

*Draft Order in Council laid before Parliament under paragraph 2(1)(a) of the Schedule to the Northern Ireland Act 2000, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2003 No. (N.I. )**

**NORTHERN IRELAND**

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

*Made - - - - 2003  
Coming into operation in accordance with Article 1(2)  
and (3)*

At the Court at Buckingham Palace, the day of 2003

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**PART I**

**INTRODUCTORY**

**Title and commencement**

1.—(1) This Order may be cited as the Housing (Northern Ireland) Order 2003.

(2) This Article and Article 2 shall come into operation on the expiration of 7 days from the day on which this Order is made.

(3) The other provisions of this Order shall come into operation on such day or days as the Department may by order appoint.

(4) The Department may by order under paragraph (3) make such transitional provision and savings as appear to it to be appropriate in connection with the coming into operation of any provision of this Order.

(5) The following Orders—

- (a) the [Housing \(Northern Ireland\) Order 1981 \(NI 3\)](#);
- (b) the [Housing \(Northern Ireland\) Order 1983 \(NI 15\)](#);
- (c) the [Housing \(Northern Ireland\) Order 1986 \(NI 13\)](#);
- (d) the [Housing \(Northern Ireland\) Order 1988 \(NI 23\)](#);
- (e) the [Housing \(Northern Ireland\) Order 1992 \(NI 15\)](#); and
- (f) this Order,

may be cited together as the Housing (Northern Ireland) Orders 1981 to 2003.

### **General interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

- “the Department” means the Department for Social Development;
- “the Executive” means the Northern Ireland Housing Executive;
- “the Order of 1981” means the [Housing \(Northern Ireland\) Order 1981 \(NI 3\)](#);
- “the Order of 1983” means the [Housing \(Northern Ireland\) Order 1983 \(NI 15\)](#);
- “the Order of 1986” means the [Housing \(Northern Ireland\) Order 1986 \(NI 13\)](#);
- “the Order of 1988” means the [Housing \(Northern Ireland\) Order 1988 \(NI 23\)](#);
- “the Order of 1992” means the [Housing \(Northern Ireland\) Order 1992 \(NI 15\)](#);
- “prescribed” means prescribed by regulations made by the Department;
- “protected tenancy” has the meaning given in Article 3(1) of the [Rent \(Northern Ireland\) Order 1978 \(NI 20\)](#);
- “registered housing association” means a housing association which is registered under Part II of the Order of 1992;
- “secure tenancy” has the meaning given in Article 25 of the Order of 1983;
- “secure tenant” has the meaning given in Article 24 of the Order of 1983;
- “statutory provision” has the same meaning as in section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33);
- “statutory tenancy” has the meaning given in Article 4(5) of the [Rent \(Northern Ireland\) Order 1978](#).

### **Members of a person’s family**

3.—(1) For the purposes of this Order a person is a member of another’s family if—

- (a) he is the spouse of that person, or he and that person live together as husband and wife, or
- (b) he is that person’s parent, grandparent, child, grandchild, brother or sister.

(2) For the purpose of paragraph (1)(b)—

- (a) a relationship by marriage shall be treated as a relationship by blood,
- (b) a relationship of the half-blood shall be treated as a relationship of the whole blood, and
- (c) the stepchild of a person shall be treated as his child.

**PART II**  
**CONDUCT OF TENANTS**  
**CHAPTER I**  
**INTRODUCTORY**

**Interpretation of Part II**

**4.** In this Part—

“adopt” (in relation to a periodic tenancy) shall be construed in accordance with Article 6(4);  
“introductory tenancy” shall be construed in accordance with Article 6; and  
“qualifying shorthold tenancy” has the meaning given in paragraph 10 of Schedule 2 to the Order of 1983 (see Article 134(4)).

**Meaning of “dwelling-house”**

**5.—(1)** For the purposes of this Part a dwelling-house may be a house or a part of a house.

(2) Land let together with a dwelling-house shall be treated for the purposes of this Part as part of the dwelling-house unless the land is agricultural land which would not be treated as part of the dwelling-house for the purposes of Part II of the Order of 1983 (see Article 24(2) of that Order).

**CHAPTER II**  
**INTRODUCTORY TENANCIES**

*General provisions*

**Introductory tenancies**

**6.—(1)** The Executive or a registered housing association may elect to operate an introductory tenancy regime.

(2) When such an election is in operation, every periodic tenancy of a dwelling-house entered into or adopted by the Executive or the association shall, if it would otherwise be a secure tenancy, be an introductory tenancy, unless immediately before the tenancy was entered into or adopted the tenant or, in the case of joint tenants, one or more of them was a secure tenant of the same or another dwelling-house.

(3) Paragraph (2) does not apply to a tenancy entered into or adopted in pursuance of a contract made before the election was made.

(4) For the purposes of this Chapter a periodic tenancy is adopted by a person if that person becomes the landlord under the tenancy, whether on a disposal or surrender of the interest of the former landlord.

(5) An election under this Article may be revoked at any time, without prejudice to the making of a further election.

**Duration of introductory tenancy**

**7.—(1)** A tenancy remains an introductory tenancy until the end of the trial period, unless one of the events mentioned in paragraph (5) occurs before the end of that period.

(2) The “trial period” is the period of one year beginning with—

- (a) in the case of a tenancy which was entered into by the Executive or a registered housing association—
  - (i) the date on which the tenancy was entered into, or
  - (ii) if later, the date on which a tenant was first entitled to possession under the tenancy; or
- (b) in the case of a tenancy which was adopted by the Executive or a registered housing association, the date of adoption;

subject as follows.

(3) Where the tenant under an introductory tenancy was formerly a tenant under another introductory tenancy, or held a qualifying shorthold tenancy from a registered housing association, any period or periods during which he was such a tenant shall count towards the trial period, provided—

- (a) if there was one such period, it ended immediately before the date specified in paragraph (2), and
- (b) if there was more than one such period, the most recent period ended immediately before that date and each period succeeded the other without interruption.

(4) Where there are joint tenants under an introductory tenancy, the reference in paragraph (3) to the tenant shall be construed as referring to the joint tenant in whose case the application of that paragraph produces the earliest starting date for the trial period.

(5) A tenancy ceases to be an introductory tenancy if, before the end of the trial period—

- (a) the circumstances are such that the tenancy would not otherwise be a secure tenancy,
- (b) a person or body other than the Executive or a registered housing association becomes the landlord under the tenancy,
- (c) the election in force when the tenancy was entered into or adopted is revoked, or
- (d) the tenancy ceases to be an introductory tenancy by virtue of Article 15(3) (succession).

(6) A tenancy does not come to an end merely because it ceases to be an introductory tenancy, but a tenancy which has once ceased to be an introductory tenancy cannot subsequently become an introductory tenancy.

(7) This Article has effect subject to Article 12 (effect of beginning proceedings for possession).

## **Licences**

**8.—**(1) The provisions of this Chapter apply in relation to a licence to occupy a dwelling-house (whether or not granted for a consideration) as they apply in relation to a tenancy.

(2) Paragraph (1) does not apply to a licence granted as a temporary expedient to a person who entered the dwelling-house or any other land as a trespasser (whether or not, before the grant of that licence, another licence to occupy that or another dwelling-house had been granted to him).

### *Proceedings for possession*

## **Proceedings for possession**

**9.—**(1) The landlord may only bring an introductory tenancy to an end by obtaining an order of the court for the possession of the dwelling-house.

(2) The court shall make such an order unless the provisions of Article 10 apply.

(3) Where the court makes such an order, the tenancy comes to an end on the date on which the tenant is to give up possession in pursuance of the order.

### **Notice of proceedings for possession**

**10.**—(1) The court shall not entertain proceedings for the possession of a dwelling-house let under an introductory tenancy unless the landlord has served on the tenant a notice of proceedings complying with this Article.

(2) The notice shall state that the court will be asked to make an order for the possession of the dwelling-house.

(3) The notice shall set out the reasons for the landlord's decision to apply for such an order.

(4) The notice shall specify a date after which proceedings for the possession of the dwelling-house may be begun.

The date so specified must not be earlier than the date on which the tenancy could, apart from this Chapter, be brought to an end by notice to quit given by the landlord on the same date as the notice of proceedings.

(5) The court shall not entertain any proceedings for possession of the dwelling-house unless they are begun after the date specified in the notice of proceedings.

(6) The notice shall inform the tenant of his right to request a review of the landlord's decision to seek an order for possession and of the time within which such a request must be made.

(7) The notice shall also inform the tenant where he should take the notice, if he needs help or advice about it.

### **Review of decision to seek possession**

**11.**—(1) A request for review of the landlord's decision to seek an order for possession of a dwelling-house let under an introductory tenancy must be made before the end of the period of 14 days beginning with the day on which the notice of proceedings is served.

(2) On a request being duly made to it, the landlord shall review its decision.

(3) The Department may make provision by regulations as to the procedure to be followed in connection with a review under this Article.

Nothing in the following provisions affects the generality of this power.

(4) Provision may be made by regulations—

(a) requiring the decision on review to be made by a person of appropriate seniority who was not involved in the original decision, and

(b) as to the circumstances in which the person concerned is entitled to an oral hearing, and whether and by whom he may be represented at such a hearing.

(5) The landlord shall notify the person concerned of the decision on the review.

If the decision is to confirm the original decision, the landlord shall also notify him of the reasons for the decision.

(6) The review shall be carried out and the tenant notified before the date specified in the notice of proceedings as the date after which proceedings for the possession of the dwelling-house may be begun.

### **Effect of beginning proceedings for possession**

**12.**—(1) This Article applies where the landlord has begun proceedings for the possession of a dwelling-house let under an introductory tenancy and—

(a) the trial period ends, or

(b) any of the events specified in Article 7(5) occurs (events on which a tenancy ceases to be an introductory tenancy).

- (2) Subject to the following provisions, the tenancy remains an introductory tenancy until—
- (a) the tenancy comes to an end in pursuance of Article 9(3) (that is, on the date on which the tenant is to give up possession in pursuance of an order of the court), or
  - (b) the proceedings are otherwise finally determined.
- (3) If any of the events specified in Article 7(5)(b) to (d) occurs, the tenancy shall thereupon cease to be an introductory tenancy but—
- (a) the landlord (or, as the case may be, the new landlord) may continue the proceedings, and
  - (b) if it (or he) does so, Article 9(2) and (3) (termination by the landlord) apply as if the tenancy had remained an introductory tenancy.
- (4) Where in accordance with paragraph (3) a tenancy ceases to be an introductory tenancy and becomes a secure tenancy, the tenant is not entitled to purchase the dwelling-house under a house sales scheme unless and until the proceedings are finally determined on terms such that he is not required to give up possession of the dwelling-house.
- In this paragraph “a house sales scheme” means any scheme for the time being approved by the Department under Article 3 or 3A of the Order of 1983 (see Article 131).
- (5) For the purposes of this Article proceedings shall be treated as finally determined if they are withdrawn or any appeal is abandoned or the time for appealing expires without an appeal being brought.

#### *Succession on death of tenant*

#### **Persons qualified to succeed tenant**

- 13.** A person is qualified to succeed the tenant under an introductory tenancy if he occupies the dwelling-house as his only or principal home at the time of the tenant’s death and either—
- (a) he is the tenant’s spouse, or
  - (b) he is another member of the tenant’s family and has resided with the tenant throughout the period of 12 months ending with the tenant’s death;

unless, in either case, the tenant was himself a successor, as defined in Article 14.

#### **Cases where the tenant is a successor**

- 14.—**(1) The tenant is himself a successor if—
- (a) the tenancy vested in him by virtue of Article 15 (succession to introductory tenancy),
  - (b) he was a joint tenant and has become the sole tenant,
  - (c) he became the tenant on the tenancy being assigned to him (but subject to paragraphs (2) and (3)), or
  - (d) he became the tenant on the tenancy being vested in him on the death of the previous tenant.
- (2) A tenant to whom the tenancy was assigned in pursuance of an order under—
- (a) Article 26 of the [Matrimonial Causes \(Northern Ireland\) Order 1978 \(NI 15\)](#) (property adjustment orders in connection with matrimonial proceedings),
  - (b) Article 21 of the [Matrimonial and Family Proceedings \(Northern Ireland\) Order 1989 \(NI 4\)](#) (property adjustment orders after overseas divorce, &c.), or
  - (c) Part II of Schedule 2 to the [Family Homes and Domestic Violence \(Northern Ireland\) Order 1998 \(NI 6\)](#) (orders transferring certain tenancies on divorce, etc. or on separation of cohabitantes),

is a successor only if the other party to the marriage was a successor.

(3) Where within 6 months of the coming to an end of an introductory tenancy (“the former tenancy”) the tenant becomes a tenant under another introductory tenancy, and—

- (a) the tenant was a successor in relation to the former tenancy, and
- (b) under the other tenancy either the dwelling-house or the landlord, or both, are the same as under the former tenancy,

the tenant is also a successor in relation to the other tenancy unless the agreement creating that tenancy otherwise provides.

### **Succession to introductory tenancy**

**15.**—(1) This Article applies where a tenant under an introductory tenancy dies.

(2) Where there is a person qualified to succeed the tenant, the tenancy vests by virtue of this Article in that person, or if there is more than one such person in the one to be preferred in accordance with the following rules—

- (a) the tenant’s spouse is to be preferred to another member of the tenant’s family;
- (b) of 2 or more other members of the tenant’s family such of them is to be preferred as may be agreed between them or as may, where there is no such agreement, be selected by the landlord.

(3) Where there is no person qualified to succeed the tenant, the tenancy ceases to be an introductory tenancy—

- (a) when it is vested or otherwise disposed of in the course of the administration of the tenant’s estate, unless the vesting or other disposal is in pursuance of an order made under—
  - (i) Article 26 of the [Matrimonial Causes \(Northern Ireland\) Order 1978 \(NI 15\)](#) (property adjustment orders in connection with matrimonial proceedings),
  - (ii) Article 21 of the [Matrimonial and Family Proceedings \(Northern Ireland\) Order 1989 \(NI 4\)](#) (property adjustment orders after overseas divorce, &c.),
  - (iii) paragraph 2 of Schedule 1 to the [Children \(Northern Ireland\) Order 1995 \(NI 2\)](#) (orders for financial relief against parents); or
  - (iv) Part II of Schedule 2 to the [Family Homes and Domestic Violence \(Northern Ireland\) Order 1998 \(NI 6\)](#) (orders transferring certain tenancies on divorce, etc., and on separation of cohabitantes),
- (b) when it is known that when the tenancy is so vested or disposed of it will not be in pursuance of such an order.

### *Assignment*

#### **Assignment in general prohibited**

**16.**—(1) An introductory tenancy is not capable of being assigned except in the cases mentioned in paragraph (2).

(2) The exceptions are—

- (a) an assignment in pursuance of an order made under—
  - (i) Article 26 of the [Matrimonial Causes \(Northern Ireland\) Order 1978 \(NI 15\)](#) (property adjustment orders in connection with matrimonial proceedings),
  - (ii) Article 21 of the [Matrimonial and Family Proceedings \(Northern Ireland\) Order 1989 \(NI 4\)](#) (property adjustment orders after overseas divorce, &c.),

- (iii) paragraph 2 of Schedule 1 to the [Children \(Northern Ireland\) Order 1995 \(NI 2\)](#) (orders for financial relief against parents), or
  - (iv) Part II of Schedule 2 to the [Family Homes and Domestic Violence \(Northern Ireland\) Order 1998 \(NI 6\)](#) (orders transferring certain tenancies on divorce, etc., and on separation of cohabitees),
- (b) an assignment to a person who would be qualified to succeed the tenant if the tenant died immediately before the assignment.
- (3) Paragraph (1) also applies to a tenancy which is not an introductory tenancy but would be if the tenant, or where the tenancy is a joint tenancy, at least one of the tenants, were occupying or continuing to occupy the dwelling-house as his only or principal home.

### *Repairs*

#### **Right of introductory tenants of the Executive to have repairs carried out**

17. The Department may direct that any scheme for the time being approved by it under Article 38A of the Order of 1983 (see Article 133) shall apply to introductory tenants of the Executive in the same manner as it applies to secure tenants of the Executive.

### *Provision of information and consultation*

#### **Provision of information about tenancies**

18.—(1) Where the Executive or any registered housing association lets dwelling-houses under introductory tenancies, it shall publish information about its introductory tenancies, in such form as it considers best suited to explain in simple terms, and, so far as it considers it appropriate, the effect of—

- (a) the express terms of its introductory tenancies,
- (b) the provisions of this Chapter, and
- (c) the landlord's repairing obligations;

and shall ensure that so far as is reasonably practicable the information so published is kept up to date.

(2) The landlord under an introductory tenancy shall supply the tenant with—

- (a) a copy of the information for introductory tenants published by it under paragraph (1), and
- (b) a written statement of the terms of the tenancy, so far as they are neither expressed in the lease or written tenancy agreement (if any) nor implied by law;

and the statement required by sub-paragraph (b) shall be supplied on the grant of the tenancy or as soon as practicable afterwards.

#### **Consultation on matters of housing management**

19.—(1) Where the Executive or a registered housing association lets dwelling-houses under introductory tenancies, it shall maintain such arrangements as it considers appropriate to enable those of its introductory tenants who are likely to be substantially affected by a relevant matter of housing management—

- (a) to be informed of the proposals of the Executive or the association in respect of the matter, and
- (b) to make their views known to the Executive or the association within a specified period.



(2) The Executive or the association shall, before making a decision on a relevant matter, consider any representations made to it in accordance with those arrangements.

(3) A matter is one of housing management if, in the opinion of the Executive or the association concerned, it relates to—

(a) the management, improvement, maintenance or demolition of dwelling-houses let by the Executive or the association under introductory or secure tenancies, or

(b) the provision of services or amenities in connection with such dwelling-houses;

but not so far as it relates to the rent payable under an introductory or secure tenancy or to charges for services or facilities provided by the Executive or the association.

(4) A matter is relevant if, in the opinion of the Executive or the association concerned, it represents—

(a) a new programme of maintenance, improvement or demolition, or

(b) a change in the practice or policy of the Executive or the association,

and is likely substantially to affect either its introductory tenants as a whole or a group of them who form a distinct social group or occupy dwelling-houses which constitute a distinct class (whether by reference to the kind of dwelling-house, or the housing estate or other larger area in which they are situated).

(5) The Executive or the association shall publish details of the arrangements which it makes under this Article, and a copy of the documents published under this paragraph shall—

(a) be made available at the Executive's district offices or at the association's principal office for inspection at all reasonable hours, without charge, by members of the public, and

(b) be given, on payment of a reasonable fee, to any member of the public who asks for one.

### *Supplementary*

#### **Jurisdiction of county court**

**20.**—(1) A county court has jurisdiction to determine questions arising under this Chapter and to entertain proceedings brought under this Chapter and claims, for whatever amount, in connection with an introductory tenancy.

(2) That jurisdiction includes jurisdiction to entertain proceedings as to whether a statement supplied in pursuance of Article 18(2)(b) (written statement of certain terms of tenancy) is accurate notwithstanding that no other relief is sought than a declaration.

(3) If a person takes proceedings in the High Court which, by virtue of this Article, he could have taken in the county court, he is not entitled to recover any costs.

(4) County court rules may make provision for the purpose of giving effect to this Article.

(5) In particular, the rules may provide—

(a) for the exercise by a district judge of a county court of any jurisdiction exercisable under this Article, and

(b) for the conduct of proceedings in private.

#### **Power to make further provision**

**21.** Without prejudice to the generality of Article 147(2), the Department may by order make such provision in relation to a statutory provision as the Department considers appropriate as regards its application (with or without modifications) or non-application in relation to introductory tenants or introductory tenancies.

### CHAPTER III

#### REPOSSESSION, &c. OF DWELLING-HOUSES LET UNDER SECURE TENANCIES

##### **Extension of ground of nuisance or annoyance to neighbours, &c.**

**22.** For Ground 2 in Schedule 3 to the Order of 1983 (nuisance or annoyance to neighbours, &c.) there shall be substituted—

*“Ground 2*

The tenant or a person residing in or visiting the dwelling-house—

- (a) has been guilty of conduct causing or likely to cause a nuisance or annoyance to a person residing, visiting or otherwise engaging in a lawful activity in the locality, or
- (b) has been convicted of—
  - (i) using the dwelling-house or allowing it to be used for immoral or illegal purposes, or
  - (ii) an arrestable offence committed in, or in the locality of, the dwelling-house.”.

##### **New ground of domestic violence**

**23.** After Ground 2 in Schedule 3 to the Order of 1983 (as substituted by Article 22) there shall be inserted—

*“Ground 2A*

The dwelling-house was occupied (whether alone or with others) by a married couple or a couple living together as husband and wife and—

- (a) one or both of the partners is a tenant of the dwelling-house,
- (b) one partner has left because of violence or threats of violence by the other towards—
  - (i) that partner, or
  - (ii) a member of the family of that partner who was residing with that partner immediately before the partner left, and
- (c) the court is satisfied that the partner who has left is unlikely to return while the other continues to occupy the dwelling-house.”.

