

## STATUTORY INSTRUMENTS

# 1986 No. 1301 (N.I. 13)

## The Housing (Northern Ireland) Order 1986 <sup>F1</sup>

- - - - - 25th July 1986

**F1** functions transf. SR 1999/481

### PART I

#### *Introductory*

#### **Title and commencement**

**1.** This Order may be cited as the Housing (Northern Ireland) Order 1986 and shall come into operation on the expiration of 2 months from the day on which it is made.

#### **General interpretation**

**2.—(1)** The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

**(2)** In this Order—

“the commencement date” means the date of the coming into operation of this Order;

“the Department” means the Department of the Environment;

“the Executive” means the Northern Ireland Housing Executive;

“the Order of 1981” means the Housing (Northern Ireland) Order 1981;

“the Order of 1983” means the Housing (Northern Ireland) Order 1983.

### PART II

#### *Housing Defects*

PROSPECTIVE

#### **Interpretation of Part II**

**3.—(1)** In this Part—

“associated arrangement” has the meaning given in Article 7(6);

“cut-off date” is to be construed in accordance with Article 4(2) (b);

“defective dwelling” is to be construed in accordance with Article 4(2);

“designation” means a designation under Article 4;

“housing association” means a housing association registered under Chapter II of Part VII of the Order of 1981, but does not include any such association whose rules—

(a) restrict membership to persons who are tenants or prospective tenants of the association, and

(b) preclude the granting or assignment of tenancies to persons other than members;

“lending institution” means any building society (as defined in Article 3(4) of the Order of 1983) and any of the bodies specified in paragraphs 3, 4 and 5 of Schedule 10 to the Order of 1981;

“person entitled to assistance by way of reinstatement grant” and “person entitled to assistance by way of repurchase” are to be construed in accordance with Article 7(5);

“qualifying defect” is to be construed in accordance with Article 4(2)(a);

“relevant interest” has the meaning given in Article 5(7)(a); and

“work required to reinstate a defective dwelling” is to be construed in accordance with Article 6(7).

(2) In this Part “relevant body” means—

(a) the Executive or a body which was its statutory predecessor,

(b) a housing association,

(c) a body specified under paragraph (3).

(3) For the purposes of paragraph (2), the Department may by order—

(a) if the Department is satisfied that a body corporate meets the requirements of paragraph (5), specify that body as one that is to be treated as a relevant body, and

(b) whether or not the Department specifies it under sub-paragraph (a), if the Department is satisfied that a body corporate met those requirements during any period, specify it as a body that is to be treated as having been a relevant body during that period.

(4) An order under paragraph (3) may, in the case of a body previously specified under sub-paragraph (a) of that paragraph which the Department is satisfied has ceased to meet those requirements on any date, provide that it is to be treated for the purposes of this Part as having ceased to be a relevant body on that date.

(5) The requirements mentioned in paragraph (3) are that—

(a) the affairs of the body are managed by its members and its members hold office as such by virtue of their appointment to that or another office by the head of a Northern Ireland department under any enactment, or

(b) the body is a subsidiary (within the meaning of the Companies Act (Northern Ireland) 1960) of such a body.

(6) References in this Part to a disposal of an interest in a dwelling by a relevant body include a reference to a disposal of such an interest by a government department.

(7) In this Part (except Article 11 and paragraph 4 of Schedule 2) “dwelling” means any house, flat or other unit designed or adapted for living in; and for the purposes of this Part a building so designed or adapted is a house if it is a structure reasonably so called, so that—

(a) where a building is divided into units so designed or adapted and either it is so divided horizontally or a material part of any unit lies above or below any other unit, those units are not houses (though the building as a whole may be); and

(b) where a building is divided vertically into units so designed or adapted, those units may be houses.

(8) In any case where—

(a) a house which is divided into flats or other units is a defective dwelling, and

(b) a person is eligible for assistance in respect of that dwelling,

the fact that it is so divided is to be disregarded for the purposes of Article 6(4)(a).

(9) Subject to paragraph (10), where any interest in land is disposed of under a contract, the time at which the disposal is made is, for the purposes of this Part, the time the contract is made (and not, if different, the time at which the interest is conveyed).

(10) If the contract is conditional (and in particular if it is conditional on the exercise of an option) the time at which the disposal is made for those purposes is the time when the condition is satisfied.

### *Eligibility*

#### **Designation of defective dwellings**

4.—(1) The Department may designate as a class any buildings each of which consists of or includes one or more dwellings if it appears to the Department that—

(a) buildings in the proposed class are defective by reason of their design or construction; and

(b) by virtue of the circumstances mentioned in sub-paragraph (a) having become generally known, the value of some or all of the dwellings concerned has been substantially reduced.

(2) Any dwelling which a building in a class designated under this Article consists of or includes is referred to in this Part as a “defective dwelling”; and in this Part in relation to such a dwelling—

(a) “the qualifying defect” means that which, in the opinion of the Department, is wrong with the buildings in that class; and

(b) “the cut-off date” means the date by which, in the opinion of the Department, the circumstances mentioned in paragraph (1)(a) became generally known.

(3) A designation under this Article shall describe the qualifying defect and specify—

(a) the date on which the designation is to come into operation;

(b) the cut-off date (not being a date falling after the date specified under sub-paragraph (a)); and

(c) the period within which persons may seek assistance under this Part in respect of the defective dwellings concerned.

(4) The Department may vary or revoke a designation under this Article and may by a variation of the designation extend the period referred to in paragraph (3)(c), whether or not it has expired; but

(a) no variation or revocation shall affect the operation of the provisions of this Part in relation to any dwelling if, before the variation or revocation comes into operation, it is a defective dwelling by virtue of the designation in question and application for assistance in respect of it has been made under Article 6; and

(b) no variation shall alter the cut-off date.

(5) Notice of a designation under this Article and of the variation or revocation of such a designation shall be published in the Belfast Gazette.

(6) Any question arising as to whether a building is or was at any time in a class designated under this Article shall be determined by the Department.

(7) No designation shall describe a designated class by reference to the area in which the buildings concerned are situated.

### **Eligibility for assistance**

**5.—(1)** Subject to the following provisions of this Part, a person to whom this Article applies is eligible for assistance in respect of a defective dwelling for the purposes of this Part if—

- (a) he holds a relevant interest in the dwelling, and
- (b) one of the sets of conditions described in paragraphs (2) and (3) is satisfied;

and for the purposes of sub-paragraph (a) a person shall be treated as holding a relevant interest in a dwelling notwithstanding that he has conveyed or assigned that interest to another person by way of mortgage.

(2) The first set of conditions is that—

- (a) there was a disposal by a relevant body of a relevant interest in the dwelling before the cut-off date; and
- (b) there has been no disposal for value by any person of a relevant interest in the dwelling on or after the cut-off date.

(3) The second set of conditions is that—

- (a) a person to whom this Article applies acquired a relevant interest in the dwelling on a disposal for value occurring within the period of twelve months beginning with the cut-off date;
- (b) on the date of that disposal that person was unaware of the association of the dwelling with the qualifying defect;
- (c) the value by reference to which the price for the disposal was calculated did not take any, or any adequate, account of the qualifying defect; and
- (d) if the cut-off date had fallen immediately after the date of the disposal, the first set of conditions would have been satisfied.

