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STATUTORY INSTRUMENTS

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**1992 No. 1725**

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

**PART III**

**GRANTS**

**CHAPTER I**

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

*Preliminary conditions*

**Common parts grants: preliminary conditions**

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

- (a) that, at the date of the application, at least the required proportion of the flats in the building concerned is occupied by occupying tenants; and
- (b) that the application is either a landlord's common parts application or a tenants' common parts application.

(2) In this Chapter—

- (a) an “occupying tenant”, in relation to a flat in a building, is a person—
  - (i) who has (alone or jointly with others) such an interest in the flat as is mentioned in any of sub-paragraphs (b) to (e) of paragraph (4); and
  - (ii) who occupies the flat as his only or main residence;
- (b) a “landlord's common parts application”, in relation to works to the common parts of a building, is an application for a common parts grant made by a person who—
  - (i) has (alone or jointly with others) such an interest in the building as is mentioned in sub-paragraph (a) or sub-paragraph (b) of paragraph (4); and
  - (ii) has a duty or power to carry out the relevant works; and
- (c) a “tenants' common parts application”, in relation to works to the common parts of a building, is an application for a common parts grant made, subject to paragraph (3), 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;

and in any case where a tenancy is held by 2 or more persons jointly, those persons shall be regarded as a single occupying tenant in deciding, for the purposes of sub-paragraph (c), whether the application is made by at least three-quarters of the occupying tenants referred to in that paragraph.

(3) For the purposes of sub-paragraph (c) of paragraph (2), a tenant whose tenancy is of a description specified for the purpose of that paragraph by an order made by the Department shall be treated as an occupying tenant falling within that sub-paragraph; and a person who falls within sub-

paragraph (b)(i) of that paragraph and has a duty or power to carry out any of the relevant works may also join in a tenants' common parts application; and, where such a person does join in an application, he is in this Chapter referred to as a “participating landlord”.

(4) The interests referred to in paragraph (2) are as follows—

- (a) a freehold estate in possession (whether legal or equitable);
- (b) a tenancy granted or extended for a term of years of which not less than 5 years remain unexpired at the date of the application;
- (c) a protected tenancy within the meaning of Article 3(1) of the Rent (Northern Ireland) Order 1978<sup>(1)</sup>;
- (d) a statutory tenancy within the meaning of Article 4(5) of that Order; and
- (e) a tenancy which satisfies such conditions as may be specified by order made by the Department.

(5) 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 made by the Department; or
- (b) approved by the Department, in relation to a particular case or description of case, on application made by the Executive.