STATUTORY INSTRUMENTS

1992 No. 1725 (N.I. 15)

The Housing (Northern Ireland) Order 1992 [F1]

- - - - - - *15th July 1992*

F1 functions transf. by SR 1999/481

PART I N.I.

INTRODUCTORY

Title and commencement N.I.

1.—(1) This Order may be cited as the Housing (Northern Ireland) Order 1992.

(2) Subject to paragraph (3), this Order shall come into operation on the expiration of 2 months from the day on which it is made.

(3) Part III, Schedule 3 and Part II of Schedule 9 (and Article 108(1) in so far as it relates to that Part of that Schedule) shall come into operation on such day as the Head of the Department may by order appoint[F2].

(4) The following Orders—

(a) the Housing (Northern Ireland) Order 1981[F3];

(b) the Housing (Northern Ireland) Order 1983[F4];

(c) the Housing (Northern Ireland) Order 1986[F5];

(d) the Housing (Northern Ireland) Order 1988[F6]; and

(e) this Order,

may be cited together as the Housing (Northern Ireland) Orders 1981 to 1992.

F2 fully exercised by SR 1992/402
F3 1981 NI 3
F4 1983 NI 15
F5 1986 NI 13
F6 1988 NI 23

General interpretation N.I.

2.—(1) The Interpretation Act (Northern Ireland) 1954[F7] shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

"the Department" means the Department of the Environment;

"the Executive" means the Northern Ireland Housing Executive;

"the Order of 1981" means the Housing (Northern Ireland) Order 1981;

"the Order of 1983" means the Housing (Northern Ireland) Order 1983;

"the Order of 1986" means the Housing (Northern Ireland) Order 1986;

"the Order of 1988" means the Housing (Northern Ireland) Order 1988; and

"prescribe" means prescribe by regulations made by the Department.

(3) Expressions used in this Order and defined in the Order of 1981 or the Order of 1983 shall, unless the context otherwise requires, have the meanings given in the Order of 1981 or the Order of 1983, as the case may be.

F7 1954 c.33 (N.I.)

PART II N.I.

HOUSING ASSOCIATIONS

Part II: Interpretation N.I.

3. In this Part—

"the Act of 1969" means **[**[F8]the Co-operative and Community Benefit Societies Act (Northern Ireland) 1969**]**[F9];

"charity" has the same meaning as in the Charities Act (Northern Ireland) 1964[F10];

"committee" has the same meaning as in section 101(1) of the Act of 1969;

[[F11]"company" means a company registered under the Companies Act 2006;**]**

"equity-sharing lease" has the meaning given in Article 31(6)(a) of the Order of 1981;

"housing activities", in relation to a registered housing association, means all its activities in pursuance of such of its purposes, objects or powers as are of a description mentioned in—

(a) paragraph (a) of the definition of "housing association", or

(b) paragraphs (2) to (4) of Article 15;

"housing association" means a society, body of trustees or company—

(a) which is established for the purpose of, or amongst whose objects or powers are included those of, providing, constructing, improving or managing, or facilitating or encouraging the construction or improvement of housing accommodation, and

(b) which does not trade for profit or whose constitution or rules prohibit the issue of capital with interest or dividend exceeding such rate as may be prescribed by the Department of Finance and Personnel, whether with or without differentiation between share and loan capital;

"housing trust" means a corporation or body of persons which—

(a) is required by the terms of its constituent instrument to use the whole of its funds, including any surplus which may arise from its operations, for the purpose of providing housing accommodation, or

(b) is required by the terms of its constituent instrument to devote the whole, or substantially the whole, of its funds to charitable purposes and in fact uses the whole, or substantially the whole, of its funds for the purpose of providing housing accommodation;

"registrar" means the Registrar for the purposes of the Act of 1969;

"registered" means registered in the register of housing associations maintained under Article 14;

"self-build society" means a housing association whose object is to provide, for sale to, or occupation by, its members, houses built or improved principally with the use of its members' own labour;

"society" means a society registered under the Act of 1969;

"unregistered self-build society" means a self-build society which is not a registered housing association; and

"voluntary organisation" means an organisation whose activities are not carried on for profit.

F8 Words in art. 3 substituted (6.4.2018) by Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16), s. 17(2), **Sch. 1 para. 26**; S.R. 2017/217, art. 2(d)
F9 1969 c.24 (N.I.)
F10 1964 c.33 (N.I.)
F11 Art. 3: definition of "company" substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 138(2)** (with art. 10)

CHAPTER I N.I.

FUNCTIONS OF HOUSING ASSOCIATIONS

Functions of the Department N.I.

4.—(1) Without prejudice to any specific function conferred on the Department by or under this Part or any other statutory provision, the Department may—

(a) promote and assist the development of registered housing associations and of unregistered self-build societies;

(b) facilitate the proper exercise and performance of the functions, and publicise the aims and principles, of registered housing associations and unregistered self-build societies;

(c) establish and maintain a register of housing associations, **[**[F12]and exercise supervision and control over registered housing associations.**]**

(2) In the exercise of its functions under paragraph (1)(a) the Department may, with the approval of the Department of Finance and Personnel, make such contributions as it may determine towards the administrative and other expenses of registered housing associations, unregistered self-build societies and such bodies as appear to it to be representative of housing associations.

(3) In exercising its functions under paragraph (1)(a) and (b) the Department may, with the consent of the Department of Finance and Personnel, make grants to voluntary organisations which are not registered housing associations towards the expenses incurred by them in carrying out the

objects mentioned in Article 15(3)(f); and any such grant may be made subject to such conditions as the Department may, with the consent of the Department of Finance and Personnel, determine.

(4) For the purposes of paragraph (2) the term "registered housing association" shall include an unregistered housing association which at the date of payment of the contribution has made application to the Department for registration under Article 16 and the application has not yet been disposed of by the Department.

F12 Words in art. 4(1)(c) substituted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, **Sch. para. 2**; S.R. 2007/37, **art. 2**

Power of housing trusts to hold land N.I.

5. For the purpose of constructing, improving or repairing, or facilitating or encouraging the construction, improvement or repair of, housing accommodation, a housing trust—

(a) may acquire and dispose of any estate in land; and

(b) if it is not already a body corporate shall, for the purpose of holding any estate in land acquired under this Article, and of suing and being sued in respect thereof, be deemed to be a body corporate with perpetual succession, and consequently for the purpose of acquiring, holding or disposing of such an estate shall have a common seal.

Borrowing by housing associations N.I.

6.—(1) The Department may, on such terms and subject to such conditions as it thinks fit, make loans to—

(a) registered housing associations, and

(b) unregistered self-build societies,

for the purpose of enabling those bodies to meet the whole or any part of any expenditure incurred, or to be incurred, by them in carrying out their objects.

(2) Where the Department makes a loan to a registered housing association under paragraph (1), so long as any part of the principal of, or any interest on, the loan remains outstanding, the loan shall be a charge on all the revenues of that association and, subject to any statutory provision to the contrary, the charge shall rank equally with other charges on those revenues.

(3) The Department 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 a registered housing association or an unregistered self-build society borrows from any person.

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

[F13Realisation of value of Department's loans portfolio N.I.

6A.—(1) The Department may enter into such arrangements as it considers appropriate for the purpose of realising the value of the whole or part of its loans portfolio.

(2) The arrangements may provide, with respect to the purpose mentioned in paragraph (1), for—

(a) the transfer of any estate or interest of the Department, or

(b) the creation or disposal of economic interests not involving the transfer of an estate or interest,

and may extend to such incidental or ancillary matters as the Department considers appropriate.

(3) In this Article the Department's "loans portfolio" means the Department's rights or obligations in relation to—

(a) any loans made by the Department to registered housing associations under Article 6, or

(b) any securities related to such loans.