(4) No person is eligible for assistance in respect of a defective dwelling if the Executive is of the opinion that—

- (a) work to the building that consists of or includes the dwelling has been carried out in order to deal with the qualifying defect, and
- (b) on the completion of the work, no further work relating to the dwelling was required to be done to the building in order to deal satisfactorily with the qualifying defect.

(5) In this Part, except in paragraph 2 of Schedule 2, references to a disposal include references to a part disposal; but for the purposes of this Part, a disposal of an interest in a dwelling is a disposal of a relevant interest in the dwelling if, and only if, on the disposal the person to whom it is made acquires a relevant interest in the dwelling.

(6) This Article applies to—

- (a) an individual who is not a trustee,
- (b) trustees, if all the beneficiaries are individuals, and
- (c) personal representatives.

(7) In this Part—

- (a) “relevant interest” means an estate in fee simple (including an estate held under a fee farm grant) or a long tenancy unless, in either case, it is subject to a long tenancy;
- (b) references to an interest in a dwelling are references to an interest in land which is or includes the dwelling;

- (c) in relation to a person holding an interest in a dwelling formed by the conversion of another dwelling, references to a previous disposal of an interest in the dwelling include a reference to a previous disposal on which an interest in land which included that part of the original dwelling in which his interest subsists was acquired; and
  - (d) references to a disposal of an interest for value are references to a disposal for money or money's worth, whether or not representing full value for the interest disposed of.
- (8) Subject to paragraph (9) a tenancy is a long tenancy for the purposes of paragraph (7) 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 in pursuance of Chapter I of Part II of the Order of 1983 or Part III of this Order.
- (9) 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.

#### **Entitlement to reinstatement grant or repurchase**

6.—(1) A person seeking assistance under this Part in respect of a defective dwelling shall make a written application to the Executive within such period as is specified in the designation in question.

(2) Subject to paragraph (8) and Article 17(3), the Executive, on receiving such an application shall, if the applicant is eligible for assistance in respect of the defective dwelling, determine<sup>F2</sup> as soon as reasonably practicable] whether he is entitled to assistance by way of reinstatement grant or by way of repurchase.

(3) For the purposes of that determination the applicant is entitled to assistance by way of reinstatement grant if—

- (a) the Executive is satisfied that each of the conditions mentioned in paragraph (4) is met, and
- (b) paragraph (5) does not apply in his case;

and in any other case he is entitled to assistance by way of repurchase.

(4) The conditions referred to in paragraph (3) are that—

- (a) the defective dwelling is a house;
- (b) if the work required to reinstate the dwelling (together with any other work which the Executive is satisfied the applicant proposes to carry out) were carried out—
  - (i) the dwelling would be likely to provide satisfactory housing accommodation for a period of at least 30 years, and
  - (ii) an individual acquiring a fee simple estate in the dwelling with vacant possession would be likely to be able to arrange a mortgage on satisfactory terms with a lending institution;
- (c) giving assistance by way of reinstatement grant is justified having regard, on the one hand, to the amount of reinstatement grant that would be payable in respect of the dwelling in pursuance of this Part and, on the other hand, to the likely value of the fee simple estate in the dwelling with vacant possession after the work required to reinstate it had been carried out; and

*Sub#para. (d) rep. by SR 1988/329*

(5) This paragraph applies in the case of an applicant where the Executive is satisfied on a claim made by him that it would be unreasonable to expect him to secure or await the carrying out of the work required to reinstate the defective dwelling.

(6) The Department may by order amend paragraph (4) (whether as originally enacted or as previously amended under this paragraph) so as to—

- (a) modify or omit any of the conditions mentioned in that paragraph, or
- (b) add or substitute for any of those conditions other conditions;

and an order made under this paragraph shall not affect the operation of this Article in relation to applications made under this Article before the order comes into force.

(7) For the purposes of this Part—

- (a) the work required to reinstate a defective dwelling is the work relating to the dwelling that is required to be done to the building that consists of or includes the dwelling in order to deal satisfactorily with the qualifying defect, and
- (b) where there is work falling within sub-paragraph (a), the work required to reinstate the defective dwelling includes—
  - (i) any work required, in order to deal satisfactorily with the qualifying defect, to be done to any garage or outhouse designed or constructed as that building is designed or constructed, being a garage or outhouse in which the interest of the person eligible for assistance subsists and which is occupied with and used for the purposes of the dwelling or any part of it, and
  - (ii) any other work reasonably required in connection with work falling within sub-paragraph (a) or this sub-paragraph.

[<sup>F2</sup>(7A) In any case where—

- (a) the most satisfactory way of dealing with the qualifying defect is substantially to demolish the building that consists of or includes the defective dwelling or a part of that building, and
- (b) it is practicable to rebuild the building or part concerned on, or substantially on, its existing foundations and reconstruct the dwelling to the same, or substantially the same, plan,

the work required to carry out those operations shall be regarded for the purposes of this Part as work required to reinstate the defective dwelling.]

(8) The Executive shall not entertain an application under this Article in respect of a defective dwelling if at any time (whether before or after the designation in question comes into operation) application for[<sup>F3</sup> renovation grant or common parts grant under Chapter II of Part III of the Housing (Northern Ireland) Order 2003] has been made in respect of the dwelling and the relevant works include the whole or any part of the work required to reinstate the defective dwelling unless—

- (a) the application under that Part has been refused or has been withdrawn under paragraph (9), or
- (b) the relevant works have been completed.

(9) A person who has applied for[<sup>F3</sup> renovation grant or common parts grant under Chapter II of Part III of the Housing (Northern Ireland) Order 2003] in respect of any dwelling may, at any time when it is a defective dwelling, withdraw his application, whether or not it has been approved, if the relevant works have not been begun and those works include the whole or any part of the work required to reinstate the defective dwelling.

(10) In paragraphs (8) and (9) “the relevant works” has the same meaning as in[<sup>F3</sup> Chapter II of Part III of the Housing (Northern Ireland) Order 2003].

(11) Where a person who is eligible for assistance in respect of a defective dwelling dies or disposes of his interest in the dwelling to a person to whom Article 5 applies (otherwise than on a disposal for value), this Part shall apply as if anything done or treated by virtue of this paragraph as done by or in relation to the person so eligible had been done by or in relation to his personal representatives or, as the case may be, the person acquiring the interest.

**F2** 1992 NI 15

**F3** 2003 NI 2

## Notice of determination

7.—(1) Where the Executive receives an application which it is required to entertain under Article 6 it shall, as soon as it is reasonably practicable to do so, give notice in writing to the applicant stating whether or not in its opinion he is eligible for assistance in respect of the defective dwelling, and also—

- (a) if it is of the opinion that he is not so eligible, the reasons for its view;
- (b) if it is of the opinion that he is so eligible, informing him of his right to make a claim under Article 6(5).

(2) Where the Executive is required to entertain an application from an applicant who is eligible for assistance, it shall, as soon as it is reasonably practicable to do so, give him notice in writing stating—

- (a) the form of assistance to which he is entitled; and
- (b) if, on a claim by the applicant, the Executive has satisfied itself that Article 6(5) does not apply in his case, the reasons for its view.

(3) A notice under paragraph (2) stating that the applicant is entitled to assistance by way of reinstatement grant shall also state—

- (a) the grounds for the Executive's determination;
- (b) the work which, in its opinion, is the work required to reinstate the defective dwelling;
- (c) the amount of expenditure which, in its opinion, may properly be incurred in executing the work;
- (d) the amount of expenditure which, in its opinion, may properly be incurred in entering into any associated arrangement;
- (e) the condition required by Article 8(3) (including the period within which the work is to be carried out); and
- (f) its estimate of the amount of grant that would be payable in respect of the dwelling in pursuance of this Part.

