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## STATUTORY INSTRUMENTS

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# 1981 No. 156

## Housing (Northern Ireland) Order 1981

### PART I

#### INTRODUCTORY

##### **Title and commencement**

1. This Order may be cited as the Housing (Northern Ireland) Order 1981 ... *Commencement* ...

##### **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—

“building regulations” means building regulations made under the Building Regulations (Northern Ireland) Order 1972 or under the Building Regulations (Northern Ireland) Order 1979 ;

[<sup>F1</sup>“building society” means a building society within the meaning of the Building Societies Act 1986]

“clearance area” means an area declared to be a clearance area under Article 32;

“closing order” means an order under Article 38;

“the Council” means the Northern Ireland Housing Council;

“demolition order” means an order under Article 35;

“the Department” means the Department of the Environment;

“exclusion order” means an order under Article 34;

“the Executive” means the Northern Ireland Housing Executive;

“flat” means a separate and self-contained set of premises constructed for use for the purposes of a dwelling and forming part of a building from some other part of which it is divided horizontally;

“hostel” means a building wherein is provided for persons generally, or for a class or classes of persons, residential accommodation (otherwise than in separate or self-contained sets of premises) and either board or facilities for the preparation of food adequate to the needs of those persons, or both;

“house” includes (subject to paragraph (3))—

- (a) any part of a building, being a part which is occupied or intended to be occupied as a separate dwelling,
- (b) a flat,

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(c) any yard, garden, outhouse and appurtenances belonging to a house, or usually enjoyed therewith, and

(d) the site of a house;

[<sup>F2</sup>“house in multiple occupation” has the meaning given in [<sup>F3</sup>section 1 of the Houses in Multiple Occupation Act (Northern Ireland) 2016] ;]

“housing accommodation” means houses, houses in multiple occupation and hostels;

“housing action area” mean an area declared to be a housing action area under Article 52;

“mortgage” includes a charge;

“net annual value” has the same meaning as in Article 31(3) of the Land Acquisition and Compensation (Northern Ireland) Order 1973 ;

“owner”, in relation to land—

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

(b) includes, where notice under this Order is required to be served on an owner, any person who as agent is entitled to receive the rack rent of the land.

“prescribed”, except in relation to “prescribed rate”, means prescribed by regulations made by the Department;

“prescribed rate”, in relation to interest, means such rate as is determined by an order made by the Department of Finance for the purposes of paragraph 18(2) of Schedule 6 to the Local Government Act (Northern Ireland) 1972 ;

“rack rent”, in relation to a house, means a rent which is not less than two-thirds of the net annual value of the house, or a rent which has been fixed in accordance with the Rent (Northern Ireland) Order 1978 ;

*Definition rep. by 1992 NI 15*

“repair notice” means notice under Article 41;

“statutory provision” has the same meaning as in section 1( f) of the Interpretation Act (Northern Ireland) 1954 ;

“unfit for human habitation” shall be construed in accordance with Article 46.

(3) In Chapters II and III of Part III references to a house include a reference to a hut, tent, caravan or other temporary or movable form of shelter which is used for human habitation and has been on substantially the same site or enclosed within the same area for a period of not less than one year.

*Paras. (4)#(5) rep. by 2003 NI 2*

**F1** 1986 c. 53

**F2** 1992 NI 15

**F3** Words in art. 2(2) substituted (1.4.2019) by [Houses in Multiple Occupation Act \(Northern Ireland\) 2016 \(c. 22\)](#), s. 90(2), [Sch. 7 para. 3\(1\)](#); S.R. 2019/39, art. 2 (with art. 3)

#### [<sup>F4</sup>Meaning of member of a person's family

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

(a) he is the spouse[<sup>F5</sup> or civil partner] of that person, or he and that person live together as husband and wife[<sup>F5</sup> or as if they were civil partners], or

- (b) he is that person's parent, grandparent, child, grandchild, brother, or sister.
- (2) For the purpose of paragraph (1)(b)—
  - (a) a relationship by marriage<sup>[F5]</sup> or civil partnership] shall be treated as a relationship by blood,
  - (b) a relationship of the half-blood shall be treated as a relationship of the whole blood, and
  - (c) the stepchild of a person shall be treated as his child.]

F4 2003 NI 2

F5 2004 c. 33

## PART II

### THE NORTHERN IRELAND HOUSING EXECUTIVE

#### CHAPTER I

#### THE NORTHERN IRELAND HOUSING EXECUTIVE AND COUNCIL

##### **The Northern Ireland Housing Executive**

3.—(1) The public authority and body corporate known as the Northern Ireland Housing Executive shall continue in being as such and section 19 of the Interpretation Act (Northern Ireland) 1954 shall continue to apply to it.

(2) The Executive shall exercise such functions as are conferred on it by this Order.

(3) Schedule 1 shall have effect with respect to the members and proceedings of the Executive and the other matters there dealt with.

##### **The Northern Ireland Housing Council**

4.—(1) The Northern Ireland Housing Council shall continue in being as such and shall consider any matter affecting housing—

(a) which is referred to the Council by the Department or the Executive; or

(b) which appears to the Council to be a matter to which consideration ought to be given.

(2) Where it appears to the Council to be desirable to do so, the Council may make recommendations to the Department or the Executive with respect to any matter which it has considered, and the Department or the Executive shall consider any such recommendations.

(3) If it appears to the Council that the Executive—

(a) has unreasonably rejected any recommendation made to it by the Council; or

(b) has failed to consider any such recommendation within a reasonable time;

the Council may, after consulting the Executive, make representations to the Department as to the action which, in the opinion of the Council, ought to be taken as regards the matter dealt with in the recommendation.

(4) Where the Department receives representations under paragraph (3), it may, after consulting the Executive, give to it such directions as the Department considers fit with respect to the matters dealt with in the representations.

(5) The Executive shall—

(a) provide—

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- (i) such officers and servants and such accommodation, and
  - (ii) such facilities and financial or other assistance,
- as are required for the proper discharge of the Council's functions; and
- (b) make available to the Council such information in the possession of the Executive as the Council may reasonably require.
- (6) If the Council and the Executive disagree as to the officers and servants or the accommodation, facilities or financial or other assistance to be provided, or information to be made available under paragraph (5), paragraphs (3) and (4) shall apply as if the matter were one on which the Executive had unreasonably rejected a recommendation of the Council.
- (7) Schedule 2 shall have effect with respect to the members and proceedings of the Council and the other matters there dealt with.

### **Staff of the Executive**

- 5.—(1) Paragraph (2) shall have effect with respect to the powers of the Executive under section 19 of the Interpretation Act (Northern Ireland) 1954 to employ staff.
- (2) The numbers, terms and conditions of employment, remuneration, appointment, removal from office, suspension or re-instatement and qualifications of such of the staff employed by the Executive as the Department may direct, shall be subject to the approval of the Department.
- (3) The Executive shall be deemed to be a local authority for the purposes of the Superannuation (Northern Ireland) Order 1972 .
- (4) The Executive may, with the consent of the Department, make such provision as it considers desirable for the payment of pensions and other superannuation benefits to or in respect of such of its employees as it may designate for the purposes of this paragraph, and paragraph (3) shall not apply to a person so designated.
- (5) The functions of the Local Government Staff Commission for Northern Ireland shall continue to extend to officers of the Executive and for that purpose Part III of, and Schedule 3 to, the Local Government Act (Northern Ireland) 1972 shall continue to have effect in accordance with the amendments set out in Schedule 3.

## CHAPTER II

### GENERAL FUNCTIONS OF THE EXECUTIVE

#### **General functions of the Executive**

- 6.—(1) The Executive shall—
- (a) regularly examine housing conditions and need;
  - (b) submit to the Department for approval its programme for such years and in such form as the Department may determine for meeting housing need;
  - (c) consider any proposals of a district council with respect to the exercise of any of the functions of the Executive in the district of the council.
- (2) The Department may approve any programme submitted to it under paragraph (1) with or without modifications.
- (3) For the purposes of paragraph (1), the Executive may carry out such inspections and surveys as it considers necessary.
- (4) The Executive shall establish such housing information and advisory services as it considers desirable.

(5) The Executive may, with the consent of the Department, conduct or promote research into any matter relating to any of its functions.

(Paras)

### **Consultation by the Executive**

7.—(1) The Executive—

- (a) shall not less than once in each year consult the Council with respect to any draft programme of the Executive for meeting housing need; and
- (b) shall so consult each district council with respect to any draft programme of the Executive for meeting housing need in the council's district.

(2) The Executive shall, when required to do so by the Department, consult district councils with respect to such matters as the Department may determine.

(Para)

### **Delegation of functions by the Executive**

8.—(1) The Department may by order, subject to affirmative resolution, make such provision as it considers fit with respect to the delegation to a district council of any function of the Executive specified in the order.

(2) Where any function is delegated by an order made under paragraph (1), the council shall, in the exercise of that function, act as agent for the Executive and in accordance with such conditions as may be specified in the order.

### **[<sup>F6</sup>Housing management scheme**

8A.—(1) The Executive may submit to the Department a scheme making provision for the Executive to delegate to other persons such of the Executive's management functions as may be specified in the scheme.

(2) A scheme submitted under paragraph (1) may contain such provision as the Executive considers appropriate.

(3) Without prejudice to the generality of paragraph (2), a scheme submitted under paragraph (1) shall, in particular—

- (a) specify—
  - (i) the category and range of management functions to be delegated by the Executive,
  - (ii) the form of management agreements by means of which management functions are to be delegated, and
  - (iii) the procedure for consulting tenants of houses to which a management agreement would apply; and
- (b) provide—
  - (i) that a management agreement is not to be implemented unless it is approved by a majority of the tenants consulted in relation to it in pursuance of sub-paragraph (a) (iii);
  - (ii) that the Department's approval (which may be given either unconditionally or subject to conditions) is required both for the terms of a management agreement and the identity of a manager.

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

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

(6) The Executive may at any time, and if so directed by the Department shall, submit proposals for amending a scheme approved under paragraph (4) or a scheme replacing any such scheme; and paragraphs (2) to (4) shall have effect in relation to those proposals or a scheme replacing an existing scheme as they have effect in relation to a scheme.

(7) In this Article “management agreement” and “manager”, in relation to such an agreement, mean an agreement under this Article and the person with whom the agreement is made.

(8) References in this Article to the management functions of the Executive in relation to houses or land include—

- (a) functions conferred by any statutory provision, and
- (b) the powers and duties of the Executive as holder of an estate in the houses or land in question.]

**F6** 1992 NI 15

#### [<sup>F7</sup>Advances by the Executive

9.—(1) Subject to such conditions as the Department may specify, the Executive may—

- (a) advance money by way of loan to an person for any of the purposes mentioned in paragraph (2);
- (b) on the disposal of any house, allow any sum to be left outstanding on the security of the house; or
- (c) take a transfer of a mortgage in pursuance of Article 156.

(2) The purposes referred to in paragraph (1) are—

- (a) acquiring or constructing a house;
- (b) converting a building into a house or acquiring buildings for that purpose;
- (c) altering, enlarging, repairing or improving a house;
- (d) facilitating the repayment of an amount outstanding on a previous loan made for any of the purposes specified in sub#paragraphs (a) to (c).]

[<sup>F8</sup>(3) So long as any part of the principal of, or any interest on, a loan under paragraph (1)(a) remains outstanding, the loan is to be a charge on the house or building or buildings in question.

(4) Where paragraph (3) applies—

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

**F7** 1983 NI 15

**F8** Art. 9(3)(4) inserted (9.7.2016) by [Housing \(Amendment\) Act \(NorthernIreland\) 2016 \(c. 17\)](#), **ss. 3(1)**, 4

### **Directions to the Executive**

10.—(1) The Department may give directions of a general or specific nature to the Executive as to the manner in which it is to discharge its functions, and the Executive shall act in accordance with those directions.

(2) Any directions given to the Executive by the Department may be varied or revoked by subsequent directions so given.

### **Disclosure of information to the Department**

11.—(1) The Executive shall provide the Department with such information relating to its proceedings as the Department may require.

(2) For that purpose, the Executive shall permit any person authorised by the Department in that behalf to inspect and make copies of its accounts, books, documents and papers and shall afford such explanation thereof as that person or the Department may reasonably require.

### **Annual report**

12.—(1) The Executive shall as soon as may be after the 31st March in each year make to the Department a report of its activities in the preceding financial year.

(2) The Department shall lay before the Northern Ireland Assembly a copy of every report made under this Article.

### **Power to enter on lands**

13.—(1) A person authorised in writing by the Executive may, at all reasonable times, on giving—

- (a) in the case of entry under this Article for the sole purpose of examination, at least 24 hours' notice of his intention to the occupier or owner; and
- (b) in the case of entry under this Article for any other purpose, at least 6 days' notice in writing of his intention to the occupier and to the owner, if the owner is known,

or, in either case, such lesser period of notice as may be agreed between the person so authorised and the occupier or the owner, and, in any case, on production (if so required) of his authority, enter for the purpose of survey, valuation or examination—

- (i) any land which the Executive proposes to acquire compulsorily;
- (ii) any land, where it appears to the Executive that survey, valuation or examination is necessary in order to determine whether any powers under this Order should be exercised in respect of that land;

and any power conferred by this Article to survey land shall be construed as including power to search and bore for the purpose of ascertaining the course of any sewers or drains or of ascertaining the nature of the subsoil or the presence of minerals therein, or both, and to take and carry away, for the purpose of examination, specimens of the subsoil or minerals, or both, found therein.

(2) Where any property is damaged in the exercise of a right of entry conferred by this Article, or in the making of any survey or examination or the doing of anything for the purpose of which any such right of entry has been so conferred, compensation in respect of that damage may be recovered from the Executive by any person interested in the property.

(3) Any question of disputed compensation under this Article shall be referred to and determined by the Lands Tribunal.