(4) Nothing in the terms of any loan or related transaction entered into by the Department shall be construed as impliedly prohibiting or restricting the Department from dealing with its loans portfolio in accordance with this Article.**]**

F13 2003 NI 2

Recovery of possession of premises let by a housing association **N.I.**

7.—(1) Subject to paragraph (2), on the termination of the tenancy of any premises let by a housing association, possession of the premises may (without prejudice to any other method of recovery) be recovered by the housing association in a summary manner under Part VI of the Magistrates' Courts (Northern Ireland) Order 1981[F14] relating to ejectment proceedings, whatever may be the rent or term of the tenancy.

(2) Paragraph (1) does not apply to any tenancy which is a secure tenancy within the meaning of Article 25 of the Order of 1983.

F14 1981 NI 26

Rents **N.I.**

8.—(1) Subject to the following provisions of this Article, a registered housing association may fix the amount of rent to be charged for any housing accommodation which it provides—

(a) under a tenancy granted by it on or after the day of the coming into operation of this Part; or

(b) under a tenancy—

(i) granted by it before that day, and

(ii) in respect of which the Department has not made a determination under paragraph (2).

(2) The Department, if it considers it appropriate to do so, may make a determination with respect to the rent to be charged under a tenancy granted by a registered housing association before the day of the coming into operation of this Part.

[[F15](3) The power conferred on a registered housing association under paragraph (1) may be exercised to fix the amount of rent to be charged under a tenancy by way of an equity#sharing lease, whenever granted.**]**

(4) For the purposes of**[**[F15] paragraph (2)**]** the Department—

(a) may make a determination with respect to a particular tenancy or a general determination with respect to a class of tenancy or to tenancies generally; and

(b) may make exceptions to a general determination.

(5) A general determination—

(a) shall be made with the consent of the Department of Finance and Personnel; and

(b) may fix a rent in such manner as the Department considers appropriate including, in particular, by reference to a scheme made under Article 17 of the Order of 1981 (scheme to determine rent to be charged by the Executive).

(6) Paragraph (2) does not apply to any housing accommodation provided under a co-ownership tenancy, that is to say a tenancy—

(a) granted by a registered housing association whose rules restrict membership to persons who are tenants or prospective tenants, and preclude the granting or assignment of tenancies to persons other than members; and

(b) under which the tenant (or his personal representatives) either by virtue of the tenancy agreement or the agreement under which he became a member of the association may be entitled on ceasing to be a member of the association to a sum calculated by reference, directly or indirectly, to the value of the house of which he is a tenant.

(7) The power conferred on a registered housing association under paragraph (1) may be exercised to increase the rent payable under a tenancy, but such power—**[**[F15] may be exercised in relation to any particular tenancy on one occasion only during any financial year**]**

(8) Article 26 of the Order of 1981 (increase of Executive rents) shall apply to registered housing associations and their tenants in the same manner as it applies to the Executive and its tenants.

F15 2003 NI 2

Tenancy agreements, etc. N.I.

9. Articles 25 and 26A of the Order of 1981 (which relate to the substitution or variation of tenancies of houses let by the Executive and to the length of notice to quit required in respect of such tenancies) shall apply to registered housing associations and their tenants in the same manner as they apply to the Executive and its tenants.

Persons eligible for housing accommodation N.I.

10. Except with the consent of the Department, a housing association shall not—

(a) if it is a registered housing association, accept as a tenant of any housing accommodation provided by it; or

(b) if it is not a registered housing association—

(i) accept as a tenant of housing accommodation provided by it under section 1 of the Housing Act (Northern Ireland) 1945[F16] as applied by section 12 of the Housing and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1946[F17], or

(ii) accept as an occupier of accommodation in a hostel provided by it in respect of which any contribution has been made to it under section 15 of the Housing Act (Northern Ireland) 1963[F18],

any person whom the Executive would be precluded by a scheme made under Article 22 of the Order of 1981 from accepting as a tenant of housing accommodation provided by it.

F16 1945 c.2 (N.I.)
F17 1946 c.4 (N.I.)
F18 1963 c.26 (N.I.)

Guidance as to management of accommodation by registered housing associations N.I.

11.—(1) In accordance with the provisions of this Article, the Department may issue guidance with respect to the management of housing accommodation by registered housing associations [F19]....

(2) Guidance issued under this Article may make different provision in relation to different cases and, in particular, in relation to different areas, different descriptions of housing accommodation and different descriptions of registered housing associations.

(3) Without prejudice to the generality of paragraphs (1) and (2), guidance issued under this Article may relate to—

(a) the housing demands for which provision should be made and the means of meeting those demands;

(b) the allocation of housing accommodation between individuals;

(c) the terms of tenancies and the principles upon which the levels of rent should be determined;

(d) standards of maintenance and repair and the means of achieving these standards; and

(e) consultation and communication with tenants.

(4) Guidance issued under this Article may be revised or withdrawn but, before issuing or revising any guidance under this Article, the Department shall consult such bodies appearing to it to be representative of housing associations as it considers appropriate.

(5) The Department shall issue the guidance or, as the case may be, the revision concerned in such manner as the Department considers appropriate for bringing it to the notice of the housing associations concerned.

F19 Words in art. 11(1) omitted (29.8.2020) by virtue of Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 3(11)**, 10(2)

Acquisition of land N.I.

12.—(1) The Department may, for the purpose of selling or leasing land to a registered housing association or to an unregistered self-build society—

(a) acquire any land by agreement or compulsorily;

(b) dispose of any land so acquired.

(2) Where the Department in exercise of the power conferred on it by paragraph (1) desires to acquire any land compulsorily, the Department may make an order (in this Article referred to as a "vesting order") vesting the land in the Department.

(3) Section 97(3) of, and Schedule 6 to, the Local Government Act (Northern Ireland) 1972[F20] shall, subject to the modifications specified in Schedule 1, apply for the purposes of the acquisition of land by means of a vesting order made under this Article in the same manner as they apply to the acquisition of land by means of a vesting order made under that Act.

(4) Section 5 of the Stormont Regulation and Government Property Act (Northern Ireland) 1933[F21] shall not affect the disposal of any land acquired or taken on lease under this Article.

F20 1972 c.9 (N.I.)
F21 1933 c.6 (N.I.)

[[F22]Disposal of land: registered housing associations N.I.

13.—(1) Any provision contained in the rules of a registered housing association which prevents it from disposing of any land (where such disposal would otherwise be lawful) shall be of no effect.

(2) A registered housing association that disposes of or mortgages any land must notify the Department of the disposal or mortgage in accordance with this Article.

(3) But paragraph (2) does not apply to a letting of land to one or more individuals by a registered housing association under a secure tenancy or under what would be a secure tenancy but for paragraphs 1(b) to 10 of Schedule 2 to the Order of 1983.

(4) Notification under paragraph (2) must be made—

(a) within 28 days of the disposal taking place or (as the case may be) the mortgage being created, and

(b) in such manner and form as the Department may prescribe.

(5) The Department may by regulations dispense with such notifications as may be described in the regulations.

(6) Notifications that are dispensed with under paragraph (5) may be described in the regulations by reference to (in particular)—

(a) the association, or description of association, which is disposing of the land or creating the mortgage;

(b) the land, or description of land, which is disposed of or which becomes subject to the mortgage;

(c) the description of disposal.

(7) A dispensation under paragraph (5) may be subject to such conditions as are prescribed.**]**

F22 Arts. 13, 13A substituted (29.8.2020) for art. 13 by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 1(1)**, 10(2)

[[F22]Disposal of land: unregistered housing associations N.I.

13A.—(1) Notwithstanding anything contained in section 30 of the Act of 1969, an unregistered housing association may not dispose of any grant-aided land as defined in Schedule 2 without the consent of the Department.

(2) Consent under paragraph (1) may be subject to such conditions as the Department sees fit to impose.