(4) A notice under paragraph (2) stating that the applicant is entitled to assistance by way of repurchase shall also state—

- (a) the grounds for the Executive's determination; and
- (b) the effect of the following provisions of this Part, namely—
  - Article 9(1), (2) and (6) (except sub-paragraph (b)), and
  - Article 11(2) and (4) to (6).

(5) References in the following provisions of this Part to a person entitled to assistance by way of reinstatement grant or, as the case may be, by way of repurchase in respect of a defective dwelling are references to a person—

- (a) who is eligible for assistance in respect of the dwelling, and
- (b) on whom a notice under this Article has been served stating that he is entitled to that form of assistance.

(6) In this Part “associated arrangement” means any arrangement which—

- (a) is to be entered into in connection with the execution of the work required to reinstate a defective dwelling, and

- (b) is likely to contribute towards the dwelling being regarded as acceptable security by a lending institution.

### *Forms of assistance*

#### **Reinstatement grant**

8.—(1) Where a person is entitled to assistance by way of reinstatement grant in respect of a defective dwelling, the Executive shall, subject to and in accordance with the provisions of this Article and Schedule 1, pay reinstatement grant to him in respect of the qualifying work and in respect of any associated arrangement.

(2) In this Article and that Schedule “qualifying work”, in relation to a defective dwelling, means the work stated in a notice under Article 7(2) or paragraph 3 of that Schedule to be, in the opinion of the Executive, the work which is required to reinstate the dwelling.

(3) It shall be a condition of payment of the grant that the qualifying work is carried out to the satisfaction of the Executive within the period specified in the notice under Article 7(2) or within that period as extended; but payment of the grant shall not be subject to any other condition, however expressed.

(4) The period so specified shall be such reasonable period (not being less than 12 months) beginning with the service of the notice as the Executive may determine.

(5) The Executive shall, if there are reasonable grounds for doing so, by notice in writing served on the person entitled to assistance extend, or further extend, the period for carrying out that work (whether or not that period has expired).

(6) Part II of Schedule 1 has effect to require the repayment of grant in certain circumstances.

#### **Repurchase**

9.—(1) A person who is entitled to assistance by way of repurchase in respect of a defective dwelling may, within the period of 3 months beginning with the service of the Executive's notice under Article 7(2) (or within that period as extended) request the Executive in writing to notify him of the proposed terms and conditions for its acquisition of his interest so far as subsisting in the defective dwelling and any garage, outhouse, garden, yard and appurtenances occupied and used for the purposes of the dwelling or any part of it (in this paragraph referred to as the “interest to be acquired”).

(2) The Executive shall, within the period of 3 months beginning with the making of a request under paragraph (1), serve on the person so entitled a notice in writing specifying the proposed terms and conditions and stating—

- (a) its opinion as to the value of the interest to be acquired, and
- (b) the effect of paragraphs (3) to (5) and (6) (except sub-paragraph (a)).

(3) Subject to the following provisions of this Part, any agreement for the acquisition by the Executive of the interest to be acquired shall contain such provisions as the parties have agreed or, in default of agreement, as have been determined in accordance with this Part to be reasonable.

(4) The Executive shall, within 3 months of all the provisions to be included in the agreement being agreed or determined, draw up an agreement for execution by the parties embodying those provisions and serve a copy of the agreement on the person so entitled.

(5) The person so entitled may, at any time within the period of 6 months beginning with the service of the copy of that agreement (or within that period as extended), notify the Executive in writing that he requires it to enter into an agreement embodying those provisions and the Executive shall comply with the requirement.



(6) The Executive shall, if there are reasonable grounds for doing so, by notice in writing served on the person so entitled, extend (or further extend)—

(a) the period within which under paragraph (1) he may make a request under that paragraph; and

(b) the period within which under paragraph (5) he may notify it of his requirement;

whether or not the period in question has expired.

(7) Schedule 2 has effect to supplement the provisions of this Article.

### **Purchase of certain land by authority possessing powers of compulsory acquisition**

**10.**—(1) In any case where—

(a) there was a disposal of an interest in a defective dwelling, being an interest held by a person (in this Article referred to as “the owner”) who immediately before the time of disposal was eligible for assistance in respect of the dwelling,

(b) the disposal was made to an authority possessing compulsory acquisition powers, otherwise than in pursuance of Article 9,

(c) on the disposal, the authority acquired an interest in any affected land, that is to say, the defective dwelling and any garage, outhouse, garden, yard and appurtenances occupied with and used for the purposes of the dwelling or any part of it, and

(d) the amount paid in consideration of the disposal did not include any amount attributable to the owner's right to apply for assistance in respect of the dwelling,

the owner is entitled, subject to the following provisions of this Article, to be paid by the Executive the amount (if any) by which ninety-five per cent of the defect-free value exceeds the amount of compensation for the disposal.

(2) For the purposes of this Article, the amount of compensation for the disposal is—

(a) the amount that would have been the proper amount of compensation for the disposal (having regard, where any relevant determination has been made by the Lands Tribunal, to that determination), or

(b) if greater, the amount paid as the consideration for the disposal,

but excluding any amount payable for disturbance or any other matter not directly based on the value of the land.

(3) In this Article “defect-free value” means the amount that would have been the proper amount of compensation for the disposal (excluding any amount so payable) if none of the defective dwellings to which the designation in question related had been affected by the qualifying defect.

(4) For the purposes of this Article—

(a) it is to be assumed that the disposal occurred on a compulsory acquisition (in cases where it did not in fact do so),

(b) where the compensation for the disposal fell to be assessed by reference to the value of the land as a site cleared of buildings and available for development then, for the purpose of determining the defect-free value, it is to be assumed that the compensation did not fall to be so assessed, and

(c) any amount which, apart from this sub-paragraph, would be payable by the Executive under paragraph (1) shall be reduced by the amount of any payment made in respect of the defective dwelling under Article 93 of the Order of 1981.

(5) The Executive is not required to make a payment to any person under this Article unless he makes a written application to it for the payment before the end of the period of two years beginning with the time of disposal.

(6) Where the Executive refuses an application for a payment under this Article on the grounds that the owner was not eligible for assistance in respect of the defective dwelling at the time of the disposal, it shall give to the applicant a notice in writing stating the reasons for its view.

(7) Any question arising under this Article as to the amount of compensation for a disposal or defect-free value shall be determined by the district valuer if the owner or the Executive so requires by notice in writing served on the district valuer.

(8) Before making a determination in pursuance of paragraph (7), the district valuer shall consider any representations by the owner or the Executive made to him within four weeks from the service of the notice under that paragraph.

(9) A person serving a notice on the district valuer under paragraph (7) shall serve notice in writing of that fact on the Executive or, as the case may be, the owner.

(10) In this Article—

“authority possessing compulsory acquisition powers” means a person with power to acquire an interest in land otherwise than by agreement;

“district valuer” has the meaning given in Article 2(2) of the Rates (Northern Ireland) Order 1977.

(11) In this Article references to the owner include a reference to his personal representatives.

### **Secure tenancies**

**11.—**(1) This Article applies where the Executive acquires an interest in a defective dwelling in pursuance of Article 9 and the land in which the interest subsists is or includes a dwelling-house occupied as a separate dwelling (in this Article referred to as a “relevant dwelling-house”).