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(4) Any reference in this Article to an occupier or to an owner shall be construed as including a reference to a person appointed in writing by such occupier or owner as his representative for purposes which include all or any of the purposes of this Article.

### Information as to ownership of land

**14.—**(1) The Executive may, for the purpose of enabling it to serve any notice (including any copy of any notice) which it is by this Order authorised or required to serve, require the occupier of any land, and any person who, either directly or indirectly, receives rent in respect of any land, to state in writing the nature of his own estate therein and the name and address of any other person known to him as having an estate therein.

(2) Any person who, having been required by the Executive in pursuance of this Article to give to it any information, fails to give that information, or knowingly makes any misstatement in respect thereof, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>[F9]</sup> £1,000].

**F9** 1983 NI 15

## CHAPTER III

### FINANCE

#### Advances by the Department to the Executive

**15.—**<sup>[F10]</sup>(1) The Department of Finance and Personnel may make advances to the Executive of such amounts and on such terms as that Department thinks fit.

(2) Subject to paragraph (3), there shall be issued out of the Consolidated Fund such sums as are necessary to enable the Department of Finance and Personnel to make advances under paragraph (1), and for the purpose of providing such issues the Department of Finance and Personnel may borrow money.]

(3) The amount by which the aggregate of the sums issued under—

- (a) paragraph (2);
- (b) Article 3(2) of the Housing Finance (Northern Ireland) Order 1977 ;
- (c) section 20(2) of the Housing Executive Act (Northern Ireland) 1971 ; and
- (d) section 17(2) of the Housing Act (Northern Ireland) 1945 ;

exceeds the total amounts of principal repaid to the Consolidated Fund in respect of advances made under paragraph (1), Article 3(1) of the said Order of 1977, section 20(1) of the said Act of 1971 and section 17(1) of the said Act of 1945 shall not at any time exceed<sup>[F11]</sup> £1,800] million.

<sup>[F10]</sup>(4) In paragraph (3)—

- (a) the reference to sums issued under paragraph (2) includes sums issued under that paragraph as it had effect before the day of the coming into operation of Article 25 of the Housing (Northern Ireland) Order 1988, and
- (b) the reference to advances made under paragraph (1) includes advances made under that paragraph as it had effect before that day.]

**F10** 1988 NI 23

**F11** 1993 NI 5



## Borrowing by the Executive

**16.**—(1) The Executive may, with<sup>F12</sup> the consent of the Department and with] the approval of the Department of Finance, borrow money.

(2) Without prejudice to section 19(1)( a)(ii) of the Interpretation Act (Northern Ireland) 1954 , a person lending money to the Executive shall not be bound to inquire whether the borrowing of the money is or was legal or regular or whether the money was properly applied.

(3) The Department of Finance may guarantee, in such manner and on such conditions as it may think fit, the repayment of the principal of, and the payment of interest on, any sums which the Executive borrows from any person.

(4) For the purposes of paragraph (3), any sums borrowed from any person by a former local authority (within the meaning of Part IX of the Local Government Act (Northern Ireland) 1972 ), the Northern Ireland Housing Trust or a new town commission, the liability for which was transferred to the Executive by virtue of section 8 of the Housing Executive Act (Northern Ireland) 1971 , shall be treated as sums borrowed by the Executive.

(5) Any sums required by the Department of Finance for fulfilling a guarantee under paragraph (3) shall be charged on and issued out of the Consolidated Fund, and for the purpose of providing for such issues the Department of Finance may borrow money.

F12 1988 NI 23

## Rent scheme

**17.**—(1) The Executive shall submit to the Department a scheme for determining the rent to be charged by the Executive for any housing accommodation provided by it.

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

(3) The Executive shall comply with a scheme approved by the Department under paragraph (2).

(4) The Executive may at any time, and if the Department so directs shall, submit to the Department proposals amending a scheme approved under paragraph (2) or a scheme replacing any such scheme and paragraphs (2) and (3) shall have effect in relation to those proposals or a scheme replacing an existing scheme as they have effect in relation to a scheme.

*Art. 18 rep. by 1983 NI 14*

## Estimates of the Executive's income and expenditure

**19.**—(1) In each financial year the Executive shall submit to the Department, in such form as the Department may direct, estimates of the income and expenditure of the Executive during the next-following financial year and shall submit such other information relating to those estimates as the Department may require.

(2) Without prejudice to any other statutory provision requiring the Executive to obtain the Department's approval or consent, the Department may approve estimates submitted under paragraph (1) either in whole or in part or subject to such modifications or conditions as the Department thinks fit.

(3) The Department may at any time approve an amendment to the estimates approved under paragraph (2) in such manner as it may determine.

(4) Subject to paragraph (5), the expenditure of the Executive shall be in accordance with estimates approved under paragraph (2) but where the Department is satisfied that any expenditure not provided for by the estimates has been, or will be, reasonably and properly incurred in any

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financial year, the Department may sanction such expenditure notwithstanding that it has not been provided for by the estimates.

(5) Where, for whatever reason, the Department has not approved the estimates for a financial year at the beginning of that year, the Executive may, until estimates for that year are approved, incur expenditure not exceeding 40 per cent of the amount of the estimates approved for the preceding financial year.

### **Annual grant to the Executive**

**20.**—(1) Subject to<sup>[F13]</sup> paragraphs (2) and (3)], the Department may in respect of each financial year pay to the Executive at such times, in such manner and subject to such conditions as the Department may think fit, a grant towards the expenditure incurred or to be incurred by the Executive in that year.

(2) The amount of any grant payable by the Department under paragraph (1) shall be such as the Department may, with the approval of the Department of Finance, determine.

<sup>[F13]</sup>(3) Paragraph (1) does not empower the Department to pay grant towards expenditure incurred or to be incurred by the Executive in the exercise of its functions under Article 86.

(4) For the purposes of Article 86 paragraphs (1) and (2) shall have effect subject to the following modifications—

- (a) and reference to the Department shall be construed as a reference to the Department of Economic Development; and
- (b) in paragraph (1) the reference to expenditure incurred or to be incurred by the Executive shall be construed as a reference to expenditure incurred by the Executive in the exercise of its functions under that Article.]

<b>F13</b> SR 1984/204
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### **Accounts and Audit**

**21.**—<sup>[F14]</sup>(1) The Executive shall—

- (a) keep proper accounts and proper records in relation to the accounts; and
- (b) prepare a statement of accounts in respect of each financial year.

(2) The statement of accounts shall—

- (a) be in such form; and
- (b) contain such information,

as the Department may, with the approval of the Department of Finance and Personnel, direct.

(3) The Executive shall, within such period after the end of each financial year as the Department may direct, send copies of the statement of accounts relating to that year to—

- (a) the Department; and
- (b) the Comptroller and Auditor General for Northern Ireland.

(4) The Comptroller and Auditor General shall—

- (a) examine, certify and report on every statement of accounts sent to him by the Executive under this Article; and
- (b) send a copy of his report to the Department.

(5) The Department shall lay a copy of the statement of accounts and of the Comptroller and Auditor General's report before the Assembly.]

(9) The Executive may invest such money as is not immediately required for the purposes of the Executive<sup>[F15]</sup> in any investments in which trustees may invest under—

- (a) the general power of investment in section 3 of the Trustee Act (Northern Ireland) 2001 (as restricted by sections 4 and 5 of that Act); or
- (b) section 8(1)(a) of that Act (land).]

**F14** 2003 NI 5

**F15** 2001 c. 14 (NI)

## CHAPTER IV

### HOUSING MANAGEMENT

#### House allocation scheme

**22.**—<sup>[F16]</sup>(1) The Executive shall submit to the Department a scheme for the allocation of housing accommodation held by the Executive to prospective tenants or occupiers.]

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

(3) The Executive shall comply with a scheme approved by the Department under paragraph (2)<sup>[F16]</sup> and with the provisions of Article 22A when allocating housing accommodation held by it].

(4) The Executive may submit to the Department proposals for amending a scheme approved under paragraph (2) or a scheme replacing any such scheme and paragraphs (2) and (3) shall have effect in relation to those proposals or a scheme replacing an existing scheme as they have effect in relation to a scheme.

<sup>[F17]</sup>(5) An applicant for a tenancy or licence of a house under a scheme shall, for the purpose of satisfying the Executive as to his identity, furnish such certificates, documents, information and evidence as the Executive may require.

(6) Nothing in a scheme or in any statutory provision shall oblige the Executive to entertain an application for housing accommodation until the applicant has complied with the requirements of paragraph (5).]

<sup>[F16]</sup>(7) For the purposes of this Article and Article 22A the Executive allocates housing accommodation when it selects a person to be a secure or introductory tenant of housing accommodation held by it.

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

**F16** 2003 NI 2

**F17** 1992 NI 15

#### <sup>[F18]</sup>Allocation only to eligible persons

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

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

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

### **Power to let houses to government departments and other bodies**

**23.**—(1) The Executive may let houses to a government department (including a department of the government of the United Kingdom), or to a public authority or body, or to any charitable or benevolent association, society or body of persons (whether corporate or unincorporate).

(2) The Executive may let a house to any local or other body of persons for any purpose beneficial to the residents of the area in which the house to be let is situated.

### **Recovery of possession of premises let by the Executive**

**24.**—(1) [<sup>F19</sup>Subject to paragraph (2),] on the termination of the tenancy of any premises let by the Executive, possession of the premises may (without prejudice to any other method of recovery) be recovered by the Executive in a summary manner under [<sup>F20</sup> Part VI of the Magistrates' Courts (Northern Ireland) Order 1981] wherever the premises may be situate and whatever may be the rent or term of the tenancy.

[<sup>F19</sup>(2) Paragraph (1) does not apply to any tenancy which is a secure tenancy within the meaning of Article 25 of the Housing (Northern Ireland) Order 1983.]

**F19** 1983 NI 15

**F20** 1981 NI 26

### **Substitution or variation of tenancy agreements**

**25.**—(1) Subject to paragraph (2), where a house is or has been let by the Executive on a weekly or other periodic tenancy, the Executive, without the tenancy being terminated, may—

- (a) substitute a new tenancy agreement for an existing tenancy agreement,
- (b) vary the terms of any tenancy agreement, by a written notice of substitution or variation given by the Executive to the tenant not less than 4 weeks before the date upon which the substitution or variation is to be made.

(2) A notice of substitution or variation given by the Executive under paragraph (1) shall not be valid unless it tells the tenant of his right to terminate the tenancy and of the steps to be taken by him if he wishes to do so.

(3) In this Article “tenancy agreement” includes every term or condition (other than the amount of rent to be paid) expressed or implied in any contract of letting.

[<sup>F21</sup>(4) This Article does not apply to a secure tenancy within the meaning of Article 25 of the Housing (Northern Ireland) Order 1983.]

**F21** 1983 NI 15

### **Increase of Executive rents**

**26.**—(1) Subject to paragraphs (2) and (3), where a house is or has been let by the Executive on a weekly or other periodic tenancy, the rent payable to the Executive under the tenancy may, without the tenancy being terminated, be increased with effect from the beginning of any rental period (that is to say, a period in respect of which a payment of rent falls to be made) by a written notice of increase given by the Executive to the tenant not less than 4 weeks before the beginning of the rental period (or any earlier day on which the payment of rent in respect of that period falls to be made).

(2) Where the Executive gives a notice of increase under paragraph (1) for the beginning of a rental period and the tenancy continues into that period, the notice shall nevertheless not have effect

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if the tenancy is terminated by notice to quit given by the tenant in accordance with the express or implied provisions of the tenancy, and

- (a) the notice to quit is given before the end of the period of 2 weeks following the date on which the notice of increase is given, or such longer period as may be allowed by the notice of increase; and
- (b) the date on which the tenancy is made to terminate is not later than the earliest day on which the tenancy could be terminated by a notice to quit given by the tenant in the last day of that period.

(3) The Executive's notice of increase under paragraph (1) shall not be valid unless it tells the tenant of his right to terminate the tenancy and of the steps to be taken by him if he wishes to do so, and it also gives him the dates by which, if the increase is not to be effective, the notice to quit must be received by the Executive and the tenancy made to terminate.

[<sup>F22</sup>(4) This Article does not apply to a secure tenancy within the meaning of Article 25 of the Housing (Northern Ireland) Order 1983.]

**F22** 1983 NI 15

### [<sup>F23</sup>Length of notice to quit under Executive tenancies

**26A.** A notice by the Executive or by a tenant of the Executive to quit a house let (whether before or after the coming into operation of the Housing (Northern Ireland) Order 1983) under a tenancy shall not be valid unless it is given not less than four weeks before the date on which it is to take effect.]

**F23** 1983 NI 15

## PART III

### DEVELOPMENT FUNCTIONS OF THE EXECUTIVE

#### CHAPTER I

##### PROVISION OF HOUSING ACCOMMODATION

#### Provision of housing accommodation

- 27.** The Executive may provide housing accommodation by—
- (a) constructing houses on any land acquired by it,
  - (b) converting buildings into houses,
  - (c) acquiring houses,
  - (d) altering, enlarging, repairing or improving any houses or buildings which have been acquired by it,
  - (e) constructing, acquiring, altering, enlarging, improving or repairing any temporary building which may be, or may be made, suitable for residential purposes.

#### Supplementary powers

- 28.—(1)** The Executive may—

- (a) provide fixtures and fittings in houses, hostels or other buildings acquired by it or under its control, provide furniture in hostels acquired by it or under its control and sell, let, lend or hire such fixtures, fittings or furniture on such terms and conditions as to payment or otherwise as it may consider fit;
- (b) manage any houses provided by it or otherwise under its control and promote the welfare and comfort of the tenants or occupiers thereof;
- (c) demolish houses or buildings owned by it;
- (d) develop land, lay out streets, roads and open spaces and hand over to the Department any streets or roads when completed;
- (e) undertake and execute any lawful trust which has for its object the furtherance of the provision of housing accommodation in Northern Ireland, or any other subject similar or incidental to any purposes of the Executive;
- (f) accept gifts and donations;
- (g) support, or aid in the support of, charitable or benevolent associations or institutions connected with the provision of housing accommodation, or with objects ancillary to such provision;
- (h) do all such other matters and things as are reasonably necessary for the exercise and performance of all or any of the powers and duties of the Executive under this Order and perform any other function which is incidental or conducive to the attainment or furtherance of the purposes of the Executive or any of them.