(3) Any such consent may be given—

(a) either generally in relation to all unregistered housing associations or to a particular unregistered housing association or description of unregistered housing association, or

(b) in relation to particular land or in relation to a particular description of land.

(4) Paragraph (1) does not prevent an unregistered housing association from disposing of any land by the granting of a lease for a term ending within the period of 7 years and 3 months beginning on the date of the grant unless—

(a) there is conferred on the lessee (whether by the lease or otherwise) an option for renewal for a term which, together with the original term, would expire outside that period, or

(b) the lease is granted wholly or partly in consideration of a fine.

(5) Without prejudice to the generality of the expression "dispose" in paragraph (1), in paragraph (4) the expression "lease" includes an agreement for a lease and a licence to occupy and the expressions "grant" and "term" are to be construed accordingly.**]**

F22 Arts. 13, 13A substituted (29.8.2020) for art. 13 by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 1(1)**, 10(2)

CHAPTER II N.I.

REGISTRATION OF HOUSING ASSOCIATIONS

The register of housing associations N.I.

14. The Department shall maintain a register of housing associations which shall be open to inspection at such place and at such times as the Department considers appropriate.

Eligibility for registration N.I.

15.—(1) A housing association is eligible for registration if it—

(a) is a society registered under the Act of 1969, and

(b) fulfils the following conditions.

(2) The conditions are that the housing association does not trade for profit and is established for the purpose of, or has among its objects or powers, the provision, construction, improvement or management of—

(a) houses to be kept available for letting, or

(b) houses for occupation by members of the association where the rules of the association restrict membership to persons entitled or prospectively entitled (as tenants or otherwise) to occupy a house provided or managed by the association, or

(c) hostels,

and that any additional purposes or objects are among the following.

(3) The permissible additional purposes or objects are—

(a) providing land, amenities or services, or providing, constructing, repairing or improving buildings, for the benefit of the association's residents, either exclusively or together with other persons;

(b) acquiring, or repairing and improving, or creating by the conversion of houses or other property, houses to be disposed of on sale, or lease or by equity-sharing lease;

(c) constructing houses to be disposed of by equity-sharing lease;

(d) managing houses which are held on leases or other lettings (not being houses falling within paragraph (2)(a) or (b)), or blocks of flats;

(e) providing services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement, or encouraging or facilitating the carrying out of such works;

(f) encouraging and giving advice on the formation of other housing associations or providing services for, and giving advice on the running of, such associations and other voluntary organisations concerned with housing, or matters connected with housing.

(4) A housing association shall not be ineligible for registration by reason only that its powers include power—

(a) to acquire commercial premises or businesses as an incidental part of a project or series of projects undertaken for purposes or objects falling within paragraph (2) or (3);

(b) to repair, improve or convert any commercial premises acquired as mentioned in sub-paragraph (a) or to carry on, for a limited period, any business so acquired.

(5) The Department may by order amend paragraphs (3) and (4), but not so as to restrict or limit the permissible purposes, objects or powers.

(6) An order under paragraph (5) may contain such incidental, supplemental or transitional provisions as the Department thinks fit.

(7) In this Article—

"block of flats" means a building—

(a) containing 2 or more flats which are held on leases or other lettings; and

(b) occupied or intended to be occupied wholly or mainly for residential purposes;

"letting" includes the grant of a licence to occupy;

"residents" in relation to a housing association, means the persons occupying the houses or hostels provided or managed by the association.

Registration N.I.

16.—(1) Subject to paragraphs (2) and (3), the Department may register any housing association which is eligible for registration.

(2) The Department shall, after consultation with such bodies as appear to it to be representative of housing associations, establish criteria which should be satisfied by a housing association seeking registration, and may vary those criteria in such manner as it may determine.

(3) In deciding whether to register a housing association, the Department shall have regard to the question whether the association satisfies the criteria established in accordance with paragraph (2).

(4) For all purposes other than rectification of the register, a society shall be conclusively presumed to be or to have been a housing association eligible for registration at any time when it is or was on the register of housing associations.

Removal of societies from the register N.I.

17.—(1) Where a society has been registered in the register of housing associations, that society shall not be removed from the register except by the Department in accordance with the provisions of this Article.

(2) If it appears to the Department that any society which is registered—

(a) is no longer a housing association falling within Article 15(1), or

(b) has ceased to exist or does not operate,

the Department shall, on giving not less than 14 days' notice to that society, remove it from the register; and in a case where sub-paragraph (b) applies, any such notice shall be deemed to be given to a society if it is served at the address last known to the Department to be the principal place of business of that society.

(3) Where a society which is registered—

(a) has not at any time received—

(i) a loan under Article 6 or a grant under Article 33 or 34,

(ii) a loan under Article 117 of the Order of 1981 or a grant under Article 137 or 139 of that Order,

(iii) any such payment or loan as is specified in paragraph 2 or 3 of Schedule 2, or

(iv) a loan under Article 6 of the Housing (Northern Ireland) Order 1976[F23], or a grant under Article 27 or 29 of that Order; and

(b) requests the Department to remove it from the register;

the Department may, if it thinks fit, remove that society from the register.

(4) A society which is aggrieved by a decision of the Department to remove it from the register of housing associations may appeal against the decision to the High Court.

(5) If an appeal is brought under paragraph (4) and is not withdrawn the Department shall not remove the society concerned from the register of housing associations until the appeal has been finally determined.

(6) No sum shall be paid in respect of a grant under Article 33 or 34 to a society which has been removed under this Article from the register of housing associations.

(7) Where, at the time of its removal under paragraph (2) from the register of housing associations, a society owns land, Article 13 shall continue to apply to that land after the removal as if the society concerned continued to be a registered housing association.

F23 1976 NI 25

Notifications to and by the registrar N.I.

18.—(1) As soon as may be after registering a housing association or removing a society from the register the Department shall give notice of the registration or removal to the registrar.

(2) Where notice is given under paragraph (1), the registrar shall record the registration or removal from the register by the Department.

(3) As soon as may be after an appeal is brought under Article 17(4), the Department shall give notice of the appeal to the registrar.

(4) As soon as may be after cancelling or suspending the registration of a society which is a registered housing association, the registrar shall give notice of the cancellation or suspension to the Department.

(5) As soon as may be after an appeal is brought under section 17(1) of the Act of 1969, the registrar shall give notice of the appeal to the Department.

Accounts and audit N.I.

19.—(1) The Department may by order lay down accounting requirements for registered housing associations with a view to ensuring that the accounts of every registered housing association are prepared in the requisite form and give a true and fair view of the state of affairs of the association, so far as its housing activities are concerned, and of the disposition of funds and assets which are, or at any time have been, in its hands in connection with those activities.

(2) The accounts of every registered housing association must comply with those requirements; and the auditor's report shall state (in addition to any other matters which it is required to state) whether in the auditor's opinion they do so comply.

(3) Every registered housing association shall furnish to the Department a copy of its accounts and auditor's report within 6 months of the end of the period to which they relate.

(4) A registered housing association shall be subject to section 38(1) of the Act of 1969 (obligation to appoint auditors) without regard to the volume of its receipts and payments, the number of its members or the value of its assets; and such an association is in no case to be treated as an exempt society under that section.

Enforcement of Article 19 N.I.

20.—(1) All persons who are directly concerned with the conduct and management of the affairs of a registered housing association and are in that capacity responsible for the preparation and audit of accounts shall have the duty to ensure that Article 19 is complied with by the association.

(2) If—

(a) the accounts of a registered housing association, as furnished to the Department under Article 19(3), do not comply with the accounting requirements laid down under paragraph (1) of that Article; **[**[F24]or**]**

(b) Article 19(3) is not complied with in respect of the accounts and auditor's report; [F25]. . .