(2) Where an individual is an occupier of a relevant dwelling-house throughout the qualifying period and either—

(a) he is a person entitled to assistance by way of repurchase in respect of the defective dwelling, or

(b) the persons so entitled are, in relation to the interest concerned, his trustees,

the Executive shall, subject to the following provisions of this Article, grant him a secure tenancy on completion of its acquisition of the interest concerned.

(3) Where an individual—

(a) is at the end of the qualifying period a tenant of a relevant dwelling-house under a periodic tenancy, and

(b) has been an occupier of the dwelling-house throughout the qualifying period,

the Executive shall, subject to the following provisions of this Article, grant him a secure tenancy on completion of its acquisition of the interest concerned.

(4) If two or more persons qualify under paragraph (2) or (3) for the grant of a secure tenancy in respect of the same relevant dwelling-house, the Executive shall, subject to the following provisions of this Article, grant the tenancy to such one or more of them as they may agree among themselves or (if there is no such agreement) to all of them.

(5) The dwelling-house let under the secure tenancy to be granted to any person under this Article shall—

(a) if the circumstances do not fall within paragraph 2 of Schedule 3, be the dwelling-house of which he is the occupier at the end of the qualifying period;

(b) if the circumstances do fall within paragraph 2 of that Schedule, be another dwelling-house which, so far as is reasonably practicable, affords accommodation which meets the requirements of suitability set out in paragraph 3 of that Schedule.

(6) The Executive shall not be required to grant to any person a secure tenancy under this Article unless that person requests it to do so in writing before the service on the person entitled to assistance of a copy of the agreement drawn up under Article 9(4) or paragraph 3(4) of Schedule 2.

(7) On receiving a request under paragraph (6), the Executive shall, as soon as it is reasonably practicable to do so, give notice in writing to the person making the request stating—

- (a) whether or not in its opinion the circumstances of his case fall within paragraph 2 of Schedule 3, and
- (b) if its opinion is that they do—
  - (i) which of the Cases specified in that paragraph is applicable to those circumstances, and
  - (ii) the effect of paragraph (5) and Schedule 3.

(8) If at any time after the service of a notice under Article 7(2) it appears to the Executive that a person may be entitled to request it to grant him a tenancy under paragraph (3), it shall forthwith give him notice in writing of that fact.

(9) In this Article—

“dwelling-house” has the same meaning as in Chapter II of Part II of the Order of 1983;

“occupier”, in relation to a dwelling-house, means a person who occupies the dwelling-house as his only or principal home;

“qualifying period” means the period beginning with the making of an application under Article 6 in respect of the defective dwelling and ending immediately before completion of the Executive's acquisition;

“relevant dwelling-house” has the meaning given in paragraph (1);

“secure tenancy” has the same meaning as in Chapter II of Part II of the Order of 1983;

and references to the grant of a secure tenancy are references to the grant of a tenancy which would be a secure tenancy assuming that the tenant under the tenancy occupies the dwelling-house concerned as his only or principal home.

### **Expenses incidental to applications for assistance**

**12.—**(1) A person whose interest in a defective dwelling is acquired by the Executive in pursuance of Article 9 is entitled to be reimbursed by the Executive the proper amount of—

- (a) any expenses in respect of legal services provided in connection with the Executive's acquisition, and
- (b) any other expenses in connection with negotiating the terms of that acquisition,

being in each case expenses which are reasonably incurred by him after receipt of a notice under Article 9(2).

(2) Any agreement between any person and the Executive shall be void in so far as it purports to oblige him to bear any part of the costs or expenses incurred by the Executive in connection with the exercise by him of his rights under this Part.

### *Miscellaneous and Supplemental*

### **Dwellings included in more than one designation**

**13.—**(1) For the purposes of this Part, where a person is already eligible for assistance in respect of a defective dwelling at a time when a further designation comes into operation, being a designation

of a class within which the building that consists of or includes the dwelling falls, that designation is to be disregarded in his case if either—

- (a) he would not be eligible for assistance in respect of the defective dwelling if it were the only designation, or
- (b) he is entitled to assistance by way of repurchase in respect of the defective dwelling.

(2) Where a person is eligible for assistance in respect of a defective dwelling and the building that consists of or includes the dwelling falls within two or more designations, being designations which are not required to be disregarded in his case (in this paragraph referred to as “applicable designations”), then, in relation to the dwelling, this Part (except Article 4) shall have effect as if—

- (a) references to the designation by virtue of which it is a defective dwelling were references to any applicable designation,
- (b) references to the qualifying defect were references to any qualifying defect described in any applicable designation,
- (c) references to the period within which persons may seek assistance under this Part were references to any period specified for that purpose in any applicable designation, and
- (d) the reference in paragraph 1(1)(c) of Schedule 1 to the maximum amount permitted to be taken into account for the purposes of that paragraph were a reference to the sum of those maximum amounts for each applicable designation.

(3) In any case where—

- (a) notice has been given to a person at any time under Article 7(1) stating that he is, in the opinion of the Executive, eligible for assistance in respect of a defective dwelling, and
- (b) the building that consists of or includes the dwelling falls within a class designated under Article 4 by a designation coming into operation after that time,

the Executive shall, as soon after that time as it is reasonably practicable to do so, give him notice in writing stating whether or not in its opinion the designation referred to in sub-paragraph (b) is to be disregarded in his case; and if, in the opinion of the Executive, it is to be disregarded, the reasons for its view.

(4) Paragraphs (5) to (8) apply in any case where—

- (a) a person is entitled to assistance by way of reinstatement grant in respect of a defective dwelling at a time when a designation under Article 4 comes into operation, being a designation of a class within which the building that consists of or includes the dwelling falls (in this and the following paragraphs referred to as the “later designation”), and
- (b) the later designation is not required to be disregarded in his case.

(5) Where it becomes apparent to the Executive that this paragraph applies in the case of any person, it shall forthwith give him notice in writing—

- (a) stating the effect of paragraph (2) and paragraph (6) and of the further designation, and
- (b) informing him that he has the right to make a claim under Article 6(5).

(6) Where it becomes apparent to the Executive that this paragraph applies in the case of any person, it shall as soon as it is reasonably practicable to do so—

- (a) make a further determination under Article 6(2) (taking account of the later designation), and
- (b) give a further notice under Article 7(2) in place of the previous notice,

and where the determination is that he is entitled to assistance by way of repurchase, the notice shall state the effect of paragraphs (7) and (8).

(7) Where a further notice under Article 7(2) stating that a person is entitled to assistance by way of repurchase is given in place of a previous notice and either—

- (a) he satisfies the Executive that he has, before the further notice is received, entered into a contract with another to provide services or materials for the purpose of executing any of the work stated in the previous notice or in a notice under paragraph 3 of Schedule 1 (in this paragraph and paragraph (8) referred to as the “relevant work”), or
- (b) any of the relevant work has been carried out before the further notice is received and has been carried out to the satisfaction of the Executive,

then, notwithstanding anything in paragraph (6), the previous notice and any notice under paragraph 3 of that Schedule given before the further notice is received shall continue to have effect for the purposes of Article 8 and Schedule 1 in relation to the relevant work or, in a case falling within sub-paragraph (b), in relation to so much of the relevant work as has been carried out as mentioned in that sub-paragraph; and the Executive shall, subject to paragraph (8), pay reinstatement grant accordingly.