##### **Extension of ground that grant of tenancy induced by false statement**

**24.** In Ground 5 in Schedule 3 to the Order of 1983 (grant of tenancy induced by false statement) for “by the tenant” there shall be substituted

“by—

- (a) the tenant, or
- (b) a person acting at the tenant’s instigation”.

##### **Proceedings for possession or termination**

**25.—(1)** For Article 28 of the Order of 1983 (notice of proceedings for possession) there shall be substituted—

**“Proceedings for possession: notice requirements**

**28.**—(1) The court shall not entertain proceedings for the possession of a dwelling-house let under a secure tenancy unless—

- (a) the landlord has served a notice on the tenant complying with the provisions of this Article, or
- (b) the court considers it just and equitable to dispense with the requirement of such a notice.

(2) A notice under this Article shall—

- (a) be in a form prescribed by regulations made by the Department,
- (b) specify the ground on which the court will be asked to make an order for the possession of the dwelling-house, and
- (c) give particulars of that ground.

(3) Where the ground or one of the grounds specified in the notice is Ground 2 in Schedule 3 (nuisance or other anti-social behaviour), the notice—

- (a) shall also—
  - (i) state that proceedings for the possession of the dwelling-house may be begun immediately, and
  - (ii) specify the date sought by the landlord as the date on which the tenant is to give up possession of the dwelling-house, and
- (b) ceases to be in force twelve months after the date so specified.

(4) Where Ground 2 in Schedule 3 is not specified in the notice, the notice—

- (a) shall also specify the date after which proceedings for the possession of the dwelling-house may be begun, and
- (b) ceases to be in force twelve months after the date so specified.

(5) The date specified in accordance with paragraph (3) or (4) must not be earlier than the date on which the tenancy could, apart from this Part, be brought to an end by notice to quit given by the landlord on the same date as the notice under this Article.

**Additional requirements in relation to certain proceedings for possession**

**28A.**—(1) Where a notice under Article 28 has been served on a tenant containing the information mentioned in paragraph (3)(a) of that Article, the court shall not entertain proceedings for the possession of the dwelling-house unless they are begun at a time when the notice is still in force.

(2) Where—

- (a) a notice under Article 28 has been served on a tenant, and
- (b) a date after which proceedings may be begun has been specified in the notice in accordance with paragraph (4)(a) of that Article,

the court shall not entertain proceedings for the possession of the dwelling-house unless they are begun after the date so specified and at a time when the notice is still in force.

(3) Where—

- (a) the ground or one of the grounds specified in a notice under Article 28 is Ground 2A in Schedule 3 (domestic violence), and
- (b) the partner who has left the dwelling-house as mentioned in that ground is not a tenant of the dwelling-house,

the court shall not entertain proceedings for the possession of the dwelling-house unless it is satisfied that the landlord has served a copy of the notice on the partner who has left or has taken all reasonable steps to serve a copy of the notice on that partner.

This paragraph has effect subject to paragraph (5).

(4) Where—

- (a) Ground 2A in Schedule 3 is added to a notice under Article 28 with the leave of the court after proceedings for possession are begun, and
- (b) the partner who has left the dwelling-house as mentioned in that ground is not a party to the proceedings,

the court shall not continue to entertain the proceedings unless it is satisfied that the landlord has served a notice under paragraph (6) on the partner who has left or has taken all reasonable steps to serve such a notice on that partner.

This paragraph has effect subject to paragraph (5).

(5) Where paragraph (3) or (4) applies and Ground 2 in Schedule 3 (nuisance or other anti-social behaviour) is also specified in the notice under Article 28, the court may dispense with the requirements as to service in relation to the partner who has left the dwelling-house if it considers it just and equitable to do so.

(6) A notice under this paragraph shall—

- (a) state that proceedings for the possession of the dwelling-house have begun,
- (b) specify the ground or grounds on which possession is being sought, and
- (c) give particulars of the ground or grounds.”.

(2) In paragraph (1) of Article 29 of the Order of 1983 (grounds and orders for possession), the words from “and shall” to the end shall be omitted.

(3) After paragraph (3A) of that Article there shall be inserted—

“(3B) Where a notice under Article 28 has been served on the tenant, the court shall not make such an order on any of the grounds set out in Part I of Schedule 3 unless the ground is specified in the notice; but the grounds so specified may be altered or added to with the leave of the court.

(3C) Where a date is specified in a notice under Article 28 in accordance with paragraph (3) of that Article, the court shall not make an order which requires the tenant to give up possession of the dwelling-house in question before the date so specified.”.

(4) In Schedule 3 to the Order of 1983, in Ground 11, after “notice of the proceedings for possession was served under Article 28” there shall be inserted “(or, where no such notice was served, the proceedings for possession were begun)”.

## CHAPTER IV

### INJUNCTIONS AGAINST ANTI-SOCIAL BEHAVIOUR

#### **Power to grant injunctions against anti-social behaviour**

**26.**—(1) The High Court or a county court may, on an application by the relevant landlord, grant an injunction prohibiting a person from—

- (a) engaging in or threatening to engage in conduct causing or likely to cause a nuisance or annoyance to a person residing in, visiting or otherwise engaging in a lawful activity in residential premises to which this Article applies or in the locality of such premises,
- (b) using or threatening to use residential premises to which this Article applies for immoral or illegal purposes, or

(c) entering residential premises to which this Article applies or being found in the locality of any such premises.

(2) This Article applies to residential premises of the following descriptions—

- (a) dwelling-houses held under secure tenancies or introductory tenancies;
- (b) dwelling-houses held under qualifying shorthold tenancies from registered housing associations;
- (c) accommodation provided under Part II of the Order of 1988 (homelessness);
- (d) other accommodation provided by the Executive or a registered housing association and of such description as may be prescribed for the purposes of this Article;
- (e) dwelling-houses held under private tenancies of such description as may be prescribed for the purposes of this Article.

In sub-paragraph (e) “private tenancies” has the same meaning as in the [Rent \(Northern Ireland\) Order 1978 \(NI 20\)](#).

(3) The court shall not grant an injunction under this Article unless it is of the opinion that there is a significant risk of harm to any person of a description mentioned in paragraph (1)(a) if the injunction is not granted.

(4) An injunction under this Article may—

- (a) in the case of an injunction under paragraph (1)(a) or (b), relate to particular acts or to conduct, or types of conduct, in general or both, and
- (b) in the case of an injunction under paragraph (1)(c), relate to particular premises or a particular locality;

and may be made for a specified period or until varied or discharged.

(5) An injunction under this Article may be varied or discharged by the court on an application by—

- (a) the respondent, or
- (b) the relevant landlord concerned.

(6) The court may, in any case where it considers that it is just and convenient to do so, grant an injunction under this Article, or vary such an injunction, even though the respondent has not been given such notice of the proceedings as would otherwise be required by rules of court or county court rules.

If the court does so, it must afford the respondent an opportunity to make representations relating to the injunction or variation as soon as just and convenient at a hearing of which notice has been given to all the parties in accordance with rules of court or county court rules.

(7) In this Article “the relevant landlord” means—

- (a) in relation to residential premises of a description mentioned in any of sub-paragraphs (a) to (d) of paragraph (2), the Executive or a registered housing association, and
- (b) in relation to residential premises of a description mentioned in sub-paragraph (e) of that paragraph, the landlord of the premises concerned.

### Meaning of “harm”

27.—(1) For the purposes of Article 26(3) “harm”—

- (a) in relation to a person who has reached the age of 18 years, means ill-treatment or the impairment of health, and
- (b) in relation to a child, means ill-treatment or the impairment of health or development.

(2) Where the question of whether harm suffered by a child is significant turns on the child's health or development, his health or development shall be compared with that which could reasonably be expected of a similar child.

(3) In this Article—

“child” means a person under the age of 18 years;

“health” includes physical or mental health; and

“ill-treatment”, in relation to a child, includes sexual abuse and forms of ill-treatment which are not physical.

## PART III

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

#### CHAPTER I

#### INTRODUCTORY

#### **Interpretation of Part III**

**28.**—(1) In this Part—

“dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it;

“elderly” means aged 60 years or over;

“house in multiple occupation” has the same meaning as in Part IV of the Order of 1992;

“housing action area” has the same meaning as in Article 2(2) of the Order of 1981;

“improvement” includes alteration and enlargement;

“owner”, in relation to a dwelling, has the meaning given by Article 32, and, in relation to a house in multiple occupation, has the same meaning as in Article 2 of the Order of 1981;

“owner's interest”, in relation to any premises, means—

(a) a freehold estate in possession (whether legal or equitable), or

(b) an interest under a tenancy granted or extended for a term of years of which not less than 10 years remain unexpired at the date of the application,

whether held by the applicant alone or jointly with others;

“partner”, in relation to a person, means that person's spouse or a person other than a spouse with whom he or she lives as husband or wife;

“rack rent” means a rent which is not less than two-thirds of the net annual value of the dwelling, or a rent which has been fixed in accordance with the [Rent \(Northern Ireland\) Order 1978 \(NI 20\)](#);

“relevant authority” means the authority for the area in which the dwelling or building is situated; and references to an authority and to the area of an authority shall be construed in accordance with paragraphs (2), (3) and (4) of Article 2 of the [Children \(Northern Ireland\) Order 1995 \(NI 2\)](#);

“tenancy” includes a sub-tenancy and an agreement for a tenancy or sub-tenancy;

“tenant” includes a sub-tenant and any person deriving title under the original tenant or sub-tenant.

- (2) Subject to paragraph (3) a tenancy is a long tenancy for the purposes of this Part if—
- (a) it is a tenancy granted for a term certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by a notice given by or to the tenant or by re-entry, forfeiture or otherwise; or
  - (b) it is a tenancy granted under an equity-sharing lease within the meaning of Article 31(6) of the Order of 1981.

(3) A tenancy is not a long tenancy for those purposes if it is an interest created by way of security and liable to termination by the exercise of a right of redemption or otherwise.

(4) In this Part references to a person being connected with the owner of a dwelling shall be construed in accordance with Article 31.

### *Interpretation*

#### **Meaning of “reasonable repair”**

**29.** In determining for the purposes of this Part what is “reasonable repair”, in relation to a dwelling, house or building, the Executive—

- (a) shall have regard to the age and character of the dwelling, house or building and the locality in which it is situated, and
- (b) shall disregard the state of internal decorative repair.

#### **Fitness for human habitation**

**30.—**(1) Article 46 of the Order of 1981 (fitness for human habitation) applies for the purposes of this Part as it applies for the purposes of that Order.

(2) In deciding whether it is satisfied that the carrying out of the relevant works is the most satisfactory course of action in a case where the house or dwelling concerned is unfit for human habitation, the Executive shall have regard to any guidance given under Article 46A of the Order of 1981 and Article 115.

For that purpose the Executive shall treat any guidance given in respect of the serving of a repair notice under Article 41(1) of the Order of 1981 as guidance given in respect of the completion of the relevant works.

#### **Meaning of “connected persons”**

**31.** For the purposes of this Part a person is connected with the owner for the time being of a dwelling if—

- (a) in a case where personal representatives or trustees are the owner, he is a person who under the will or intestacy or, as the case may be, under the terms of the trust concerned is beneficially entitled to an interest in the dwelling or to the proceeds of sale of the dwelling;
- (b) in any other case, he is a member of the family of the owner.

#### **Meaning of “owner” of dwelling**

**32.** In this Part “owner”, in relation to a dwelling—

- (a) means a person, other than a mortgagee not in possession, who, whether in his own right or as a trustee for any other person and whether alone or jointly or in common with any other person, is entitled to receive the rack rent of the dwelling, or where the dwelling is not so let, would be entitled to receive it if it were so let; and

- (b) is not himself liable as lessee of the dwelling, or of property which includes the dwelling, to pay such a rent to a superior landlord.

### Disabled persons

33. For the purposes of this Part “disabled person” has the same meaning as in the Disability Discrimination Act 1995 (c. 50).

## CHAPTER II THE MAIN GRANTS

### *Introductory*

### Interpretation of Chapter II

34.—(1) In this Chapter—

“common parts”, in relation to a building, includes the structure and exterior of the building and common facilities provided, whether in the building or elsewhere, for persons who include the occupiers of one or more flats in the building;

“common parts application”, in relation to an application for a disabled facilities grant, means an application in respect of works to the common parts of a building containing one or more flats;

“conversion application”—

(a) in relation to an application for a renovation grant, means an application in respect of works required for the provision of one or more dwellings by the conversion of a house or other building, and

(b) in relation to an application for an HMO grant, means an application for a grant in respect of works for the provision of a house in multiple occupation by the conversion of a house or other building;

“flat”, in relation to a building, means a dwelling which is a separate set of premises, whether or not on the same floor, divided horizontally from some other part of the building.

(2) In this Chapter the expressions listed below are defined by or otherwise fall to be construed in accordance with the provisions of this Chapter indicated—

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certificate of future occupation (in relation to an application for an HMO grant)	Article 57(2)
certificate of intended letting (in relation to an application for a renovation grant)	Article 41(3)
certified date	Article 75(3)(b)
common parts grant	Article 35(3)
disabled facilities grant	Article 35(4)
disabled occupant	Article 51
eligible works	Article 65(2)(a)
estimated expense	Article 65(2)
exempt disposal	Article 85



grant (without more)	Article 35(6)
grant condition	Article 75(1)
grant condition period	Article 75(3)(a)
HMO grant	Article 35(5)
landlord's application (in relation to a common parts grant)	Article 46(1) and (2)
occupying tenant (in relation to an application for a common parts grant)	Article 45(2)
owner-occupation certificate (in relation to an application for a renovation grant)	Article 41(2)
owner's application	
–in relation to a renovation grant	Article 40(1) and (2)
–in relation to a disabled facilities grant	Article 50(1) and (2)
owner's certificate (in relation to an application for a disabled facilities grant)	Article 52(2)
participating landlord (in relation to a tenants' application for a common parts grant)	Article 46(4)
preliminary or ancillary services and charges	Article 36(4)
qualifying owner's interest	
–in relation to an application for a renovation grant	Article 40(4)
–in relation to an application for a disabled facilities grant	Article 50(4)
–in relation to an application for an HMO grant	Article 56(3)
qualifying tenant	
–in relation to an application for a renovation grant	Article 40(5)
–in relation to an application for a disabled facilities grant	Article 50(4)
relevant disposal	Article 84
relevant works (in relation to a grant application)	Article 36(2)(a)
renovation grant	Article 35(2)
tenant (and expressions relating to tenancies)	
–in the context of a tenant's application for a renovation grant	Article 40(6)
–in the context of a certificate of intended letting	Article 41(4)
–in the context of an application for a common parts grant	Article 45(2)
–in the context of an application for a disabled facilities grant	Article 50(5)

tenant's application	
–in relation to a renovation grant	Article 40(1) and (2)
–in relation to a disabled facilities grant	Article 50(1) and (2)
tenants' application (in relation to a common parts grant)	Article 46(1) and (2)
tenant's certificate	
–for the purposes of an application for a renovation grant	Article 42(2)
–for the purposes of an application for a disabled facilities grant	Article 53(2)

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### **Grants for improvements and repairs, &c.**

**35.**—(1) Grants are available from the Executive in accordance with this Chapter towards the cost of works required for—

- (a) the improvement or repair of dwellings, houses in multiple occupation or the common parts of buildings containing one or more flats,
- (b) the provision of dwellings or houses in multiple occupation by the conversion of a house or other building, and
- (c) the provision of facilities for disabled persons in dwellings and in the common parts of buildings containing one or more flats.

(2) A grant relating to—

- (a) the improvement or repair of a dwelling, or
- (b) the provision of dwellings by the conversion of a house or other building,

is referred to as a “renovation grant”.

(3) A grant relating to the improvement or repair of the common parts of a building is referred to as a “common parts grant”.

(4) A grant for the provision of facilities for a disabled person—

- (a) in a dwelling, or
- (b) in the common parts of a building containing one or more flats,

is referred to as a “disabled facilities grant”.

(5) A grant for—

- (a) the improvement or repair of a house in multiple occupation, or
- (b) the provision of a house in multiple occupation by the conversion of a house or other building,

is referred to as an “HMO grant”.

(6) In the following provisions of this Chapter the expression “grant”, without more, means any of these types of grant.

### **Applications for grants**

**36.**—(1) No grant shall be paid unless an application for it is made to the Executive in accordance with the provisions of this Chapter and is approved by it.

(2) An application for a grant shall be in writing and shall specify the premises to which it relates and contain—

- (a) particulars of the works in respect of which the grant is sought (in this Chapter referred to as the “relevant works”);
- (b) subject to paragraph (3), an estimate from a contractor acceptable to the Executive (see Article 69) of the cost of carrying out the relevant works;
- (c) particulars of any preliminary or ancillary services and charges in respect of the cost of which the grant is also sought; and
- (d) such other particulars as the Department may direct.

(3) The Executive may in any particular case direct that an application shall contain estimates from different contractors acceptable to it.

(4) In this Chapter “preliminary or ancillary services and charges”, in relation to an application for a grant, means services and charges which—

- (a) relate to the application and the preparation for and the carrying out of works, and
- (b) are specified for the purposes of this paragraph by the Department.

#### *Preliminary conditions*

#### **Ineligible applicants**

**37.**—(1) No grant is payable under this Chapter unless the applicant is aged 18 or over on the date of the application.

In the case of a joint application, any applicant under the age of 18 years on the date of the application shall be left out of account.

(2) No grant is payable under this Chapter if the applicant is of a description excluded from entitlement to grant aid by regulations made by the Department.

(3) Regulations under paragraph (2) may proceed wholly or in part by reference to the provisions relating to entitlement to housing benefit, or any other form of assistance, as they have effect from time to time.

#### **The age of the property**

**38.**—(1) The Executive shall not entertain an application for a grant in respect of premises provided (by construction or conversion) less than 10 years before the date of the application unless—

- (a) the application is for a disabled facilities grant, or
- (b) the application is for an HMO grant in respect of a house in multiple occupation provided by conversion.

(2) The Department may by order amend paragraph (1) so as to substitute another period for that specified.

#### **Excluded descriptions of works**

**39.**—(1) No grant is payable in respect of works of a description excluded from grant aid under this Chapter by direction of the Department.

(2) Directions may specify descriptions of works for which grant aid is not to be available without the Department’s consent.

(3) The Department may give any such consent with respect to applications generally or to a particular description of application.

### *Renovation grants*

#### **Renovation grants: owner’s applications and tenant’s applications**

**40.**—(1) The Executive shall not entertain an application for a renovation grant unless it is satisfied—

- (a) that the applicant has, or proposes to acquire, an owner’s interest in every parcel of land on which the relevant works are to be carried out, or
- (b) in the case of an application other than a conversion application, that the applicant is a qualifying tenant of the dwelling (alone or jointly with others) but does not have, or propose to acquire, an owner’s interest in the dwelling.

(2) References in this Chapter to an “owner’s application” or a “tenant’s application”, in relation to a renovation grant, shall be construed accordingly.

(3) In accordance with directions given by the Department, the Executive may treat the condition in paragraph (1)(a) as met by a person who has, or proposes to acquire, an owner’s interest in only part of the land concerned.

(4) References in this Chapter to “a qualifying owner’s interest”, in relation to an application for a renovation grant, are to an owner’s interest meeting the condition in paragraph (1)(a) or treated by virtue of paragraph (3) as meeting that condition.

(5) In this Chapter a “qualifying tenant”, in relation to an application for a renovation grant, means a person who (alone or jointly with others) is a tenant of the premises to which the application relates—

- (a) who—
  - (i) is required by the terms of his tenancy to carry out the relevant works,
  - (ii) who signed an agreement in respect of the tenancy before the day appointed for the coming into operation of this Article,
 and whose tenancy is not of a description excluded from this paragraph by an order of the Department, or
- (b) whose tenancy is of a description specified for the purposes of this paragraph by order of the Department.

(6) In paragraph (5) “tenant” includes a person having a licence to occupy the premises concerned which satisfies such conditions as may be specified by order of the Department.

References in this Chapter to tenants and other expressions relating to tenancies, in the context of a tenant’s application for a renovation grant, shall be construed accordingly.

#### **Renovation grants: certificates required in case of owner’s application**

**41.**—(1) The Executive shall not entertain an owner’s application for a renovation grant unless it is accompanied by an owner-occupation certificate or a certificate of intended letting in respect of the dwelling to which the application relates or, in the case of a conversion application, in respect of each of the dwellings to be provided.