(c) [F25]. . . . . .

the association as well as each of the persons on whom the above duty is imposed shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) It is a defence—

(a) for a person charged under paragraph (2) to prove that he did everything that could reasonably have been expected of him by way of discharging the duty imposed by paragraph (1); and

(b) for an association charged under paragraph (2) to prove that the persons mentioned in paragraph (1) did everything that could reasonably have been expected of them by way of discharging the duty imposed by paragraph (1) in relation to the association.

(4) No proceedings for an offence under this Article shall be instituted except by or with the consent of the Director of Public Prosecutions for Northern Ireland or the Department.

F24 Word in art. 20(2)(a) inserted (30.6.2011) by Housing (Amendment) Act (Northern Ireland) 2011 (c. 22), **ss. 17(2)(a)**, 25(1); S.R. 2011/241, **art. 2(1)**, Sch. 1

F25 Art. 20(2)(c) and preceding word repealed (30.6.2011) by Housing (Amendment) Act (Northern Ireland) 2011 (c. 22), ss. 17(2)(b), 24, 25(1), **Sch.**; S.R. 2011/241, **art. 2(1)**, Sch. 1

[[F26]General power to obtain information N.I.

21.—(1) The Department may for any purpose connected with the discharge of any of its functions in relation to registered housing associations serve a notice on a person requiring him—

(a) to give to the Department, at a time and place and in the form and manner specified in the notice, such information relating to the affairs of a registered housing association as may be specified or described in the notice, or

(b) to produce to the Department or a person authorised by the Department, at a time and place specified in the notice, any documents relating to the affairs of the registered housing association which are specified or described in the notice and are in his custody or under his control.

(2) A notice under this Article may be served on—

(a) a registered housing association,

(b) any person who is, or has been, an officer, member, employee or agent of a registered housing association,

(c) a subsidiary or associate of a registered housing association,

(d) any person who is, or has been, an officer, member, employee or agent of a subsidiary or associate of a registered housing association, or

(e) any other person who the Department has reason to believe is or may be in possession of relevant information.

(3) No notice shall be served on a person within sub-paragraphs (b) to (e) of paragraph (2) unless—

(a) a notice has been served on the registered housing association and has not been complied with, or

(b) the Department believes that the information or documents in question are not in the possession of the housing association.

(4) Nothing in this Article authorises the Department to require—

(a) the disclosure of anything which a person would be entitled to refuse to disclose on grounds of legal professional privilege in proceedings in the High Court, or

(b) the disclosure by a banker of anything in breach of any duty of confidentiality owed by him to a person other than a registered housing association or a subsidiary or associate of a registered housing association.

(5) A notice under this Article shall be given in writing.

(6) References in this Article to a document are to anything in which information of any description is recorded; and in relation to a document in which information is recorded otherwise than in legible form, references to producing it are to producing it in legible form.

(7) Where by virtue of this Article documents are produced to any person, he may take copies of or make extracts from them.

(8) In this Article—

"agent" has the meaning given in Article 23(8); and

"associate" and "subsidiary" have the same meanings as in Article 23.**]**

F26 Arts. 21-21C substituted (31.7.2010) for art. 21 by Housing (Amendment) Act (Northern Ireland) 2010 (c. 9), **ss. 6**, 19(1); S.R. 2010/251, **art. 2**

[[F27]Enforcement of notice to provide information, &c. N.I.

21A.—(1) A person who without reasonable excuse fails to do anything required of him by a notice under Article 21 commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) A person who intentionally alters, suppresses or destroys a document which he has been required by a notice under Article 21 to produce commits an offence and is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum,

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or both.

(3) Proceedings for an offence under paragraph (1) or (2) may be brought only by, or with the consent of, the Director of Public Prosecutions for Northern Ireland or the Department.

(4) If a person makes default in complying with a notice under Article 21, the High Court may, on the application of the Department, make such order as the court thinks fit for requiring the default to be made good.

(5) Any such order may provide that all the costs or expenses of, and incidental to, the application shall be borne by the person in default or by any officers of a body who are responsible for its default.**]**

F27 Arts. 21-21C substituted (31.7.2010) for art. 21 by Housing (Amendment) Act (Northern Ireland) 2010 (c. 9), **ss. 6**, 19(1); S.R. 2010/251, **art. 2**

[F28 Disclosure of information to the Department N.I.

21B.—(1) A body or person to whom this Article applies may, subject to the following provisions, disclose to the Department, for the purpose of enabling the Department to discharge any of its functions relating to registered housing associations, any information received by that body or person under or for the purposes of any statutory provision.

(2) This Article applies to the following bodies and persons—

(a) any government department (including a department of the Government of the United Kingdom);

(b) any district council;

(c) any constable; and

(d) any other body or person discharging functions of a public nature (including a body or person discharging regulatory functions in relation to any description of activities).

(3) This Article has effect subject to any express restriction on disclosure imposed by or under any other statutory provision.

(4) Nothing in this Article shall be construed as affecting any power of disclosure exercisable apart from this Article.**]**

F28 Arts. 21-21C substituted (31.7.2010) for art. 21 by Housing (Amendment) Act (Northern Ireland) 2010 (c. 9), **ss. 6**, 19(1); S.R. 2010/251, **art. 2**

[F29 Disclosure of information by the Department N.I.

21C.—(1) The Department may disclose to a body or person to whom this Article applies any information received by it relating to a registered housing association—

(a) for any purpose connected with the discharge of the functions of the Department in relation to such housing association, or

(b) for the purpose of enabling or assisting that body or person to discharge any of its or his functions.

(2) This Article applies to the following bodies and persons—

(a) any government department (including a department of the Government of the United Kingdom);

(b) any district council;

(c) any constable; and

(d) any other body or person discharging functions of a public nature (including a body or person discharging regulatory functions in relation to any description of activities).

(3) Where any information disclosed to the Department under Article 21B is so disclosed subject to any express restriction on the further disclosure of the information, the Department's power of disclosure under this Article is exercisable subject to that restriction.

(4) A person who discloses information in contravention of any such restriction commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) Any information disclosed by the Department under this Article may be subject by the Department to any express restriction on the further disclosure of the information.

(6) A person who discloses information in contravention of any such restriction commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) Proceedings for an offence under paragraph (6) may be brought only by, or with the consent of, the Director of Public Prosecutions for Northern Ireland or the Department.

(8) Nothing in this Article shall be construed as affecting any power of disclosure exercisable apart from this Article.**]**

F29 Arts. 21-21C substituted (31.7.2010) for art. 21 by Housing (Amendment) Act (Northern Ireland) 2010 (c. 9), **ss. 6**, 19(1); S.R. 2010/251, **art. 2**

Tax relief grants N.I.

22.—(1) If a housing association makes a claim to the Department in respect of a period and satisfies the Department that throughout the period it was a housing association to which this Article applies and its functions either—

(a) consisted exclusively of the function of providing or maintaining housing accommodation for letting or hostels and activities incidental to that function, or

(b) included that function and activities incidental to that function,

the Department may make grants to the association for affording relief from tax chargeable on the association.

(2) This Article applies to a housing association at any time if, at that time—

(a) it is registered;

(b) it does not trade for profit; and

(c) it is not approved for the purposes of **[**[F30]Chapter 7 of Part 13 of the Corporation Tax Act 2010**]** (tax treatment of co-operative housing associations).

(3) References in this Article to tax chargeable on an association are to income tax (other than income tax which the association is entitled to deduct on making any payment) and corporation tax.

(4) A grant under this Article may be made—

(a) in a case falling within paragraph (1)(a), for affording relief from any tax chargeable on the association for the period in respect of which the claim is made; and

(b) in a case falling within paragraph (1)(b), for affording relief from such part of any tax so chargeable as the Department considers appropriate having regard to the other functions of the association;

and in any case shall be of such amount, shall be made at such times and shall be subject to such conditions as the Department thinks fit.