(8) In any case where—

- (a) the relevant work is not completed but part of that work is carried out to the satisfaction of the Executive,
- (b) the notice in question continues to have effect in relation to that part of the work by virtue of paragraph (7), and
- (c) that part of the work is carried out within the period stated in the notice in question,

paragraph 5 of Schedule 1 shall not apply in relation to reinstatement grant paid in respect of that part of the work and the amount payable in respect of that part of the work shall be an amount equal to the maximum instalment of grant that would have been payable under paragraph 4 of that Schedule in respect of that part of the work.

## Notices

**14.—**(1) The Executive shall, within the period of 3 months beginning with the coming into operation of a designation or a variation of such a designation—

- (a) publish in more than one newspaper a notice suitable for the purpose of bringing the effect of the designation or variation to the attention of persons who may be eligible for assistance in respect of dwellings to which the designation applies; and
- (b) in the case of persons appearing to the Executive likely to be eligible for assistance in respect of those dwellings, take such other steps as are reasonably practicable to inform them of the fact that assistance is available.

(2) If at any time it becomes apparent to the Executive that a person is likely to be eligible for assistance in respect of a defective dwelling, it shall forthwith take such steps as are reasonably practicable to inform him of the fact that assistance is available.

(3) A relevant body shall, where a person is to acquire a relevant interest in a defective dwelling on a disposal by that body, give him notice in writing before the time of disposal—

- (a) specifying the qualifying defect, and
- (b) stating that he will not be eligible for assistance under this Part in respect of the dwelling.

(4) A relevant body shall, before it conveys a relevant interest in a defective dwelling in pursuance of a contract to any person on whom a notice under paragraph (3) has not been served, give him notice in writing—

- (a) specifying the qualifying defect,

- (b) stating, where the time of disposal of the interest falls after the cut-off date, that he will not be eligible for assistance under this Part, and
- (c) stating the effect of paragraph (5).
- (5) A person on whom a notice under paragraph (4) is served—
  - (a) shall have the right to withdraw from the transaction and may, within the period of 6 months beginning with the service of that notice on him, exercise that right by notifying the relevant body in writing of his withdrawal, whereupon the parties to the contract shall be discharged from any obligations in connection with it and any deposit paid shall be repaid; and
  - (b) shall not, in any event, be obliged to complete the conveyance before the expiry of the period referred to in sub-paragraph (a).

*Para. (6) rep. by 1992 NI 15*

(7) The notice under paragraph (3)<sup>F4</sup> . . . or paragraph (4) is to be served at the earliest date at which it is reasonably practicable to do so.

**F4** 1992 NI 15

### **Reinstatement of defective dwelling by the Executive**

**15.** Where a relevant interest in a defective dwelling has been disposed of by a relevant body, then (without prejudice to any of its other powers) the Executive may before the end of the period within which a person may seek assistance under this Part in respect of the dwelling enter into an agreement with any person holding an interest in the dwelling to execute at his expense any of the work required to reinstate the dwelling.

### **Jurisdiction of county court**

**16.—**(1) Subject to Articles 4(6) and 10(7) and paragraph 3 of Schedule 2, a county court has jurisdiction to determine any question arising under this Part and to entertain any proceedings brought in connection with the performance or discharge of any obligations so arising, including proceedings for the recovery of damages or compensation in the event of the obligations not being performed.

(2) The jurisdiction conferred by this Article includes jurisdiction to entertain proceedings on any question so arising notwithstanding that no other relief is sought than a declaration.

(3) Where the Executive is required by Article 8(5) or 9(6) to extend or further extend any period and fails to do so, the county court may by order extend or further extend that period until such date as may be specified in the order.

### **Modification of this Part in relation to equity-sharing leases**

**17.—**[<sup>F5</sup>(1) If it appears to the Executive that the interest of a person eligible for assistance in respect of a defective dwelling is—

- (a) an equity-sharing lease, or
- (b) the freehold acquired under the terms of an equity-sharing lease,

the Executive shall prepare and submit to the Department a scheme providing for the provisions of this Part to have effect, in their application to such a case, subject to such modifications as may be specified in the scheme.

(2) A scheme under paragraph (1) shall not have effect unless approved by the Department; and any such approval may be made conditional on compliance with requirements specified by the Department.]

<sup>F6</sup>(4) In this Article “equity-sharing lease” means—

- (a) an equity-sharing lease as defined in Article 31(6) of the Order of 1981;
- (b) a lease of a description specified in the regulations; or
- (c) a lease determined, or falling within a class<sup>F5</sup> or description] determined, by the Department to be an equity-sharing lease;

but where a lease becomes an equity-sharing lease by virtue of regulations under this Article or a determination under sub-paragraph (c), that shall not affect the operation of the provisions of this Part in relation to a person who is eligible for assistance in respect of a defective dwelling if application for assistance in respect of the dwelling has previously been made by him under Article 6.

**F5** 1992 NI 15

**F6** power of the Department to make regulations shall cease to have effect, 1992 NI 15

### Application of this Part in relation to mortgagees

**18.**—(1) The Department may by regulations make provision for the purpose of conferring rights and obligations on any mortgagee of a defective dwelling where—

- (a) a power of sale (whether conferred by section 19 of the Conveyancing Act 1881 or otherwise) is exercisable by the mortgagee, and
- (b) the mortgagor is eligible for assistance in respect of the defective dwelling.

(2) The rights that may be conferred on a mortgagee by regulations under this Article are—

- (a) rights corresponding to those conferred by this Part on a person holding a relevant interest in the defective dwelling,
- (b) the right to require the Executive to acquire in accordance with the regulations any interest in the defective dwelling to be disposed of in exercise of the power of sale, and
- (c) where the mortgagee is the Executive, the right by deed to vest the dwelling in itself,

and the rights that may be so conferred may be conferred in place of any rights conferred on any other person by this Part.

(3) Regulations under this Article may provide that, where the conditions in paragraph (1)(a) and (b) are or have been satisfied, this Part, the power of sale in question and any enactment relating to the power of sale shall have effect subject to such modifications as may be specified in the regulations.

(4) Where a defective dwelling is vested in a mortgagee in pursuance of regulations under this Article, the regulations may provide for the payment in respect of the vesting of an amount calculated on the assumption that none of the defective dwellings to which the designation in question relates are affected by the qualifying defect.

(5) In this Article “mortgagee” and “mortgagor” have the same meaning as in the Conveyancing Act 1881.

### Repurchase of defective dwellings disposed of by housing associations

**19.**—(1) Where the Executive—

- (a) gives a notice under Article 7(2) to any person stating that he is entitled to assistance by way of repurchase in respect of a defective dwelling; and

- (b) is of the opinion that there has at any time been a disposal of a relevant interest in the dwelling by a housing association or by a housing association which was a predecessor of that association;

it shall forthwith give to the housing association a notice in writing (together with a copy of the notice referred to in sub-paragraph (a)) stating that the association may acquire in accordance with this Part the interest of the person entitled to assistance.

(2) A housing association notified under paragraph (1) may, within the period of four weeks beginning with the service of the notice, give notice in writing to the Executive—

- (a) stating that the association wishes to acquire the interest, and
- (b) specifying the address of the principal office of the association and any other address that may also be used as an address for service.

(3) Where the Executive receives a notice under paragraph (2), it shall forthwith give to the person entitled to assistance notice in writing (in the following provisions of this Article referred to as a “transfer notice”) of—

- (a) the contents of the notice under paragraph (2), and
- (b) the effects of paragraphs (4) and (5).

