damages in which the cost of the works to premises to which the grant relates is part of the claim;

and a claim is a relevant claim to the extent that works to make good the damage mentioned in sub-paragraph (a), or the cost of which is claimed as mentioned in sub-paragraph (b), are works to which the grant relates.

(3) In the event of a breach of a condition under this Article, the applicant shall on demand pay to the Executive the amount of the grant so far as relating to any such works, together with interest as from such date as may be prescribed by or determined in accordance with regulations made by the Department, at such reasonable rate as the Executive may determine.

(4) The Executive may determine not to make such a demand or to demand a lesser amount.

### **Power to impose other conditions**

**83.**—(1) Where the Executive approves an application for a grant it may impose such conditions as it thinks fit—

- (a) relating to things done or omitted before the certified date and requiring the repayment to the Executive on demand of any instalments of grant paid; or
- (b) relating to things done or omitted on or after that date and before the end of the grant condition period and requiring the payment to the Executive on demand of a sum equal to the amount of the grant paid;

and in either case, that amount may be required to be paid together with interest on that amount as from the date of payment, at such reasonable rate as the Executive may determine.

(2) A condition under this Article shall be a statutory charge and binding on—

- (a) any person who is for the time being an owner of the dwelling, house or building,
- (b) such other persons (if any) as the Executive may specify; and

any amount of grant and interest which is repayable under paragraph (1) shall, until recovered, be deemed to be a charge on the house, dwelling or building.

(3) The reference in paragraph (2)(a) to the owner of the building shall be construed—

- (a) in the case of a grant condition imposed on a landlord's application for a common parts grant, as a reference to the applicant or any successor in title to the interest in the building by virtue of which the applicant made his application;

- (b) in the case of a grant condition imposed on an application for an HMO grant, as excluding such persons as may be prescribed.
- (4) Where the Executive has the right to demand repayment of an amount mentioned in paragraph (1), it may determine not to demand payment or to demand a lesser amount.
- (5) Any conditions imposed under this Article are in addition to the conditions provided for by Articles 76 to 82.

### **Meaning of relevant disposal**

**84.**—(1) A disposal is a relevant disposal for the purposes of the provisions of this Chapter relating to grant conditions if it is—

- (a) a conveyance of a freehold estate in possession (whether legal or equitable) or an assignment of the lease, or
- (b) the grant of a lease (other than a mortgage term) for a term of more than 21 years otherwise than at a rack rent.
- (2) For the purposes of paragraph (1)(b) it shall be assumed—
  - (a) that any option to renew or extend a lease or sub-lease, whether or not forming part of a series of options, is exercised, and
  - (b) that any option to terminate a lease or sub-lease is not exercised.
- (3) The grant of an option enabling a person to call for a relevant disposal shall be treated as such a disposal made to him.

### **Meaning of exempt disposal**

**85.**—(1) A disposal is an exempt disposal for the purposes of the provisions of this Chapter relating to grant conditions if it is a disposal of the whole or part of the premises to which the application relates of any of the following descriptions—

- (a) a conveyance of a freehold estate in possession (whether legal or equitable) or an assignment of the lease where the person, or each of the persons, to whom it is made is a qualifying person (as defined in paragraph (2));
- (b) a vesting in a person taking under a will or on an intestacy;
- (c) a disposal in pursuance of any such order as is mentioned in paragraph (3);
- (d) a compulsory disposal (see paragraph (4));
- (e) a disposal of property consisting of land included in the dwelling and used for the purposes of the dwelling;
- (f) a disposal under which the interest of a person entitled to assistance by way of repurchase under Part II of the Order of 1986 (assistance for owners of defective housing) is acquired in accordance with Schedule 2 to that Order;
- (g) a disposal of the whole of the dwelling and a conveyance of a freehold estate in possession (whether legal or equitable) or an assignment of the lease where—
  - (i) the person making the disposal is aged at least 70;
  - (ii) the disposal is to provide an annuity income; and
  - (iii) the person concerned is entitled to continue to occupy the dwelling as his only or main residence;
- (h) a disposal of any other description specified by order of the Department for the purposes of this Article.

- (2) A person is a qualifying person for the purposes of paragraph (1)(a) if—
- (a) in the case of an individual, he is—
    - (i) the person, or one of the persons, by whom the disposal is made;
    - (ii) the spouse, or former spouse, of that person or one of those persons; or
    - (iii) a member of the family of that person or one of those persons; or
  - (b) in the case of a company, it is an associated company of the company by whom the disposal is made.

Section 416 of the Income and Corporation Taxes Act 1988 (c. 1) (meaning of associated company) applies in determining whether a company is an associated company of another for the purposes of sub-paragraph (b).

- (3) The orders referred to in paragraph (1)(c) are orders under—
- (a) Article 26(1) of the [Matrimonial Causes \(Northern Ireland\) Order 1978 \(NI 15\)](#) (property adjustment orders in connection with matrimonial proceedings);
  - (b) Article 4 of the [Inheritance \(Provision for Family and Dependents\) \(Northern Ireland\) Order 1979 \(NI 8\)](#) (orders as to financial provision to be made from estate);
  - (c) Article 21 of the [Matrimonial and Family Proceedings \(Northern Ireland\) Order 1989 \(NI 4\)](#) (property adjustment orders or orders for the sale of property after overseas divorce, etc.);
  - (d) paragraph 2 of Schedule 1 to the [Children \(Northern Ireland\) Order 1995 \(NI 2\)](#) (orders for financial relief against parents).

(4) For the purposes of paragraph (1)(d) a compulsory disposal is a disposal of property to a person who has made or who would have made, or for whom another person has made or would have made, a vesting order authorising its acquisition compulsorily for the purposes for which it is acquired.

(5) The grant of an option enabling a person to call for an exempt disposal shall be treated as such a disposal made to him.

### **Cessation of conditions on repayment of grant, &c.**

**86.—**(1) If at any time while a grant condition remains in force with respect to a dwelling, house or building—

- (a) the owner of the dwelling, house or building to which the condition relates pays the amount of the grant to the Executive,
- (b) a mortgagee of the interest of the owner in that dwelling, house or building being a mortgagee entitled to exercise a power of sale, makes such a payment,
- (c) the Executive determines not to demand repayment on the breach of a grant condition, or
- (d) the Executive demands repayment in whole or in part on the breach of a grant condition and that demand is satisfied,

the grant condition and any other grant conditions shall cease to be in force with respect to that dwelling, house or building.

(2) In the case of a grant condition imposed on a landlord's application for a common parts grant the references in paragraph (1)(a) and (b) to the owner of the building are to the applicant or any such successor in title as is referred to in Article 77(3).

(3) An amount paid by a mortgagee under paragraph (1)(b) shall be treated as part of the sums secured by the mortgage and may be discharged accordingly.

(4) The purposes authorised for the application of capital money by sections 21 and 63 of the Settled Land Act 1882 (c. 38) include the making of payments under this Article.