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DRAFT STATUTORY INSTRUMENTS

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**2003 No.**

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

**PART III**

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

**CHAPTER II**

**THE MAIN GRANTS**

*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.