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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 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.