(2) The Executive may, with the consent of the Department, provide and maintain alone or jointly with any other person, in connection with any housing accommodation provided by it, any building adapted for use as a shop, any recreation grounds, or other buildings or land.

(3) The Department may give its consent under paragraph (2) subject to such conditions as it thinks fit.

(4) In paragraph (2) the power to provide buildings or land in connection with housing accommodation includes power to let or grant licences to use such buildings or land.

#### **[<sup>F24</sup>Provision of caravan sites for members of the Irish Traveller community**

**28A.—**(1) The Executive—

- (a) shall provide such caravan sites as appear to it to be appropriate for the accommodation of caravans of members of the Irish Traveller community, and
- (b) may manage those sites or lease them to some other person.

(2) For the purposes of paragraph (1), the Executive may, under Article 87, acquire land—

- (a) on which to construct caravan sites,
- (b) which is in use as a caravan site, or
- (c) which has been laid out as a caravan site.

(3) The Executive may make such provision as appears to it desirable in connection with caravan sites provided under this Article and, in particular, may provide for the use of those occupying such sites, any services or facilities for their health or convenience that appear to it to be appropriate.

(4) In exercising their powers under this Article, the Executive shall have regard to any model conditions specified by the Department of the Environment under section 5(7) of the Caravans Act (Northern Ireland) 1963 (c. 17).

(5) The Executive shall make in respect of the use of caravan sites provided by it, and of any services or facilities made available under this Article, such reasonable charges as it may determine.

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- (6) The Executive shall not have power under this Article to provide caravans.
- (7) In this Article—
- (a) “caravan” and “caravan site” have the same meaning as in the Caravans Act (Northern Ireland) 1963; and
  - (b) any reference to the Irish Traveller community shall be construed in accordance with Article 5(2)(a) of the Race Relations (Northern Ireland) Order 1997 (NI 6).]

**F24** 2003 NI 2

### **Production and supply of heat**

- 29.**—(1) The Executive may—
- (a) establish and operate, or cause to be operated, for the production of heat such plant as it thinks fit;
  - (b) buy or acquire heat; and
  - (c) sell or otherwise dispose of heat to the occupiers of—
    - (i) housing accommodation provided by the Executive,
    - (ii) buildings provided by the Executive in connection with the provision of such housing accommodation, and
    - (iii) any other house or building.
- (2) In paragraph (1) “heat” includes hot air, hot water and steam.

### **Submission of schemes by the Executive**

**30.**—(1) The Executive shall prepare and submit to the Department for approval such schemes as the Department may require, showing the nature of the works to be executed or other steps to be taken by the Executive for the provision of housing accommodation or for the furtherance of any other purpose of the Executive.

(2) Schemes under paragraph (1) shall be in such form and contain such particulars as the Department may require.

(3) The Department may approve a scheme or part of a scheme submitted under paragraph (1) without modification or subject to such modifications as it may think fit.

### **[<sup>F25</sup>Housing development]**

- 31.**—[<sup>F25</sup>(1) The Executive may construct houses for sale.
- (1A) The Executive may, under Article 87, acquire land for the purpose of—
- (a) paragraph (1); or
  - (b) disposing of the land to a person who intends—
    - (i) to construct houses on it,
    - (ii) to provide housing accommodation by the conversion, improvement, rehabilitation or repair of buildings on it, or
    - (iii) to use it for purposes which, in the opinion of the Executive are necessary or desirable for, or incidental to, the development of the land for housing purposes.]



(2) Where, in accordance with Article 88, the Executive sells or leases any houses constructed by it or disposes of any land for the purposes specified in<sup>[F25]</sup> paragraph (1A)( b)], it may impose such covenants and conditions in relation to the houses or land as it thinks fit.

(3) The power of the Executive to sell or lease houses under Article 88 shall include, and be deemed always to have included, power to grant an equity-sharing lease.

(4) Upon a sale or grant of a lease of a house under Article 88, the Executive may agree to the price or any premium being paid by way of instalments or to payment being secured by a mortgage of the premises.

(5) Where the Executive disposes of any land for the purposes of<sup>[F25]</sup> paragraph (1A)( b)], it may contribute or agree to contribute, towards the cost of developing the land.

(6) In this Article—

- (a) “equity-sharing lease” means a lease of land, the general effect of which is to provide—
- (i) that, in consideration for the granting of the lease, the lessee shall pay a capital sum, representing a part payment in respect of the cost of acquisition of the premises demised, and a rent; and
  - (ii) that the lessee may make additional part payments towards the said cost of acquisition and may exercise an option to purchase the whole or part of the lessor’s reversion in the premises demised;

*Sub#para. (b) rep by 1997 NI 8*

**F25** 1992 NI 15

### <sup>[F26]</sup>**Acquisition and development of land for resettlement of certain undertakings**

**31A.**—(1) The Executive’s power to acquire land under Article 87 shall be exercisable for the purpose of resettling a relevant undertaking.

(2) The Executive shall not acquire compulsorily for the purpose mentioned in paragraph (1) any land of an undertaking which is in use for the purposes of the undertaking, if the undertaking provides employment which is significant having regard to the extent of the land and the nature of the undertaking.

(3) The Executive may, for the purpose mentioned in paragraph (1)—

- (a) appropriate any land vested in it;
- (b) develop any land to which this sub-paragraph applies, whether by the erection or extension of buildings, the carrying out of works, the provision or facilitation of the provision of means of access, services or other facilities, or otherwise;
- (c) enter into an agreement with any person for the development in any manner described in sub-paragraph (b) of any land to which this sub-paragraph applies.

(4) Sub-paragraphs (b) and (c) of paragraph (3) apply to—

- (a) any land appropriated by the Executive under sub-paragraph (a) of that paragraph; and
- (b) any land acquired by the Executive for the purpose mentioned in paragraph (1).

(5) For the purpose of enabling a person carrying on a relevant undertaking to purchase or take on lease any land or to erect any buildings, the Executive may advance money by way of mortgage to that person.

(6) In this Article—

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“relevant undertaking” means an undertaking which is being carried on on land which is being or has been acquired by the Executive under Article 87;

“undertaking” means any trade or business or other activity providing employment.]

**F26** 1992 NI 15

### [<sup>F27</sup>Acquisition of land by the Executive for amenity purposes

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

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

**F27** 2003 NI 2

## [<sup>F28</sup>CHAPTER II

### CLEARANCE AREAS AND CLEARANCE, DEMOLITION AND CLOSING ORDERS

**F28** 1992 NI 15

#### Declaration of clearance areas

**32.**—(1) Where the Executive is satisfied as respects any area—

- (a) that the houses in that area are unfit for human habitation, or are by reason of their bad arrangement, or the narrowness or bad arrangement of the streets, dangerous or injurious to the health of the inhabitants of the area, and that the other buildings (if any) in the area are for a like reason dangerous or injurious to the health of the said inhabitants; and
- (b) that, having regard to Article 46A, the most satisfactory course of action is the demolition of all the buildings in the area;

the Executive shall define that area on a map so as to exclude from the area any building which is not unfit for human habitation or dangerous or injurious to health, and shall declare the area so defined to be a clearance area, that is to say, an area to be cleared of all buildings in accordance with the provisions of this Chapter.

(2) The Executive shall send notification of any declaration under this Article to—

- (a) the Department; and
- (b) the district council for the local government district in which the clearance area lies;

together with a statement of the number of persons who, on a day to be specified in the statement, occupied the buildings comprised in the clearance area.

(3) So soon as may be after the Executive declares an area to be a clearance area, it shall proceed to secure the clearance thereof by ordering the demolition of the buildings in the area.

(4) Where the Executive is of the opinion that an area should cease to be a clearance area, it may, with the consent of the Department, make a declaration to that effect and the area shall cease to be a clearance area from the date of that declaration.

### Clearance orders

**33.**—(1) Where, as respects any clearance area, the Executive determines to order any buildings to be demolished, it shall make and submit to the Department, for confirmation by it, a clearance order ordering the demolition of each of those buildings.

(2) Part I of Schedule 4 shall have effect with respect to clearance orders.

### Exclusion orders

**34.**—(1) Where the Executive is satisfied that a house comprised in a clearance order, which has been confirmed by the Department—

- (a) has been made fit for human habitation, or
- (b) will be made fit for human habitation if excluded from the clearance area,

the Executive may make and submit for confirmation by the Department an exclusion order excluding the house from the clearance area and modifying or revoking the clearance order accordingly.

(2) If it appears to the Executive that any house or other building, which has not been included in a clearance order, would not have been included in the clearance area but for the inclusion in the clearance area of the house to be excluded under paragraph (1), the exclusion order shall provide that that building shall also be excluded from the clearance area.

(3) An exclusion order may be made notwithstanding that the effect of the order in excluding any building from the clearance area is to sever that area into 2 or more separate and distinct areas, and in any such case Part I of Schedule 4 shall apply as if those areas formed one clearance area.

(4) For the purposes of this Article the Executive may accept an undertaking from an owner of the building, or any other person who has or will have an estate in the building and in particular undertakings concerning—

- (a) the works to be carried out to make the building fit for human habitation, and the time within which the works are to be carried out, and
- (b) the repayment of any sums paid by the Executive under—
  - (i) Chapter II of Part V,
  - (ii) section 36 or 37 of the Housing Act (Northern Ireland) 1971, or
  - (iii) section 2 of the Housing Act (Northern Ireland) 1961

(5) Part II of Schedule 4 shall have effect in relation to exclusion orders.

### Demolition orders

**35.**—(1) Where the Executive is satisfied that a house, which is not a flat, is unfit for human habitation and that, in accordance with Article 46A, taking action under this paragraph is the most satisfactory course of action, the Executive shall make a demolition order with respect to the house concerned.

(2) Where the Executive is satisfied that, in a building containing one or more flats, some or all of the flats are unfit for human habitation and that in accordance with Article 46A, taking action under this paragraph is the most satisfactory course of action, the Executive shall make a demolition order with respect to the building.

(3) Where the Executive has made a demolition order, it shall serve a copy of the order on—

- (a) any owner of the premises, and
- (b) so far as it is reasonably practicable to ascertain such persons, every mortgagee of the premises.

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(4) Where the premises in respect of which a demolition order is made are a building containing flats, any reference in sub-paragraph (a) or (b) of paragraph (3) to “the premises” includes a reference to the flats in the building concerned.

(5) Subject to Article 43, where the Executive makes a demolition order the order shall require—

- (a) that the premises be vacated within a period, not being less than 28 days from the date on which the order becomes operative, and
- (b) that the premises be taken down and removed—
  - (i) within 6 weeks after the expiration of the period specified in sub-paragraph (a), or
  - (ii) if the premises are not vacated within that period, within 6 weeks after the date on which it is vacated, or
  - (iii) within such longer period as the Executive may specify in the circumstances.

(6) Where, in accordance with Article 44, a demolition order becomes operative, the owner of the premises to which it applies shall take down and remove the premises within the time specified in the order; and, if the premises are not taken down and removed within that time, the Executive shall enter and take down and remove the premises and sell the materials thereof.

(7) Paragraphs 10 and 11 of Schedule 4 shall apply to any expenses incurred by the Executive under paragraph (6) and to any surplus remaining in the hands of the Executive.

### **Recovery of possession of buildings subject to clearance or demolition order**

**36.**—(1) Where, in accordance with paragraph 7 of Schedule 4 or, as the case may be, Article 44, a clearance order or demolition order becomes operative, the Executive shall serve upon the occupier of any building to which the order relates a notice—

- (a) stating the effect of the order,
- (b) specifying the date by which the building is to be vacated, and
- (c) requiring him to quit the building before the said date or before the expiration of 28 days from the service of the notice, whichever may be the later.

(2) If, at any time after the date on which a notice under paragraph (1) requires a building to be vacated, any person is in occupation of the building, the Executive or any owner of the building may bring proceedings in the same manner as ejection proceedings under Part VI of the Magistrates' Courts (Northern Ireland) Order 1981 and the court shall, on proof of the service of the notice and of such occupation, order vacant possession of the building to be given to the Executive or owner, but, in doing so, shall stay the issue of the decree for possession for a period of not less than 2 weeks or more than 4 weeks from the date of the order.

(3) Any person who, knowing that a clearance or demolition order is in operation in relation to any building, enters into occupation of that building or of any part thereof after the date by which the order requires that building to be vacated or after the date on which the building is in fact vacated, whichever is the earlier, or permits any other person to enter into such occupation after that date, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale and to a further fine not exceeding £10 for every day or part of a day on which the occupation continues after conviction.

### **Determination of demolition orders**

**37.**—(1) Where—

- (a) the Executive has made a demolition order in respect of premises and the premises have not yet been taken down and removed;

- (b) the owner of the premises, or any other person who in the opinion of the Executive is, or will be, in a position to put his proposals into effect, submits proposals to the Executive for the reconstruction, enlargement or improvement of the premises; and
- (c) the Executive is satisfied that the result of the work will be the provision of one or more houses fit for human habitation,

the Executive may, in order that the proposed works may be carried out, by notice served on the owner or occupier extend for such period as it may specify the time within which the premises are required by the demolition order to be taken down and removed and such time may be further extended by the Executive as occasion may require.

(2) Where the Executive is satisfied that premises in respect of which a demolition order has been made have been rendered fit for human habitation or have been replaced, the Executive may make an order determining the demolition order.