- (2) An “owner-occupation certificate” certifies that the applicant—
  - (a) has or proposes to acquire a qualifying owner’s interest, and

- (b) intends that throughout the grant condition period he or a member of his family will live in the dwelling as his (or that member's) only or main residence.
- (3) A “certificate of intended letting” certifies that the applicant—
  - (a) has or proposes to acquire a qualifying owner’s interest, and
  - (b) intends that throughout the grant condition period the dwelling will be let or available for letting as a residence (and not for a holiday) to a person who is not connected with the owner for the time being of the dwelling.

In sub-paragraph (b) “letting” does not include a letting on a long tenancy.

- (4) In paragraph (3) references to letting include the grant of a licence to occupy premises.

References in this Chapter to tenants and other expressions relating to tenancies, in the context of a certificate of intended letting, shall be construed accordingly.

### **Renovation grants: certificates required in case of tenant’s application**

**42.**—(1) The Executive shall not entertain a tenant’s application for a renovation grant unless it is accompanied by a tenant’s certificate.

- (2) A “tenant’s certificate” certifies—
  - (a) that the applicant is a qualifying tenant of the dwelling, and
  - (b) that he or a member of his family intends to live in the dwelling as his (or that member's) only or main residence.

(3) Except where the Executive considers it unreasonable in the circumstances to seek such a certificate, the Executive shall not entertain a tenant’s application for a renovation grant unless it is also accompanied by a certificate of intended letting (see Article 41(3)) by the person who at the time of the application is the landlord under the tenancy.

### **Renovation grants: purposes for which grant may be given**

**43.**—(1) The purposes for which an application for a renovation grant, other than a conversion application, may be approved are the following—

- (a) to comply with a notice under Article 41 of the Order of 1981 (repair notices) or otherwise to render a dwelling fit for human habitation;
- (b) to put the dwelling in reasonable repair;
- (c) to provide adequate facilities for space heating;
- (d) to provide satisfactory internal arrangements;
- (e) to provide means of escape in case of fire or other fire precautions, not being precautions required under or by virtue of any statutory provision (whenever made);
- (f) to ensure that the dwelling complies with such requirements with respect to construction or physical condition as may be specified by the Department;
- (g) to ensure that there is compliance with such requirements with respect to the provision or condition of services and amenities to or within the dwelling as are so specified;
- (h) any other purpose for the time being specified for the purposes of this Article by order of the Department.

(2) The purpose for which a conversion application may be approved is to provide one or more dwellings by the conversion of a house or other building.

(3) If in the opinion of the Executive the relevant works are more or less extensive than is necessary to achieve any of the purposes set out in paragraph (1) or (2), the Executive may, with the

consent of the applicant, treat the application as varied so that the relevant works are limited to or, as the case may be, include such works as seem to it to be necessary for that purpose.

(4) The reference in sub-paragraph (e) of paragraph (1) to precautions required under or by virtue of a statutory provision does not include precautions required to comply with a notice under Article 80 of the Order of 1992 (notice requiring execution of works to render house in multiple occupation fit for number of occupants) so far as it relates to premises which are not part of a house in multiple occupation for the purposes of this Part.

(5) In exercise of the powers conferred by sub-paragraphs (f) and (g) of paragraph (1) the Department may specify requirements generally or for particular cases.

### **Renovation grants: approval of application**

44.—(1) The Executive may approve an application for a renovation grant if it thinks fit, subject to the following provisions.

(2) The Executive shall not approve an application for a renovation grant unless it is satisfied that the works are necessary for one or more of the purposes set out in Article 43(1) or (2).

(3) Where the Executive entertains an owner's application for a renovation grant made by a person who proposes to acquire a qualifying owner's interest, it shall not approve the application until it is satisfied that he has done so.

(4) Where the Executive proposes to approve an application for a renovation grant, it shall consider whether the premises to which the application relates are fit for human habitation.

(5) If it appears to the Executive that the premises are not fit for human habitation, the Executive shall not approve the application unless it is satisfied—

- (a) that on completion of the relevant works, together with any other works proposed to be carried out, the premises will be fit for human habitation;
- (b) that there are satisfactory financial and other arrangements for carrying out those works, and
- (c) that the carrying out of the works is the most satisfactory course of action.

(6) In considering whether to approve an application for a renovation grant the Executive shall have regard to the expected life of the building (taking account, where appropriate, of the effect of carrying out the works).

### *Common parts grants*

#### **Common parts grants: occupation of flats by occupying tenants**

45.—(1) The Executive shall not entertain an application for a common parts grant unless it is satisfied that at the date of the application at least the required proportion of the flats in the building concerned is occupied by occupying tenants.

(2) In this Chapter an "occupying tenant", in relation to a flat in a building, means a person who has in relation to the flat (alone or jointly with others)—

- (a) a protected tenancy,
- (b) a statutory tenancy, or
- (c) a tenancy or licence which satisfies such conditions as may be specified by order of the Department,

and who occupies the flat as his only or main residence.

References in this Chapter to other expressions relating to tenancies, in the context of an application for a common parts grant, shall be construed accordingly.

(3) The “required proportion” mentioned in paragraph (1) is three-quarters or such other proportion as may be—

- (a) specified for the purposes of this Article by an order of the Department, or
- (b) approved by the Department, in relation to a particular case or description of case, on application made by the Executive.

#### **Common parts grants: landlord’s and tenants' applications**

**46.**—(1) The Executive shall not entertain an application for a common parts grant unless it is satisfied—

- (a) that the applicant has an owner’s interest in the building and has a duty or power to carry out the relevant works, or
- (b) that the application is made by at least three-quarters of the occupying tenants of the building who under their tenancies have a duty to carry out, or to make a contribution in respect of the carrying out of, some or all of the relevant works.

(2) References in this Chapter to a “landlord’s application” and a “tenants' application”, in relation to a common parts grant, shall be construed accordingly.

(3) In deciding whether the requirement in sub-paragraph (b) of paragraph (1) is met—

- (a) where a tenancy is held by 2 or more persons jointly, those persons shall be regarded as a single occupying tenant; and
- (b) a tenant whose tenancy is of a description specified for the purposes of that sub-paragraph by order of the Department shall be treated as an occupying tenant falling within that sub-paragraph.

(4) A person who has an owner’s interest in the building and who has a duty or power to carry out any of the relevant works may also join in a tenants' application for a common parts grant; and where such a person does join in an application, he is in this Chapter referred to as a “participating landlord”.

#### **Common parts grants: certificates required to accompany application**

**47.**—(1) The Executive shall not entertain a landlord’s application for a common parts grant unless it is accompanied by a certificate signed by the applicant which—

- (a) specifies the interest of the applicant in the building, and
- (b) certifies that the required proportion of the flats in the building is occupied by occupying tenants.

(2) The Executive shall not entertain a tenants' application for a common parts grant unless it is accompanied by a certificate signed by each of the applicants which—

- (a) specifies the interest of each of the applicants in each flat in the building, and
- (b) certifies that the required proportion of the flats in the building is occupied by occupying tenants.

#### **Common parts grants: purposes for which grant may be given**

**48.**—(1) The purposes for which an application for a common parts grant may be approved are—

- (a) to comply with a notice under Article 41 of the Order of 1981 (repair notices) or otherwise to cause the building to meet the requirements in Article 46(2) of that Order;

- (b) to comply with a notice under Article 80 of the Order of 1992 (notice requiring works to render premises fit for the number of occupants) or otherwise to enable the house to meet one or more of the requirements in paragraph (2) of that Article;
- (c) to provide adequate facilities for space heating;
- (d) to provide satisfactory internal arrangements;
- (e) to provide means of escape in case of fire or other fire precautions, not being precautions required under or by virtue of any statutory provision (whenever made);
- (f) to ensure that the building complies with such requirements with respect to construction or physical condition as may be specified by the Department;
- (g) to ensure that there is compliance with such requirements with respect to the provision or condition of services and amenities to or within the building as are so specified;
- (h) any other purpose for the time being specified for the purposes of this Article by order of the Department.

(2) If in the opinion of the Executive the relevant works are more or less extensive than is necessary to achieve any of the purposes set out in paragraph (1), the Executive may, with the consent of the applicant, treat the application as varied so that the relevant works are limited to or, as the case may be, include such works as seem to it to be necessary for that purpose.

(3) In exercise of the powers conferred by sub-paragraphs (f) and (g) of paragraph (1) the Department may specify requirements generally or for particular cases.

#### **Common parts grants: approval of application**

**49.**—(1) The Executive may approve an application for a common parts grant if it thinks fit, subject to the following provisions.

(2) The Executive shall not approve an application for a common parts grant unless it is satisfied that the works are necessary for one or more of the purposes set out in Article 48(1).

(3) Where the Executive proposes to approve an application for a common parts grant, the Executive shall consider whether the building to which the application relates meets the requirements mentioned in sub-paragraphs (a) to (e) of Article 46(2) of the Order of 1981.

(4) If it appears to the Executive that the building does not meet those requirements, the Executive shall not approve the application unless it is satisfied—

- (a) that on completion of the relevant works, together with any other works proposed to be carried out, the building will meet those requirements,
- (b) that there are satisfactory financial and other arrangements for carrying out those works, and
- (c) that the carrying out of the works is the most satisfactory course of action.

(5) In considering whether to approve an application for a common parts grant the Executive shall have regard to the expected life of the building (taking account, where appropriate, of the effect of carrying out the works).

#### *Disabled facilities grants*

#### **Disabled facilities grants: owner's and tenant's applications**

**50.**—(1) The Executive shall not entertain an application for a disabled facilities grant unless it is satisfied—



- (a) that the applicant has, or proposes to acquire, an owner’s interest in every parcel of land on which the relevant works are to be carried out, or
  - (b) that the applicant is a tenant (alone or jointly with others)—
    - (i) in the case of an application in respect of works to a dwelling, of the dwelling, or
    - (ii) in the case of a common parts application, of a flat in the building,and, in either case, does not have or propose to acquire such an owner’s interest as is mentioned in sub-paragraph (a).
- (2) References in this Chapter to an “owner’s application” or a “tenant’s application”, in relation to a disabled facilities grant, shall be construed accordingly.
- (3) In accordance with directions given by the Department, the Executive may treat the condition in paragraph (1)(a) as met by a person who has, or proposes to acquire, an owner’s interest in only part of the land concerned.
- (4) In this Chapter, in relation to an application for a disabled facilities grant—
- (a) “qualifying owner’s interest” means an owner’s interest meeting the condition in paragraph (1)(a) or treated by virtue of paragraph (3) as meeting that condition; and
  - (b) “qualifying tenant” means a tenant who meets the conditions in paragraph (1)(b).
- (5) In this Chapter “tenant”, in relation to a disabled facilities grant, includes—
- (a) a person who has a protected tenancy or statutory tenancy,
  - (b) an employee (whether full-time or part-time) who occupies the dwelling or flat concerned for the better performance of his duties, and
  - (c) a person having a licence to occupy the dwelling or flat concerned which satisfies such conditions as may be specified by order of the Department,
- and other expressions relating to tenancies, in the context of an application for a disabled facilities grant, shall be construed accordingly.

**Disabled facilities grants: the disabled occupant**

**51.** In this Chapter the “disabled occupant”, in relation to an application for a disabled facilities grant, means the disabled person for whose benefit it is proposed to carry out any of the relevant works.

**Disabled facilities grants: certificate required in case of owner’s application**

**52.—**(1) The Executive shall not entertain an owner’s application for a disabled facilities grant unless it is accompanied by an owner’s certificate in respect of the dwelling to which the application relates or, in the case of a common parts application, in respect of each flat in the building occupied or proposed to be occupied by a disabled occupant.

(2) An “owner’s certificate”, for the purposes of an application for a disabled facilities grant, certifies that the applicant—

- (a) has or proposes to acquire a qualifying owner’s interest, and
- (b) intends that the disabled occupant will live in the dwelling or flat as his only or main residence throughout the grant condition period or for such shorter period as his health and other relevant circumstances permit.

**Disabled facilities grants: certificates required in case of tenant’s application**

**53.—**(1) The Executive shall not entertain a tenant’s application for a disabled facilities grant unless it is accompanied by a tenant’s certificate.

(2) A “tenant’s certificate”, for the purposes of an application for a disabled facilities grant, certifies—

- (a) that the application is a tenant’s application, and
- (b) that the applicant intends that he (if he is the disabled occupant) or the disabled occupant will live in the dwelling or flat as his only or main residence throughout the grant condition period or for such shorter period as his health and other relevant circumstances permit.

(3) Except where the Executive considers it unreasonable in the circumstances to seek such a certificate, the Executive shall not entertain a tenant’s application for a disabled facilities grant unless it is also accompanied by an owner’s certificate from the person who at the time of the application is the landlord under the tenancy.

### **Disabled facilities grants: purposes for which grant must or may be given**

**54.**—(1) The purposes for which an application for a disabled facilities grant must be approved, subject to the provisions of this Chapter, are the following—

- (a) facilitating access by the disabled occupant to and from the dwelling or the building in which the dwelling or, as the case may be, flat is situated;
- (b) making the dwelling or building safe for the disabled occupant and other persons residing with him;
- (c) facilitating access by the disabled occupant to a room used or usable as the principal family room;
- (d) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room used or usable for sleeping;
- (e) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room in which there is a lavatory, or facilitating the use by the disabled occupant of such a facility;
- (f) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room in which there is a bath or shower (or both), or facilitating the use by the disabled occupant of such a facility;
- (g) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room in which there is a washhand basin, or facilitating the use by the disabled occupant of such a facility;
- (h) facilitating the preparation and cooking of food by the disabled occupant;
- (i) improving any heating system in the dwelling to meet the needs of the disabled occupant or, if there is no existing heating system in the dwelling or any such system is unsuitable for use by the disabled occupant, providing a heating system suitable to meet his needs;
- (j) facilitating the use by the disabled occupant of a source of power, light or heat by altering the position of one or more means of access to or control of that source or by providing additional means of control;
- (k) facilitating access and movement by the disabled occupant around the dwelling in order to enable him to care for a person who is normally resident in the dwelling and is in need of such care;
- (l) such other purposes as may be specified by order of the Department.

(2) An application for a disabled facilities grant may be approved, subject to the provisions of this Chapter, for the purpose of making the dwelling or building suitable for the accommodation, welfare or employment of the disabled occupant in any other respect.

(3) If in the opinion of the Executive the relevant works are more or less extensive than is necessary to achieve any of the purposes set out in paragraph (1) or the purpose mentioned in paragraph (2), it may, with the consent of the applicant, treat the application as varied so that the relevant works are limited to or, as the case may be, include such works as seem to the Executive to be necessary for that purpose.

### **Disabled facilities grants: approval of application**

**55.**—(1) The Executive—

- (a) shall approve an application for a disabled facilities grant for purposes within Article 54(1), and
- (b) may if it thinks fit approve an application for a disabled facilities grant not for a purpose within that provision but for the purpose specified in Article 54(2),

subject to the following provisions.

(2) Where the Executive entertains an owner's application for a disabled facilities grant made by a person who proposes to acquire a qualifying owner's interest, it shall not approve the application until it is satisfied that he has done so.

(3) The Executive shall not approve an application for a disabled facilities grant unless it is satisfied—

- (a) that the relevant works are necessary and appropriate to meet the needs of the disabled occupant, and
- (b) that it is reasonable and practicable to carry out the relevant works having regard to the age and condition of the dwelling or building.

In considering the matters mentioned in sub-paragraph (a) the Executive shall consult the relevant authority, unless the relevant works are of such a kind as may be agreed between the Executive and the authority.

(4) Where the Executive proposes to approve an application for a disabled facilities grant it shall consider—

- (a) in the case of an application in respect of works to a dwelling, whether the dwelling is fit for human habitation;
- (b) in the case of a common parts application, whether the building meets the requirements in Article 46(2) of the Order of 1981;

and the Executive shall take that into account in deciding whether it is reasonable and practicable to carry out the relevant works.

(5) The Executive shall not approve a common parts application for a disabled facilities grant unless it is satisfied that the applicant has a power or is under a duty to carry out the relevant works.

### *HMO grants*

### **HMO grants: the interest of the applicant in the property**

**56.**—(1) The Executive shall not entertain an application for an HMO grant unless it is satisfied that the applicant has or proposes to acquire an owner's interest in every parcel of land on which the relevant works are to be carried out.

(2) In accordance with directions given by the Department, the Executive may treat the condition in paragraph (1) as fulfilled by a person who has, or proposes to acquire, an owner's interest in only part of the land concerned.

(3) References in this Chapter to “a qualifying owner’s interest”, in relation to an application for an HMO grant, are to an owner’s interest meeting the condition in paragraph (1) or treated by virtue of paragraph (2) as meeting that condition.

#### **HMO grants: certificate required to accompany application**

**57.**—(1) The Executive shall not entertain an application for an HMO grant unless it is accompanied by a certificate of future occupation.

(2) A “certificate of future occupation” certifies that the applicant—

- (a) has or proposes to acquire a qualifying owner’s interest in the house, and
- (b) intends that throughout the grant condition period the house or a part of it (specified in the certificate) will be residentially occupied, or available for residential occupation, under tenancies or licences by persons who are not connected with the owner for the time being of the house.

In sub-paragraph (b) “residential occupation” does not include occupation for a holiday and “tenancies” does not include a long tenancy.

#### **HMO grants: purposes for which grant may be given**

**58.**—(1) The purposes for which an application for an HMO grant (other than a conversion application) may be approved are—

- (a) to comply with a notice under Article 41 of the Order of 1981 (repair notices) or otherwise to render the house fit for human habitation;
- (b) to comply with a notice under Article 80 of the Order of 1992 (notice requiring works to render premises fit for the number of occupants) or otherwise to enable the house to meet one or more of the requirements in paragraph (2) of that Article;
- (c) to provide adequate facilities for space heating;
- (d) to provide satisfactory internal arrangements;
- (e) to provide means of escape in case of fire or other fire precautions, not being precautions required under or by virtue of any statutory provision (whenever made);
- (f) to ensure that the house complies with such requirements with respect to construction or physical condition as may be specified by the Department;
- (g) to ensure that there is compliance with such requirements with respect to the provision or condition of services and amenities to or within the house as are so specified;
- (h) any other purpose for the time being specified for the purposes of this Article by order of the Department.

(2) The purpose for which a conversion application may be approved is to provide a house in multiple occupation by the conversion of a house or other building.

(3) If in the opinion of the Executive the relevant works are more or less extensive than is necessary to achieve any of the purposes set out in paragraph (1) or (2), the Executive may, with the consent of the applicant, treat the application as varied so that the relevant works are limited to or, as the case may be, include such works as seem to it to be necessary for that purpose.

(4) In exercise of the powers conferred by sub-paragraphs (f) and (g) of paragraph (1) the Department may specify requirements generally or for particular cases.

### **HMO grants: approval of application**

**59.**—(1) The Executive may approve an application for an HMO grant if it thinks fit, subject to the following provisions.

(2) The Executive shall not approve an application for an HMO grant unless it is satisfied that the works are necessary for one or more of the purposes set out in Article 58(1) or (2).

(3) Where the Executive entertains an application for an HMO grant made by a person who proposes to acquire a qualifying owner's interest, it shall not approve the application until it is satisfied that he has done so.

(4) Where the Executive proposes to approve an application for an HMO grant, it shall consider whether the house to which the application relates is fit for human habitation and meets the requirements in Article 80(2) of the Order of 1992.

(5) If it appears to the Executive that the house is not fit for human habitation or does not meet those requirements, the Executive shall not approve the application unless it is satisfied—

- (a) that on completion of the relevant works, together with any other works proposed to be carried out, the house will be fit for human habitation and meet those requirements,
- (b) that there are satisfactory financial and other arrangements for carrying out those works, and
- (c) that the carrying out of the works is the most satisfactory course of action.

(6) In considering whether to approve an application for an HMO grant the Executive shall have regard to the expected life of the house (taking account, where appropriate, of the effect of carrying out the works).

### *Restrictions on grant aid*

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

**60.**—(1) Subject as follows, the Executive shall not approve an application for a grant if the relevant works have been begun before the application is approved.

(2) Where the relevant works have been begun but 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.

(3) Where the Executive decides to approve an application in accordance with paragraph (2), it may, with the consent of the applicant, treat the application as varied so that the relevant works do not include any that are completed.

But in determining for the purposes of the application the physical condition of the dwelling, common parts or house or other building concerned, the Executive shall consider the condition of the premises at the date of the application.

(4) Subject as follows, the Executive shall not approve an application for a grant if the relevant works have been completed.

- (5) Nothing in this Article applies to an application for a grant in respect of works necessary—
- (a) to render a dwelling fit for human habitation or to comply with a notice under Article 41 of the Order of 1981 (repair notices), or
  - (b) to enable a house in multiple occupation to meet one or more of the requirements in Article 80(2) of the Order of 1992 (fitness for the number of occupants) or to comply with a notice under that Article.