(5) The conditions may include conditions for securing the repayment in whole or in part of a grant made to an association—

(a) in the event of tax in respect of which it was made being found not to be chargeable; or

(b) in such other events (including the association beginning to trade for profit) as the Department may determine.

(6) A claim under this Article shall be made in such manner and shall be supported by such evidence as the Department may direct.

(7) The Commissioners of Inland Revenue and their officers may disclose to the Department such particulars as it may reasonably require for determining whether a grant should be made on a claim or whether a grant should be repaid or the amount of such grant or repayment.

(8) In this Article "letting" includes the grant of an equity-sharing lease or a licence to occupy.

F30 Words in art. 22(2)(c) substituted (1.4.2010 with effect as mentioned in s. 1184(1) of the amending Act) by Corporation Tax Act 2010 (c. 4), ss. 1177, 1184(1)(3)(4), **Sch. 1 para. 272** (with transitionals and savings in Sch. 2)

Inquiries into affairs of registered housing associations N.I.

23.—[[F31](1) This Article applies where the Department has reasonable grounds to suspect that a registered housing association has failed, or is failing, to comply with—

(a) a duty imposed by this Order or by any other statutory provision,

(b) a requirement imposed on the association by the Department under this Order or any other statutory provision, or

(c) any guidance issued by the Department under this Order,

relating to its housing activities or its financial or other affairs.

(1A) The Department may appoint a person to conduct an inquiry into the affairs of the registered housing association.

(1B) If the appointed person considers it necessary for the purposes of an inquiry under paragraph (1A), the person may also inquire into the business of any other body which, at a time which the person considers material, is or was a subsidiary or associate of the association concerned.**]**

(2) No person who is, or at any time has been, an officer of the Department **[**[F32]or a member or employee of the Executive**]** shall be appointed to conduct an inquiry under **[**[F33]paragraph (1A)**]** .

(3) The appointed person may, by notice in writing served on—

(a) the association concerned; or

(b) any person who is, or has been, an officer, agent or member of the association; or

(c) any person who is, or has been, an officer, agent or member of a subsidiary or associate of the association; or

(d) any other person whom the appointed person has reason to believe is or may be in possession of information of relevance to the inquiry;

require the association or that person to produce to him such books, accounts and other documents relating to the business of the association or of any other such body as is referred to in **[**[F34]paragraph (1B)**]** and to furnish to him such other information relating to that business, as he considers necessary for the purpose of the inquiry.

(4) Any association or other person who without reasonable excuse fails to comply with the requirements of a notice under paragraph (3) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) Where, by virtue of paragraph (3), any books, accounts or other documents are produced to the appointed person he may take copies of or make extracts from them.

(6) The appointed person may, if he thinks fit during the course of the inquiry, make one or more interim reports to the Department on such matters as appear to him to be appropriate.

(7) On completion of the inquiry the appointed person shall make a report to the Department on such matters and in such form as the Department may specify.

(8) In paragraph (3) "agent" includes banker, solicitor and auditor; but nothing in this Article requires disclosure—

(a) by a solicitor, of any privileged communication made to him in his capacity as solicitor; or

(b) by a housing association's bankers, of any information as to the affairs of any of their other customers.

(9) In this Article, in relation to a housing association, "subsidiary" means a company with respect to which one of the following conditions is fulfilled,—

(a) the association is a member of the company and controls the composition of the board of directors; or

(b) the association holds more than half in nominal value of the company's equity share capital; or

(c) the company is a subsidiary, within the meaning of **[**[F35]the Companies Acts (see section 1159 of the Companies Act 2006)**]** or the Act of 1969, of another company which, by virtue of paragraph (a) or paragraph (b), is itself a subsidiary of the housing association.

(10) For the purposes of paragraph (9)(a), the composition of a company's board of directors shall be deemed to be controlled by a housing association if, but only if, the association, by the exercise of some power exercisable by the association without the consent or concurrence of any other person, can appoint or remove the holders of all or a majority of the directorships.

(11) In this Article, in relation to a housing association, "associate" means—

(a) any body of which the association is a subsidiary, and

(b) any other subsidiary of such a body,

and in this paragraph "subsidiary" has the same meaning as in **[**[F36]the Companies Acts (see section 1159 of the Companies Act 2006)**]** or the Act of 1969 or, in the case of a body which is itself a housing association, has the meaning assigned by paragraph (9).

(12) In relation to a company which is **[**[F37]a society**]** —

(a) any reference in paragraph (9)(a) or paragraph (10) to the board of directors is a reference to the committee of management of the society; and

(b) the reference in paragraph (10) to the holders of all or a majority of the directorships is a reference to all or a majority of the members of the committee or, if the housing association is itself a member of the committee, such number as together with the association would constitute a majority.

F31 Art. 23(1)-(1B) substituted for art. 23(1) (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 2(2)**, 10(2)

F32 Words in art. 23(2) inserted (31.7.2010) by Housing (Amendment) Act (Northern Ireland) 2010 (c. 9), **ss. 7**, 19(1); S.R. 2010/251, **art. 2**

F33 Words in art. 23(2) substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 2(3)**, 10(2)

F34 Words in art. 23(3) substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 2(4)**, 10(2)

F35 Words in art. 23(9)(c) substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 138(3)** (with art. 10)

F36 Words in art. 23(11) substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 138(3)** (with art. 10)

F37 Words in art. 23(12) substituted (6.4.2018) by Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16), s. 17(2), **Sch. 1 para. 27**; S.R. 2017/217, art. 2(d)

Extraordinary audit for purposes of inquiry N.I.

24.—(1) For the purposes of an inquiry under Article 23 into the affairs of a registered housing association, the Department may require the accounts and balance sheet of the association concerned, or such of them as the Department may specify, to be audited by an auditor appointed by the Department.

(2) An auditor appointed under paragraph (1) shall be a person who—

(a) under section 41(1) of the Act of 1969, is a qualified auditor for the purposes of that Act, or

(b) under section 41(2) of the Act of 1969, is a qualified auditor in relation to the particular association whose accounts are required to be audited under this paragraph.

(3) On completion of the audit the appointed auditor shall make a report to the Department on such matters and in such form as the Department may specify.

(4) The expenses of the audit, including the remuneration of the auditor, shall be paid by the Department.

(5) An audit under this Article shall be additional to, and shall not affect, any audit made or to be made under any other statutory provision.

Department's power to act for protection of registered housing associations N.I.

25.—**[**[F38](1) The powers conferred on the Department by paragraphs (1B), (3),(3A), (4), (5) and (7) in respect of a registered housing association are exercisable only where (in addition to the particular conditions for those paragraphs being met) the Department considers that—

(a) action is needed to protect the interests of tenants of the association or to protect the assets of the association, and

(b) the committee of the association is unwilling to take appropriate action for that purpose.

(1A) Paragraph (1B) applies where the Department is satisfied as the result of an inquiry under Article 23 or an audit under Article 24 that a registered housing association has failed, or is failing, to comply with—

(a) a duty imposed by this Order or by any other statutory provision, or

(b) a requirement imposed on the association by the Department under this Order or any other statutory provision,

relating to its housing activities or its financial or other affairs.

(1B) Where this paragraph applies, the Department may do all or any of the following, namely—**]**

(a) by order remove any member of the committee of the association, or any officer, agent or employee of the association, who has been responsible for or privy to **[**[F39]the failure mentioned in paragraph (1A)**]** or has by his conduct contributed to it or facilitated it;

(b) by order suspend such a person for up to 6 months, pending determination whether he should be removed;

(c) order any bank or other person who holds money or securities on behalf of the association not to part with the money or securities without the approval of the Department;

(d) by order restrict the transactions which may be entered into, or the nature or amount of the payments which may be made, in the administration of the association without the approval of the Department.

(2) Where a person is suspended, the Department may give directions with respect to the performance of his functions and otherwise as to matters arising from the suspension.