(3) Where the Executive—

- (a) extends or further extends the time mentioned in paragraph (1), or
- (b) makes an order under paragraph (2),

it shall serve a copy of the notice or order upon every person upon whom it was required to serve a copy of the demolition order.

(4) Where the Executive makes an order under paragraph (2), any payments made under Chapter II of Part V or under Part I of the Housing Act (Northern Ireland) 1961 by the Executive shall, unless the Department otherwise directs, be repayable to the Executive and shall be recoverable as a civil debt due to it.

### **Demolition orders: substitution of closing orders to permit use otherwise than for human occupation**

**37A.**—(1) If an owner of any premises in respect of which a demolition order has become operative or any other person who has an interest in the premises, submits proposals to the Executive for the use of the premises for a purpose other than human habitation, the Executive may if it thinks fit to do so determine the demolition order and make a closing order in respect of the premises.

(2) The Executive shall serve notice that the demolition order has been determined, and a copy of the closing order, on every person upon whom it would be required by paragraph (3) of Article 35 to serve notice of a demolition order.

### **Closing orders**

**38.**—(1) Where the Executive is satisfied that a house is unfit for human habitation and that, in accordance with Article 46A, taking action under this paragraph is the most satisfactory course of action, the Executive shall make a closing order with respect to the house.

(2) Where the Executive is satisfied that, in a building containing one or more flats, some or all of the flats are unfit for human habitation and that, in accordance with Article 46A, taking action under this paragraph is the most satisfactory course of action, the Executive shall make a closing order with respect to the whole or part of the building.

(3) In deciding for the purposes of paragraph (2)—

- (a) whether to make a closing order with respect to the whole or part of the building; or
- (b) in respect of which part of the building to make a closing order;

the Executive shall have regard to such guidance as may from time to time be given by the Department under Article 46A.

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(4) Where the Executive would but for this Article make a demolition order in respect of a house or building—

- (a) it may, if it considers it inexpedient to do so having regard to the effect of the demolition of that house or building upon any other building, and
- (b) it shall, if the house or building in respect of which it proposes to make the demolition order is a listed building or a building within a conservation area;

in lieu of making such an order, make a closing order prohibiting the use of the house or building for any purpose other than one approved by the Executive.

(5) In paragraph (4) “building”, “listed building” and “conservation area” have the meaning assigned to them in the [<sup>F29</sup>Planning Act (Northern Ireland) 2011].

(6) The Executive shall serve a copy of the closing order upon every person upon whom it would have to serve such a copy if the order were a demolition order.

(7) Where a closing order has been made in respect of a house or the whole or part of a building, the Executive may—

- (a) in a case where paragraph (4)(b) applies, after consultation with the Department, or
- (b) in any other case, at any time,

revoke that order and make a demolition order in respect of that house or as the case may be, the whole of that building.

**F29** Words in art. 38(5) substituted (13.2.2015 for specified purposes, 1.4.2015 in so far as not already in operation) by [Planning Act \(Northern Ireland\) 2011 \(c. 25\), s. 254\(1\)\(2\)](#), [Sch. 6 para. 33](#) (with [s. 211](#)); [S.R. 2015/49, arts. 2, 3](#), Sch. 1 (with Sch. 2 (as amended (16.3.2016) by [S.R. 2016/159, art. 2](#)))

### Determination of closing orders

**39.**—(1) Where the Executive is satisfied that a house or the whole or part of a building in respect of which a closing order has been made, has been rendered fit for human habitation or replaced, the Executive may make an order determining the closing order.

(2) Where an order is made under paragraph (1), the Executive shall serve a copy of that order upon every person upon whom it was required to serve a copy of the closing order.

(3) Article 37(4) shall have effect in relation to the determination of a closing order in the same manner as it applies where a demolition order is determined.

### Use of premises in contravention of closing order

**40.** Any person who, knowing that a closing order has become operative and applies to any premises, uses those premises in contravention of that order or permits them to be so used, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale and to a further fine not exceeding £10 for every day on which he so uses them, or permits them to be so used, after conviction.

### Repair notices

**41.**—(1) Subject to paragraph (2), where the Executive is satisfied that, having regard to Article 46A, any house or part of a house is unfit for human habitation and that serving a notice under this paragraph is the most satisfactory course of action, it shall serve upon the owner of the house a notice requiring him, within such reasonable time, not being less than 21 days, as may be specified in the notice, to execute the works specified in the notice and stating that, in the opinion of the Executive, those works will render the house or, as the case may be, that part thereof, fit for human habitation.

(2) Where the Executive is satisfied that, having regard to Article 46A, a house which is a flat is unfit for human habitation by reason of the defective condition of a part of the building outside the flat, it shall serve a repair notice upon the owner of the building, if it is satisfied that serving such a notice is the most satisfactory course of action.

(3) In addition to serving a notice on the owner of the house, the Executive [<sup>F30</sup>shall serve a copy on the rent officer (within the meaning of Article 2 of the Private Tenancies (Northern Ireland) Order 2006) and] may also serve a copy of the notice upon any other person having an estate in the house.

(4) In this Article “house” includes a house in multiple occupation, and in the case of such a house a repair notice may be served upon [<sup>F31</sup>the managing agent of the house (within the meaning of the Houses in Multiple Occupation Act (Northern Ireland) 2016)] instead of upon the owner.

**F30** Words in art. 41(3) inserted (1.4.2007) by [Private Tenancies \(Northern Ireland\) Order 2006 \(S.I. 2006/1459 \(N.I. 10\)\)](#), arts. 1(3), 74, **Sch. 4 para. 8**; S.R. 2006/428, **art. 3**

**F31** Words in art. 41(4) substituted (1.4.2019) by [Houses in Multiple Occupation Act \(Northern Ireland\) 2016 \(c. 22\)](#), s. 90(2), **Sch. 7 para. 3(2)**; S.R. 2019/39, art. 2 (with art. 3)

#### **Effect on Article 41 of proposal to include premises in group repair scheme**

**41A.**—(1) The Executive shall not be under a duty to serve a repair notice under paragraph (1) or, as the case may be, paragraph (2) of Article 41, if, at the same time as it satisfies itself as mentioned in the paragraph in question, it determines—

- (a) that the premises concerned form part of a building which would be a qualifying building in relation to a group repair scheme; and
- (b) that, within the period of 12 months beginning at that time, it expects to prepare a group repair scheme in respect of the qualifying building (in this Article referred to as a “relevant scheme”);

but where, having so determined, the Executive does serve such a notice, it may do so with respect only to those works which, in its opinion, will not be carried out to the premises concerned in pursuance of the relevant scheme.

(2) Subject to paragraph (3), paragraph (1) shall apply in relation to the premises concerned from the time referred to in paragraph (1) until the date on which the works specified in a relevant scheme are completed to the Executive's satisfaction (as certified under [<sup>F32</sup> Article 96(1) of the Housing (Northern Ireland) Order 2003]).

(3) Paragraph (1) shall cease to have effect in relation to the premises concerned on the day when the first of the following events occurs, that is to say,—

- (a) the Executive determines not to submit a relevant scheme to the Department for approval; or
- (b) the expiry of the period referred to in paragraph (1)(b) without either the approval of a relevant scheme within that period or the submission of a relevant scheme to the Department within that period; or
- (c) the Department notifies the Executive that it does not approve a relevant scheme; or
- (d) the Executive ascertains that a relevant scheme, as submitted or approved, will not, for whatever reason, involve the carrying out of any works to the premises concerned.

(4) In any case where, in accordance with paragraph (1), the Executive serves a repair notice under paragraph (1) or, as the case may be, paragraph (2) of Article 41 with respect only to certain of the works which would otherwise be specified in the notice, paragraph (1) of that Article shall have effect with respect to the notice as if after the word “notice” there were inserted the words “when taken together with works proposed to be carried out under a group repair scheme”.

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(5) In this Article “group repair scheme” and “qualifying building” have the same meaning as in<sup>F32</sup> Chapter III of Part III of the Housing (Northern Ireland) Order 2003].

**F32** 2003 NI 2

### **Offence of failing to comply with a repair notice**

**41B.**—(1) Where the person upon whom a repair notice in respect of a house has been served intentionally fails to comply with the notice, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) The obligation to execute the works specified in the notice continues notwithstanding that the period for completion of the works has expired.

(3) Article 42(1) shall have effect to determine whether a person has failed to comply with a notice and what is the period for completion of the works.

(4) The provisions of this Article are without prejudice to the exercise by the Executive of the powers conferred by Article 42.

### **Enforcement of repair notices**

**42.**—(1) If a notice under Article 41 is not complied with, then, after the expiration of the time specified in the notice, or, if an appeal has been made against the notice and upon that appeal the notice has been confirmed with or without variation, after the expiration of 21 days from the final determination of the appeal, or of such longer period as the court in determining the appeal may fix, the Executive may itself do the work required to be done by the notice or, as the case may be, by the notice as varied by the court.

(2) Where the Executive is about to enter a house under paragraph (1) for the purpose of doing any work it shall give to the owner and to the occupier of the house notice in writing of its intention to do so.

(3) Subject to paragraph (4), any expenses incurred by the Executive under this Article, together with interest at the prescribed rate from the date when a demand for the expenses is served until payment, may be recovered by the Executive summarily as a civil debt from the owner of the house.

(4) Where the Executive claims to recover any expenses from a person as being the owner of the house and that person proves that he—

- (a) is receiving the rent merely as agent or trustee for some other person; and
- (b) has not, and since the date of the service on him of the demand has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the Executive;

his liability shall be limited to the total amount of the money which he has, or has had, in his hands.

(5) Any expenses and interest due to the Executive under this Article shall, until recovered, be deemed to be charged on and payable out of the estate in the land, in relation to which they have been incurred, of the owner of the land and of any person deriving title from him.

(6) The charge created by paragraph (5) shall be enforceable in all respects as if it were a valid mortgage by deed created in favour of the Executive by the person on whose estate the charge has been created (with, where necessary, any authorisation or consent required by law) and the Executive may exercise the powers conferred by sections 19, 21 and 22 of the Conveyancing Act 1881 on mortgages by deed accordingly.



### **Appeals against demolition orders, closing orders, etc.**

**43.**—(1) Any person aggrieved by—

- (a) a demolition order or refusal to determine such an order;
- (b) a notice or refusal to issue a notice under Article 37(1) extending or further extending the time within which premises are to be taken down or removed;
- (c) a closing order or refusal to determine such an order; or
- (d) a repair notice;

may, within 21 days from the date of the service of the notice or copy of the order or, as the case may be, from the service of notification of the refusal, appeal to the county court; and no steps shall be taken by the Executive to enforce any notice or order against which an appeal is brought before the appeal has been finally determined.

(2) An appeal shall not lie under paragraph (1)(a) or (c) at the instance of a person who is in occupation of the premises to which the order relates under a lease or agreement of which the unexpired term does not exceed one year.

(3) Without prejudice to the generality of paragraph (1), it shall be a ground of appeal—

- (a) in the case of a demolition order, that making a closing order or serving a repair notice is the most satisfactory course of action;
- (b) in the case of a closing order, that making a demolition order or serving a repair notice is the most satisfactory course of action;
- (c) in the case of a repair notice, that making a demolition order or closing order is the most satisfactory course of action;

and, where the grounds on which an appeal is brought are or include that specified in sub-paragraph (a), (b) or (c), the court, on hearing the appeal, shall have regard to any guidance given to the Executive under Article 46A.

(4) On an appeal under this Article, the county court may confirm or quash or vary the notice, order or decision appealed against as the court considers fit.

(5) Where an appeal is allowed against a demolition order, a closing order or repair notice and the reason or one of the reasons for allowing the appeal is that specified in sub-paragraph (a), (b) or as the case may be, (c) of paragraph (3), the judge shall, if requested to do so by the appellant or the Executive, include in his judgment a finding to that effect.

### **Operative date of demolition orders, closing orders and repair notices**

**44.**—(1) Any notice or order against which an appeal may be brought under Article 43 shall, if no such appeal is brought, become operative on the expiration of the period of 21 days mentioned in Article 43(1) and shall be final and conclusive as to any matters which could have been raised on such an appeal, and any such notice or order against which such an appeal is brought shall, if and so far as it is confirmed by the county court or the Court of Appeal, become operative as from the date of the final determination of the appeal.

(2) For the purposes of Article 43 and this Article, the abandonment of an appeal shall be deemed to be a final determination thereof, having the like effect as a decision confirming the notice, order or decision appealed against, and an appeal shall be deemed to be finally determined on the date on which the decision of the Court of Appeal is given, or, in a case where an appeal from the county court is not brought to the Court of Appeal, upon the expiration of the period within which such an appeal might have been brought.

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### Effect of Rent (Northern Ireland) Order 1978

45. Nothing in the Rent (Northern Ireland) Order 1978 shall be deemed to affect the provisions of this Chapter relating to obtaining possession of a house with respect to which a clearance or demolition order has been made, or to prevent possession being obtained of any house which is required for the purpose of enabling the Executive to exercise its powers under this Chapter.

### Standard of fitness for human habitation

46.—(1) Subject to paragraph (2), a house is fit for human habitation for the purposes of this Order unless, in the opinion of the Executive, it fails to meet one or more of the requirements in sub-paragraphs (a) to (i) and, by reason of that failure, is not reasonably suitable for occupation—

- (a) it is structurally stable;
- (b) it is free from serious disrepair;
- (c) it is free from dampness prejudicial to the health of the occupants (if any);
- (d) it has adequate provision for lighting, heating and ventilation;
- (e) it has an adequate piped supply of wholesome water;
- (f) there are satisfactory facilities in the house for the preparation and cooking of food, including a sink with a satisfactory supply of hot and cold water;
- (g) it has a suitably located water-closet for the exclusive use of the occupants (if any);
- (h) it has, for the exclusive use of the occupants (if any), a suitably located fixed bath or shower and wash-hand basin each of which is provided with a satisfactory supply of hot and cold water; and
- (i) it has an effective system for the draining of foul, waste and surface water;

and any reference to a house being unfit for human habitation shall be construed accordingly.