(6) If the Executive considers that the relevant works include works in addition to those necessary for the purposes mentioned in paragraph (5)(a) or (b), the Executive shall treat the application as an application to which this Article applies so far as it relates to those additional works.

### **Means testing in case of application by owner-occupier or tenant**

**61.**—(1) This Article applies—

- (a) to an application for a renovation grant which is—
  - (i) an owner’s application accompanied by an owner-occupation certificate, or
  - (ii) a tenant’s application; and
- (b) to any application for a disabled facilities grant.

(2) An owner’s application for a renovation grant shall be treated as falling within this Article if it is a conversion application for the provision of 2 or more dwellings and any of the certificates accompanying the application is an owner-occupation certificate.

(3) If in the case of an application for a renovation grant to which this Article applies the financial resources of the applicant exceed the applicable amount, the amount of any grant which may be paid shall, in accordance with regulations, be reduced from what it would otherwise have been.

(4) If in the case of an application for a disabled facilities grant the financial resources of any person of a description specified by regulations exceed the applicable amount, the amount of any grant which may be paid shall, in accordance with regulations, be reduced from what it would otherwise have been.

(5) Provision may be made by regulations—

- (a) for the determination of the amount which is to be taken to be the financial resources of any person, and
- (b) for the determination of the applicable amount referred to in paragraph (3) or (4), and
- (c) as to the circumstances in which the financial resources of a person are to be assumed (by reason of his receiving a prescribed benefit or otherwise) not to exceed the applicable amount.

(6) Regulations may, in particular—

- (a) make provision for account to be taken of the income, assets, needs and outgoings not only of the person 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) make provision for amounts specified in or determined under the regulations to be taken into account for particular purposes.

(7) Regulations may apply for the purposes of this Article, subject to such modifications as may be prescribed, any other statutory means-testing regime as it has effect from time to time.

(8) Regulations may make provision requiring any information or evidence needed for the determination of any matter under this Article to be furnished by such person as may be prescribed.

(9) In this Article “regulations” means regulations made by the Department.

### **Determination of amount of grant in case of landlord’s application**

**62.**—(1) This Article applies to—

- (a) an owner’s application for a renovation grant which is accompanied by a certificate of intended letting (not being an application which falls within Article 61: see paragraph (2) of that Article),
- (b) a landlord’s application for a common parts grant,

- (c) a landlord's application for a disabled facilities grant, and
- (d) any application for an HMO grant.

(2) The reference in paragraph (1)(c) to a landlord's application for a disabled facilities grant is to an owner's application in respect of works to a dwelling which is or is intended to be let, or to the common parts of a building in which a flat is or is intended to be let.

- (3) The amount of the grant (if any) shall be determined by the Executive, having regard to—
- (a) the extent to which the landlord is able to charge a higher rent for the premises because of the works, or
  - (b) such other matters as the Department may direct.

(4) The Executive may, if it thinks it appropriate, seek and act upon the advice of suitably qualified persons as to any matter arising under this Article.

(5) The Department may by regulations make provision requiring any information or evidence needed for the determination of any matter under this Article to be furnished by such person as may be prescribed.

#### **Apportionment in case of tenants' application for common parts grant**

**63.**—(1) This Article applies where the Executive approves a tenants' application for a common parts grant.

(2) The Executive shall decide how much of the cost of the relevant works is attributable to the applicants ("the attributable cost").

(3) For the purposes of this Article the attributable cost is an amount equal to the following proportion of the cost of the relevant works—

- (a) if it can be ascertained, the proportion that the aggregate of the respective liabilities of each of the applicants 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) if 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.

(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 paragraph (3)(a), 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 paragraph; or
- (b) in a case where the attributable cost is calculated by reference to the proportion mentioned in paragraph (3)(b), equally.

(5) The amount of the grant payable shall be the aggregate of the grants that would be payable to each of the applicants under Article 61 or, in the case of a participating landlord, under Article 62 if each of the applicants was an individual applicant in respect of his portion of the attributable cost.

(6) Where the interest of an occupying tenant is held jointly by 2 or more persons, those persons shall be regarded as a single person for the purposes of this Article.

#### **Power to specify maximum amount of grant**

**64.**—(1) The Department may, if it thinks fit, by order specify a maximum amount or a formula for calculating a maximum amount of grant which the Executive may pay in respect of an application for a grant.

(2) An order under this Article may make provision for different types of grant or for the same type of grant in different circumstances.

(3) In relation to an application for a grant in respect of works for any of the purposes in Article 54(1) (mandatory disabled facilities grant), the order may—

- (a) provide for a maximum amount of grant which must be paid if the application is approved, and
- (b) authorise the Executive, if it thinks fit, to pay a further amount in excess of that maximum but subject to such other maximum (if any) as may be specified in or determined in accordance with the order.

(4) The Executive may not, except as mentioned in paragraph (3), pay an amount of grant in excess of a specified maximum amount.

### *Decision and notification*

#### **Decision and notification**

**65.**—(1) The Executive shall by notice in writing notify an applicant for a grant as soon as reasonably practicable, and, in any event, not later than 6 months after the date of the application concerned, whether the application is approved or refused.

(2) Where the Executive decides to approve an application for a grant, it shall determine—

- (a) which of the relevant works are eligible for grant (in this Chapter referred to as “the eligible works”),
- (b) the amount of the expenses which in its opinion are properly to be incurred in the execution of the eligible works,
- (c) the amount of the costs which in its opinion have been properly incurred, or are properly to be incurred, with respect to preliminary or ancillary services and charges, and
- (d) the amount of grant it has decided to pay, taking into account all the relevant provisions of this Chapter.

The total of the amounts referred to in sub-paragraphs (b) and (c) is referred to in this Chapter as “the estimated expense”.

(3) If the Executive notifies the applicant under paragraph (1) that the application is approved, the Executive shall specify in the notice—

- (a) the eligible works,
- (b) the amounts referred to in paragraph (2)(b) and (c), and
- (c) the amount of the grant.

(4) If the Executive notifies the applicant under paragraph (1) that the application is refused, the Executive shall at the same time notify him of the reasons for the refusal.

(5) If after an application for a grant has been approved the Executive is satisfied that owing to circumstances beyond the control of the applicant—

- (a) the eligible works cannot be, or could not have been, carried out on the basis of the amount of expenses referred to in paragraph (2)(b),
- (b) the amount of the costs which have been or are to be incurred as mentioned in paragraph (2)(c) has been increased, or
- (c) the eligible works cannot be, or could not have been, carried out without carrying out additional works which could not have been reasonably foreseen at the time the application was made,



the Executive may re-determine the estimated expense and the amount of the grant.

(6) Where an application for a grant is approved, the Executive may (without prejudice to the following provisions of this Chapter) impose such conditions in relation to the approval or payment of the grant as it considers appropriate.

### *Payment of grants*

#### **Payment of grants: general**

**66.**—(1) Where the Executive has approved an application for a grant, it shall pay the grant, subject to the following provisions of this Chapter.

(2) The grant may be paid—

- (a) in whole after the completion of the eligible works, or
- (b) in part by instalments as the works progress and the balance after completion of the works.

(3) Where a grant is paid by instalments, the aggregate of the instalments paid before the completion of the eligible works shall not at any time exceed nine-tenths of the amount of the grant.

#### **Delayed payment of mandatory grant**

**67.**—(1) Where the Executive is obliged to approve an application for a grant by virtue of Article 55(1)(a) (mandatory disabled facilities grant), the Executive may do so on terms that payment of the grant, or part of it, will not be made before a date specified in the notification of the Executive's decision on the application.

(2) That date shall not be more than 12 months, or such other period as may be specified by order of the Department, after the date of the application.

#### **Payment of grants: conditions as to carrying out of the works**

**68.**—(1) It is a condition of payment of every grant that the eligible works are carried out within 12 months from—

- (a) the date of approval of the application concerned, or
- (b) where Article 67 applies (delayed payment of mandatory grant), the date specified in the notification of the Executive's decision,

or in either case, such further period as the Executive may allow.

(2) The Executive may, in particular, allow further time where it is satisfied that the eligible works cannot be, or could not have been, carried out without carrying out other works which could not have been reasonably foreseen at the time the application was made.

(3) In approving an application for a grant the Executive may require as a condition of payment of the grant that the eligible works are carried out in accordance with such specifications as it determines.

(4) The payment of a grant, or part of a grant, is conditional upon—

- (a) the eligible works or the corresponding part of the works being executed to the satisfaction of the Executive, and
- (b) the Executive being provided with an acceptable invoice, demand or receipt for payment for the works and any preliminary or ancillary services or charges in respect of which the grant or part of the grant is to be paid.

For this purpose an invoice, demand or receipt is acceptable if it satisfies the Executive and is not given by the applicant or a member of his family.

### **Payment of grants: conditions as to contractors employed**

**69.**—(1) It is a condition of payment of every grant that the eligible works are carried out by a contractor acceptable to the Executive.

(2) The Executive shall prepare a statement of the criteria by reference to which it is to determine whether a contractor is acceptable to it for the purposes of this Article and Article 36(2)(b).

(3) The Executive may revise the statement of the criteria from time to time.

(4) The Executive shall provide, at such price as it may determine, a copy of the statement of the criteria to any person who applies for one.

### **Payment of grant to contractor**

**70.**—(1) The Executive may pay a grant or part of a grant—

- (a) by payment direct to the contractor, or
- (b) by delivering to the applicant an instrument of payment in a form made payable to the contractor.

The Executive shall not do so unless the applicant was informed before the grant application was approved that this would or might be the method of payment.

(2) Where an amount of grant is payable, but the works in question have not been executed to the satisfaction of the applicant, the Executive may at the applicant's request and if it considers it appropriate to do so withhold payment from the contractor.

If the Executive does so it may make the payment to the applicant instead.

### **Applicant ceasing to be entitled before payment of grant**

**71.**—(1) This Article applies where an application for a grant is approved but before the certified date the applicant ceases to be a person entitled to a grant of that description.

In the case of a joint application this Article does not apply unless all the applicants cease to be so entitled.

(2) Where this Article applies—

- (a) in the case of a renovation grant, disabled facilities grant or HMO grant, no grant shall be paid or, as the case may be, no further instalments shall be paid, and
- (b) in the case of a common parts grant approved on a landlord's application, the Executive may refuse to pay the grant or any further instalment;

and the Executive may demand that any instalment of the grant which has been paid be repaid forthwith, together with interest from the date on which it was paid until repayment, at such reasonable rate as the Executive may determine.

(3) For the purposes of this Article an applicant ceases to be a person entitled to a renovation grant—

- (a) in the case of an owner's application—
  - (i) if he ceases to have a qualifying owner's interest, or
  - (ii) if he ceases to have the intention specified in the owner-occupation certificate or certificate of intended letting which accompanied the application;
- (b) in the case of a tenant's application—
  - (i) if he ceases to be a qualifying tenant of the dwelling, or
  - (ii) if the application was accompanied by a certificate of intended letting and the landlord ceases to have the intention specified in the certificate; or

- (c) if the application was approved under Article 44(5) (approval of grant in respect of works to unfit premises) and the Executive ceases to be satisfied of the matters mentioned in that provision.
- (4) For the purposes of this Article an applicant ceases to be a person entitled to a disabled facilities grant—
  - (a) in the case of an owner’s application—
    - (i) if he ceases to have a qualifying owner’s interest, or
    - (ii) if he ceases to have the intention specified in the owner’s certificate which accompanied the application;
  - (b) in the case of a tenant’s application—
    - (i) if he ceases to be a qualifying tenant of the dwelling, or
    - (ii) if the application was accompanied by an owner’s certificate and the landlord ceases to have the intention specified in the certificate.

But if the case falls within Article 72 (change of circumstances affecting disabled occupant), the Executive shall act under that Article.
- (5) For the purposes of this Article an applicant ceases to be a person entitled to an HMO grant—
  - (a) if he ceases to have a qualifying owner’s interest in the house;
  - (b) if he ceases to have the intention specified in the certificate of future occupation which accompanied the application;
  - (c) if the application was approved under Article 59(5) (approval of grant in respect of works to unfit premises) and the Executive ceases to be satisfied of the matters mentioned in that provision.
- (6) For the purposes of this Article an applicant whose application is a landlord’s application for a common parts grant ceases to be a person entitled to a grant—
  - (a) if he ceases to have an owner’s interest in the building;
  - (b) if he ceases to have a duty or power to carry out the relevant works; or
  - (c) if the application was approved under Article 49(4) (approval of grant in respect of works to unfit premises) and the Executive ceases to be satisfied of the matters mentioned in that provision.
- (7) This Article has effect subject to Article 87 (provisions relating to death of applicant).

### **Change of circumstances affecting disabled occupant**

**72.—**(1) This Article applies where an application for a disabled facilities grant has been approved and before the certified date—

- (a) the works cease to be necessary or appropriate to meet the needs of the disabled occupant, or
- (b) the disabled occupant ceases to occupy the dwelling or flat concerned or it ceases to be the intention that he should occupy it, or
- (c) the disabled occupant dies.

Where the application related to more than one disabled occupant, this Article applies if any of sub-paragraphs (a) to (c) applies in relation to any of them.

(2) This Article applies whether or not the disabled occupant (or any of them) is the applicant (or one of them).

(3) Where this Article applies the Executive may take such action as appears to it appropriate and may decide—

- (a) that no grant shall be paid or, as the case may be, no further instalments shall be paid,
- (b) that the relevant works or some of them should be completed and the grant or an appropriate proportion of it paid, or
- (c) that the application should be redetermined in the light of the new circumstances.

(4) In making its decision the Executive shall have regard to all the circumstances of the case.

(5) If the Executive decides that no grant shall be paid or that no further instalments shall be paid, the Executive may demand that any instalment of the grant which has been paid be repaid forthwith, together with interest from the date on which it was paid until repayment, at such reasonable rate as the Executive may determine.

### **Cases in which grants may be recalculated, withheld or repaid**

**73.**—(1) This Article applies where an application for a grant has been approved by the Executive and—

- (a) the Executive ascertains that the amount was determined under Article 61 or 62 on the basis of inaccurate or incomplete information and exceeds that to which the applicant was entitled;
- (b) the Executive ascertains that without its knowledge the eligible works were started before the application was approved;
- (c) the eligible works are not completed to the satisfaction of the Executive within the period specified under Article 68(1), or such extended period as the Executive may allow under that provision;
- (d) the Executive ascertains that the aggregate of the cost of completing the eligible works and the costs incurred with respect to preliminary or ancillary services and charges, is or is likely to be lower than the estimated expense; or
- (e) the Executive ascertains that without its knowledge the eligible works were carried out otherwise than as required by Article 69 (conditions as to contractors employed).

(2) Where this Article applies, the Executive may—

- (a) refuse to pay the grant or any further instalment of grant which remains to be paid, or
- (b) make a reduction in the grant which, in a case falling within paragraph (1)(d), is to be a reduction proportionate to the reduction in the estimated expense;

and the Executive may demand repayment by the applicant forthwith, in whole or part, of the grant or any instalment of the grant paid, together with interest from the date of payment until repayment, at such reasonable rate as the Executive may determine.

### **Repayment where applicant not entitled to grant**

**74.**—(1) This Article applies where an application for a grant is approved but it subsequently appears to the Executive that the applicant (or, in the case of a joint application, any of the applicants) was not, at the time the application was approved, entitled to a grant of that description.

(2) Where this Article applies—

- (a) in the case of a renovation grant, disabled facilities grant or HMO grant, no grant shall be paid or, as the case may be, no further instalments shall be paid, and
- (b) in the case of a common parts grant approved on a landlord's application, the Executive may refuse to pay the grant or any further instalment,

and the Executive may demand that any grant which has been paid be repaid forthwith, together with interest from the date on which it was paid until repayment, at such reasonable rate as the Executive may determine.

- (3) For the purposes of this Article an applicant is not entitled to a renovation grant—
- (a) in the case of an owner’s application if—
    - (i) he does not have a qualifying owner’s interest, or
    - (ii) he does not have the intention specified in the owner-occupation certificate or certificate of intended letting which accompanied the application; or
  - (b) in the case of a tenant’s application if—
    - (i) he is not a qualifying tenant of the dwelling, or
    - (ii) if the application was accompanied by a certificate of intended letting and the landlord does not have the intention specified in the certificate.
- (4) For the purposes of this Article an applicant is not entitled to a disabled facilities grant—
- (a) in the case of an owner’s application—
    - (i) if he does not have a qualifying owner’s interest, or
    - (ii) if he does not have the intention specified in the owner’s certificate which accompanied the application; or
  - (b) in the case of a tenant’s application—
    - (i) if he is not a qualifying tenant of the dwelling, or
    - (ii) if the application was accompanied by an owner’s certificate and the landlord does not have the intention specified in the certificate.
- (5) For the purposes of this Article an applicant is not entitled to an HMO grant—
- (a) if he does not have a qualifying owner’s interest in the house; or
  - (b) if he does not have the intention specified in the certificate of future occupation which accompanied the application.
- (6) For the purposes of this Article an applicant whose application is a landlord’s application for a common parts grant is not entitled to a grant—
- (a) if he does not have an owner’s interest in the building; or
  - (b) if he does not have a duty or power to carry out the relevant works.

#### *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.

### *Supplementary*

#### **Provisions relating to death of applicant**

**87.**—(1) References in this Chapter to the applicant, in relation to a grant or an application for a grant, shall be construed in relation to any time after his death as a reference to his personal representatives.

(2) Where the applicant dies after liability has been incurred for any preliminary or ancillary services or charges, the Executive may, if it thinks fit, pay grant in respect of some or all of those matters.

(3) Where the applicant dies after the relevant works have been begun and before the certified date, the Executive may, if it thinks fit, pay grant in respect of some or all of the works already carried out and other relevant works covered by the application.

(4) Nothing in this Article shall be construed as preventing the provisions as to grant conditions applying in relation to any payment of grant under paragraph (2) or (3).

#### **Power of Executive to carry out works which would attract grant**

**88.**—(1) The Executive may by agreement with a person having the requisite interest execute at his expense—

- (a) any works towards the cost of which a grant under this Chapter is payable or might be paid on an application duly made and approved, and
- (b) any further works which it is in the Executive's opinion necessary or desirable to execute together with the works mentioned in sub-paragraph (a).

(2) Except in the case of a common parts grant, the "requisite interest" means a qualifying owner's interest for the purposes of a renovation grant, or an owner's interest for the purposes of a disabled facilities grant or HMO grant, as the case may be.

(3) In the case of a common parts grant, the reference in paragraph (1) to a person having the requisite interest is a reference to the person who has—

- (a) an owner's interest in the building, or

(b) such an interest in a flat in the building as is mentioned in Article 45(2)(a) to (c) (occupying tenants),  
and has a power or duty to carry out the relevant works.

### CHAPTER III GROUP REPAIR SCHEMES

#### *Introductory*

#### **Interpretation of Chapter III**

**89.** In this Chapter the expressions listed below are defined by or otherwise fall to be construed in accordance with the provisions of this Chapter indicated—

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assisted participant	Article 94(2), (7), (8) and (9)
balance of the cost (in relation to conditions of participation)	Article 99(3)
building	Article 90(2)
certificate of future occupation	Article 94(6)
certificate of intended letting	Article 94(4)
completion date	Article 96(2)
eligible to participate	Article 94(1)
exempt disposal	Article 102
group repair scheme	Article 90(1)
owner-occupation scheme	Article 90(1)
protected period (in relation to conditions of participation)	Article 99(2)
qualifying building	Article 91
relevant disposal	Article 102
scheme consent	Article 95(1)
scheme works	Article 92
tenant and related expressions (in the context of a certificate of intended letting)	Article 94(5)
unattended participant	Article 94(7) and (11)

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#### **Group repair schemes**

**90.—(1)** The Executive may prepare a scheme (a “group repair scheme”) for the carrying out of works—

- (a) to put in reasonable repair the exterior of buildings to which the scheme relates, or
  - (b) to render the buildings to which the scheme relates structurally stable,
- or for both those purposes.

(2) For the purposes of this Chapter “building” includes the whole or part of a terrace of houses or other units.

(3) The scheme must satisfy the requirements of Articles 91 and 92 as to the buildings to which it relates and the works specified in it.

### **Qualifying buildings**

**91.**—(1) The buildings to which a group repair scheme relates must be qualifying buildings.

(2) A building is a qualifying building if at the time the scheme is prepared it satisfies such conditions as may be prescribed for qualifying buildings in relation to a group repair scheme.

(3) A group repair scheme must relate to at least one qualifying building which at the time the scheme is prepared satisfies the conditions prescribed for a primary building in relation to a group repair scheme.

(4) Each of the other qualifying buildings to which a group repair scheme relates must satisfy the conditions prescribed for additional buildings in relation to a group repair scheme.