(3) If at any time the appointed person makes an interim report under Article 23(6) and, as a result of that interim report, the Department is satisfied that **[**[F40]there is or has been a failure as mentioned in paragraph (1A)**]** ,—

(a) the Department may at that time exercise any of the powers conferred by sub-paragraphs (b) to (d) of **[**[F41]paragraph (1B)**]** ; and

(b) in relation to the exercise at that time of the power conferred by **[**[F42]paragraph (1B)(b)**]** , the reference therein to a period of 6 months shall be construed as a reference to a period beginning at that time and ending 6 months after the date of the report under Article 23(7).

[[F43](3A) If, at any time after the commencement of an inquiry under Article 23 or an audit under Article 24, the Department has reasonable grounds to believe —

(a) that **[**[F44]there is or has been a failure as mentioned in paragraph (1A)**]** in the administration of a registered housing association, and

(b) that immediate action is needed to protect the interests of the tenants of the registered housing association or to protect the assets of the association,

the Department may at that time exercise any of the powers conferred by sub-paragraphs (b) to (d) **[**[F45]of paragraph (1B)**]** .**]**

(4) The Department may also by order remove a member of the committee of a registered housing association where that member—

(a) is a bankrupt **[**[F46]or is the subject of a bankruptcy restrictions order**]****[**[F47], or is a person in relation to whom a moratorium period under a debt relief order applies or is the subject of a debt relief restrictions order,**]** or has made an arrangement with his creditors or is incapable of acting by reason of mental disorder within the meaning of the Mental Health (Northern Ireland) Order 1986[F48];

(b) has not acted; or

(c) cannot be found or does not act and his absence or failure to act **[**[F49]compromises the committee's ability to ensure that the association complies with the duties and requirements mentioned in paragraph (1A)**]** .

(5) The Department may by order appoint a person to be a member of the committee of a registered housing association (whether or not he is a member of the association and, if he is not, notwithstanding that the rules of the association restrict membership of the committee to members of the association)—

(a) in place of a member of the committee removed by it under this Article or otherwise;

(b) where there are no members of the committee; or

(c) where the Department is of opinion that it is necessary **[**[F50]for the association to have an additional member of its committee to ensure that the association complies with the duties and requirements mentioned in paragraph (1A);**]**

and the power conferred by sub-paragraph (c) may be exercised notwithstanding that it will cause the maximum number of the committee members permissible under the association's rules to be exceeded.

(6) A person appointed under paragraph (5) as a member of the committee of a housing association shall be entitled—

(a) to attend, speak and vote at any general meeting of the association and to receive all notices of and other communications relating to any general meeting which a member of the association is entitled to receive; and

(b) to require a general meeting of the association to be convened within 21 days of a request to that effect made in writing to the committee of the association.

(7) A person appointed to be a member of the committee of a registered housing association under paragraph (5) shall hold office for such period and on such terms as the Department may specify and, on the expiry of any such period, the Department may renew the appointment for such period as it may specify; but nothing in this paragraph shall prevent any such person from retiring from the appointment in accordance with the rules of the association.

(8) Any member of the committee of a registered housing association or any officer, agent or employee of the association who is ordered by the Department to be removed under **[**[F51]paragraph (1B)(a)**]** or (4) or suspended under **[**[F52]paragraph (1B)(b)**]** may appeal against the order to the High Court.

(9) Before making an order under **[**[F53]paragraph (1B)(a)**]** or (4) the Department shall give not less than 14 days' notice of its intention to do so—

(a) to the person whom it intends to remove, and

(b) to the registered housing association concerned.

(10) Any person who contravenes an order under **[**[F54]paragraph (1B)(c)**]** shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5, or to imprisonment for a term not exceeding 3 months, or to both; but no proceedings for an offence punishable under this paragraph shall be instituted except by or with the consent of the Director of Public Prosecutions for Northern Ireland or the Department.

(11) As soon as may be after making an order under this Article the Department shall send a copy of the order to the registrar.

F38 Art. 25(1)-(1B) substituted (29.8.2020) for words preceding art. 25(1)(a) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 3(2)**, 10(2)

F39 Words in art. 25(1B)(a) substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 3(3)**, 10(2)

F40 Words in art. 25(3) substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 3(4)(a)**, 10(2)

F41 Words in art. 25(3) substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 3(4)(b)**, 10(2)

F42 Words in art. 25(3) substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 3(4)(c)**, 10(2)

F43 Art. 25(3A) inserted (31.7.2010) by Housing (Amendment) Act (Northern Ireland) 2010 (c. 9), **ss. 8**, 19(1); S.R. 2010/251, **art. 2**

F44 Words in art. 25(3A) substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 3(5)(a)**, 10(2)

F45 Words in art. 25(3A) substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 3(5)(b)**, 10(2)

F46 Words in art. 25(4)(a) inserted (21.4.2015) by The Insolvency (Northern Ireland) Order 2005 (Consequential Amendments) Order (Northern Ireland) 2015 (S.R. 2015/159), art. 1, **Sch. para. 10**

F47 Words in art. 25(4)(a) inserted (7.3.2016) by The Debt Relief Act (Northern Ireland) 2010 (Consequential Amendments) Order (Northern Ireland) 2016 (S.R. 2016/108), art. 1, **Sch. para. 13**

F48 1986 NI 4

F49 Words in art. 25(4)(c) substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 3(6)**, 10(2)

F50 Words in art. 25(5)(c) substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 3(7)**, 10(2)
F51 Words in art. 25(8) substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 3(8)(a)**, 10(2)
F52 Words in art. 25(8) substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 3(8)(b)**, 10(2)
F53 Words in art. 25(9) substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 3(9)**, 10(2)
F54 Words in art. 25(10) substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 3(10)**, 10(2)

Transfer of land of registered housing associations N.I.

26.—[F55(1) This Article applies where the Department is satisfied, as the result of an inquiry under Article 23 or an audit under Article 24, that the three conditions set out in paragraphs (1A) to (1C) are met.

(1A) The first condition is that a registered housing association has failed, or is failing, to comply with—

(a) a duty imposed by this Order or by any other statutory provision, or

(b) a requirement imposed on the association by the Department under this Order or any other statutory provision,

relating to its housing activities or its financial or other affairs.

(1B) The second condition is that it is desirable for the purpose of—

(a) protecting the interests of tenants of the association, or

(b) protecting the assets of the association,

that the land belonging to the association, or any part of that land, should be transferred in accordance with this Article.

(1C) The third condition is that the association is unwilling to take that action.

(1D) The Department may make a direction that—

(a) identifies the land, or such part of it as the Department may determine, and

(b) requires the association to transfer the land so identified to another body in accordance with paragraph (2).**]**

(2) A direction under **[F56**paragraph (1D)**]** may require the association concerned to transfer **[F57**the land identified in the direction**]** ,—

(a) in a case where that association is a charity, to another registered housing association which is a charity and the objects of which appear to the Department to be, as nearly as practicable, akin to those of the association directed to make the transfer; and

(b) in any other case, to the Department or to another registered housing association.

(3) A transfer in pursuance of a direction under **[F58**paragraph (1D)**]** shall be made on the terms that the Department or, as the case may be, the association to which **[F59**the identified land**]** is transferred will pay or undertake to pay to the association making the transfer such sum, if any, as will be necessary to defray all its proper debts and liabilities (including any debts and liabilities secured on **[F59**the identified land**]** to be transferred) after taking into account any money or other assets belonging to the association.

(4) If it appears to the Department to be likely that, as a result of a transfer in pursuance of a direction under **[F60**paragraph (1D)**]** , the association making the transfer will be dissolved as

mentioned in paragraph (a) or paragraph (b) of section 64 of the Act of 1969, the Department shall secure that the costs of such a dissolution are taken into account in determining the sum payable to the association under paragraph (3).