(2) Whether or not a house which is a flat satisfies the requirements in paragraph (1), it is unfit for human habitation for the purposes of this Order if, in the opinion of the Executive, the building or a part of the building outside the flat fails to meet one or more of the requirements in sub-paragraphs (a) to (e) and, by reason of that failure, the flat is not reasonably suitable for occupation—

- (a) the building or part is structurally stable;
- (b) it is free from serious disrepair;
- (c) it is free from dampness;
- (d) it has adequate provision for ventilation; and
- (e) it has an effective system for the draining of foul, waste and surface water.

(3) The Department may by order amend the provisions of paragraph (1) or paragraph (2) in such manner and to such extent as it considers appropriate; and any such order—

- (a) may contain such transitional and supplementary provisions as the Department considers expedient; and
- (b) shall be made subject to negative resolution.

#### Modifications etc. (not altering text)

- C1** Art. 46 applied (1.4.2007) by [Private Tenancies \(Northern Ireland\) Order 2006 \(S.I. 2006/1459 \(N.I. 10\)\)](#), arts. 1(3), 17; [S.R. 2006/428](#), art. 3

**Executive to consider guidance given by Department in deciding whether to take action under Article 32, 35, 38, 41 or 47**

**46A.**—(1) In deciding for the purposes of Articles 32, 35, 38, 41 or 47 whether the most satisfactory course of action, in respect of any house or building, is, if applicable—

- (a) serving notice under paragraph (1) of Article 41; or
- (b) serving notice under paragraph (2) of that Article; or
- (c) making a closing order under paragraph (1) of Article 38; or
- (d) making a closing order under paragraph (2) of that Article with respect to the whole or a part of the building concerned; or
- (e) making a demolition order under paragraph (1) of Article 35; or
- (f) making a demolition order under paragraph (2) of that Article; or
- (g) declaring the area in which the house or building is situated to be a clearance area in accordance with Article 32; or
- (h) declaring the area in which the house or building is situated to be a re-development area in accordance with Article 47;

the Executive shall have regard to such guidance as may be given by the Department.

(2) Without prejudice to the matters in respect of which the Department may give guidance generally, it may, in particular, give guidance in respect of financial and social considerations to be taken into account by the Executive.

(3) Where the Department proposes to give guidance under paragraph (1), or to revise guidance already given, it shall lay a draft of the proposed guidance or alterations before the Northern Ireland Assembly and—

- (a) the Department shall not give the guidance or revise the guidance until after the expiration of the statutory period; and
- (b) if within that period the Assembly resolves that the guidance or alterations be withdrawn the Department shall not proceed with the proposed alterations (but without prejudice to the laying of a further draft).]

CHAPTER III

RE-DEVELOPMENT AREAS

**Re-development areas**

**47.**—(1) Where the Executive is satisfied that—

- (a) at least one-half of the land in an area, other than land used for streets, carriageways, highways, roadways or footpaths to which the public has access, is used for housing purposes;
- (b) at least one-third of the houses in the area are—
  - (i) unfit for human habitation; or
  - (ii) by reason of their bad arrangement, or the narrowness or bad arrangement of the streets, dangerous or injurious to the health of the inhabitants of the area; and

[<sup>F33</sup>(c) having regard to Article 46A, the most satisfactory course of action is to re-developed as a whole;]

the Executive shall define that area by reference to a map and declare that area to be a proposed re-development area and shall send a copy of the declaration to the district council for the local government district in which the proposed re-development area lies.

**Changes to legislation:** *Housing (Northern Ireland) Order 1981 is up to date with all changes known to be in force on or before 23 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

[<sup>F34</sup>(1A) In relation to paragraph (1)(a) land is used for housing purposes if there is on the land a building constructed or adapted for housing purposes, whether or not the building is for the time being used or capable of being used for those purposes.]

(2) Where the Executive is of the opinion that an area should cease to be a proposed re-development area, it may with the consent of the Department make a declaration to that effect and the area shall cease to be a proposed re-development area from the date of that declaration.

(3) The Executive shall publish notice of a declaration under paragraph (2) in one or more than one newspaper circulating in the former proposed re-development area.

**F33** 1992 NI 15

**F34** 1988 NI 23

### Re-development schemes and applications for vesting orders

**48.**—(1) Where the Executive declares an area to be a proposed re-development area, it shall prepare and submit to the Department a re-development scheme, indicating—

- (a) the houses in that area which are considered to be unfit for human habitation or, by reason of their bad arrangement, or the narrowness or bad arrangement of the streets, to be dangerous or injurious to the health of the inhabitants of the area;
- (b) in general terms the manner in which it is intended that the area should be laid out and the land therein used,

and shall apply to the Department for an order vesting that land in the Executive.

(2) When a re-development scheme is submitted, and application for a vesting order made to the Department, the Executive shall thereupon—

- (a) publish in one or more than one newspaper circulating in the proposed re-development area a notice—
  - (i) describing the proposed re-development area and referring to the submission of the re-development scheme;
  - (ii) specifying the place at which copies of the scheme may be seen at reasonable times;
  - (iii) stating that an application has been made to the Department for an order vesting in the Executive the lands included in the re-development scheme;
  - (iv) stating the time (not being less than one month from the last of the publications of the notice) during which objections to the scheme, or to the making of the order, or to both the scheme and the making of the order, may be sent to the Department;
- (b) serve on every person appearing to the Executive to have an estate in any land within the proposed re-development area a notice containing the particulars referred to in subparagraph ( a).

(3) The Executive shall submit to the Department such further particulars in relation to a re-development scheme as the Department may require.

### Approval and amendment of re-development schemes and making of vesting orders

**49.**—(1) If—

- (a) no objections are made to a re-development scheme or to the making of the vesting order; or
- (b) all objections to a re-development scheme and to the making of the vesting order are withdrawn;

the Department may approve the scheme with or without amendment and may make an order under Article 87 vesting in the Executive the land within the re-development area or so much thereof as the Department thinks proper.

(2) If objections made to a re-development scheme or to the making of the vesting order are not withdrawn the Department, unless it is satisfied that the objections are of a frivolous or vexatious nature, shall—

- (a) cause a public local inquiry to be held; and
- (b) consider any objections not withdrawn and the report of the person who held the inquiry;

and may thereafter approve the scheme with or without amendment and make an order under Article 87 vesting in the Executive the land within the re-development area or so much thereof as the Department thinks proper.

(3) On receipt of notice that the Department has approved a re-development scheme and made a vesting order, the Executive shall publish in one or more than one newspaper circulating in the area specified in the approved scheme as the re-development area (in this Chapter referred to as “the re-development area”) a notice—

- (a) referring to the approval of the re-development scheme and describing the re-development area;
- (b) stating that a vesting order has been made;
- (c) specifying the place at which copies of the approved scheme and the vesting order may be inspected at reasonable times.

(4) On receipt of notice that the Department has refused to approve a re-development scheme or to make a vesting order, the Executive shall publish in one or more than one newspaper circulating in the proposed re-development area a notice referring to that refusal.

(5) On receipt of notice that the Department has approved or refused to approve a re-development scheme or has made or refused to make a vesting order, the Executive shall serve a notice containing the particulars referred to in paragraph (3) or, as the case may be, paragraph (4), on every person on whom a notice was served under Article 48(2)( b).

(6) Subject to paragraph (7), the Executive may at any time, and if so directed by the Department shall, prepare and submit to the Department proposals—

- (a) for amending an approved re-development scheme; or
- (b) for amplifying or modifying an approved re-development scheme in so far as it relates to the manner in which the re-development area is to be laid out and the land therein used;

and the Department may—

- (i) approve such proposals with or without amendment, and
- (ii) amend or, as the case may be, amplify or modify the approved re-development scheme accordingly.

(7) Article 48(2) and (3) and paragraphs (1) to (5) shall apply in relation to the making of proposals under paragraph (6)(a) in the same manner as those provisions apply to the submission of a re-development scheme under Article 48.

(8) References in this Chapter to an approved re-development scheme shall include references to any scheme altered in accordance with this Article.

### **Disposal of land and powers of the Executive in re-development areas**

**50.**—(1) The Executive may, in accordance with Article 88, dispose of any land acquired under a re-development scheme subject to the condition that the land shall be developed in accordance with that scheme.

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(2) Where any land is disposed of under the power conferred by paragraph (1), the conveyance or lease shall include all such covenants and conditions as may be necessary to secure compliance by all persons deriving title thereunder with the condition imposed by that paragraph.

(3) For the purpose of carrying out an approved re-development scheme the Executive may exercise any of its powers under this Order and, without prejudice to the generality of the foregoing, may—

- (a) maintain and manage any buildings acquired by the Executive in a re-development area;
- (b) carry out any works specified in an approved re-development scheme.

*Art. 51 rep by 1992 NI 15*

## CHAPTER IV

### HOUSING ACTION AREAS

#### **Declaration of housing action areas**

**52.**—(1) Where a report with respect to an area consisting mainly of housing accommodation is submitted to the Executive by a person or persons appearing to the Executive to be suitably qualified (whether or not that person is or those persons include an officer of the Executive) and, upon consideration of the report and of any other information in its possession, the Executive is satisfied that, having regard to—

- (a) the physical state of the housing accommodation in the area as a whole, and
- (b) social conditions in the area,

the requirement in paragraph (2) is fulfilled with respect to the area, the Executive may define the area by reference to a map and, with the consent of the Department, declare it to be a housing action area.

(2) The requirement referred to in paragraph (1) is that the living conditions in the area are unsatisfactory and can most effectively be dealt with within a period of 5 years so as to secure—

- (a) the improvement of the housing accommodation in the area as a whole, and
- (b) the well-being of the persons for the time being residing in the area, and
- (c) the proper and effective management and use of that accommodation,

by declaring the area to be a housing action area.

(3) In considering whether to take action under paragraph (1) the Executive shall have regard to such guidance as may be given by the Department with regard to the identification of areas suitable to be declared as housing action areas.

(4) As soon as may be after declaring an area to be a housing action area, the Executive shall—

- (a) publish in one or more than one newspaper circulating in the locality a notice identifying the area and naming a place where a copy of the declaration, a map on which the area is defined and any report concerning the housing action area may be seen at reasonable times;
- (b) take such further steps as may appear to it best designed to secure that the declaration is brought to the attention of persons residing or owning property in the area and that those persons are informed of the address to which any inquiries and representations should be made concerning any action to be taken with respect to the area; and
- (c) send a copy of the declaration to the district council for the local government district in which the housing action area lies.

### **Duration of housing action areas**

**53.**—(1) Where the Executive has declared an area to be a housing action area, then, subject to this Article, the area shall be a housing action area throughout the period of 5 years from the date of the declaration.

(2) If, not less than 3 months before the date on which, apart from any extension or further extension under this paragraph, a housing action area would cease to exist as such an area, the Executive, with the consent of the Department, so declares, the duration of the housing action area shall be extended, subject to paragraph (3), by the addition of a further period of 2 years.

(3) Notwithstanding anything in paragraphs (1) and (2) if the Executive, with the consent of the Department, so declares, an area which it has previously declared to be a housing action area shall cease to be such an area on the date on which the declaration under this paragraph is made.

(4) As soon as may be after making a declaration under paragraph (2) or (3) the Executive shall—

- (a) publish in one or more than one newspaper circulating in the locality a notice of the declaration naming a place where a copy of the declaration may be inspected at all reasonable times;
- (b) take such further steps as may appear to the Executive best designed to secure that the declaration is brought to the attention of persons residing or owning property in the housing action area concerned; and
- (c) send a copy of the declaration to the district council for the local government district in which the housing action area lies.

### **Reduction of housing action areas**

**54.**—(1) The Executive may at any time, with the consent of the Department, exclude from a housing action area any land for the time being included therein.

(2) As soon as may be after making an exclusion under paragraph (1), the Executive shall—

- (a) publish in one or more than one newspaper circulating in the locality a notice of the exclusion, identifying the housing action area concerned and the land excluded from it;
- (b) take such further steps as may appear to the Executive best designed to secure that the exclusion is brought to the attention of persons residing or owning property in the housing action area; and
- (c) send notice of the exclusion to the district council for the local government district in which the housing action area lies.

### **Duty to publish information**

**55.** Where the Executive has declared a housing action area, the Executive shall bring to the attention of persons residing or owning property in the area—

- (a) the action which it proposes to take in relation to the housing action area, and
- (b) the assistance available for the improvement of the housing accommodation in the area,

by publishing, in such manner as appears to it appropriate, such information as is in its opinion best designed to further the purpose for which the area was declared a housing action area.

### **Acquisition of land in housing action areas**

**56.**—(1) Where the Executive has declared a housing action area, it may, in accordance with Article 87, acquire by agreement or compulsorily any land in the area for the purpose of securing or assisting in securing all or any of the objectives specified in Article 52.

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(2) If at any time after—

- (a) the Executive has entered into a contract for the acquisition of land falling within paragraph (1), or
- (b) an order vesting any such land has been made,

the housing action area concerned ceases to be such an area or the land concerned is excluded from the area, this Article shall continue to apply as if the land continued to be in a housing action area.

### **Provision, improvement, etc., of housing accommodation by the Executive**

**57.**—(1) The Executive may, for the purpose of securing, or assisting in securing, all or any of the objectives specified in Article 52 undertake on any land vested in it, which is situated in a housing action area, all or any of the following activities—

- (a) the provision of housing accommodation, by the construction, conversion or improvement of buildings or otherwise;
- (b) the carrying out of works required for the improvement or repair of housing accommodation, including work to the exterior, or on land within the curtilage of buildings containing housing accommodation;
- (c) the demolition of existing buildings;
- (d) the management of housing accommodation; and
- (e) the provision of furniture, fittings or services in or in relation to housing accommodation;

and Article 28 shall apply to the powers exercisable by the Executive under this Article, in connection with the provision of housing accommodation.