### **Scheme works**

**92.**—(1) The works specified in a group repair scheme (“scheme works”) must be works of the following descriptions.

(2) In the case of works to put in reasonable repair the exterior of the buildings to which the scheme relates, the works must be—

- (a) works to the exterior of the buildings to which the scheme relates, or
- (b) so far only as may be necessary to give satisfactory effect to such works, additional works to other parts of the buildings,

and must be such that on completion of the works the exterior of the buildings will be in reasonable repair.

(3) In the case of works to render the buildings to which the scheme relates structurally stable, the works must be—

- (a) works to the structure or to the foundations of the buildings to which the scheme relates, or
- (b) other works necessary to give satisfactory effect to such works,

and must be such that on completion of the works the buildings will be structurally stable.

(4) For the purposes of this Chapter the exterior of a building means—

- (a) any part of the building which is exposed to the elements of wind and rain or otherwise faces into the open air (including, in particular, roofs, chimneys, walls, doors, windows, rainwater goods and external pipework), and
- (b) the curtilage of the building, including any wall within the curtilage which is constructed as a retaining wall or otherwise to protect the structure of the building.

(5) In relation to works to the curtilage of a building the reference in paragraph (2)(b) to additional works to other parts of the building includes additional works on land outside the curtilage.

(6) For the purposes of this Chapter the exterior of a building shall not be regarded as in reasonable repair unless it is substantially free from rising or penetrating damp.

### **Approval of scheme by the Department**

**93.**—(1) If a group repair scheme prepared by the Executive is approved by the Department, the Executive may, with the consent of the persons participating in the scheme, enter into agreements to secure the carrying out of the works specified in the scheme.

(2) The approval of the Department may be given either to a specific scheme or generally to schemes which fulfil such criteria as the Department may specify.

(3) Different criteria may be specified for different types of scheme and for different areas.

(4) The approval of a scheme may be made conditional upon compliance with requirements specified by the Department.

### *Participation in group repair scheme*

#### **Persons eligible to participate in group repair scheme**

**94.**—(1) A person is eligible to participate in a group repair scheme if at the date of the approval of the scheme—

- (a) he has an owner’s interest in a dwelling or other premises comprised in a building to which the scheme relates, and
- (b) as respects the dwelling or other premises in which he has an owner’s interest he either—
  - (i) is able to give possession of any part of the building to which scheme works are proposed to be carried out, or
  - (ii) has the consent of the occupier of that part to the carrying out of those works.

In the case of a scheme not submitted for specific approval, the date of approval shall be taken to be the date on which the Executive decides that the scheme fulfils the criteria for general approval.

(2) A person eligible to participate in a group repair scheme may participate as an assisted participant—

- (a) if the owner’s interest which he has is an interest in a dwelling and he gives an owner-occupation certificate or a certificate of intended letting, or
- (b) if the owner’s interest which he has is an interest in a house in multiple occupation and he gives a certificate of future occupation.

This paragraph is subject to the exceptions specified in paragraph (7) or (8), or by order under paragraph (9).

(3) An “owner-occupation certificate” certifies that the person concerned—

- (a) has an owner’s interest in the dwelling, and
- (b) intends that throughout the protected period he, or a member of his family, will live in the dwelling, as his (or that member's) only or main residence.

(4) A “certificate of intended letting” certifies that the person concerned—

- (a) has an owner’s interest in the dwelling, and
- (b) intends that throughout the protected period the dwelling will be let or available for letting as a residence and not for a holiday to someone other than a member of his family.

In sub-paragraph (b) “letting” does not include letting on a long tenancy.

(5) In paragraph (4) references to letting include the grant of a licence to occupy premises.

References in this Chapter to tenants, and other expressions relating to tenancies, in the context of a certificate of intended letting, shall be construed accordingly.

(6) A “certificate of future occupation” certifies that the person concerned—

- (a) has an owner’s interest in the house, and
- (b) intends that throughout the protected period the house or a part of it (specified in the certificate) will be residentially occupied, or available for residential occupation, under

tenancies or licences by persons who are not connected with the owner for the time being of the house.

In sub-paragraph (b) “residential occupation” does not include occupation for a holiday and “tenancies” does not include a long tenancy.

(7) A registered housing association, which has an owner’s interest in a dwelling or other premises comprised in a building to which a group repair scheme relates, is eligible to participate in the scheme, but only as an unassisted participant.

(8) The Executive may participate in a group repair scheme by including in the scheme a dwelling or other premises comprised in a building in which it has an owner’s interest.

(9) The Department may by order exclude any person from participating in a group repair scheme as an assisted participant.

(10) An order under paragraph (9) may proceed wholly or in part by reference to the provisions relating to entitlement to housing benefit, or any other form of assistance, as they have effect from time to time.

(11) A person eligible to participate in a group repair scheme who is unable to participate as an assisted participant may participate as an unassisted participant.

#### **Scheme consent and restriction on works**

**95.**—(1) The persons who are eligible to participate in a group repair scheme do so by signifying consent (“scheme consent”), in accordance with the terms of the scheme, to the proposals to carry out the works specified in the scheme.

(2) No scheme works shall be carried out to a part of a building which consists of premises in respect of which no person eligible to participate has signified scheme consent, except as mentioned below.

(3) The restriction in paragraph (2) does not apply to works carried out to premises in respect of which there is no person (or no ascertainable person) eligible to participate in the scheme.

(4) The restriction in paragraph (2) does not apply to works—

- (a) which are carried out to premises in respect of which the person eligible to participate consents to their being carried out but has not signified scheme consent (and, accordingly, is not liable to contribute), and
- (b) which it is necessary to carry out in order satisfactorily to carry out any works specified in the scheme to another part of the same building in respect of which a person eligible to participate has signified scheme consent.

#### **Certificate of completion date**

**96.**—(1) When the works specified in a group repair scheme are completed, the Executive shall send to each assisted participant a certificate specifying the date on which the works were completed to the Executive’s satisfaction.

(2) In this Chapter that date is referred to as “the completion date”.

#### **Contributions by participants**

**97.**—(1) The participants in a group repair scheme are liable to contribute to the cost, as notified to them under the scheme, of scheme works relating to the premises in which they have an interest, at a rate determined in accordance with this Article.



(2) The cost of the works shall be apportioned between the several buildings and premises in such way as may be agreed between the participants with owner's interests in them or, in default of agreement, equally.

(3) In the case of an unassisted participant, the rate of contribution shall be 100 per cent.

(4) In the case of an assisted participant the rate of contribution is a percentage determined by the Executive, not exceeding—

- (a) 25 per cent. where the building is in a housing action area; and
- (b) 50 per cent. in any other case.

The Department may by order amend sub-paragraph (a) or sub-paragraph (b) so as to specify a different percentage.

(5) In making its determination the Executive shall have regard to the way in which—

- (a) Article 61 (means-testing in case of application by owner-occupier or tenant), or
- (b) Article 62 (determination of amount of grant in case of landlord's application),

would apply if he were an applicant for a renovation grant or, as the case may require, an HMO grant.

(6) The Executive shall also have regard to any guidance given by the Department for the purposes of this Article.

#### *Variation of group repair scheme*

#### **Variation of group repair scheme**

98.—(1) A group repair scheme may be varied at any time before the completion date.

The variation may relate to the participants in the scheme, the buildings to which the scheme relates, the scheme works or any other matter.

(2) A variation is not effective unless approved by the Department.

The provisions of Article 93(2) to (4) (supplementary provisions as to approval of scheme) apply to approval of a variation.

(3) Where a scheme is varied to enable other persons to participate, Article 94 (persons eligible to participate) applies in relation to new participants with the substitution for the reference to the date of approval of the scheme of a reference to the date of approval of the variation.

In the case of a variation not submitted for specific approval, the date of approval shall be taken to be the date on which the Executive decides that the variation fulfils the criteria for general approval.

(4) Before varying a group repair scheme the Executive shall consult the existing participants and consider any representations made by them.

(5) Fresh scheme consent is required in the case of an existing participant as to whom the Executive is satisfied that his interests are adversely affected by the variation.

In any other case the existing scheme consent shall be treated as extended to the scheme as varied.

#### *Conditions as to participation*

#### **Conditions of participation: general**

99.—(1) The following Articles have effect with respect to the conditions of participation in a group repair scheme as an assisted participant.

(2) Except as otherwise provided those conditions have effect for the period of 3 years, or such other period as may be prescribed, beginning with the completion date.

That period is referred to in this Chapter as “the protected period”.

(3) For the purposes of those conditions the “balance of the cost” is the difference between—

- (a) the cost as notified to the participant under the scheme of such of the works specified in the scheme as relate to the premises in which his owner’s interest subsisted, and
- (b) the amount of the contribution in respect of that cost paid by him by virtue of Article 97.

### **Condition as to payment of balance of cost on disposal**

**100.**—(1) It is a condition of participation in a group repair scheme as an assisted participant that if, after signifying scheme consent and before the end of the protected period, he makes a relevant disposal (other than an exempt disposal) of the premises in which he had an owner’s interest at the date of the approval of the scheme, he shall pay to the Executive on demand the balance of the cost.

(2) The 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 which is payable under paragraph (1) shall, until recovered, be deemed to be a charge on the premises.

(3) Where the Executive has the right to demand payment as mentioned in paragraph (1), it may determine not to demand payment or to demand a lesser amount.

(4) The 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).

### **Conditions as to occupation**

**101.**—(1) It is a condition of participation in a group repair scheme as an assisted participant—

- (a) where the participant gave an owner-occupation certificate, that throughout the protected period the dwelling is occupied in accordance with the intention stated in the certificate;
- (b) where the participant gave a certificate of intended letting, that throughout the protected period the dwelling is let or available for letting in accordance with the intention stated in the certificate; and
- (c) where the participant gave a certificate of future occupation, that throughout the protected period the house is residentially occupied, or available for residential occupation, in accordance with the intention stated in the certificate.

(2) It is also a condition of participation as an assisted participant that if at any time when any of the above conditions is in force the Executive serves notice on the owner of the dwelling or 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 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 or house; and any amount which is payable under paragraph (4) shall, until recovered, be deemed to be a charge on the dwelling or house.

(4) In the event of a breach of a condition under this Article, the owner for the time being of the dwelling or house shall pay to the Executive on demand the balance of the cost.

(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 any premises if there is a relevant disposal of the premises which is an exempt disposal other than a disposal within Article 85(1)(a) (disposal to associates of person making disposal).

### **Meaning of “relevant disposal” and “exempt disposal”**

**102.** Articles 84 and 85 (meaning of “relevant disposal” and “exempt disposal”) apply for the purposes of this Chapter.

### **Payment of balance of cost, &c: cessation of conditions**

**103.—**(1) If at any time while a condition of participation under Article 100 or 101 remains in force—

- (a) the assisted participant pays the balance of the cost to the Executive,
- (b) a mortgagee of the interest of the assisted participant in the premises being a mortgagee entitled to exercise a power of sale, makes such a payment,
- (c) the Executive determines not to demand payment on the breach of a condition of participation, or
- (d) the Executive demands payment in whole or in part on the breach of a condition of participation and that demand is satisfied,

that condition and any other conditions of participation shall cease to be in force with respect to the premises of that assisted participant.

(2) 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.

(3) 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.

## *Supplementary*

### **Power of Department to modify operation of Chapter**

**104.** If the Department so directs in the case of any scheme or any description of scheme, such of the preceding provisions of this Chapter as are specified in the direction shall not apply in relation to that scheme or, as the case may be, in relation to a scheme of that description.

## CHAPTER IV

### HOME REPAIR ASSISTANCE

#### **Interpretation of Chapter IV**

**105.** In this Chapter “home repair assistance” shall be construed in accordance with Article 106(1).

#### **Home repair assistance**

**106.—**(1) The Executive may, on application being made to it, give assistance under this Chapter (“home repair assistance”) in the form of a grant or the provision of materials for the carrying out of works of repair, improvement or adaptation to a dwelling.

(2) The Department may by order make provision as to the total amount or value of home repair assistance that may be given—

- (a) on any one application, or
- (b) in respect of the same dwelling in any period of 3 years.
- (3) Home repair assistance shall not be given in respect of works—
  - (a) for which a grant under Chapter II has been approved or in respect of which an application for a grant is pending, or
  - (b) which are specified in a group repair scheme approved under Chapter III or prepared and awaiting the approval of the Department.

### **Entitlement to home repair assistance**

**107.**—(1) Subject to the following provisions of this Article, the Executive shall not entertain an application for home repair assistance unless it is satisfied—

- (a) that the applicant is aged 18 or over on the date of the application,
- (b) that he lives in the dwelling as his only or main residence,
- (c) that he has an owner’s interest in the dwelling, or is a tenant of the dwelling, alone or jointly with others, and
- (d) that he has a duty or power to carry out the works in question.

(2) In the case of an application in respect of works to adapt a dwelling to enable an elderly or infirm person to be cared for, the condition in paragraph (1)(b) shall be treated as met if the elderly or infirm person (whether or not the applicant) lives or proposes to live in the dwelling as his only or main residence.

(3) For the purposes of the condition in paragraph (1)(c) “tenant” includes—

- (a) a person who has a protected tenancy or statutory tenancy,
- (b) an employee (whether full-time or part-time) who occupies the dwelling or flat concerned for the better performance of his duties.

(4) For the purposes of the condition in paragraph (1)(c) “tenant” does not include—

- (a) a person who is a tenant of a dwelling-house at a time when the estate of the landlord under the tenancy belongs to—
  - (i) the Crown (whether in right of Her Majesty’s Government in the United Kingdom or in Northern Ireland),
  - (ii) a government department (including a department of the Government of the United Kingdom),
  - (iii) the Executive, or
  - (iv) a registered housing association; or
- (b) a person of such other description as the Department may prescribe.

(5) An application may be made by a person who does not satisfy the condition in paragraph (1)(c) but who occupies the dwelling under a right of exclusive occupation granted for his life or for a period of more than 5 years.

### **Assistance in respect of mobile homes**

**108.**—(1) Subject to the following provisions of this Article, Articles 106 and 107 (home repair assistance) apply in relation to a mobile home as in relation to a dwelling.

(2) For the purposes of those Articles as they apply in relation to a mobile home, any person lawfully in occupation of the mobile home shall be treated as a person with an owner’s interest in or a tenant of a dwelling.

(3) In this Article “mobile home” means a caravan within the meaning of section 25(1) of the Caravans Act (Northern Ireland) 1963 (c. 17) which is a dwelling-house for the purposes of the [Rates \(Northern Ireland\) Order 1977 \(NI 28\)](#).

### **Power to make further provision by regulations**

**109.**—(1) The Department may by regulations make provision as to—

- (a) the manner of making an application for home repair assistance and the contents of such an application;
- (b) the procedure for dealing with applications for home repair assistance and for ensuring that works are carried out to any standard specified in the regulations;
- (c) the way in which the amount of home repair assistance to be given on any application is to be determined, and
- (d) the taking into account (in such manner and to such extent as may be prescribed) of the financial circumstances of the applicant.

(2) The Department may by regulations make provision extending or restricting the availability of home repair assistance, by reference to such description of persons, circumstances or other factors as the Department thinks fit.

(3) Regulations under paragraph (2) may proceed wholly or in part by reference to the provisions relating to entitlement to housing benefit, or any other form of assistance, as they have effect from time to time.

## CHAPTER V

### DEFERRED ACTION NOTICES. &c.

#### **Interpretation of Chapter V**

**110.** In this Chapter—

- “deferred action notice” shall be construed in accordance with Article 111;
- “flat”, “house” and “owner” have the meaning given in Article 2 of the Order of 1981; and
- “flat in multiple occupation” has the same meaning as in Part IV of the Order of 1992.

#### *Deferred action notices*

#### **Deferred action notices**

**111.**—(1) If the Executive is satisfied that a house (including a house in multiple occupation) is unfit for human habitation, but is satisfied that serving a deferred action notice is the most satisfactory course of action, it shall serve such a notice.

(2) A deferred action notice is a notice—

- (a) stating that the premises are unfit for human habitation,
- (b) specifying the works which, in the opinion of the Executive, are required to make the premises fit for human habitation, and
- (c) stating the other courses of action which are available to the Executive if the premises remain unfit for human habitation.

(3) The notice becomes operative, if no appeal is brought, on the expiry of 21 days from the date of the service of the notice and is final and conclusive as to matters which could have been raised on an appeal.

(4) The fact that a deferred action notice has been served does not prevent the Executive from taking any other course of action in relation to the premises at any time.

### **Service of deferred action notices**

**112.**—(1) The Executive shall serve a deferred action notice relating to a house on the owner of the house.

(2) Where the Executive is satisfied that a house which is a flat, or a flat in multiple occupation, is unfit for human habitation by virtue of Article 46(2) of the Order of 1981, it shall also serve the notice on the owner of the building or part of the building in question.

(3) In the case of a house in multiple occupation, the Executive may serve the notice on the person managing the house instead of upon the owner.

(4) Where the Executive serves a notice under paragraph (1), (2) or (3) it shall also serve a copy of the notice on any other person having an estate in the premises concerned.

### **Appeals against deferred action notices**

**113.**—(1) A person aggrieved by a deferred action notice may within 21 days after the service of the notice appeal to the county court.

(2) Without prejudice to the generality of paragraph (1), it is a ground of appeal that—

- (a) making a demolition order under Article 35 of the Order of 1981 or a closing order under Article 38 of that Order, or
- (b) serving a repair notice under Article 41 of that Order,

is a more satisfactory course of action.

(3) Where the grounds on which an appeal is brought are or include that specified in paragraph (2), the court, on hearing the appeal, shall have regard to any guidance given to the Executive under Article 46A of the Order of 1981 or Article 115.

(4) On an appeal the court may make such order either confirming, quashing or varying the notice as it thinks fit.

(5) Where the appeal is allowed and the reason or one of the reasons for allowing the appeal is that—

- (a) making a demolition order under Article 35 of the Order of 1981 or a closing order under Article 38 of that Order, or
- (b) serving a repair notice under Article 41 of that Order,

is a more satisfactory course of action, the judge shall, if requested to do so by the appellant or the Executive, include in his judgment a finding to that effect.

(6) If an appeal is brought, the deferred action notice does not become operative until—

- (a) a decision on the appeal confirming the notice (with or without variation) is given and the period within which an appeal to the Court of Appeal may be brought expires without any such appeal having been brought, or
- (b) if a further appeal to the Court of Appeal is brought, a decision on that appeal is given confirming the notice (with or without variation);

and for this purpose the withdrawal of an appeal has the same effect as a decision confirming the notice or decision appealed against.

### **Review of deferred action notices**

**114.**—(1) The Executive may at any time review any deferred action notice served by it, and it shall do so not later than 2 years after the notice becomes operative and at intervals of not more than 2 years thereafter.

The Department may by order amend this paragraph so as to specify such other period or periods as it considers appropriate.

(2) The Executive shall for the purposes of any such review inspect the premises concerned.

For this purpose Articles 13 (power to enter land) and 160 (penalty for obstruction) of the Order of 1981 apply as they apply for the purposes of that Order.

(3) If the Executive is satisfied that the deferred action notice remains the most satisfactory course of action, it shall renew the notice and serve notice of its decision.

(4) The provisions of Article 112 (service of deferred action notice) and Article 113(1) to (5) (appeals against deferred action notices) apply in relation to the Executive's decision to renew a deferred action notice as in relation to the original notice.

(5) If an appeal is brought against the decision to renew a deferred action notice, the notice remains operative until any decision on the appeal, or any further appeal, quashing or varying the notice.

(6) If the Executive takes action in relation to the premises under any of the provisions listed in Article 46A(1) of the Order of 1981, the deferred action notice shall cease to be operative on the relevant notice, order or declaration becoming operative.

### **Guidance by the Department**

**115.**—(1) In deciding for the purposes of Article 111 (deferred action notices) or Article 114 (review of deferred action notices) what is the most satisfactory course of action in relation to any premises, the Executive shall have regard to such guidance as may be given by the Department.

(2) The provisions of Article 46A(2) and (3) of the Order of 1981 (supplementary provisions as to guidance) apply in relation to such guidance.

### *Power to charge for enforcement action*

### **Unfitness for human habitation, &c.: power to charge for enforcement action**

**116.**—(1) The Executive may make such reasonable charge as it considers appropriate as a means of recovering certain administrative and other expenses incurred by it in taking action of any of the following kinds—

- (a) serving a deferred action notice under Article 111 or deciding to renew such a notice under Article 114;
- (b) making a demolition order under Article 35 of the Order of 1981;
- (c) making a closing order under Article 38 of that Order;
- (d) serving a repair notice under Article 41 of that Order.

(2) The expenses are, in the case of the service of a notice under Article 111 or a notice under Article 41 of the Order of 1981, the expenses incurred in—

- (a) determining whether to serve the notice,
- (b) identifying the works to be specified in the notice, and
- (c) serving the notice.