(4) The housing association concerned shall, at any time after the transfer notice is given, be treated as being responsible (in place of the Executive) for the purposes of anything done or falling to be done under this Part by or in relation to the Executive.

(5) Where a transfer notice has been given in respect of an interest—

- (a) a request under Article 9(1) in respect of the interest may be made either to the Executive or to the housing association concerned, and
- (b) such a request made to the Executive (whether before or after the transfer notice is given) shall be forwarded by it to the housing association concerned.

## PART III

### SECURE TENANTS

*Art. 20 rep. by 1992 NI 15*

*Chapter I (Arts. 21—35) rep. by 1992 NI 15*

## CHAPTER II

### OTHER RIGHTS OF SECURE TENANTS

#### **Grounds and orders for possessions**

**36.—**(1) In Part I of Schedule 3 to the Order of 1983 (grounds on which court may order possession) after ground 5 there shall be inserted the following ground—

#### *“Ground 5A*

The tenancy was assigned to the tenant, or to a predecessor in title of his who is a member of his family and is residing in the dwelling-house, by an assignment made by virtue of Article 32A and a premium was paid either in connection with that assignment or the assignment which the tenant or predecessor himself made by virtue of that Article.



In this paragraph “premium” means any fine or other like sum and any other pecuniary consideration in addition to rent.” .

(2) After paragraph (3) of Article 29 of that Order there shall be inserted the following paragraph—

“(3A) The matters to be taken into account by the court in determining whether it is reasonable to make an order on ground 11 shall include—

- (a) the age of the tenant
- (b) the period during which the tenant has occupied the dwelling-house as his only or principal home; and
- (c) any financial or other support given by the tenant to the previous tenant” .

### **Assignments**

**37.**—(1) In Article 32(1) of the Order of 1983, at the end of sub-paragraph (b) there shall be added the following—

“or

- (c) the assignment is made in pursuance of Article 32A”

(2) After Article 32 of that Order there shall be inserted the following Article—

#### **“Assignments by way of exchange**

**32A.**—(1) It is by virtue of this Article a term of every secure tenancy that the tenant may, with the written consent of the landlord, assign the tenancy to a person to whom this paragraph applies; and this paragraph applies to any person who is the tenant under a secure tenancy and has the written consent of the landlord to assign the tenancy either to the first mentioned tenant or to another person to whom this paragraph applies.

(2) The consent required by virtue of this Article is not to be withheld except on one or more of the grounds set out in Schedule 3A and, if withheld otherwise than on one of those grounds, shall be treated as given.

(3) The landlord shall not be entitled to rely on any of the grounds set out in Schedule 3A unless, within 42 days of the tenant's application for the consent, the landlord has served on the tenant a notice specifying that ground and giving particulars of it.

(4) Where any rent lawfully due from the tenant has not been paid or any obligation of the tenancy has been broken or not performed, the consent required by virtue of this Article may be given subject to a condition requiring the tenant to pay the outstanding rent, remedy the breach or perform the obligation.

(5) Except as provided by paragraph (4), a consent required by this Article cannot be given subject to a condition, and any condition imposed otherwise than as so provided shall be disregarded.”.

(3) After Schedule 3 to the Order of 1983 there shall be inserted, as Schedule 3A, the Schedule set out in Schedule 7 to this Order.

### **Rent not to increase on account of certain improvements**

**38.** In Article 36 of the Order of 1983 (rent not to be increased on account of tenant's improvements) after sub-paragraph (b) there shall be added the following sub-paragraphs—

“or

- (c) if he has assigned the tenancy and the assignment was made as mentioned in subparagraph (a) or (b) of Article 32(1), at any time whilst the assignee is a secure tenant of that dwelling-house; or
- (d) if the tenancy has been transferred to his spouse or former spouse by an order under Schedule 2 to the Rent (Northern Ireland) Order 1978 as applied by Article 43 or by an order under the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984, at any time whilst the transferee is a secure tenant of that dwelling-house”.

*Art. 39 rep. by 2003 NI 2*

## PART IV

### MISCELLANEOUS AND SUPPLEMENTARY

*Art. 40 rep. by 1992 NI 15*

#### **Power of the Executive to enter into indemnity agreements with recognised bodies**

**41.** After Article 156 of the Order of 1981 (and before Article 156A of that Order) there shall be inserted the following Article—

##### **“Indemnity agreement with recognised bodies**

**156AA.**—(1) Article 156 shall apply in relation to recognised bodies, subject to the modifications set out in paragraphs (2) to (4)

(2) In paragraphs (1) to (5) of Article 156, for any reference to a building society there shall be substituted a reference to a recognised body.

(3) In paragraph (5)(b) of that Article the reference to the Registrar of Friendly Societies for Northern Ireland shall be omitted.

(4) For paragraph (6) of that Article there shall be substituted the following paragraphs—

“(6) In this Article “recognised body” means any body specified or of a class or description specified in an order made by the Department, with the consent of the Department of Finance and Personnel.

(7) Before making an order under paragraph (6) varying or revoking an order previously made, the Department shall give an opportunity for representations to be made on behalf of any recognised body which, if the Order were made, would cease to be such a body.

(8) An order made under paragraph (6) shall be subject to negative resolution” .”

#### **Statutory tenancies by succession**

**42.**—(1) Schedule 1 to the Rent (Northern Ireland) Order 1978 shall be amended in accordance with the following provisions of this Article.

(2) For paragraph 2 of that Schedule there shall be substituted the following paragraph—

“**2.** The surviving spouse (if any) of the original tenant, if residing in the dwelling-house immediately before the death of the original tenant, shall after the death be the statutory tenant if and so long as he or she occupies the dwelling-house as his or her residence”.

(3) For paragraph 7 of that Schedule there shall be substituted the following paragraph—

“7. The surviving spouse (if any) of the first successor, if residing in the dwelling-house immediately before the death of the first successor, shall after the death of the statutory tenant if and so long as he or she occupies the dwelling-house as his or her residence”.

(4) The following provisions of that Schedule shall be omitted—

- (a) in paragraphs 1 and 4(a) the words “or 3 ”;
- (b) paragraphs 3 and 8;
- (c) in paragraph 5 the reference to paragraph 3; and
- (d) in paragraphs 6 and 9 the words “or 8 ”.

(5) In paragraph 10(1)(a) for the word “to” there shall be substituted the word “and ”.

(6) The amendments made by this Article shall have effect only in relation to deaths occurring after the commencement date.

### **Orders and regulations**

**43.**—(1) An order made under Article 6(6) shall be subject to affirmative resolution.

(2) An order made under Article 3(3), paragraph 1 or 2 of Schedule 1 of Schedule 6 shall be subject to negative resolution.

(3) Regulations made under Article 17, 18 or 32 shall be subject to negative resolution.

*Art. 44—Amendments*

*Art. 45—Repeals*

**Status:** Point in time view as at 01/01/2006. This version of this Order contains provisions that are prospective.

**Changes to legislation:** There are currently no known outstanding effects for the  
The Housing (Northern Ireland) Order 1986. (See end of Document for details)

## SCHEDULES

### SCHEDULE 1

Article 8.

#### REINSTATEMENT GRANT

#### PART I

#### PAYMENT OF GRANT

##### *Amount*

1.—(1) Subject to the following provisions of this Schedule, the amount of reinstatement grant payable is the appropriate percentage of—

- (a) the amount stated in a notice under Article 7(2) or under paragraph 3 to be the amount of expenditure which, in the opinion of the Executive, may properly be incurred in executing the qualifying work and entering into any associated arrangement,
- (b) the expenditure incurred in executing the qualifying work and entering into any associated arrangement, or
- (c) the expenditure which is the maximum amount permitted to be taken into account for the purposes of this paragraph,

whichever is the least.