(2) The Executive may, with the approval of the Department, make and carry into effect an agreement with any housing association<sup>F35</sup> registered under Part II of the Housing (Northern Ireland) Order 1992 or other person whereby the association or that person] may act as agent for the Executive in undertaking any of the activities mentioned in paragraph (1).

**F35** 1992 NI 15

### **Assistance for carrying out environmental works**

**58.**—(1) For the purpose of effecting or assisting the improvement of living conditions in a housing action area, the Executive may, in accordance with this Article, give assistance towards the carrying out of works (in this Article referred to as “environmental works”)—

- (a) to the exterior, or on land within the curtilage, of buildings containing housing accommodation,<sup>F36</sup> . . . ; or
- (b) on land not falling within sub-paragraph ( a) for the purpose of improving the amenities of the area.

(2) Subject to<sup>F36</sup> paragraphs (2A) and (3)], assistance under paragraph (1) may be given to any person having an estate in the building or land concerned and shall consist of all or any of the following, namely—

- (a) a grant in respect of expenditure which appears to the Executive to have been properly incurred in the carrying out of environmental works;
- (b) the provision of materials for the carrying out of environmental works; and
- (c) by agreement with the person concerned, the execution of environmental works at his expense, at the expense of the Executive, or partly at his expense and partly at the expense of the Executive.



[<sup>F36</sup>(2A) No assistance under paragraph (1) shall be given towards works in respect of which an application for renovation grant or common parts grant under Chapter II of Part III of the Housing (Northern Ireland) Order 2003 has been approved.]

(3) No assistance may be given under paragraph (1) in respect of a building or land in which the Executive has such an estate as would enable the Executive itself to carry out environmental works in relation thereto.

[<sup>F37</sup>(3A) The Executive may, with the approval of the Department, make and carry into effect an agreement with any housing association registered under Part II of the Housing (Northern Ireland) Order 1992 or other person whereby the association or that person may act as agent for the Executive in giving assistance towards the carrying out of environmental works under paragraph (1).]

(4) A grant under paragraph (2)(a) may be paid after the completion of the works towards the cost of which it is payable or part of it may be paid in instalments as the works progress and the balance after the completion of the works; and where part of any such grant is paid in instalments the aggregate of the instalments paid shall not at any time before the completion of the works exceed one-half of the aggregate cost of the works executed up to that time.

(5) The value of any assistance given by the Executive under paragraph (1) shall not exceed such amount as the Department may, with the consent of the Department of Finance, determine.

**F36** 2003 NI 2  
**F37** 1992 NI 15

## CHAPTER V UNOCCUPIED PREMISES

### Interpretation

**59** <sup>F38</sup>. In this Chapter—

“house” includes—

- (a) any building or part of a building which may be, or may be made, suitable for residential purposes; and
- (b) any yard, garden, outhouse and appurtenance belonging thereto or usually enjoyed therewith;

“the owner” of a possessed house or of unoccupied premises means the person appearing to the Executive to be the owner thereof;

“possessed house” means a house of which the Executive has taken possession under Article 60(1); and

“unoccupied”, in relation to a house or premises, means unoccupied for the purposes of the Rates (Northern Ireland) Order 1977 .

**F38** continued in force by 1992 NI 15

### Power to take possession of unoccupied houses

**60** <sup>F39</sup>.—(1) Subject to this Article, where the Executive is satisfied—

- (a) that a house is unoccupied,
- (b) that the owner of the house is unable or unwilling to occupy or to let the house, and

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- (c) that the house is suitable to be used for housing purposes or is reasonably capable of being so rendered,

the Executive may enter and take possession of the house for the purpose of providing housing accommodation and may carry out such works of repair and improvement as it may consider necessary or desirable to render the house suitable for housing purposes.

(2) Immediately after exercising its powers under paragraph (1) the Executive shall serve upon the owner of the possessed house a notice stating—

- (a) that it has taken possession of the house,  
 (b) the date upon which such possession was taken, and  
 (c) the name and address of an officer of the Executive to whom any inquiries and representations concerning the action taken in exercise of the Executive's functions under this Article may be made,

and, without prejudice to section 24(2) of the Interpretation Act (Northern Ireland) 1954, the Executive shall affix a copy of the notice to the possessed house.

(3) The Executive, unless—

- (a) it determines not to continue in possession of the house, or  
 (b) the owner agrees to dispose of the house to it,

shall, in exercise of its powers under Article 87, apply to the Department within a period of one month from the date of service of a notice under paragraph (2) for an order vesting the house in the Executive.

(4) Where the Executive applies to the Department under paragraph (3), it shall include in the notice of application for a vesting order the information specified in paragraph (2).

(5) Where the Department refuses to make a vesting order the Executive shall forthwith serve upon the owner a notice stating the date, being not less than 14 days from the date of service of the notice, upon which it will give up possession of the house.

(6) Where the Executive is satisfied that the owner, or a person with the agreement of the owner, intends within a reasonable period from the date of service of a notice under paragraph (2) to occupy the house or to commence works of repair or improvement upon it, the Executive shall withdraw forthwith any application for an order vesting the house in it and shall serve upon the owner a notice stating a date within that period upon which it will give up possession of the house.

**F39** continued in force by [1992 NI 15](#)

### Occupation of possessed houses

**61**<sup>F40</sup>.—(1) Subject to this Article, the Executive may allocate a possessed house to any person who appears to it to require housing accommodation and in so doing shall have regard to the provisions of a scheme approved by the Department under Article 22.

(2) A person to whom a possessed house is allocated—

- (a) shall occupy it on such terms, and subject to such conditions, as the Executive may determine; and  
 (b) shall pay to the Executive in respect of it such sums as the Executive may, with the approval of the Department, determine.

(3) Any sums due to the Executive by a person to whom a house is allocated under this Article may, without prejudice to any other method of recovery, be recovered by the Executive summarily as a civil debt.

**F40** continued in force by [1992 NI 15](#)

### **Compensation to be paid in respect of possessed houses**

**62**<sup>F41</sup>.—(1) In every case where the Executive takes possession of a house under Article 60, it shall pay compensation in accordance with this Article.

(2) Any question of disputed compensation under this Article shall be referred to and determined by the Lands Tribunal.

(3) The compensation payable in respect of the taking possession of a house under Article 60 shall be a sum equal to the rent, excluding rates, which might reasonably be expected to have been paid by a tenant in occupation of the house during the period for which possession of the house was retained by the Executive under Article 60 disregarding the value of any improvements carried out by the Executive during that period.

(4) Subject to paragraph (5), where the Executive acquires a possessed house, whether by agreement or otherwise, the purchase price or, as the case may be, the amount of compensation, to be paid by the Executive in respect of that house shall be assessed by reference to the value of the house at the date upon which the Executive took possession under Article 60.

(5) Notwithstanding anything contained in paragraph (4), where the Executive acquires in pursuance of a vesting order a house—

- (a) which is situated in a proposed re-development area or a housing action area, and
- (b) which, at the date on which the Executive took possession of it under Article 60, was unfit for human habitation and was not capable at reasonable expense, of being rendered fit for human habitation,

then, for the purpose of Article 91, the house shall be treated as if it were included in a re-development scheme approved under Chapter III or a housing action area under Chapter IV.

(6) Where (for whatever reason) the Executive does not acquire a possessed house, the compensation payable under paragraph (3) shall include a sum equal to the cost of making good any damage to the house which may have occurred during the period specified in that paragraph, (except in so far as the damage has been made good during that period by the Executive).

**F41** continued in force by [1992 NI 15](#)

### **Power to secure or demolish unoccupied premises**

**63**<sup>F42</sup>.—(1) Where the Executive is satisfied that action is necessary to prevent damage to, or otherwise to protect, housing accommodation, it may serve upon the owner of any unoccupied premises (in this Article referred to as “the owner”) a notice requiring him within such time, not being less than 7 days, as the Executive may specify in the notice—

- (a) to execute such works to the unoccupied premises including works to secure those premises, or
- (b) to take such steps for demolishing the unoccupied premises, or any part thereof, and removing any rubbish or other material resulting from or exposed by the demolition,

as the Executive may consider necessary.

(2) Without prejudice to section 24(2) of the Interpretation Act (Northern Ireland) 1954, the Executive shall affix to the premises a copy of the notice served under paragraph (1).

(3) Where the Executive—

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- (a) is unable to establish the identity or whereabouts of the owner of unoccupied premises, and
- (b) has affixed a notice to the premises requiring the owner to take steps in accordance with paragraph (1)( b),

the Executive shall publish a copy of the notice in one or more than one newspaper circulating in the locality.

(4) Where a notice under paragraph (1) requires the owner of unoccupied premises to demolish those premises, or any part thereof, the owner may, within the period specified in the notice, make representations to the Department, and the Department shall notify the Executive or, where paragraph (10) applies, the district council which is acting as the agent of the Executive, that the notice shall not have effect while the Department is considering those representations.

(5) The Department, after considering the representations which have been made to it, shall inform the owner—

- (a) that the notice served under paragraph (1) shall have effect from a date specified by the Department, or
- (b) that the notice shall not have effect,

and the Department shall inform the Executive of its decision accordingly.

(6) Where an owner so requests in writing, the Executive may carry out on his behalf the works specified in a notice under paragraph (1) and may charge upon the owner the costs thereof, and such costs may be recovered summarily as a civil debt.

(7) A notice under paragraph (1) served upon an owner of unoccupied premises shall not have effect where the owner undertakes in writing within the time specified in the notice, to carry out within a period acceptable to the Executive such works as are necessary to render the unoccupied premises suitable for use and to prevent damage to, or to otherwise protect housing accommodation.

(8) Where an owner of unoccupied premises—

- (a) fails to act within the time specified in accordance with a notice under paragraph (1), or
- (b) defaults upon an undertaking given under paragraph (7),

the Executive may carry out the works specified in the notice and such works shall be deemed to have been carried out in response to a request by the owner under paragraph (6).

(9) Where it appears to the Executive that there is an urgent necessity to do so, it may, with the consent of the Department, carry out upon unoccupied premises such works as might be specified in a notice under paragraph (1) without service of such a notice upon the owner, but shall immediately inform the owner (if known) of the works which it has carried out upon the premises.

(10) The Executive may make and carry into effect an agreement with any district council whereby the council may act as agent for the Executive in the exercise of the functions conferred upon the Executive by this Article and the Executive shall send a copy of any such agreement to the Department.

**F42** continued in force by [1992 NI 15](#)

**Art. 64 rep by 1992 NI 15**

## PART IV

### GRANTS

#### CHAPTER I

*Chapter 1 (Arts. 65#85) rep. with saving by 1983 NI 15*

#### CHAPTER II

#### HOME INSULATION GRANTS

*Chapter 2 (Art. 86) rep. by 2003 NI 2*

## PART V

### LAND ACQUISITION AND COMPENSATION

#### CHAPTER I

#### ACQUISITION AND DISPOSAL OF LAND

#### **Acquisition of land by the Executive**

**87.**—(1) The Executive may, for the purposes of its functions<sup>F43</sup> . . . , acquire land by agreement or compulsorily.

(2) Where the Executive desires to acquire land compulsorily it may apply to the Department for an order (in this Order referred to as a “vesting order”) vesting the land in the Executive and the Department may make a vesting order.

(3) Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall, subject to the modifications specified in Schedule 6, apply for the purposes of the acquisition of land by means of a vesting order made under this Article in the same manner as it applies to the acquisition of land by means of a vesting order made under that Act.

(4) The power to make a vesting order in respect of land—

- (a) which is the property of any public body which has power under any transferred provision to acquire land compulsorily; or
- (b) which is declared by or under any transferred provision to be inalienable;

shall not, where representations objecting to the proposal for making the order have been duly made by the owner of the land and have not been withdrawn, be exercised in relation to that land unless the proposal for making the order has been approved by a resolution of the Northern Ireland Assembly. In this paragraph “public body” has the same meaning as in section 148 of the Local Government Act (Northern Ireland) 1972.

**F43** 1992 NI 15

#### **Disposal of land by the Executive**

**88.**—(1) The Executive may, in accordance with this Article, dispose of any land held by it.

(2) The Executive shall not dispose of any land at a consideration other than the best consideration that can reasonably be obtained, having regard to any covenants and conditions imposed by the Executive in relation to that land, except with the consent of the Department.

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[<sup>F44</sup>(2A) The Executive may recover from any person the administrative expenses (including legal and other professional expenses) incurred by it in connection with the disposal of land.

(2B) The power under paragraph (2A) is subject to a duty to secure that, taking one financial year with another, the income from charges under that paragraph does not exceed the costs of provision.]

(3) Sections 128 to 132 of the Land Clauses Consolidation Act 1845 (sale of superfluous land) shall not apply in relation to any land disposed of by the Executive.

**F44** Art. 88(2A)(2B) inserted (29.4.2014) by [Financial Provisions Act \(Northern Ireland\) 2014 \(c. 6\), ss. 9, 13\(1\)](#)

### [<sup>F45</sup>Transfer of mortgages by the Executive

**88A.**—(1) The Executive shall not dispose of its interest as mortgagee of land without the prior written consent of the mortgagor (or, if there is more than one mortgagor, of all of them) specifying the name of the person to whom the interest is to be transferred.

(2) Consent given for the purposes of this Article—

- (a) may be withdrawn by notice in writing to the Executive at any time before the instrument effecting the disposal is made, and
- (b) ceases to have effect if the instrument effecting the disposal is not made within six months after it is given;

and if consent is withdrawn or ceases to have effect, the Executive shall return to the mortgagor any document in its possession by which he gave his consent.

(3) A disposal made without the consent required by this Article is void, subject to paragraph (4).