F55 Art. 26(1)-(1D) substituted for art. 26(1) (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 4(2)**, 10(2)
F56 Words in art. 26(2) substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 4(3)(a)**, 10(2)
F57 Words in art. 26(2) substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 4(3)(b)**, 10(2)
F58 Words in art. 26(3) substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 4(4)(a)**, 10(2)
F59 Words in art. 26(3) substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 4(4)(b)**, 10(2)
F60 Words in art. 26(4) substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 4(5)**, 10(2)

Winding up of registered housing associations N.I.

[F61]27. . . . . . .

F61 Art. 27 repealed (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 5**, 10(2)

Transfer of net assets on dissolution of registered housing associations N.I.

28.—(1) If a registered housing association is dissolved as mentioned in **[**[F62]subsection (1)(a) or (b)**]** of section 64 of the Act of 1969 then, notwithstanding anything in that Act or in the rules of the association, there shall be transferred to the Department, or, if the Department so directs, to such registered housing association as may be specified in the direction, so much of the property of the association as remains after meeting the claims of its creditors and any other liabilities arising on or before the dissolution.

(2) If it appears to the Department to be appropriate to do so in order to avoid the necessity for the sale of any land belonging to a registered housing association which is being dissolved as mentioned in paragraph (1) and thereby secure the transfer of the land under that paragraph, the Department may make payments to discharge any such claims or liabilities as are referred to in that paragraph.

(3) The Department may not dispose of any property transferred to it by virtue of paragraph (1) otherwise than to a registered housing association, and in any case where the property so transferred to the Department includes land subject to an existing mortgage, the Department may dispose of the land subject to that mortgage.

(4) Notwithstanding anything in paragraph (3), where property is transferred to the Department by virtue of paragraph (1) on the dissolution of a registered housing association which is a charity, the Department may not dispose of that property except to another registered housing association which is a charity and the objects of which appear to the Department to be, as nearly as practicable, akin to those of the association which was dissolved.

F62 Words in art. 28(1) substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 138(5)** (with art. 10)

Restrictions on exercise of certain powers of registered housing associations **N.I.**

29.—(1) The provisions of this Article apply in relation to a registered housing association, the registration of which by the Department has been recorded by the registrar under Article 18(2), and references in the following provisions of this Article to a registered housing association shall be construed accordingly.

(2) The registrar shall not register a special resolution, as defined in section 59(2) of the Act of 1969, which is passed by a registered housing association for the purposes of section 59 or 60 of that Act (amalgamation of societies and transfer of engagements between societies) **[**[F63]unless—

(a) a copy of the special resolution has been sent to the Department, and

(b) a copy of a certificate from the Department confirming that sub-paragraph (a) has been complied with is sent to the registrar together with the copy of the special resolution required to be sent as mentioned in section 59(4) of that Act.**]**

(3) Section 61 of the Act of 1969 (power of registered society to convert itself into, or to transfer its engagements to, a company registered under **[**[F64]the Companies Act 2006**]**) shall not apply to a registered housing association.

[[F65](4) If, in pursuance of section 64(1)(a) of the 1969 Act, a registered housing association resolves by special resolution that it be wound up voluntarily under the Insolvency (Northern Ireland) Order 1989, the resolution has no effect **[**[F66]unless—

(a) before the resolution was passed the Department was notified of the intention to propose the resolution, and

(b) a copy of a certificate from the Department confirming that sub-paragraph (a) has been complied with is sent to the registrar together with a copy of the resolution required to be sent as mentioned in section 64(3) of the 1969 Act.**]]**

(5) If, in pursuance of **[**[F67]section 64(1)(b)**]** of the Act of 1969, a registered housing association is to be dissolved by an instrument of dissolution, the registrar shall neither register that instrument, as required by section 67(5) of that Act, nor cause notice of the dissolution to be advertised as mentioned in section 67(6) **[**[F68]unless—

(a) a copy of the instrument of dissolution has been sent to the Department, and

(b) a copy of a certificate from the Department confirming that sub-paragraph (a) has been complied with is sent to the registrar together with the instrument of dissolution required to be sent as mentioned in section 67(4).**]**

[[F69](6) Section 9 of the Act of 1969 has effect in relation to a registered housing association with the following modifications.

(7) For subsection (1) substitute—

"(1) Subject to subsection (2), any amendment of a society's rules as for the time being registered under this Act shall not be valid until the amendment has been—

(a) sent to the Department for Communities, and

(b) registered under this Act.

(1A) For the purpose of registering the amendment as required by subsection (1)(b), there must be sent to the registrar—

(a) a copy of a certificate from the Department for Communities confirming that subsection (1)(a) has been complied with, and

(b) two copies of the amendment signed—

(i) in the case of a society for the time being consisting solely of registered societies, by the secretary of the society and by the secretary of each (or, if more than two, of each of any two) of the constituent societies;

(ii) in any other case, by three members and the secretary of the society.".

(8) In subsection (2), before paragraph (a) insert—

"(za) notice of any such change shall be sent to the Department for Communities;".**]**

F63 Words in art. 29(2) substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 6(2)**, 10(2)

F64 Words in art. 29(3) substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 138(6)(a)** (with art. 10)

F65 Art. 29(4) substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 138(6)(b)** (with art. 10)

F66 Words in art. 29(4) substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 6(3)**, 10(2)

F67 Words in art. 29(5) substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 138(6)(c)** (with art. 10)

F68 Words in art. 29(5) substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 6(4)**, 10(2)

F69 Art. 29(6)-(8) substituted for art. 29(6) (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 6(5)**, 10(2)

Payments by registered housing associations to members, etc. N.I.

30.—(1) Subject to paragraph (2), a registered housing association shall not make a gift or pay any sum by way of dividend or bonus—

(a) to any person who is or has been a member of the association;

(b) to any person who is a member of the family of any such person as is referred to in sub-paragraph (a); or

(c) to any company of which a person falling within sub-paragraph (a) or (b) is a director.

(2) Paragraph (1) does not apply to—

(a) any sum paid, in accordance with the rules of the association concerned, as interest on capital lent to the association or subscribed by way of shares in the association; or

(b) any sum which—

(i) is paid by an association whose rules restrict membership to persons who are tenants or prospective tenants of the association and preclude the granting or assignment of tenancies to persons other than members; and

(ii) is paid to a person who has ceased to be a member of the association; and

(iii) is due to that person under his tenancy agreement with the association or under the terms of the agreement under which he became a member of the association.

(3) The Department may specify the maximum amounts which may be paid by a registered housing association—

(a) by way of fees or other remuneration or by way of expenses to a member of the association who is not a member of its committee or an officer or employee of the association;

(b) by way of expenses to a member of its committee who is not an officer or employee of the association; or

(c) by way of expenses to an officer of the association who does not have a contract of employment with the association.

(4) Different amounts may be specified under paragraph (3) for different purposes.

(5) Where a registered housing association—

(a) pays any sum or makes any gift in breach of paragraph (1); or

(b) pays to any person a sum which exceeds any maximum amount specified in relation to that person under paragraph (3);

the sum or, as the case may be, the value of the gift or, in a case falling within sub-paragraph (b), the amount by which the sum exceeds the maximum shall be recoverable by the association; and proceedings for its recovery shall be taken by the association if the Department gives the association a direction to that effect.

(6) For the purposes of paragraph (3)(b) and Article 31, a person co-opted by the committee of a registered housing association to serve on the committee (whether he is a member of the association or not) shall be treated as a member of the committee.

Payments and grant of benefits by registered housing associations N.I.

31.—(1) Subject to paragraph (5), a registered housing association shall not make any payment or grant any benefit to—

(a) a person who is, or at any time within the relevant period has been, a committee member, officer or employee of the association;

(b) a close relative of such a person; or

(c) a business trading for profit in which a person falling within sub-paragraph (a) has a personal interest.