(2) In this Schedule “appropriate percentage” means 90 per cent. or, in any case where the Executive is satisfied that the person entitled to assistance would suffer financial hardship unless a higher percentage of the expenditure referred to in sub-paragraph (1) were paid to him, 100 per cent.

(3) The Department may by order vary either or both of the percentages mentioned in sub-paragraph (2).

##### *Expenditure limit*

2. The maximum amount permitted to be taken into account for the purposes of paragraph 1 shall be the amount specified as the expenditure limit by order made by the Department, except in a case or description of case in which the Department, on the application of the Executive, approves a higher amount.

##### *Changes in work or expenditure*

3. Where the Executive is satisfied that—

- (a) the work required to reinstate the defective dwelling is more extensive than that stated in the notice under Article 7(2) or a previous notice under this paragraph,
- (b) the amount of expenditure which may properly be incurred in executing that work is greater than that so stated,

- (c) there is an amount of expenditure which may properly be incurred in entering into an associated arrangement but no such amount is stated in a notice under Article 7(2) or a previous notice under this paragraph, or
- (d) where such an amount is so stated, the amount of expenditure which may be properly so incurred is greater than that amount,

it shall by notice in writing served on the person entitled to assistance state its opinion as to that amount or, as the case may be, that work and that amount, and the amount of reinstatement grant payable shall be adjusted accordingly.

### *Payment*

4.—(1) The Executive may pay reinstatement grant in a single sum on completion of the qualifying work or by instalments.

(2) No instalment of reinstatement grant is to be paid at any time to the person entitled to assistance if that instalment (together with any amount previously paid) would exceed the appropriate percentage of the cost of so much of the qualifying work as has been executed at that time.

(3) The Executive shall pay reinstatement grant in respect of any associated arrangement when payment in respect of the expenditure incurred in entering into the arrangement concerned falls to be made.

## PART II

### REPAYMENT OF GRANT

5.—(1) This paragraph applies where—

- (a) an amount of reinstatement grant has been paid in one or more instalments to the person who was entitled to assistance, and
- (b) the qualifying work is not completed within the period for carrying out that work.

(2) Where this paragraph applies, the Executive may, if it thinks fit, require that person to repay to it forthwith the amount referred to in sub-paragraph (1)(a) and, if it does so—

- (a) he shall comply with the requirement, and
- (b) that amount or (if it was paid in more than one instalment) the amount of each instalment shall carry interest from the date on which it was paid until repayment at the prescribed rate within the meaning of Article 2(2) of the Order of 1981.

## SCHEDULE 2

Article 9.

### REPURCHASE

#### PART I

#### ACQUISITION OF INTEREST

##### *The price*

**1.—**(1) The price payable for the acquisition of an interest in pursuance of Part II of this Order is 95 per cent. of the value of that interest at the relevant time.

(2) In this Schedule “the relevant time” means the time at which the notice under Article 9(2) is served on the person entitled to assistance.

##### *The value*

**2.—**(1) For the purposes of this Schedule, the value of an interest in a defective dwelling at the relevant time is the amount which, at that time, would be realised by a disposal of that interest on the open market by a willing seller to a person other than the Executive on the assumptions specified in sub-paragraph (2) and on the basis that no account is to be taken of any right to the grant of a tenancy under Article 11.

(2) Those assumptions are—

- (a) that none of the defective dwellings to which the designation in question relates are affected by the qualifying defect;
- (b) that no liability has arisen or will arise under a covenant required by Article 10 of the Order of 1983 or paragraph 6(1) or 7(1) of Schedule 6 (covenant to repay discount or, in the case of an equity-sharing lease, pay for outstanding share) or any covenant to like effect;
- (c) that no obligation to acquire the interest arises under Part II of this Order;
- (d) where, at the time at which the value of the interest falls to be considered, there has been since the relevant time a material change in circumstances affecting the value of the interest, that the change had occurred before the relevant time; and
- (e) that (subject to the preceding paragraphs) the seller is selling with and subject to the rights and burdens with and subject to which the disposal is to be made.

##### *Determination of value*

**3.—**(1) Any question arising under this Schedule as to the value of an interest in a defective dwelling shall be determined by the district valuer in accordance with this paragraph.

(2) Within the period beginning with the service on the person entitled to assistance of a notice under paragraph (2) of Article 9 and ending with the service of a copy of the agreement drawn up under paragraph (4) of that Article for execution by the parties, the person entitled to assistance or the Executive may, by notice in writing served on the district valuer, require the value to be determined or redetermined.

(3) If, after the end of that period but before the parties enter into an agreement for the acquisition of the interest of the person so entitled, there is a material change in circumstances affecting the value

of the interest, that person or the Executive may by notice in writing served on the district valuer before the parties enter into such an agreement require that value to be determined or redetermined.

(4) In any case where, in accordance with sub-paragraph (3), the district valuer is required, after the end of the period referred to in sub-paragraph (2), to determine the value of an interest, then—

- (a) the Executive shall, within 3 months of all the provisions of the agreement for the acquisition of the interest of the person so entitled by the Executive being agreed or determined, draw up an agreement for execution by the parties embodying those provisions and serve a copy of the agreement on that person; and
- (b) paragraph (5) of Article 9 shall, instead of applying in relation to the agreement drawn up under paragraph (4) of that Article, apply in relation to the agreement drawn up under head (a) of this subparagraph.

(5) Before making a determination in pursuance of this paragraph, the district valuer shall consider any representation made to him by the person so entitled or the Executive within 4 weeks from the service of the notice under this paragraph.

(6) A person serving notice on the district valuer under this paragraph shall serve notice in writing of that fact on the Executive or, as the case may be, the person so entitled.

(7) In this paragraph “district valuer” has the meaning given in Article 2(2) of the Rates (Northern Ireland) Order 1977.

#### *Effect of acquisition*

4.—(1) Where an interest acquired in pursuance of Article 9 is or includes a dwelling in relation to which a grant has been paid under Part III of the Order of 1983—

- (a) any conditions imposed under or by virtue of that Part as conditions of the grant shall cease to be in force with respect to the dwelling with effect from the time of disposal of the interest, and
- (b) the owner for the time being of the dwelling shall not be liable to make in relation to the grant any payment under any grant condition made under Article 69(2)(c) of the Order of 1983 unless the liability to do so arises from a demand made before the time of disposal of the interest.

(2) In sub-paragraph (1)—

- (a) “dwelling” means a house as defined in Article 2(2) of the Order of 1981, and
- (b) owner has the same meaning as in that Article.

## PART II

### DISCHARGE OF CHARGES ON INTEREST

#### *Interpretation*

5. In this Part—

- (a) “interest acquired” means the interest in a defective dwelling of which the vendor disposes under an agreement entered into in pursuance of Article 9;

“purchase price” means the price which such an agreement requires the Executive to pay for the interest acquired; and

“vendor” means the person with whom the Executive enters into such an agreement; and

**Status:** Point in time view as at 01/01/2006. This version of this Order contains provisions that are prospective.

**Changes to legislation:** There are currently no known outstanding effects for the  
The Housing (Northern Ireland) Order 1986. (See end of Document for details)

- (b) references to a charge are references to a charge securing the performance of an obligation, and—
  - (i) include a mortgage or lien, but
  - (ii) do not include a rentcharge (that is to say any annual or other periodic sum charged on or issuing out of land, other than rent reserved by a lease or tenancy or any sum payable by way of interest).