(4) If consent has been given and the Executive certifies in the instrument effecting the disposal that it has not been withdrawn or ceased to have effect, the disposal is valid notwithstanding that consent has been withdrawn or ceased to have effect.

(5) In such a case any person interested in the equity of redemption may, within six months of the disposal, by notice in writing served on the Executive, require the Executive, the transferee and any person claiming under the transferee to undo the disposal, on such terms as may be agreed between them or determined by the county court, and execute any documents and take any other steps necessary to vest back in the Executive the interest disposed of by it to the transferee.

(6) Without prejudice to Article 10, the Department may direct the Executive—

- (a) to give to a mortgagor whose consent is sought such information as the Department may direct;
- (b) as to the form of the document by which a mortgagor's consent is to be obtained;
- (c) to secure that notice of the fact that the disposal has been made is given to the mortgagor, and
- (d) as to the form of that notice and the period (being a period of not less than 28 days from the date of the disposal) within which that notice must be given.

(7) Paragraph 2 of Part II of Schedule 5 to the Land Registration Act (Northern Ireland) 1970 (Registrar of Titles to note certain restrictive provisions) shall not apply in relation to this Article or Article 88B.]

**F45** [1988 NI 23](#)

### **Certain transfers to require Department's approval**

**88B.**—(1) The Executive shall not, in the following circumstances, dispose of its interest as mortgagee of land, without the approval of the Department.

(2) The circumstances are that, under the terms of the disposal or of any arrangement entered into in connection with the disposal—

- (a) any benefits or burdens of the mortgagee are retained by, or transferred to, the Executive, or
- (b) the transferee can call on the Executive to re#acquire any interest transferred or to redeem the mortgage, or
- (c) the consideration for the transfer is other than a cash sum determined at the date of the transfer, or
- (d) the transfer is carried out in consideration of some other transaction or the Executive may be required to enter into an agreement with a third party.

(3) The Department may by regulations amend paragraph (2) or provide for other circumstances in which the disposal by the Executive of its interest as mortgagee of land requires the approval of the Department.

### **[<sup>F46</sup>Disposal of houses let by the Executive to secure tenants**

**88C.**—(1) Subject to the following provisions of this Article, the Executive may, with the consent of the Department, dispose of its interest as landlord of any house occupied by a secure tenant.

(2) The Department's consent may be given—

- (a) either generally in relation to all houses or in relation to any particular house or description of house; and
- (b) subject to conditions.

(3) The Department shall not entertain an application for its consent under paragraph (2) unless it is satisfied that the Executive—

- (a) has, in accordance with the requirements of paragraphs (4) and (5), consulted—
  - (i) every tenant of a house to which the application relates, or
  - (ii) every such tenant other than one expected to have vacated the house in question before the disposal;<sup>F47</sup> . . .

*Sub.#para. (b) rep. by 2003 NI 2*

(4) For the purposes of paragraph (3) the requirements as to consultation are that the Executive shall serve notice in writing on the tenant informing him of—

- (a) such details of its proposal as the Executive considers appropriate, but including the identity of the person to whom the disposal is to be made,
- (b) the likely consequences of the disposal for the tenant, and
- (c) the effect of the provisions of this Article,

and informing him that he may, within such reasonable period as may be specified in the notice, make representations to the Executive.

(5) The Executive shall consider any representations made to it within that period and shall serve a further written notice on the tenant informing him—

- (a) of any significant changes in its proposal, and
- (b) that he may within such period as is specified (which must be at least 28 days after the service of the notice) communicate to the Executive his objection to the proposal,

and informing him of the effect of [<sup>F47</sup> paragraphs (5A) and (5B)].



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[  
<sup>F47</sup>(5A) The Department shall not give its consent if it appears to the Department that a majority of the tenants of the houses to which the application relates do not wish the disposal to proceed; but this does not affect the Department's general discretion to refuse consent on grounds relating to whether a disposal has the support of the tenants or on any other ground.

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

*Para. (6) rep. by 2003 NI 2*

(7) For the purposes of this Article the grant of an option which if exercised would result in a secure tenant of the Executive becoming the tenant of another landlord shall be treated as a disposal of the interest which is the subject of the option.

(8) Where a disposal of land by the Executive is in part a disposal to which this Article applies, the provisions of this Article apply to that part as to a separate disposal.

(9) The Department's consent to a disposal is not invalidated by a failure on its part or that of the Executive to comply with the requirements of this Article.]

**F46** 1992 NI 15

**F47** 2003 NI 2

**Modifications etc. (not altering text)**

**C2** Art. 88C applied (2.5.2011) by [Introductory Tenancies \(Disposal of Houses\) Order \(Northern Ireland\) 2011 \(S.R. 2011/54\)](#), [art. 2](#)

**Extinguishment of public rights of way**

**88D.**—(1) Where the Executive considers it necessary or expedient to do so, the Executive may submit to the Department an order (an “extinguishment order”) to extinguish any public right of way existing over land which the Executive has acquired or proposes to acquire.

(2) An extinguishment order shall not have effect until approved by the Department; and Article 88E shall apply with respect to that approval.

(3) An extinguishment order may—

- (a) provide for the retention or removal of any cables, wires, mains, pipes or other apparatus placed along, across, over or under the land over which the right of way exists; and
- (b) provide for the extinction, modification or preservation of any rights as to the use or maintenance of such cables, wires, mains, pipes or apparatus;

and may contain such consequential, incidental and supplementary provisions as appear to the Executive to be necessary or expedient for the purposes of the order.

(4) Where the Department approves an extinguishment order, the Executive shall—

- (a) meet the costs of any works which by any provision of the order any person is required to carry out; and
- (b) pay compensation in respect of the extinction or modification by the order of any right of any person.

(5) Any question of disputed compensation arising under this Article shall be referred to and determined by the Lands Tribunal.

(6) An extinguishment order approved in advance of the acquisition of land by the Executive shall not have effect earlier than the date on which the land is acquired.



## Procedures for approving extinguishment orders

**88E.**—(1) On submitting an extinguishment order to the Department, the Executive shall publish in at least one newspaper circulating in the relevant area a notice—

- (a) stating the general effect of the order;
- (b) specifying a place in the relevant area where a copy of the order and of any relevant map or plan may be inspected by any person at all reasonable hours during a period of 28 days from the date of publication of the notice; and
- (c) stating that, within that period, any person may by notice to the Department object to the making of the order.

(2) Not later than the date on which that notice is so published, the Executive shall serve a copy of the notice, together with a copy of the extinguishment order and of any relevant map or plan, on—

- (a) every district council in whose area any land to which the order relates is situated;
- (b) any gas [<sup>F48</sup>electricity, water or sewerage] undertaker having any cables, mains, pipes, or wires laid along, across, under or over any land over which a right of way is to be extinguished, under the order; and
- (c) the operator of any telecommunications code system for the purposes of which any telecommunication apparatus is kept installed along, across, under or over any such land.

(3) The Department may cause a public local inquiry to be held to hear objections to the extinguishment order.

(4) After considering any objections to the extinguishment order which are not withdrawn and, where a public local inquiry is held, the report of the person who held the inquiry, the Department may approve the order either without modification or subject to such modifications as it thinks fit.

(5) Where the Department approves an extinguishment order the Executive shall publish, in the manner specified in paragraph (1), a notice stating that the order has been approved, and naming a place where a copy of the order may be seen at all reasonable hours; and paragraph (2) shall have effect in relation to any such notice as it has effect in relation to a notice under paragraph (1).

(6) In this Article—

- (a) “electricity undertaker” means a holder of a licence under Article 10(1) of the Electricity (Northern Ireland) Order 1992; and
- (b) “the relevant area”, in relation to an extinguishment order, means the area in which any land to which the order relates is situated.

**F48** Words in art. 88E(2)(b) substituted (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#), arts. 1(2), 308(1), [Sch. 12 para. 16](#) (with arts. 8(8), 121(3), 307); S.R. 2007/194, [art. 2\(2\)](#), Sch. 1 Pt. II (with art. 3, Sch. 2)

## CHAPTER II

### LAND COMPENSATION MATTERS

#### Interpretation

**89.**—(1) For the purposes of this Chapter, a house which might have been the subject of a demolition order but which has, without the making of such an order, been vacated and demolished in pursuance of an undertaking for its demolition accepted by the Executive, shall be deemed to have been vacated in pursuance of a demolition order made and served at the date when the undertaking was accepted.

(2) For the purposes of this Chapter<sup>F49</sup> . . .

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“compulsory purchase value”, in relation to any estate in a house, means the compensation payable in respect of the compulsory purchase of that estate if that compensation fell to be assessed solely by reference to the rules set out in<sup>F50</sup> Article 6(1) of the Land Compensation (Northern Ireland) Order 1982] and, in the case of a house subject to a clearance order, demolition order or closing order, if that order were a vesting order and that compensation fell to be so assessed;

“demolition order” means an order under Article 35, but does not include such an order made in respect of a house already subject to a closing order, so far as it affects any part of the house in relation to which a payment under this Chapter<sup>F49</sup> . . . has fallen to be made in respect of the closing order;

“estate”, in a house, does not include the estate of a tenant for a year or any period less than a year, or of a tenant whose sole right to possession is under the Rent (Northern Ireland) Order 1978 ;

*Definition rep. by 1992 NI 15*

**F49** 1992 NI 15

**F50** 1982 NI 9

#### **[<sup>F51</sup>Land acquired compulsorily in re-development areas and housing action areas**

**90.**—(1) Where the Department makes or has made a vesting order to which this paragraph applies, compensation shall be assessed in accordance with the provisions of the Land Compensation (Northern Ireland) Order 1982.

(2) Paragraph (1) applies to any vesting order made on or after 1st April 1990 to vest in the Executive land comprising a house, for the purpose of any of the functions of the Executive under Chapter III or IV of Part III.]

**F51** 1992 NI 15

#### **Compensation payable in case of clearance orders, demolition orders and closing orders**

**91.**—(1) Subject to paragraph (4), where, after the coming into operation of Part V of the Housing (Northern Ireland) Order 1992, a clearance order, demolition order or closing order is made in respect of any premises, the Executive shall pay to every owner of the premises an amount determined in accordance with paragraph (2).

(2) The amount referred to in paragraph (1) is the diminution in the compulsory purchase value of the owner's estate in the premises as a result of the making of the clearance order, demolition order or closing order, as the case may be; and that amount—

- (a) shall be determined as at the date of the making of the order in question; and
- (b) shall be determined (in default of agreement) as if it were compensation payable in respect of the acquisition compulsorily of the estate in question and shall be dealt with accordingly.

(3) Subject to paragraph (4), where, on or after 1st April 1990 and before the coming into operation of Part V of the Housing (Northern Ireland) Order 1992, a clearance order, demolition order or closing order has been made in respect of any premises, the Executive shall pay to every owner of the premises—

- (a) an amount determined in accordance with paragraph (2); or
- (b) an amount determined in accordance with Chapter II of Part V, as that Chapter had effect before the coming into operation of Part V of the Housing (Northern Ireland) Order 1992,

whichever amount is the greater.

(4) In any case where—

- (a) a closing order has been made in respect of any premises, and
- (b) by virtue of Article 38(7) (substitution of demolition order for closing order) the closing order is revoked and a demolition order is made in its place,

the amount payable to the owner under paragraph (1) or (3) in connection with the demolition order shall be reduced by the amount (if any) paid, in connection with the closing order, to the owner or a previous owner under that paragraph or, as the case may be, under Chapter II of Part V as that Chapter had effect before the coming into operation of Part V of the Housing (Northern Ireland) Order 1992.

(5) For the purposes of this Article “premises” means the house, building or part of a building in respect of which the clearance order, demolition order or closing order is made.

### **Repayment on revocation of clearance order, demolition order or closing order**

**92.**—(1) Where a payment in respect of any premises has been made by the Executive under Article 91(1) in connection with a clearance order, demolition order or closing order and—

- (a) an exclusion order is made in respect of those premises under Article 34,
- (b) the demolition order is determined under Article 37, or
- (c) the closing order is determined under Article 39,

then, if at that time the person to whom the payment was made has the same estate in the premises as he had at the time the payment was made, he shall on demand repay to the Executive the amount of the payment.

(2) In any case where—

- (a) a payment in respect of any premises has been made by the Executive under Article 91(1) in connection with a closing order, and
- (b) by virtue of Article 39, the order is determined as respects part of the premises, and
- (c) the person to whom the payment was made (in this Article referred to as “the recipient”) had, at the time the payment was made, an owner's estate in the part of the premises concerned (whether or not he had such an estate in the rest of the premises),

then, if at the time of the determination of the closing order the recipient has the same estate in the premises as he had at the time the payment was made, he shall on demand pay to the Executive an amount determined in accordance with paragraphs (3), (4) and (5).

(3) The amount referred to in paragraph (2) is whichever is the less of—

- (a) the amount by which the value of the estate of the recipient in the premises increases as a result of the determination of the closing order; and
- (b) the amount paid to the recipient under Article 91(1) in respect of his estate in the premises;

and the amount referred to in sub-paragraph (a) shall be determined as at the date of the determination of the closing order.

(4) For the purposes of assessing the amount referred to in paragraph (3)(a) the rules set out in Article 6(1) of the Land Compensation (Northern Ireland) Order 1982 shall, so far as applicable and subject to the necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an estate in land.

(5) Any dispute as to the amount of compensation referred to in paragraph (3)(a) shall be referred to and determined by the Lands Tribunal.

*Arts. 93#97 rep. with saving by 1992 NI 15*

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### **Allowances to retail shopkeepers**

**98.** Where, as a result of action taken by the Executive in relation to clearance areas or re-development areas, the population of the locality concerned is materially decreased, the Executive may pay to any person carrying on a retail shop in that locality such reasonable allowance as it considers fit towards any loss involving personal hardship which in its opinion he will thereby sustain, but, in estimating any such loss, it shall have regard to the probable future development of that locality.