(3) The expenses are, in the case of a decision to renew a notice under Article 114, the expenses incurred in—

- (a) deciding whether to renew the notice, and
- (b) serving notice of the Executive's decision.

(4) The expenses are, in the case of a demolition order under Article 35 of the Order of 1981 or a closing order under Article 38 of that Order, the expenses incurred in—

- (a) determining whether to make the order, and
- (b) serving notice of the order.

(5) The amount of the charge shall not exceed such amount as is specified by order of the Department.

(6) Where a court allows an appeal against the underlying notice, decision or order mentioned in paragraph (1), it may make such order as it thinks fit reducing, quashing or requiring the repayment of any charge under this Article made in respect of the notice, decision or order.

### **Recovery of charge for enforcement action**

**117.**—(1) The following provisions have effect with respect to the recovery of a charge under Article 116.

(2) The charge may be recovered by the Executive from—

- (a) in the case of a notice under Article 111 or a notice under Article 41 of the Order of 1981, any person on whom the notice is served;
- (b) in the case of a renewal of a notice under Article 114, any person on whom notice of the decision to renew the notice is served;
- (c) in the case of an order under Article 35 or 38 of the Order of 1981, any person on whom notice of the order is served as an owner of the premises.

(3) A demand for payment of the charge shall be served on the person from whom the Executive seeks to recover it.

(4) The demand becomes operative, if no appeal is brought against the underlying notice, decision or order, on the expiry of the period of 21 days from the service of the demand.

(5) The sum recoverable by the Executive is, until recovered, a charge on the premises concerned; and—

- (a) the charge takes effect when the demand becomes operative, and
- (b) the charge shall be enforceable in all respects as if it were a valid mortgage by deed created in favour of the Executive by the person on whose estate the charge has been created (with, where necessary, any authorisation or consent required by law); and
- (c) the Executive may exercise the powers conferred by sections 19, 21 and 22 of the Conveyancing Act 1881 (c. 41) on mortgagees by deed accordingly.

(6) A charge under paragraph (5) shall be included in the matters required to be registered in the Statutory Charges Register.

### *Supplementary*

#### **Power to prescribe forms**

**118.** The Department may by regulations prescribe the form of and the particulars to be contained in—



- (a) a deferred action notice, or a notice of the Executive’s decision to renew a deferred action notice, or
- (b) a demand for payment of any charge under Article 116 (power to charge for enforcement action).

## CHAPTER VI

### SUPPLEMENTARY PROVISIONS

#### *Religious denominations, charities, &c.*

#### **Religious denominations, charities, &c.**

**119.**—(1) The provisions of Chapter II (main grants) mentioned below do not apply to—

- (a) an application for a grant by a religious denomination or body, or on behalf of a religious denomination or body by the trustees of the denomination or body; and
- (b) an application for a grant made by a charity or on behalf of a charity by the trustees of the charity.

(2) Those provisions are—

- (a) Articles 40 to 42 (conditions for application for renovation grant);
- (b) Articles 50, 52 and 53 (conditions for application for disabled facilities grant);
- (c) Articles 56 and 57 (conditions for application for HMO grant).

(3) In considering under Article 62 the amount (if any) of the grant where the applicant is a charity or the application is in respect of a religious denomination, the Executive shall have regard, in addition to the matters mentioned in that Article, 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.

(4) In Chapter III (group repair schemes), in Article 94(2) (persons eligible to participate in group repair scheme as assisted participants) the requirement in sub-paragraph (a) that a person give an owner-occupation certificate or a certificate of intended letting does not apply if—

- (a) the person concerned is a charity or the trustee of a charity, or
- (b) the dwelling is the residence house of a religious denomination,

and the requirement in sub-paragraph (b) that a person give a certificate of future occupation does not apply if the person concerned is a charity or the trustee of a charity.

(5) In Chapter IV (home repair assistance), Article 107(1)(c) (condition that applicant have owner’s interest or tenancy) does not apply to an application by an individual in respect of the residence house of a religious denomination.

(6) In this Article “charity” does not include a registered housing association but, subject to that, has the same meaning as in the Charities Act (Northern Ireland) 1964 (c. 33).

#### *Transitional provisions and savings*

#### **Transitional provisions and savings**

**120.**—(1) The provisions of Chapters II to IV of this Part have effect in place of Chapter I of Part III of the Order of 1992 (grants towards cost of improvements and repairs, &c.).

(2) Subject as follows, the provisions of Chapter I of Part III of that Order continue to apply to applications for grant of the descriptions mentioned in Article 39 of that Order made before the day of the coming into operation of this Part.

(3) Articles 50 and 51 of that Order (which require the Executive to approve certain grant applications) do not apply to an application under that Chapter, made after such date as may be prescribed which has not been approved or refused before the day of the coming into operation of this Part, unless—

- (a) the 6 month period under Article 54(1) of that Order (period within which applicant to be notified of decision) has elapsed before that day, or
- (b) the works were begun on or before such date as may be prescribed—
  - (i) in an emergency, or
  - (ii) in order to comply with a notice under Article 80 of that Order (notice requiring works to render premises fit for number of occupants) or Article 41 of the Order of 1981 (repair notice requiring works to render premises fit for human habitation).

(4) An application to which Article 50 or 51 of the Order of 1992 would have applied but for paragraph (3) shall be dealt with after the day of the coming into operation of this Part as if those Articles were omitted from Chapter I of Part III of that Order.

(5) The repeal by this Order of Chapter I of Part III of the Order of 1992 shall not affect paragraph (3)(c) of Article 73 of that Order or any regulations made under that paragraph prescribing provisions of that Chapter which are to apply in relation to replacement grants.

(6) The above provisions do not affect the power conferred by Article 1(4) to make transitional provision and savings in relation to the coming into operation of this Part, including provision supplementary or incidental to the above provisions.

Supplementary and incidental provision may, in particular, be made adapting the provisions of Chapter I of Part III of the Order of 1992 in the case of applications to which Article 50 or 51 of that Order would have applied but for the above provisions.

## PART IV

### MISCELLANEOUS AMENDMENTS

#### CHAPTER I

#### AMENDMENTS OF THE RENT (NORTHERN IRELAND) ORDER 1978

##### **Transfer of duty to keep register of rents**

**121.**—(1) The functions of the Department in relation to the preparation and keeping of a register of rents under Article 25 of the [Rent \(Northern Ireland\) Order 1978 \(NI 20\)](#) are hereby transferred to the Executive.

(2) The statutory provisions mentioned in Schedule 1 have effect with the amendments specified there.

##### **Institution of proceedings for offences with respect to rent books**

**122.** In Article 39 of the [Rent \(Northern Ireland\) Order 1978 \(NI 20\)](#) (offences under Article 38 of that Order), after paragraph (4) there shall be added—

“(5) Proceedings for an offence under paragraph (1) may be instituted by the district council in whose district the dwelling-house held under the private tenancy is situated.”.

## CHAPTER II

### AMENDMENTS OF THE ORDER OF 1981

#### **Interpretation of Order of 1981**

**123.**—(1) In Article 2 of the Order of 1981 (interpretation), paragraphs (4) and (5) shall be omitted.

(2) After that Article there shall be inserted—

#### **“Meaning of member of a person’s family**

**2A.**—(1) For the purposes of this Order a person is a member of another’s family if—

- (a) he is the spouse of that person, or he and that person live together as husband and wife, or
- (b) he is that person’s parent, grandparent, child, grandchild, brother, or sister.

(2) For the purpose of paragraph (1)(b)—

- (a) a relationship by marriage shall be treated as a relationship by blood,
- (b) a relationship of the half-blood shall be treated as a relationship of the whole blood, and
- (c) the stepchild of a person shall be treated as his child.”.

#### **Allocation of housing accommodation**

**124.**—(1) Article 22 of the Order of 1981 (house allocation scheme) shall be amended as follows.

(2) For paragraph (1) there shall be substituted—

“(1) The Executive shall submit to the Department a scheme for the allocation of housing accommodation held by the Executive to prospective tenants or occupiers.”.

(3) In paragraph (3), at the end there shall be added the words “and with the provisions of Article 22A when allocating housing accommodation held by it”.

(4) After paragraph (6) there shall be inserted—

“(7) For the purposes of this Article and Article 22A the Executive allocates housing accommodation when it selects a person to be a secure or introductory tenant of housing accommodation held by it.

(8) The reference in paragraph (7) to selecting a person to be a secure tenant includes deciding to exercise any power to notify an existing tenant or licensee that his tenancy or licence is to be a secure tenancy.”.

(5) After Article 22 of the Order of 1981 there shall be inserted —

#### **“Allocation only to eligible persons**

**22A.**—(1) The Executive shall not allocate housing accommodation—

- (a) to a person from abroad, if he is a person subject to immigration control who is ineligible for an allocation of housing accommodation by virtue of section 118 of the Immigration and Asylum Act 1999 (c. 33);
- (b) to any other person from abroad, if he is a person who is ineligible for such an allocation by virtue of regulations made under paragraph (3);

- (c) to a person who the Executive has decided is to be treated as ineligible for such an allocation by virtue of paragraph (6); or
  - (d) to two or more persons jointly if any of them is a person mentioned in subparagraph (a), (b) or (c).
- (2) Subject to paragraph (1), any person may be allocated housing accommodation by the Executive (whether on his application or otherwise).
- (3) The Secretary of State may, for the purposes of paragraph (1)(b), by regulations specify classes of persons from abroad who are ineligible for an allocation of housing accommodation by the Executive.
- (4) Regulations made under paragraph (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument, and section 5 of the Statutory Instruments Act 1946 (c. 36) shall apply accordingly.
- (5) Nothing in paragraph (1)(a) or (b) affects the eligibility of a person who is already a secure or introductory tenant of the Executive.
- (6) The Executive may decide that an applicant is to be treated as ineligible for an allocation of housing accommodation by it if it is satisfied that—
- (a) he, or a member of his household, has been guilty of unacceptable behaviour serious enough to make him unsuitable to be a tenant of the Executive; and
  - (b) in the circumstances at the time his application is considered, he is unsuitable to be a tenant of the Executive by reason of that behaviour.
- (7) The only behaviour which may be regarded by the Executive as unacceptable for the purposes of paragraph (6)(a) is—
- (a) behaviour of the person concerned which would (if he were a secure tenant of the Executive) entitle the Executive to a possession order under Article 29 of the [Housing \(Northern Ireland\) Order 1983 \(NI 15\)](#) on Ground 2 or Ground 3 in Schedule 3 to that Order; or
  - (b) behaviour of a member of his household which would (if he were a person residing with a secure tenant of the Executive) entitle the Executive to such a possession order.
- (8) If the Executive decides that an applicant for housing accommodation—
- (a) is ineligible for an allocation by virtue of paragraph (1)(a) or (b); or
  - (b) is to be treated as ineligible for such an allocation by virtue of paragraph (6),
- the Executive shall notify the applicant of its decision and the grounds for it.
- (9) That notice shall be given in writing and, if not received by the applicant, shall be treated as having been given if it is made available at the Executive's district office for a reasonable period for collection by him or on his behalf.
- (10) A person who is being treated by the Executive as ineligible by virtue of paragraph (6) may (if he considers that he should no longer be treated as ineligible) make a fresh application to the Executive for an allocation of housing accommodation by it.”.

### **Caravan sites for members of the Irish Traveller community**

**125.**—(1) After Article 28 of the Order of 1981 (Executive's supplementary powers with respect to the provision of housing accommodation) there shall be inserted—

#### **“Provision of caravan sites for members of the Irish Traveller community**

**28A.**—(1) The Executive—

- (a) shall provide such caravan sites as appear to it to be appropriate for the accommodation of caravans of members of the Irish Traveller community, and
  - (b) may manage those sites or lease them to some other person.
- (2) For the purposes of paragraph (1), the Executive may, under Article 87, acquire land—
- (a) on which to construct caravan sites,
  - (b) which is in use as a caravan site, or
  - (c) which has been laid out as a caravan site.
- (3) The Executive may make such provision as appears to it desirable in connection with caravan sites provided under this Article and, in particular, may provide for the use of those occupying such sites, any services or facilities for their health or convenience that appear to it to be appropriate.
- (4) In exercising their powers under this Article, the Executive shall have regard to any model conditions specified by the Department of the Environment under section 5(7) of the Caravans Act (Northern Ireland) 1963 (c. 17).
- (5) The Executive shall make in respect of the use of caravan sites provided by it, and of any services or facilities made available under this Article, such reasonable charges as it may determine.
- (6) The Executive shall not have power under this Article to provide caravans.
- (7) In this Article—
- (a) “caravan” and “caravan site” have the same meaning as in the Caravans Act (Northern Ireland) 1963; and
  - (b) any reference to the Irish Traveller community shall be construed in accordance with Article 5(2)(a) of the [Race Relations \(Northern Ireland\) Order 1997 \(NI 6\)](#).”
- (2) Schedule 2, which makes provision for the transfer to the Executive of caravan sites provided by district councils for the accommodation of travelling people, shall have effect.

### **Acquisition of land by the Executive for amenity purposes**

**126.** After Article 31A of the Order of 1981 (acquisition and development of land for resettlement of certain undertakings) there shall be inserted —

#### **“Acquisition of land by the Executive for amenity purposes**

**31B.**—(1) The Executive’s power to acquire land under Article 87 shall be exercisable for the purposes of effecting or assisting the improvement of the amenities of any area consisting mainly of housing accommodation.

(2) The Executive may, for the purposes mentioned in paragraph (1), carry out works on any land acquired by the Executive for those purposes.”

### **Termination of home insulation schemes**

**127.** Chapter II of Part IV of the Order of 1981 (home insulation grants), which has been superseded by Article 17 of the [Social Security \(Northern Ireland\) Order 1990 \(NI 15\)](#), shall cease to have effect.

### **Disposal of houses let by the Executive to secure tenants**

**128.**—(1) Article 88C of the Order of 1981 (disposal of houses let by the Executive to secure tenants) shall be amended as follows.

(2) In paragraph (3), sub-paragraph (b) and the word “and” immediately preceding it shall be omitted.

(3) In paragraph (5) for the words “paragraph (3)(b)” there shall be substituted “paragraphs (5A) and (5B)”.

(4) After paragraph (5) there shall be inserted—

“(5A) The Department shall not give its consent if it appears to the Department that a majority of the tenants of the houses to which the application relates do not wish the disposal to proceed; but this does not affect the Department’s general discretion to refuse consent on grounds relating to whether a disposal has the support of the tenants or on any other ground.

(5B) In making its decision the Department may have regard to any information available to it; and the Executive shall give the Department such information as to the representations made to it by tenants and others, and other relevant matters, as the Department may require.”.

(5) Paragraph (6) shall be omitted.

(6) The amendments made by this Article apply to disposals made after the coming into operation of this Article.

#### **Increase of penalty for obstruction of an authorised officer**

**129.** In Article 160(1) of the Order of 1981 (penalty for obstruction), for the reference to level 3 on the standard scale there shall be substituted a reference to level 4 on the standard scale.

#### **Membership of the Executive**

**130.—**(1) Schedule 1 to the Order of 1981 (the Northern Ireland Housing Executive), shall be amended in accordance with paragraphs (2) to (4).

(2) In sub-paragraph (1) of paragraph 1 for the words “persons nominated by the Council from its members” there shall be substituted “members of the Council”.

(3) After that sub-paragraph there shall be inserted—

“(1A) The Council shall, in accordance with such procedure as the Department may direct, nominate such number of persons who are members of the Council as the Department may determine for consideration for appointment as members of the Executive.”.

(4) For paragraph 2 there shall be substituted—

“**2.** In making appointments under paragraph (1), the Minister in charge of the Department shall as far as practicable secure that the members of the Executive as a group, are representative of the community in Northern Ireland.”.

(5) In Schedule 2 to the Order of 1981, in paragraph 2 (proceedings of the Council), at the beginning there shall be inserted “Subject to paragraph 1(1A) of Schedule 1,”.

### **CHAPTER III**

#### **AMENDMENTS OF THE ORDER OF 1983**

#### **House sales by registered housing associations**

**131.** After Article 3 of the Order of 1983 (house sales scheme) there shall be inserted—

##### **“House sales by registered housing associations**

**3A.—**(1) The Department shall make a scheme for registered housing associations to offer for sale or lease to their secure tenants, the dwelling-houses occupied by those tenants.

(2) A scheme made under paragraph (1) may contain such provision as the Department considers appropriate and, without prejudice to the generality of the foregoing, shall include provision with respect to the matters mentioned in sub-paragraphs (a) to (f) of Article 3(2).

(3) A scheme made under paragraph (1) may include provision for registered housing associations to offer, in such circumstances as the scheme may provide, to grant equity-sharing leases in relation to dwelling-houses to which the scheme applies.

(4) Registered housing associations shall comply with a scheme made under paragraph (1).

(5) The Department may at any time amend a scheme made under paragraph (1) or a scheme replacing any such scheme; and paragraphs (2) to (4) shall have effect in relation to an amended scheme or a scheme replacing an existing scheme as they have effect in relation to a scheme.”.

### **Tenant’s improvements**

**132.**—(1) After Article 34 of the Order of 1983 (tenant’s improvements) there shall be inserted—

#### **“Right to compensation for improvements**

**34A.**—(1) The duty imposed by this Article shall apply in relation to cases where a secure tenant whose landlord is the Executive has made an improvement and—

- (a) the Executive has given its written consent to the improvement or is treated as having given its consent; and
- (b) the work on the improvement was begun not earlier than the date of the coming into operation of Article 132 of the Housing (Northern Ireland) Order 2003; and
- (c) at the time when the tenancy comes to an end the landlord is the Executive and the tenancy is a secure tenancy.

(2) The Executive shall prepare and submit to the Department a scheme for entitling a secure tenant whose landlord is the Executive—

- (a) at the time when the tenancy comes to an end; and
- (b) subject to and in accordance with the scheme,

to be paid compensation by the Executive in respect of the improvement.

(3) A scheme submitted under paragraph (2) may contain such provision as the Executive thinks appropriate and, without prejudice to the generality of the foregoing, shall include provision with respect to—

- (a) the types of improvement to which the scheme applies;
- (b) the manner in which and the period within which claims for compensation under the scheme are to be made, and the procedure to be followed in determining such claims;
- (c) the conditions under which compensation shall not be payable;
- (d) the method by which sums of compensation payable under the scheme are to be calculated;
- (e) the minimum and maximum amounts of compensation payable in respect of any claim for compensation; and
- (f) the circumstances in which the Executive may set off against any compensation payable under the scheme any sums owed to it by the tenant to whom compensation is payable.

(4) The Department may approve a scheme submitted under paragraph (2) with or without modifications.

(5) The Executive shall comply with a scheme approved by the Department under paragraph (4).

(6) The Executive may at any time, and if the Department so directs shall, submit to the Department proposals amending a scheme approved under paragraph (4) or a scheme replacing any such scheme; and paragraphs (4) and (5) shall have effect in relation to those proposals or a scheme replacing an existing scheme as they have effect in relation to a scheme.

(7) For the purposes of this Article a tenancy shall be treated as coming to an end if—

- (a) it ceases to be a secure tenancy by reason of the landlord condition no longer being satisfied, or
- (b) it is assigned, with the consent of the landlord, to a person to whom Article 32A(1) applies.”.

(2) In Article 35(2) of the Order of 1983 (reimbursement of cost of tenant’s improvements)—

- (a) for the word “shall” there shall be substituted “may”;
- (b) after the word “power” there shall be inserted “or duty”.

(3) The amendments made by paragraph (2) do not apply where a secure tenant has made an improvement and work on the improvement was begun before the date of the coming into operation of this Article.

(4) In paragraph (3) “improvement” has the meaning given in Article 34(3) of the Order of 1983.

### **Right of secure tenants of the Executive to have repairs carried out**

**133.** For Article 38A of the Order of 1983 (right to carry out repairs) there shall be substituted—

#### **“Right to have repairs carried out**

**38A.—**(1) The Executive shall prepare and submit to the Department a scheme for entitling secure tenants of the Executive to have qualifying repairs carried out, at the Executive’s expense, to the dwelling-houses of which they are secure tenants.

(2) A scheme submitted under paragraph (1) may contain such provision as the Executive thinks appropriate and, without prejudice to the foregoing, shall include provision with respect to—

- (a) the period of time within which the repairs must be carried out;
- (b) the payment of sums to tenants by way of compensation where the repairs are not carried out within the period of time specified in the scheme;
- (c) the method by which sums of compensation payable under the scheme are to be calculated; and
- (d) the circumstances in which the Executive may set off against any compensation payable under the scheme any sums owed to it by the tenant to whom compensation is payable.

(3) The Department may approve a scheme submitted under paragraph (1) with or without modifications.

(4) The Executive shall comply with a scheme approved by the Department under paragraph (3).