#### *Effect of conveyance*

6.—(1) Subject to paragraph 7(3), a conveyance executed under an agreement entered into in pursuance of Article 9 shall, by virtue of this paragraph, be effective to discharge the interest acquired—

- (a) from any relevant charge to which it is subject immediately before it is conveyed to the Executive, and
- (b) from the operation of any order made by a court for the enforcement of such a charge; without the persons entitled to or interested in such a charge, order or term of years becoming parties to or executing the conveyance.

(2) The effect of this paragraph is restricted to discharging the interest acquired from the charge concerned and does not affect personal liabilities.

(3) For the purposes of this paragraph, a charge is a relevant charge if—

- (a) it secures the performance of an obligation, and
- (b) it is not a registered statutory charge within the meaning of section 94 of the Land Registration Act (Northern Ireland) 1970.

#### *Application of purchase price*

7.—(1) Where by virtue of paragraph 6 a conveyance will be effective to discharge a charge securing the payment of money, the Executive shall, subject to sub-paragraph (2), apply the purchase price in the first instance in or towards the redemption of the charge and, if there is more than one, then according to their priorities.

(2) No duty arises under sub-paragraph (1) in the case of—

- (a) any charge in favour of the holders of a series of debentures issued by any body, or
- (b) any charge in favour of trustees for such debenture holders which at the date of the conveyance, is a floating charge,

and the Executive shall disregard such charges in performing its duty under that sub-paragraph.

(3) If the Executive—

- (a) does not apply an amount which, under sub-paragraph (1), it is required to apply in or towards the redemption of a charge, and
- (b) does not pay that amount into court in accordance with paragraph 9,

the charge shall not be discharged by virtue of paragraph 6 and the interest acquired shall remain subject to the charge as security for that amount.

(4) For the purpose of determining the amount which the Executive is required to pay under sub-paragraph (1), a person entitled to a charge shall not be permitted to exercise any right to consolidate that charge with a separate charge on other property.



(5) For the purpose of redeeming a charge in pursuance of sub-paragraph (1), a person may be required to accept three months or any longer notice of the intention to pay the principal or any part of it secured by the charge, together with interest to the date of payment, notwithstanding that this differs from the terms of the security as to the time and manner of payment.

(6) A charge to which the vendor or the Executive itself is entitled shall rank for payment in pursuance of sub-paragraph (1) as it would if another person were entitled to it.

8. Paragraphs 6(1) and 7(1) do not prevent a person from joining in the conveyance for the purpose of discharging the interest acquired from any charge without payment or for less payment than that to which he would otherwise be entitled; and, if he does so, the person to whom the purchase price ought to be paid shall be determined accordingly.

#### *Payment into court*

9.—(1) Where under paragraph 6(1) the interest acquired is to be discharged from any charge falling within that sub-paragraph, and in accordance with paragraph 7(1) a person is or may be entitled in respect of the charge to receive the whole or part of the purchase price, then if—

- (a) for any reason difficulty arises in ascertaining how much is payable in respect of the charge; or
- (b) for any reason mentioned in sub-paragraph (2) difficulty arises in making a payment in respect of the charge;

the Executive may pay into court on account of the purchase price the amount, if known, of the payment to be made in respect of the charge or, if that amount is not known, the whole of the purchase price or such less amount as the Executive thinks right in order to provide for that payment.

(2) The reasons referred to in sub-paragraph (1)(b) are—

- (a) that a person who is or may be entitled to receive payment cannot be found or ascertained;
- (b) that any such person refuses or fails to make out a title, or to accept payment and give a proper discharge, or to take any steps reasonably required of him to enable the sum payable to be ascertained and paid; or
- (c) that a tender of the sum payable cannot, by reason of complications in the entitlement to payment or the want of two or more trustees or for other reasons, be effected, or not without incurring or involving unreasonable cost or delay.

(3) Without prejudice to sub-paragraph (1)(a), the purchase price shall be paid by the Executive into court if before the execution of a conveyance under an agreement entered into in pursuance of Article 9 written notice is given to it—

- (a) that the vendor or a person entitled to a charge on the interest of which the vendor disposes under such an agreement so requires for the purpose of protecting the rights of persons so entitled, or for reasons related to the bankruptcy or winding up of the vendor; or
- (b) that steps have been taken to enforce any charge on the interest of which the vendor disposes under such an agreement by the bringing of proceedings in any court, or by the appointment of a receiver, or otherwise;

and where payment is to be made into court by reason only of a notice under this sub-paragraph, and notice is given with reference to proceedings in a court specified in the notice other than the county court, payment shall be made into the court so specified.

**Status:** Point in time view as at 01/01/2006. This version of this Order contains provisions that are prospective.

**Changes to legislation:** There are currently no known outstanding effects for the  
The Housing (Northern Ireland) Order 1986. (See end of Document for details)

## SCHEDULE 3

Article 11.

### ALTERNATIVE ACCOMMODATION

#### *Interpretation*

**1.** In this Schedule—

“dwelling-house” has the same meaning as in Article 11;

“prospective tenant” means the person who is to be granted a secure tenancy under paragraph (2) of Article 11 or, as the case may be, a periodic tenancy under paragraph (3) of that Article; and

“current dwelling-house” means the dwelling-house which, on the assumption that the circumstances do not fall within paragraph 2, would be required to be let to the prospective tenant under that Article.

#### *Cases where change of dwelling-house is necessary*

**2.** Circumstances fall within this paragraph if either of the following cases is applicable to them—  
*Case 1*

By reason of the condition of any building of which the current dwelling-house consists of or which it forms part, the dwelling-house may not safely be occupied for residential purposes.

#### *Case 2*

The Executive intends, within a reasonable time of the completion of its acquisition of the interest concerned—

- (a) to demolish or reconstruct the building which consists of or includes the defective dwelling in question, or
- (b) to carry out work on any building or land in which the interest concerned subsists,

and cannot reasonably do so if the current dwelling-house remains in residential occupation.

#### *Suitability of accommodation*

**3.** The suitability of accommodation is to be assessed by reference to the following matters, namely—

- (a) whether it is similar as regards extent and character to the accommodation afforded by the current dwelling-house;
- (b) whether it is reasonably suitable to the means of the prospective tenant and his family; and
- (c) whether it is reasonably suitable to the needs of the prospective tenant and his family having regard to the proximity to place of work and place of education.

## SCHEDULE 4

Article 22.

### EXTENSION OF RIGHT TO BUY TO CERTAIN CASES WHERE EXECUTIVE DOES NOT OWN FEE SIMPLE

*Paras. 1#3 rep. by 1992 NI 15*

4. After paragraph 1 of Schedule 2 to the Order of 1983 (tenancies which are not secure tenancies) there shall be added the following paragraph—

“1A. For the purposes of this paragraph a tenancy granted in pursuance of Chapter I of Part II of this Order is a long lease notwithstanding that it is granted for a term not exceeding 21 years.”.

*Schedules 5-6 rep. by 1992 NI 15*

*Schedules 7-8—Amendments*

*Schedule 9—Repeals*

**Status:**

Point in time view as at 01/01/2006. This version of this Order contains provisions that are prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 1986.