*Arts. 99, 100 rep. with saving by 1992 NI 15*

### **Interest**

**101.**—(1) Where—

- (a) a house is acquired in pursuance of a vesting order or is vacated in pursuance of a clearance order, demolition order or closing order; and
- (b) any person is, in respect of an estate in that house, entitled to a payment under this Chapter;

the Executive shall pay interest at the prescribed rate to that person in accordance with paragraph (2).

(2) Interest under paragraph (1) shall be paid—

- (a) where the house is acquired in pursuance of a vesting order, from the date on which the order comes into operation;
- (b) where the house is vacated in pursuance of any other order, from the later of the following dates—
  - (i) the date on which the order comes into operation;
  - (ii) the date on which the house is vacated.

*Arts. 102#140A rep. by 1992 NI 15*

*Part VIII (Arts. 141#152) rep. with saving by 1982 c. 39*

## **PART IX**

### **HOME PURCHASE ASSISTANCE**

#### **Advances to lending institutions**

**153.**—(1) The Department may make advances to recognised lending institutions enabling them to provide assistance under this Part to first-time purchasers of house property in Northern Ireland, where it is property in which the purchaser intends to make his home.

(2) The assistance is to be available where finance for the purchase of the property (and improvements, if any) is obtained by means of a secured loan from the lending institution and the purchase price<sup>F52</sup> does not exceed] such price limits as the Department may prescribe by order which shall be subject to negative resolution.

(3) Assistance under this Part is to be dependent upon the purchaser satisfying conditions with respect to his own savings; and the first condition is that he shall—

- (a) have been saving with a recognised savings institution for at least 2 years preceding the date of his application for the assistance; and
- (b) throughout the 12 months preceding that date, have had at least £300 of such savings;

and the second condition is that he shall by that date have accumulated at least £600 of such savings; but the Department may allow for the conditions to be relaxed or modified in particular classes of cases.

(4) Assistance under this Part may be given as follows—

- (a) the secured loan may be financed by the Department to the extent of £600 (that amount being normally additional to that which the institution would otherwise have lent, but not so that the total loan can exceed the loan value of the property);
- (b) £600 of the total loan may be made free of interest, and of any obligation to repay principal, for up to 5 years from the date of purchase; and
- (c) the institution may provide the purchaser with a bonus on his savings (which bonus shall be tax-exempt), up to a maximum of £110, payable towards the purchase or expenses arising in connection with it.

(5) The purchaser may qualify for assistance under paragraph (4)( a) and ( b) by satisfying both the conditions of paragraph (3), and qualify for bonus under paragraph (4)( c) by satisfying only the first of those conditions but he does not in any case qualify unless the amount of the secured loan is to be at least £1,600 and not less than 25 per cent of the purchase price of the property.

(6) The Department may, with the consent of the Department of Finance, by order which shall be made subject to negative resolution—

- (a) alter any of the money sums specified in paragraphs (3), (4) and (5) and the percentage figure specified in paragraph (5);
- (b) substitute any longer or shorter period for either or both of the periods mentioned in paragraph (3);
- (c) alter the second condition of paragraph (3) so that purchasers may also satisfy it with lesser amounts of savings, and enable assistance under paragraph (4)( a) and ( b) then to be given according to reduced scales specified in the order.

F52 1986 NI 13

## Administration

**154.**—(1) The lending institutions recognised for the purposes of Article 153 are specified in Part I of Schedule 10, and the savings institutions so recognised are specified in Part II of Schedule 10; and the Department may, with the consent of the Department of Finance—

- (a) add to either Part of the Schedule by order;
- (b) by order made in the case of a body named in it direct (but only after giving an opportunity for representations to be made on the body's behalf) that it be no longer a recognised institution.

(2) Advances to lending institutions shall be on such terms as to repayment and otherwise as may be settled by the Department with the consent of the Department of Finance, after consultation with lending and savings institutions or organisations representative of them; and the terms shall be embodied in directions issued by the Department.

(3) The following matters (among others) may be dealt with in the Department's directions—

- (a) the cases in which assistance under this Part is to be provided and the method—
  - (i) of determining loan value for the purpose of Article 153(4)( a), and
  - (ii) of quantifying bonus by reference to savings;
- (b) the considerations by reference to which a person is or is not to be treated as a first-time purchaser of house property;

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- (c) the steps which must be taken with a view to satisfying the conditions of Article 153(3), and the circumstances in which those conditions are to be treated as satisfied;
  - (d) the supporting evidence and declarations which are to be furnished by a person applying for the assistance, in order to establish his qualification for it, and the means of ensuring that restitution is made in the event of it being obtained by false representations; and
  - (e) the way in which amounts paid over by way of assistance under this Part are to be repaid to the lending institutions and the Department.
- (4) The Department may, to such extent as it thinks proper for safeguarding the lending institutions, include in the terms an undertaking to indemnify the institutions in respect of loss suffered in cases where assistance has been given under this Part.

*Art. 155 rep. by 1997 c. 32*

*Art. 155A rep. by SI 2000/311*

## PART X

### MISCELLANEOUS

#### **[<sup>F53</sup>Power of the Executive to enter into indemnity agreements with building societies**

**156.**—(1) The Executive may, with the approval of the Department, enter into agreements with building societies lending on the security of house property in Northern Ireland whereby, in the event of default by the mortgagor, and in circumstances and subject to conditions specified in the agreements, the Executive binds itself to indemnify the building society in respect of—

- (a) the whole or part of the mortgagor's outstanding indebtedness; and
- (b) any loss or expense falling on the building society in consequence of the mortgagor's default.

(2) In paragraph (1) “house property” means any property which is a house within the meaning of Article 2 (2).

(3) The agreement may also, where the mortgagor is made party to it, enable or require the Executive in specified circumstances to take a transfer of the mortgage and assume rights and liabilities under it, the building society being then discharged in respect of them.

(4) The transfer may be made to take effect—

- (a) on any terms provided for by the agreement (including terms involving substitution of a new mortgage agreement or modification of the existing one); and
- (b) so that the Executive is treated as acquiring (for and in relation to the purposes of the mortgage) the benefit and burden of all preceeding acts, omissions and events.

(5) The Department may under paragraph (1) approve particular agreements or give notice that particular forms of agreement have its approval; and—

- (a) may in either case make the approval subject to conditions;
- (b) shall, before giving notice that a particular form has its approval, consult the [<sup>F54</sup> Building Societies Commission], the Executive and such organisations representative of building societies as the Department thinks expedient.

*Para. (6) rep by 1986 c. 53*

*Para. (7) rep by SI 2000/311]*

**F54** 1986 c. 53

### [<sup>F55</sup> **Financial assistance for voluntary organisations concerned with housing**

**156A.**—(1) Subject to such terms and conditions as it may determine, the Department may, with the consent of the Department of Finance and Personnel, give to a voluntary organisation assistance by way of grant or by way of loan, or partly in the one way and partly in the other, for the purpose of enabling or assisting the organisation to provide training or advice, or to undertake research, or for other similar purposes relating to housing.

(2) In paragraph (1) “voluntary organisation” means a body the activities of which are carried on otherwise than for profit, but does not include any district council or other public body, within the meaning of section 146(2) of the Local Government Act (Northern Ireland) 1972, or a registered housing association with the meaning of Article 114.]

**F55** 1983 NI 15

### [<sup>F56</sup> **Indemnity agreements 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) for 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.”.]

**F56** 1986 NI 13

## **Inquiries**

**157.** Without prejudice to any other provision of this Order relating to inquiries, the Department may cause an inquiry to be held in connection with any matter relating to housing where it appears to the Department to be advisable to do so.

## **Power to authorise superior landlord to enter and execute works**

**158.**—(1) Where it is proved to the satisfaction of the court on an application in accordance with rules of court by any person entitled to any estate in any land used in whole or in part as a site for houses that the premises on the land are, or are likely to become, dangerous, or injurious to health, or unfit for human habitation, and that the interests of the applicant are thereby prejudiced, the court may make an order empowering the applicant forthwith to enter on the land and within the time fixed by the order to execute such works as may be necessary, and may order that any lease or agreement

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for a lease held from the applicant and any derivative underlease shall be determined subject to such conditions and to the payment of such compensation as the court may consider just.

(2) The court shall include in its order provisions to secure that the proposed works are carried out.

(3) In this Article “court” means the High Court and, in relation to matters within the jurisdiction of a county court, includes the county court.

### **Department's power to enter on land, etc.**

**159.** Articles 13 and 14 (Executive's power to enter on land and to obtain information as to the ownership of land) shall apply in relation to the functions exercisable by the Department under this Order as if for any reference in those Articles to the Executive there were substituted a reference to the Department.

**[<sup>F57</sup>159A.—**(1) Paragraph 23 of the [<sup>F58</sup> electronic communications code] (which provides a procedure for certain cases where works involve the alteration of [<sup>F58</sup> electronic communications apparatus]) shall apply to the Executive for the purposes of any works which it is authorised to execute under Chapter II, III or V of Part III.

(2) Where in pursuance of an order under Article 51 a public right of way over land is extinguished and, at the beginning of the day on which the order comes into operation, there is under, in, on, over, along or across the land any [<sup>F58</sup> electronic communications apparatus] kept installed for the purposes of [<sup>F58</sup> an electronic communications code network], the operator of [<sup>F58</sup> that network] shall have the same powers in respect of that apparatus as if the order had not come into operation; but any person entitled to land over which the right of way subsisted shall be entitled to land over which the right of way subsisted shall be entitled to require the alteration of the apparatus.

(3) Paragraph 1(2) of the [<sup>F58</sup> electronic communications code] (alteration of apparatus to include moving, removal or replacement of apparatus) shall apply for the purposes of the preceding provisions of this Article as it applies for the purposes of that code.

(4) Paragraph 21 of the [<sup>F58</sup> electronic communications code] (restriction on removal of [<sup>F58</sup> electronic communications apparatus]) shall apply in relation to any entitlement conferred by this Article to require the alteration, moving or replacement of any [<sup>F58</sup> electronic communications apparatus] as it applies in relation to an entitlement to require the removal of any such apparatus.]

**F57** 1984 c. 12

**F58** 2003 c. 21

### **Penalty for obstruction**

**160.—**(1) Any person who wilfully obstructs an authorised person in the performance of anything which he is required or authorised to do by this Order shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding [<sup>F59</sup> level 4 on the standard scale].

(2) In this Article “authorised person” means any person (including any officer of the Department or of the Executive) who is required or authorised under this Order to exercise any function.

**F59** 2003 NI 2



## Registration of certain matters as statutory charges

**161.**—(1) There shall be included among the matters which are required to be registered in the Statutory Charges Register—

[<sup>F60</sup>(za) any charge created under Article 9;]

- (a) any clearance order made under Article 33;
- (b) any notice served under Article 35;

[<sup>F61</sup>(bb) any closing order made under Article 38;]

- (c) any charge created under Article 42;
- (d) any declaration made under Article 47 declaring an area to be a proposed re-development area;
- (e) any declaration made under Article 52 declaring an area to be a housing action area, any extension of the duration of a housing action area under Article 53(2) and any amendment of such a declaration under Article 54;

(Sub#  
paras)

- (h) the statutory condition attaching by virtue of Article 123 to land held by a registered housing association and to grant-aided land as defined in Schedule 9 held by an unregistered housing association.

(2) An application for registration of—

- (a) any of the matters mentioned in sub-paragraphs [<sup>F62</sup>(za)] to ( g) of paragraph (1) shall be made by the Executive within 2 months after the Executive has [<sup>F63</sup>advanced the money,] made the order or declaration, served the notice or paid the grant, as the case may be;
- (b) the statutory condition attaching to any land mentioned in sub-paragraph ( h) of paragraph (1) shall be made by the Department—
  - (i) where land is held by a housing association at the date of the coming into operation of this Order, within one month of that date,
  - (ii) where land is acquired by a housing association after the date of the coming into operation of the Order, as soon as reasonably practicable after the acquisition of the land.

(3) Any person who suffers loss by reason of the failure of the Executive to comply with paragraph (2)( a) in so far as it relates to the matters mentioned in paragraph (1)( a), ( b) or ( d) or the failure of the Department to comply with paragraph (2)( b) may bring proceedings in any court of competent jurisdiction against the Executive or, as the case may be, the Department and recover from it the amount of that loss.

**F60** Art. 161(1)(za) inserted (9.7.2016) by [Housing \(Amendment\) Act \(NorthernIreland\) 2016 \(c. 17\)](#), **ss. 3(2)(a)**, 4

**F61** 1992 NI 15

**F62** Word in art. 161(2)(a) substituted (9.7.2016) by [Housing \(Amendment\) Act \(NorthernIreland\) 2016 \(c. 17\)](#), **ss. 3(2)(b)(i)**, 4

**F63** Words in art. 161(2)(a) inserted (9.7.2016) by [Housing \(Amendment\) Act \(NorthernIreland\) 2016 \(c. 17\)](#), **ss. 3(2)(b)(ii)**, 4

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## Regulations

**162.**—(1) The Department may make regulations prescribing anything which is to be prescribed and providing for any matter in regard to which regulations may be made under this Order and generally for carrying this Order into effect, and, without prejudice to the generality of the foregoing, may make regulations prescribing the form of any notice, advertisement, statement or other document which is required or authorised to be used under or for the purposes of this Order.

(2) Regulations under this Order<sup>F64</sup> other than those made under Article 22A(3)] shall be subject to negative resolution.

F64 2003 NI 2

## Amendments, savings and transitional provisions, repeals and revocation

*Para.(1), with Schedule 11, effects amendments*

(2) Subject to the savings and transitional provisions set out in Schedule 12, the provisions mentioned in Schedule 13 are repealed or revoked to the extent shown in the third column of that Schedule.

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art.155 revoked by [1997 c. 32 s.46\(2\)Sch.9](#)
- art.155 revoked by [1997 c. 32 s.46\(2\)Sch.9](#)