(5) The Executive may at any time, and if the Department so directs shall, submit to the Department proposals amending a scheme approved under paragraph (3) or a scheme



replacing any such scheme; and paragraphs (3) and (4) shall have effect in relation to those proposals or a scheme replacing an existing scheme as they have effect in relation to a scheme.

(6) Any question arising under a scheme approved under paragraph (3) may be referred to and determined by the county court.

(7) In this Article—

“qualifying repair”, in relation to a dwelling-house, means any repair of a description specified in a scheme approved under paragraph (3) which the Executive is obliged by a repairing covenant to carry out;

“repairing covenant”, in relation to a dwelling-house, means a covenant (whether express or implied) obliging the Executive to keep in repair the dwelling-house or any part of the dwelling-house.”.

### **Tenancies which are not secure tenancies**

**134.**—(1) Schedule 2 to the Order of 1983 (tenancies which are not secure tenancies) shall be amended as follows.

(2) In paragraph 2 (premises occupied under contract of employment)—

(a) in sub-paragraph (1), at the beginning there shall be inserted “Subject to sub-paragraph (3)”, and

(b) after sub-paragraph (2), there shall be added—

“(3) A tenancy under sub-paragraph (1) shall become a secure tenancy if the landlord notifies the tenant that the tenancy is to be regarded as a secure tenancy.”.

(3) For paragraph 3A, as inserted by paragraph 8 of Schedule 2 to the Order of 1988, there shall be substituted—

#### *“Accommodation for homeless persons*

**3A.** A tenancy granted by the landlord in pursuance of any function of the Executive under Part II of the Housing (Northern Ireland) Order 1988 (housing the homeless) is not a secure tenancy unless the landlord has notified the tenant that the tenancy is to be regarded as a secure tenancy.”.

(4) After paragraph 9 there shall be added the following paragraph—

#### *“Qualifying shorthold tenancies*

**10.**—(1) A tenancy is not a secure tenancy if it is a qualifying shorthold tenancy within the meaning of sub-paragraph (2).

(2) A tenancy which is granted—

(a) after the coming into operation of Article 134 of the Housing (Northern Ireland) Order 2003; and

(b) for a term certain of not less than one year and not more than 5 years,

is a qualifying shorthold tenancy if and so long as—

(i) the estate of the landlord belongs to a registered housing association; and

(ii) the tenancy satisfies such other requirements or conditions as may be prescribed.”.

## CHAPTER IV

### AMENDMENTS OF THE ORDER OF 1988

#### **Definition of “homelessness”**

**135.** In Article 3 of the Order of 1988 (homelessness and threatened homelessness), in paragraph (1) for the words “in Northern Ireland” there shall be substituted “available for his occupation in the United Kingdom or elsewhere”.

#### **Becoming homeless intentionally**

**136.** In Article 6 of the Order of 1988 (becoming homeless intentionally), after paragraph (3) there shall be inserted—

“(3A) A person shall be treated as becoming homeless intentionally, or as becoming threatened with homelessness intentionally, if—

- (a) he enters into an arrangement under which he is required to cease to occupy accommodation which it would be reasonable for him to continue to occupy, and
- (b) the purpose of the arrangement is to enable him to become entitled to assistance under this Part,

and there is no other good reason why he is homeless.”.

#### **Eligibility for housing assistance**

**137.** After Article 7 of the Order of 1988 (inquiry into cases of homelessness or threatened homelessness) there shall be inserted—

##### **“Persons not eligible for housing assistance**

**7A.—(1)** A person is not eligible for assistance under this Part—

- (a) if he is a person from abroad who is subject to immigration control and is ineligible for such assistance by virtue of section 119 of the Immigration and Asylum Act 1999 (c. 33);
- (b) if he is any other person from abroad who is ineligible for such assistance by virtue of regulations made under paragraph (2); or
- (c) if he is a person who the Executive has decided is to be treated as ineligible for such assistance by virtue of paragraph (5).

(2) The Secretary of State may, for the purposes of paragraph (1)(b), make provision by regulations as to other descriptions of persons who are to be treated as persons from abroad who are ineligible for assistance under this Part.

(3) Regulations made under paragraph (2) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument, and section 5 of the Statutory Instruments Act 1946 (c. 36) shall apply accordingly.

(4) A person from abroad who is not eligible for assistance under this Part shall be disregarded in determining for the purposes of this Part whether another person—

- (a) is homeless or threatened with homelessness, or
- (b) has a priority need for accommodation.

(5) The Executive may decide that an applicant is to be treated as ineligible for assistance under this Part if it is satisfied that—

- (a) he, or a member of his household, has been guilty of unacceptable behaviour serious enough to make him unsuitable to be a tenant of the Executive; and
  - (b) in the circumstances at the time his application is considered, he is unsuitable to be a tenant of the Executive by reason of that behaviour.
- (6) The only behaviour which may be regarded by the Executive as unacceptable for the purposes of paragraph (5)(a) is—
- (a) behaviour of the person concerned which would (if he were a secure tenant of the Executive) entitle the Executive to a possession order under Article 29 of the Order of 1983 on Ground 2 or Ground 3 in Schedule 3 to that Order; or
  - (b) behaviour of a member of his household which would (if he were a person residing with a secure tenant of the Executive) entitle the Executive to such a possession order.
- (7) Where the Executive is satisfied that a person is not eligible for assistance under this Part by virtue of paragraph (1)(c) of this Article but has a priority need, it shall treat him in the same manner as an applicant to whom paragraph (3) of Article 10 applies.
- (8) Where the Executive is satisfied that a person—
- (a) is not eligible for assistance under this Part by virtue of paragraph (1)(a) or (b); or
  - (b) is not eligible for assistance under this Part by virtue of paragraph (1)(c) and does not have a priority need;

it shall treat him in the same manner as an applicant to whom paragraph (4) of Article 10 applies.

#### **Provision of information by Secretary of State**

**7B.**—(1) The Secretary of State shall, at the request of the Executive, provide the Executive with such information as it may require to enable it to determine for the purposes of paragraph (1)(a) or (b) of Article 7A whether such a person is eligible for assistance under this Part.

(2) Where that information is given otherwise than in writing, the Secretary of State shall confirm it in writing if a written request is made to him by the Executive.

(3) If it appears to the Secretary of State that any application, decision or other change of circumstances has affected the status of a person about whom information was previously provided by him to the Executive under this Article, he shall inform the Executive in writing of that fact, the reason for it and the date on which the previous information became inaccurate.”.

#### **Emergency grants**

**138.** After Article 29 of the Order of 1988 (scheme for purchase of evacuated dwellings) there shall be inserted—

##### **“Scheme for emergency grants**

**29A.**—(1) The Executive shall submit to the Department a scheme making provision to pay grants to persons—

- (a) who are eligible tenants of houses, and
- (b) who, in consequence of acts of violence, threats to commit such acts or other intimidation, are unable or unwilling to occupy those houses.

- (2) A person is an eligible tenant of a house for the purposes of a scheme if, and only if, he has—
- (a) a secure tenancy, within the meaning of Article 25 of the Order of 1983;
  - (b) a protected tenancy or a statutory tenancy, within the meaning of the Rent (Northern Ireland) Order 1978; or
  - (c) a tenancy of another description specified for the purposes of this paragraph by order of the Department.
- (3) A scheme shall include provision as to—
- (a) the circumstances in which grants are to be payable;
  - (b) the method by which (subject to paragraph (5)) the amount of grant payable to any person is to be calculated;
  - (c) the conditions which may be attached to a grant, including, in particular, conditions for repayment, in circumstances specified in the scheme, of the whole or part of the grant; and
  - (d) any other matter specified by the Department.
- (4) A scheme may include such further provision as the Executive considers appropriate.
- (5) The Department may by order specify the maximum amount of grant which may be paid to a person under a scheme.
- (6) The Department may approve a scheme submitted under paragraph (1) with or without modifications.
- (7) The Executive shall comply with a scheme approved by the Department under paragraph (6).
- (8) The Executive may at any time, and if the Department so directs shall, submit to the Department proposals for amending a scheme approved under paragraph (6) or a scheme replacing any such scheme, and paragraphs (6) and (7) shall have effect in relation to those proposals or a scheme replacing an existing scheme as they have effect in relation to a scheme.
- (9) An order made under paragraph (2)(c) or (5) shall be subject to negative resolution.
- (10) The powers of the Executive shall be deemed always to have included power to make and operate a scheme making provision corresponding to that mentioned in paragraph (1).”.

## CHAPTER V

### AMENDMENTS OF THE ORDER OF 1992

#### **Realisation of value of Department’s loans portfolio**

**139.** After Article 6 of the Order of 1992 (borrowing by housing associations) there shall be inserted—

#### **“Realisation of value of Department’s loans portfolio**

**6A.—**(1) The Department may enter into such arrangements as it considers appropriate for the purpose of realising the value of the whole or part of its loans portfolio.

(2) The arrangements may provide, with respect to the purpose mentioned in paragraph (1), for—

- (a) the transfer of any estate or interest of the Department, or

- (b) the creation or disposal of economic interests not involving the transfer of an estate or interest,

and may extend to such incidental or ancillary matters as the Department considers appropriate.

(3) In this Article the Department’s “loans portfolio” means the Department’s rights or obligations in relation to—

- (a) any loans made by the Department to registered housing associations under Article 6, or
- (b) any securities related to such loans.

(4) Nothing in the terms of any loan or related transaction entered into by the Department shall be construed as impliedly prohibiting or restricting the Department from dealing with its loans portfolio in accordance with this Article.”.

### **Rent for housing accommodation provided by registered housing associations**

**140.**—(1) Article 8 of the Order of 1992 (rents to be charged for housing accommodation provided by registered housing associations) shall be amended as follows.

(2) For paragraph (3) there shall be substituted—

“(3) The power conferred on a registered housing association under paragraph (1) may be exercised to fix the amount of rent to be charged under a tenancy by way of an equity-sharing lease, whenever granted.”.

(3) In paragraph (4) for the words “paragraphs (2) and (3)” there shall be substituted “paragraph (2)”.

(4) In paragraph (7) for sub-paragraphs (a) and (b) there shall be substituted “may be exercised in relation to any particular tenancy on one occasion only during any financial year”.

### **Disposal of land by registered housing associations**

**141.** In Article 13 of the Order of 1992 (disposal of land by registered housing associations, etc.), after paragraph (7) there shall be inserted—

“(7A) Paragraph (7) shall not apply in relation to any land acquired by any registered housing association specified by the Department if the association acquired the land for the purpose of granting an equity-sharing lease of that land.”.

### **Repairs grants**

**142.**—(1) In Article 74 of the Order of 1992 (repairs grants towards costs of meeting certain statutory repairing obligations in respect of dwelling-houses), after paragraph (2) there shall be inserted—

“(2A) A repairs grant shall not be payable—

- (a) to a person who is an owner of the dwelling-house and who occupies it as his only or principal home; or
- (b) to a person who is a tenant of a dwelling-house at a time when the estate of the landlord under the tenancy belongs to—

- (i) the Crown (whether in right of Her Majesty’s Government in the United Kingdom or in Northern Ireland),

- (ii) a government department (including a department of the Government of the United Kingdom),

- (iii) the Executive, or
  - (iv) a registered housing association; or
  - (c) to a person of such other description as the Department may prescribe.”.
- (2) In Schedule 3 to the Order of 1992 (provisions with respect to repairs grants), in paragraph 3—
- (a) in sub-paragraph (3), for “£5,500” there shall be substituted “£7,500”;
  - (b) in sub-paragraph (5), at the beginning there shall be inserted “Subject to sub-paragraph (6)”;
  - (c) after sub-paragraph (5) there shall be added—
    - “(6) The total amount of repairs grant payable in any period of 3 years in respect of any one dwelling-house shall not exceed £7,500 or such other amount as the Department may by order specify.”.
- (3) The amendments made by this Article apply to a repairs grant payable under Article 74 of the Order of 1992 by the Executive towards the cost of works specified—
- (a) in a certificate of disrepair issued in respect of a dwelling-house under Article 46 of the [Rent \(Northern Ireland\) Order 1978 \(NI 20\)](#), or
  - (b) in a notice served in respect of a dwelling-house under section 110 of the [Public Health \(Ireland\) Act 1878 \(c. 52\)](#),
- on or after the day of the coming into operation of this Article.

#### **Amendment of definition of “multiple occupation”**

**143.** In Article 75 of the Order of 1992 (meaning of “multiple occupation”) for paragraph (1) there shall be substituted—

“(1) In this Part “house in multiple occupation” means a house occupied by more than 2 qualifying persons, being persons who are not all members of the same family.

(1A) In paragraph (1) “qualifying persons” means persons whose only or principal residence is the house in multiple occupation, and for that purpose a person undertaking a full time course of further or higher education who resides during term time in a house shall, during the period of that person’s residence, be regarded as residing there as his only or principal residence.”.

#### **Registration scheme for houses in multiple occupation**

**144.** Schedule 3, which amends Part IV of the Order of 1992 to provide a registration scheme for houses in multiple occupation, shall have effect.

#### **Service of certain documents**

**145.** In Article 104 of the Order of 1992 (service of certain documents)—

- (a) in paragraph (1) the words “Executive as” and “the Executive by” shall cease to have effect;
- (b) in paragraph (2)—
  - (i) after the words “to the Executive” there shall be inserted “or such other body as may be prescribed”;
  - (ii) in sub-paragraph (a) the words “by the Executive” shall cease to have effect.

## CHAPTER VI OTHER AMENDMENTS

### Complaints against registered housing associations

**146.** In Schedule 2 to the [Commissioner for Complaints \(Northern Ireland\) Order 1996 \(NI 7\)](#) (bodies subject to investigation), at the appropriate place in alphabetical order, there shall be inserted the following entry—

“A registered housing association within the meaning of Article 3(2) of the Housing (Northern Ireland) Order 1992.”.

### Minor and consequential amendments

**147.**—(1) The statutory provisions mentioned in Schedule 4 shall have effect with the amendments specified there.

(2) The Department may by order make such other amendments or repeals of any statutory provision as appear to it to be necessary or expedient in consequence of any of the provisions of this Order.

## PART V SUPPLEMENTAL PROVISIONS

### Orders and regulations

**148.**—(1) Any regulations or order made by the Department under this Order may contain such incidental, supplementary or transitional provisions or savings as the Department considers appropriate.

(2) Subject to paragraphs (3) and (4), an order or regulations made by the Department under this Order shall be subject to negative resolution.

(3) Paragraph (2) does not apply to—

- (a) an order made under Article 1 (commencement); or
- (b) regulations which only prescribe forms or particulars to be contained in forms.

(4) An order made under, or including provision for the purposes of, paragraph (a), (b) or (g) of paragraph 2(3) of Schedule 2 shall be subject to affirmative resolution.

### Repeals

**149.** The statutory provisions mentioned in Schedule 5 are repealed to the extent specified there.

Clerk of the Privy Council.

## SCHEDULES

### SCHEDULE 1

#### AMENDMENTS RELATING TO TRANSFER OF DUTY TO KEEP REGISTER OF RENTS

##### *The Rent (Northern Ireland) Order 1978 (NI 20)*

**1.** In Article 25 (register of rents) for any reference to the Department substitute a reference to the Executive.

**2.—(1)** The provision inserted by Article 99 of the Order of 1992 as Article 25A of the Rent (Northern Ireland) Order 1978 (removal of tenancies from the register) shall be re-numbered as Article 25B; and any reference to that Article in any other statutory provision shall have effect accordingly.

(2) In that Article for any reference to the Department substitute a reference to the Executive.

**3.** In Articles 26, 27 and 30 for a reference to the Department substitute a reference to the Executive.

**4.—(1)** In paragraph (1) of Article 33 (review of registered rents), for the words “The Department” substitute “The Executive”.

(2) For paragraph (2) of that Article substitute—

“(2) Where the Executive determines under paragraph (1) that those registered rents should be increased, it shall make a recommendation to the Department that those rents should be increased.

(2A) Where the Department accepts a recommendation under paragraph (2), it shall make an order providing for the increase of those rents—

(a) by an amount recommended by the Executive, or

(b) by such other amount as the Department, after consultation with the Executive, considers appropriate.

(2B) The amount of an increase may be expressed as a percentage.”

(3) In paragraph (3) of that Article for the words “paragraph (2), it” substitute “paragraph (2A), the Executive”.

**5.** In Article 34 (collection of information about certain tenancies) for the words “The Department” substitute “The Executive”.

**6.—(1)** In paragraph (7) of Article 48 (enforcement, etc. of certificates of disrepair), for the words from “the Department” to “pay” substitute “the Executive may, with the consent of the Department, pay”.

(2) In paragraph (8)(a) of that Article for the words “the Department” substitute “the Executive”.

**7.** In Article 72 (information) after the words “The Department” insert “and the Executive, acting either jointly or individually”.



8. In Schedule 6 (applications for determination of appropriate rents) in sub-paragraphs (3) and (4) of paragraph 4 for the words “the Department” substitute “the Executive”.

*The Housing (Northern Ireland) Order 1983 (NI 15)*

9. In Article 92 (protected shorthold tenancies), in sub-paragraph (c)(i) of paragraph (1) for the words “the Department” substitute “the Executive”.

SCHEDULE 2

Article 125(2)

TRANSFER TO THE EXECUTIVE OF TRAVELLERS' CARAVAN SITES

1. In this Schedule—

“the appointed day” means the day appointed for the coming into operation of Article 125;

“transferee” means the Executive;

“transferor” means any district council which provides a travellers' caravan site;

“travellers' caravan site” means any caravan site—

(a) which is provided under section 21 of the Caravans Act (Northern Ireland) 1963 (c. 17) for the accommodation of travelling people, and

(b) in respect of which the Department has made a grant under Article 8 of the [Local Government \(Miscellaneous Provisions\) \(Northern Ireland\) Order 1985 \(NI 15\)](#),

and includes any working space and facilities for the carrying on of such activities as are normally carried on by travelling people at such a site.

2.—(1) Subject to the provisions of this Schedule and any order made under sub-paragraph (2), there shall, on the appointed day, be transferred to and vested in the transferee by virtue of this Schedule—

(a) any real or personal property which, immediately before the appointed day, was held by a transferor wholly or partly for the purposes of providing a travellers' caravan site; and

(b) any rights and liabilities to which a transferor was entitled or subject immediately before that day in relation to, or in connection with, any such property.

(2) The Department may by order make such supplementary, consequential or transitional provision as appears to it to be necessary or expedient in consequence of the coming into operation of Article 125 or this Schedule.

(3) An order under sub-paragraph (2) may, in particular, provide—

(a) for excluding any property, right or liability from the operation of this Schedule or including any property, right or liability within its scope;

(b) for the determination, in default of agreement, of any question arising as to whether any property, right or liability will be or has been transferred under this Schedule;

(c) for the issue of certificates which shall be conclusive evidence that any property, right or liability has been transferred under this Schedule;

(d) where any property, right or liability transferred under this Schedule or the title to any such property or right is entered on any register kept in pursuance of any statutory provision, for the amendment of the entry by the person keeping the register;

(e) for enabling pending proceedings relating to any property, rights or liabilities transferred under this Schedule to be continued;

- (f) for substituting for any reference to a transferor, in any statutory provision or any document whatsoever affecting any property, right or liability transferred under this Schedule, a reference to the transferee;
  - (g) for amending any statutory provision.
3. Any travellers' caravan site which is transferred to the transferee by virtue of this Schedule, shall be treated, from the appointed day, as a caravan site provided and managed by the transferee under Article 28A of the Order of 1981, and that Article shall apply accordingly.
4. Part IV of the [Local Government \(Miscellaneous Provisions\) \(Northern Ireland\) Order 1985 \(NI 15\)](#) (control by district councils of encampments for travelling people) shall cease to have effect.

### SCHEDULE 3

#### REGISTRATION SCHEME FOR HOUSES IN MULTIPLE OCCUPATION

In Part IV of the Order of 1992 (houses in multiple occupation), after Article 75 (meaning of “multiple occupation”) there shall be inserted—

##### **“Interpretation of other expressions used in this Part**

**75A.** In this Part—

“occupancy direction”, in connection with special control provisions, has the meaning given in Article 75I;

“registration scheme” has the meaning given in Article 75B;

“relevant management failure”, for the purposes of Articles 75G to 75J, has the meaning given in Article 75K;

“special control provisions” has the meaning given in Article 75G.

##### **Registration scheme for houses in multiple occupation**

**75B.**—(1) The Executive shall prepare and submit to the Department a scheme (in this Article and Articles 75C to 75M referred to as a “registration scheme”) authorising the Executive to compile and maintain a register of houses in multiple occupation.

(2) Subject to Articles 75C to 75J, a registration scheme may contain such provision as the Executive considers appropriate.

(3) A registration scheme need not be for the whole of Northern Ireland and need not apply to every description of house in multiple occupation.

(4) The Department may approve a registration scheme submitted to it under paragraph (1), with or without modification.

(5) The Executive shall comply with a registration scheme approved under paragraph (4).

(6) The Executive may at any time and, if the Department so directs shall, submit to the Department proposals amending a registration scheme; and paragraphs (4) and (5) shall have effect in relation to those proposals or a registration scheme replacing an existing registration scheme as they have in relation to a registration scheme.

### **Contents of registration scheme**

**75C.**—(1) A registration scheme shall make it the duty of such person as may be specified by the scheme to register a house to which the scheme applies and to renew the registration as and when required by the scheme.

- (2) A registration scheme shall provide that registration under the scheme—
  - (a) shall be for a period of 5 years from the date of first registration, and
  - (b) may on application be renewed, subject to such conditions as are specified in the scheme, for further periods of 5 years at a time.
- (3) A registration scheme may—
  - (a) specify the particulars to be inserted in the register,
  - (b) make it the duty of such persons as may be specified by the scheme to give the Executive as regards a house all or any of the particulars specified in the scheme,
  - (c) make it the duty of such persons as may be specified by the scheme to notify the Executive of any change which makes it necessary to alter the particulars inserted in the register as regards a house.
- (4) A registration scheme shall, subject to paragraph (5)—
  - (a) require the payment on first registration of a reasonable fee of an amount determined by the Executive, and
  - (b) require the payment on any renewal of registration of half the fee which would then have been payable on a first registration of the house.
- (5) The Department may by order make provision as to the fee payable on registration—
  - (a) specifying the maximum permissible fee (whether by specifying an amount or a method for calculating an amount), and
  - (b) specifying cases in which no fee is payable.

### **Control provisions**

**75D.**—(1) A registration scheme may contain control provisions, that is to say, provisions for preventing multiple occupation of a house unless—

- (a) the house is registered, and
- (b) the number of households or persons occupying it does not exceed the number registered for it.

(2) Control provisions may prohibit persons from permitting others to take up residence in a house or part of a house but shall not prohibit a person from taking up or remaining in residence in the house.

(3) Control provisions shall not prevent the occupation of a house by a greater number of households or persons than the number registered for it if all of those households or persons have been in occupation of the house without interruption since before the number was first registered.

### **Control provisions: decisions on applications and appeals**

**75E.**—(1) Control provisions may enable the Executive, on an application for first registration of a house or a renewal or variation of registration—

- (a) to refuse the application on the ground that the house is unsuitable and incapable of being made suitable for such occupation as would be permitted if the application were granted;

- (b) to refuse the application on the ground that the person having control of the house or the person intended to be the person managing the house is not a fit and proper person;
- (c) to require as a condition of granting the application that such works as will make the house suitable for such occupation as would be permitted if the application were granted are executed within such time as the Executive may determine;
- (d) to impose such conditions relating to the management of the house during the period of registration as the Executive may determine.

(2) Control provisions shall provide that the Executive shall give an applicant a written statement of its reasons where it—

- (a) refuses to grant his application for first registration or for a renewal or variation of registration,
- (b) requires the execution of works as a condition of granting such an application, or
- (c) imposes conditions relating to the management of the house.

(3) Where the Executive—

- (a) notifies an applicant that it refuses to grant his application for first registration or for the renewal or variation of a registration,
- (b) notifies an applicant that it requires the execution of works as a condition of granting such an application,
- (c) notifies an applicant that it intends to impose conditions relating to the management of the house, or
- (d) does not within the specified period of receiving the application, register the house or vary or renew the registration in accordance with the application,

the applicant may, within 21 days of being so notified or of the end of the specified period, appeal to the county court.

In this paragraph “the specified period” means such period as the registration scheme shall specify.

(4) On appeal the court may confirm, reverse or vary the decision of the Executive.

(5) Where the decision of the Executive was a refusal—

- (a) to grant an application for first registration of a house, or
- (b) for the renewal or variation of the registration,

the court may direct the Executive to grant the application as made or as varied in such manner as the court may direct.

(6) For the purposes of paragraphs (4) and (5) an appeal under paragraph (3)(d) shall be treated as an appeal against a decision of the Executive to refuse the application.

(7) Where the decision of the Executive was to impose conditions relating to the management of the house, the court may direct the Executive to grant the application without imposing the conditions or to impose the conditions as varied in such manner as the court may direct.

### **Control provisions: other decisions and appeals**

**75F.**—(1) Control provisions may enable the Executive at any time during a period of registration (whether or not an application has been made)—

- (a) to alter the number of households or persons for which a house is registered or revoke the registration on the ground that the house is unsuitable and incapable of being made suitable for such occupation as is permitted by virtue of the registration; or
  - (b) to alter the number of households or persons for which a house is registered or revoke the registration unless such works are executed within a specified time as will make the house in question suitable for such occupation as is permitted by virtue of the registration.
- (2) Control provisions which confer on the Executive any such power as is mentioned in paragraph (1) shall provide that the Executive shall, in deciding whether to exercise the power, apply the same standards in relation to the circumstances existing at the time of the decision as were applied at the beginning of the period of registration.
- (3) Control provisions may enable the Executive to revoke a registration if it considers that—
- (a) the person having control of the house or the person managing it is not a fit and proper person, or
  - (b) there has been a breach of conditions relating to the management of the house.
- (4) Control provisions shall also provide that the Executive shall—
- (a) notify the person having control of a house and the person managing it of any decision by the Executive to exercise a power mentioned in paragraph (1) or (3) in relation to the house, and
  - (b) at the same time give them a written statement of the Executive's reasons.
- (5) A person who has been so notified may within 21 days of being so notified, or such longer period as the Executive may in writing allow, appeal to the county court.
- (6) On appeal the court may confirm, reverse or vary the decision of the Executive.

### **Special control provisions**

**75G.**—(1) A registration scheme which contains control provisions may also contain special control provisions, that is, provisions for preventing houses in multiple occupation, by reason of their existence or the behaviour of their residents, from adversely affecting the amenity or character of the area in which they are situated.

(2) Special control provisions may provide for the refusal or revocation of registration, for reducing the number of households or persons for which a house is registered and for imposing conditions of registration.

(3) The conditions of registration may include conditions relating to the management of the house or the behaviour of its occupants.

(4) Special control provisions may authorise the revocation of registration in the case of—

- (a) occupation of the house by more households or persons than the registration permits, or
- (b) a breach of any condition imposed in pursuance of the special control provisions,

which is due to a relevant management failure.

(5) Special control provisions shall not authorise the refusal of—

- (a) an application for first registration of a house which has been in operation as a house in multiple occupation since before the introduction by the Executive of a registration scheme with special control provisions, or
- (b) any application for renewal of registration of a house previously registered under such a scheme,

unless there has been a relevant management failure.

(6) Special control provisions may provide that in any other case where an application is made for first registration of a house the Executive may take into account the number of houses in multiple occupation in the vicinity in deciding whether to permit or refuse registration.

**Special control provisions: general provisions as to decisions and appeals**

**75H.**—(1) Special control provisions shall provide that the Executive shall give a written statement of its reasons to the applicant where it refuses to grant his application for first registration, or for a renewal or variation of a registration, or imposes conditions of registration on such an application.

(2) Special control provisions shall provide that the Executive shall give written notice to the person having control of the house and the person managing it of any decision by the Executive—

- (a) to vary the conditions of registration (otherwise than on an application to which paragraph (1) applies), or
- (b) to revoke the registration of the house,

and at the same time give them a written statement of the Executive's reasons.

(3) Where in accordance with special control provisions the Executive—

- (a) notifies an applicant that it refuses to grant his application for first registration or for the renewal or variation of a registration,
- (b) notifies such an applicant of the imposition of conditions of registration, or
- (c) gives notice to the person having control or the person managing the house of any such decision as is mentioned in paragraph (2),

that person may, within 21 days of being so notified, or such longer period as the Executive may in writing allow, appeal to the county court.

(4) If on appeal it appears to the court—

- (a) that there has been any informality, defect or error in, or in connection with, the Executive's decision, or
- (b) that the Executive acted unreasonably,

the court may reverse or vary the decision of the Executive.

(5) In so far as an appeal is based on the ground mentioned in paragraph (4)(a), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(6) Where the decision of the Executive was a refusal—

- (a) to grant an application for first registration of a house, or
- (b) for the renewal or variation of the registration,

the court may direct the Executive to grant the application as made or as varied in such manner as the court may direct.

(7) Where the decision of the Executive was to impose conditions of registration, the court may direct the Executive to grant the application without imposing the conditions or to impose the conditions as varied in such manner as the court may direct.

### **Special control provisions: occupancy directions**

**75I.**—(1) Special control provisions may provide that where the Executive decides that the registration of a house should be revoked the Executive may direct that the level of occupation of the house be reduced, within such period of not less than 28 days as it may direct, to a level such that the registration scheme does not apply.

Such a direction is referred to in this Part as an “occupancy direction”.

(2) Special control provisions shall provide that the Executive shall only make an occupancy direction if it appears to the Executive that there has been a relevant management failure resulting in a serious adverse effect on the amenity or character of the area in which the house is situated.

(3) In considering whether to make an occupancy direction the Executive shall take into account the interests of the occupants of the house and the person having control of the house as well as the interests of local residents and businesses.

(4) Special control provisions may require the person having control of the house, and the person managing it, to take all reasonably practicable steps to comply with an occupancy direction.

(5) Nothing in this Article affects any liability in respect of any other contravention or failure to comply with control provisions or special control provisions.

### **Special control provisions: decisions and appeals relating to occupancy directions**

**75J.**—(1) Special control provisions shall provide that where the Executive makes an occupancy direction in respect of a house it shall give written notice of the direction to the person having control of the house and the person managing it and at the same time give them a written statement of the Executive’s reasons.

(2) A person aggrieved by an occupancy direction may, within 21 days after the date of the service of notice as mentioned in paragraph (1), appeal to the county court.

(3) If on appeal it appears to the court—

- (a) that there has been any informality, defect or error in, or in connection with, the Executive’s decision, or
- (b) that the Executive acted unreasonably,

the court may make such order either confirming, quashing or varying the notice as it thinks fit.

(4) In so far as an appeal is based on the ground mentioned in paragraph (3)(a), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(5) If an appeal is brought the direction does not become operative until—

- (a) a decision on the appeal confirming the direction (with or without variation) is given and the period within which an appeal to the Court of Appeal may be brought expires without any such appeal having been brought, or
- (b) if a further appeal to the Court of Appeal is brought, a decision on that appeal is given confirming the direction (with or without variation).

(6) For this purpose the withdrawal of an appeal has the same effect as a decision confirming the direction or decision appealed against.

### **Special control provisions: “relevant management failure”**

**75K.** A “relevant management failure” for the purposes of Articles 75G to 75J (special control provisions) means a failure on the part of the person having control of, or the person

managing, a house in multiple occupation to take such steps as are reasonably practicable to prevent the existence of the house or the behaviour of its residents from adversely affecting the amenity or character of the area in which the house is situated, or to reduce any such adverse effect.

### **Offences in connection with registration schemes**

**75L.**—(1) A person who contravenes or fails to comply with a provision of a registration scheme commits an offence.

(2) A person who commits an offence under this Article consisting of a contravention of so much of control provisions as relates—

- (a) to occupation to a greater extent than permitted under those provisions of a house which is not registered, or
- (b) to occupation of a house which is registered by more households or persons than the registration permits,

is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) A person who commits an offence under this Article consisting of a contravention of so much of special control provisions as requires all reasonably practicable steps to be taken to comply with an occupancy direction is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) A person who commits any other offence under this Article is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **Steps required to inform public about registration scheme**

**75M.**—(1) Where the Executive intends to submit a registration scheme for the approval of the Department, the Executive shall publish notice of its intention at least one month before the scheme is submitted.

(2) As soon as the scheme is approved by the Department, the Executive shall publish a notice stating—

- (a) that a registration scheme has been approved by the Department, and
- (b) the date on which the scheme is to come into operation.

(3) A notice under paragraph (1) of the Executive's intention to submit a scheme for approval shall—

- (a) describe any steps which will have to be taken under the scheme by those concerned with registrable houses (other than steps which have only to be taken after a notice from the Executive), and
- (b) specify a place where a copy of the scheme may be seen at all reasonable hours.

(4) After publication of a notice under paragraph (2) that a registration scheme has been approved by the Department, and for as long as the scheme is in operation, the Executive—

- (a) shall keep a copy of the scheme, and of the register, available for public inspection at such of the Executive's offices as the Executive considers appropriate free of charge at all reasonable hours, and
- (b) on request, and on payment of such reasonable fee as the Executive may require, shall supply a copy of the scheme or the register, or of any entry in the register, to any person.

(5) If the Executive revokes a registration scheme it shall publish notice of the revocation.



(6) In this Article “publish” means publish in two or more newspapers circulating in Northern Ireland or in the parts of Northern Ireland to which the registration scheme applies.

### **Power to require information for purposes of scheme**

**75N.**—(1) The Executive may—

- (a) for the purpose of ascertaining whether a house is registrable, and
- (b) for the purpose of ascertaining the particulars to be entered in the register as regards a house,

require the person having control of the house or the person managing the house or any person who has an estate or interest in, or who lives in, the house to state in writing any information in his possession which the Executive may reasonably require for that purpose.

(2) A person who is required in pursuance of this Article to give information to the Executive, shall do so within 5 weeks of being notified of the requirement, or within such longer period as the Executive may allow.

(3) A person who, having been required in pursuance of this Article to give information to the Executive, fails to give the information, or knowingly makes a mis-statement in respect of it, commits an offence and is liable on summary conviction to a fine not exceeding—

- (a) level 3 on the standard scale in the case of such a failure; or
- (b) level 5 on the standard scale in the case of such a mis-statement.”.

## SCHEDULE 4

Article 149(1)

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *The Land Registration Act (Northern Ireland) 1970 (c. 18)*

**1.**—(1) Schedule 11 (matters requiring to be registered in the Statutory Charges Register) shall be amended as follows.

(2) The paragraph inserted by paragraph 2 of Schedule 3 to the [Street Works \(Northern Ireland\) Order 1995 \(NI 19\)](#) as paragraph 42 shall be re-numbered as paragraph 43.

(3) The paragraph inserted by paragraph 1 of Schedule 5 to the [Waste and Contaminated Land \(Northern Ireland\) Order 1997 \(NI 19\)](#) as paragraph 42 shall be re-numbered as paragraph 44.

(4) A reference in any statutory provision to either of those paragraphs shall be construed accordingly.

(5) At the end of the Schedule add—

“**45.** Any of the following matters under Part III of the Housing (Northern Ireland) Order 2003—

- (a) a grant condition registrable by virtue of Article 76(3), 77(3), 78(3), 79(3), 80(3), 81(3) and 83(2);
- (b) a statutory condition of participation in a group repair scheme as an assisted participant registrable under Article 100(2) or 101(3);
- (c) a charge under Article 117(5).”.

*The Rent (Northern Ireland) Order 1978 (NI 20)*

2. In Article 48(8) (enforcement of certificates of disrepair: meaning of “the appropriate amount”) for the words from “In this paragraph” onwards substitute—

“In this paragraph “repairs grant” means a grant under Article 74 of the Housing (Northern Ireland) Order 1992.”.

*The Housing (Northern Ireland) Order 1981 (NI 3)*

3.—(1) Article 41A (repair notices and group repair schemes) is amended as follows.

(2) In paragraph (2), for the words “Article 68 of the Housing (Northern Ireland) Order 1992” substitute “Article 96(1) of the Housing (Northern Ireland) Order 2003.”.

(3) In paragraph (5), for the words “Part III of the Housing (Northern Ireland) Order 1992” substitute “Chapter III of Part III of the Housing (Northern Ireland) Order 2003”.

4.—(1) Article 58 (environmental works: no assistance where grant made) is amended as follows.

(2) In paragraph (1)(a) omit the words from “not being” to “1992”.

(3) In paragraph (2), for the words “paragraph (3)” substitute “paragraphs (2A) and (3)”.

(4) After paragraph (2) insert—

“(2A) No assistance under paragraph (1) shall be given towards works in respect of which an application for renovation grant or common parts grant under Chapter II of Part III of the Housing (Northern Ireland) Order 2003 has been approved.”.

5. In Article 162 (regulations), in paragraph (2) after the word “Order” insert “other than those made under Article 22A(3)”.

*The Housing (Northern Ireland) Order 1983 (NI 15)*

6. In Article 24(1) (interpretation of Chapter II of Part II), at the appropriate place in alphabetical order insert—

“introductory tenancy” has the same meaning as in Chapter II of Part II of the Housing (Northern Ireland) Order 2003;”.

7. In Article 26(4) (cases where the secure tenant is a successor) after sub-paragraph (c) insert “or

(d) the tenancy was previously an introductory tenancy and he was a successor to the introductory tenancy.”.

8. In Article 38(4) (provision of information about secure tenancies), for sub-paragraphs (a) and (b) substitute “when the tenancy arises or as soon as practicable afterwards”.

9.—(1) In Schedule 2 (tenancies which are not secure tenancies)—

(a) the provision numbered as paragraph 1 shall become sub-paragraph (1) of paragraph 1; and

(b) the provision inserted by paragraph 4 of Schedule 4 to the Order of 1986 as paragraph 1A shall become sub-paragraph (2) of paragraph 1.

(2) After paragraph 1 insert—

*“Introductory tenancies*

**1A.** A tenancy is not a secure tenancy if it is an introductory tenancy or a tenancy which has ceased to be an introductory tenancy—

- (a) by virtue of Article 15(3) of the Housing (Northern Ireland) Order 2003 (disposal on death to non-qualifying person), or
- (b) by virtue of the tenant, or in the case of a joint tenancy every tenant, ceasing to occupy the dwelling-house as his only or principal home.”.

*The Housing (Northern Ireland) Order 1986 (NI 13)*

**10.**—(1) Article 6 (entitlement to reinstatement grant or repurchase) shall be amended as follows.

(2) In paragraphs (8) and (9) for the words “grant under Part III of the Order of 1983” substitute “renovation grant or common parts grant under Chapter II of Part III of the Housing (Northern Ireland) Order 2003”.

(3) In paragraph (10) for the words “Part III of the Order of 1983” substitute “Chapter II of Part III of the Housing (Northern Ireland) Order 2003”.

*The Housing (Northern Ireland) Order 1992 (NI 15)*

**11.**—(1) Article 73 (replacement grants) shall be amended as follows.

(2) In paragraph (3)(a)(i) for the words “scheme applies” substitute “regulations apply”.

(3) Omit paragraph (5).

**12.**—(1) Article 103 (power of the Executive and the Department to provide professional, &c. services in relation to works) shall be amended as follows.

(2) In paragraph (2)(b), for the words “Article 52(3) or (4)” substitute “Article 54 of the Housing (Northern Ireland) Order 2003 (disabled facilities grants: purposes)”.

(3) In paragraph (2)(c), for the words “Article 53(3)” substitute “Article 43 or 58 of the Housing (Northern Ireland) Order 2003 (renovation grants or HMO grants: purposes)”.

(4) For paragraph (2)(d) substitute—

“(d) works for which home repair assistance may be available under Articles 106 to 109 of the Housing (Northern Ireland) Order 2003”.

SCHEDULE 5

REPEALS

<i>Short Title</i>	<i>Extent of repeal</i>
<a href="#">The Housing (Northern Ireland) Order 1981 (NI 3).</a>	Article 2(4) and (5)  In Article 58(1)(a), the words from “not being” to “1992”.  Part IV, Chapter II.  In Article 88C—

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Housing (Northern Ireland) Order 2003 No. 412*

<i>Short Title</i>	<i>Extent of repeal</i>
	(a) paragraph (3)(b) and the word “and” immediately preceding it; (b) paragraph (6).
The Housing (Northern Ireland) Order 1983 (NI 15).	In Article 29(1), the words from “and shall” to the end.
The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 (NI 15).	Part IV.
The Housing (Northern Ireland) Order 1986 (NI 13).	Article 39.
The Housing (Northern Ireland) Order 1992 (NI 15).	Part III, Chapter 1.  Article 73(5).  In Article 104— (a) in paragraph (1) the words “Executive as” and “the Executive by”; (b) in paragraph (2)(a) the words “by the Executive”.
The Children (Northern Ireland) Order 1995 (NI 2).	In Schedule 6, paragraph 6(a).  In Schedule 9, paragraph 187.
The Local Government (Amendment) (Northern Ireland) Order 1998 (NI 19).	The whole Order.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes provision with respect to housing in Northern Ireland. Part II is concerned with the conduct of tenants and empowers the Northern Ireland Housing Executive and registered housing associations to operate an introductory tenancy regime. Part III provides for the payment of grants and other assistance for housing purposes. Part IV amends the Rent (Northern Ireland) Order 1978 and the Housing (Northern Ireland) Orders 1981 to 1992.