(2) In paragraph (1)(a), "the relevant period" means the period of 12 months immediately preceding the making of the payment or the grant of the benefit.

(3) For the purposes of paragraph (1)(c), a person has a personal interest in a business if he, or a close relative of his, either is one of the principal proprietors of the business or is directly concerned with its management.

(4) Any sum paid, or the value of any benefit granted, by a registered housing association in breach of paragraph (1) shall be recoverable by the association; and proceedings for its recovery shall be taken by the association if the Department gives it a direction to that effect.

(5) This Article does not apply to—

(a) any payment made or benefit granted by a registered housing association to an officer or employee under his contract of employment with the association;

(b) any payment of expenses made by such an association to a member of its committee;

(c) any payment to which, by virtue of paragraph (2) of Article 30, paragraph (1) of that Article does not apply;

(d) any payment of expenses to which Article 30(3)(c) applies;

(e) the grant or renewal of a tenancy of a house; or

(f) any payment made or benefit granted by a registered housing association in such class or classes of case as may be specified in a determination made by the Department.

(6) The Department may make different determinations for the purposes of paragraph (5)(f) and, before making such a determination, the Department shall consult such bodies appearing to it to

be representative of registered housing associations as it considers appropriate; and after making such a determination the Department shall publish the determination in such manner as it considers appropriate for bringing it to the notice of the associations concerned.

Great Britain societies N.I.

32. Section 102(3) of the Act of 1969 (which provides that references to a registered society in certain provisions of that Act are to include references to a registered Great Britain society where copies of its registered rules have been recorded by the registrar) shall not apply for the purposes of this Chapter.

CHAPTER III N.I.

FINANCIAL ASSISTANCE FOR HOUSING ASSOCIATIONS

[F70Payment of housing association grants by the Executive] N.I.

33.—[F71(1) The Executive may make housing association grants to registered housing associations in respect of expenditure incurred or to be incurred by them in connection with housing activities.

(1A) But the Executive shall not make grants under paragraph (1) to a designated association in respect of expenditure incurred or to be incurred by it in connection with specified housing activities.

(1B) In paragraph (1A)—

"designated association" means an association designated under Article 33A(1), and

"specified housing activities" means, in relation to a designated association, housing activities specified in accordance with Article 33A(2).

(2) As respects grants under this Article the Department, acting in accordance with such principles as it may determine, may give directions as to—

(a) the procedure to be followed in relation to applications for grant;

(b) the circumstances in which grant is or is not to be payable;

(c) the method for calculating, and any limitations on, the amount of grant; and

(d) the manner in which, and time or times at which, grant is to be paid;

and the Executive shall act in accordance with those directions.

(2A) Any directions given under paragraph (2) may be varied or revoked by subsequent directions.

(2B) Nothing in paragraph (2) or (2A) affects the Department's power to give directions to the Executive under Article 10 of the Order of 1981.

(3) In making a grant under this Article, the Executive shall, if the Department so requires, provide that the grant is conditional on compliance with such conditions as the Department may specify.**]**

(4) Where—

(a) a grant under this Article is payable to an association, and

(b) at any time property to which the grant relates becomes vested in, or is leased for a term of years to, or reverts to, some other registered housing association,

this Article (including this paragraph) shall have effect after that time as if the grant, or such proportion of it as is specified or determined under paragraph (5), were payable to that other association.

(5) The proportion referred to in paragraph (4) is that which, in the circumstances of the particular case—

(a) the Department, acting in accordance with such principles as it may determine, may specify as being appropriate; or

(b) the Department may determine to be appropriate.

F70 Art. 33: heading substituted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, **Sch. para. 3(2)**; S.R. 2007/37, **art. 2**

F71 Art. 33(1)(1A)(1B)(2)(2A)(2B)(3) substituted (1.4.2007) for art. 33(1)-(3) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, **Sch. para. 3(2)**; S.R. 2007/37, **art. 2**

[F72Payment of grants to designated associations N.I.

33A.—(1) The Department may designate any registered housing association for the purposes of this Article.

(2) Where the Department designates an association under paragraph (1), it shall specify the housing activities of the association in relation to which the designation has effect.

(3) The Department may make grants to any designated association in respect of expenditure incurred or to be incurred by it in connection with housing activities specified in accordance with paragraph (2).

(4) As respects grants under this Article the Department, acting in accordance with such principles as it may determine, may specify—

(a) the procedure to be followed in relation to applications for grant;

(b) the circumstances in which grant is or is not to be payable;

(c) the method for calculating, and any limitations on, the amount of grant; and

(d) the manner in which, and time or times at which, grant is to be paid.

(5) In making a grant under this Article, the Department may provide that the grant is conditional on compliance by the association with such conditions as it may specify.

(6) Paragraphs (4) and (5) of Article 33 shall apply for the purposes of this Article as they apply for the purposes of that Article.**]**

F72 Art. 33A inserted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, **Sch. para. 4**; S.R. 2007/37, **art. 2**

Revenue deficit grants N.I.

34.—(1) The Department may make a grant to a registered housing association if—

(a) in relation to all housing activities of the association,

(b) in relation to housing activities of the association of a particular description, or

(c) in relation to particular housing activities of the association,

the association's expenditure as calculated by the Department for any period (including a period which is wholly or partly a future period) exceeds its income as so calculated for that period.

(2) In calculating an association's expenditure or income for the purposes of paragraph (1), the Department—

(a) shall act in accordance with such principles as it may determine; and

(b) may act on such assumptions (whether or not borne out or likely to be borne out by events) as it may determine.

(3) **[**[F73]Paragraphs (4) and (5) of Article 33A**]** shall apply for the purposes of this Article as they apply for the purposes of that Article.

F73 Words in art. 34(3) substituted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, **Sch. para. 5**; S.R. 2007/37, **art. 2**

Recovery, etc. of grants N.I.

35.—(1) Where a grant to which this Article applies, that is to say—

(a) a grant under Article 33 **[**[F74], 33A**]** or 34, or

(b) a grant under Article 137 of the Order of 1981 or any provision replaced by that Article,

has been made to a registered housing association, the powers conferred by paragraph (2) are exercisable **[**[F75]by the grantor**]** in such events (including the association not complying with any conditions) as the Department may determine (in this Article referred to as "relevant events").

(2) **[**[F76]The grantor**]**, acting in accordance with such principles as **[**[F77]the Department**]** may determine, may—

(a) reduce the amount of, or of any payment in respect of, the grant;

(b) suspend or cancel any instalment of the grant; or

(c) direct the association to pay to it an amount equal to the whole, or such proportion as it may specify, of the amount of any payment made to the association in respect of the grant,

and a direction under sub-paragraph (c) requiring the payment of any amount may also require the payment of interest on that amount in accordance with paragraphs (6) to (8).

(3) Where, after a grant to which this Article applies has been made to an association, a relevant event occurs, the association shall notify **[**[F78]the grantor**]** and, if so required by written notice of **[**[F78]the grantor**]** , shall furnish it with such particulars of and information relating to the event as are specified in the notice.

(4) Where—

(a) a grant to which this Article applies has been made to an association, and

(b) at any time property to which the grant relates becomes vested in, or is leased for a term of years to, or reverts to, some other registered housing association,

this Article (including this paragraph) shall have effect after that time as if the grant, or such proportion of it as is specified or determined under paragraph (5), had been made to that other association.

(5) The proportion referred to in paragraph (4) is that which, in the circumstances of the particular case—

(a) **[**[F79]the grantor**]**, acting in accordance with such principles as **[**[F80]the Department**]** may determine, may specify as being appropriate; or

(b) **[**[F81]the grantor**]** may determine to be appropriate.

(6) A direction under paragraph (2)(c) requiring the payment of interest on the amount directed to be paid to **[**[F82]the grantor**]** shall specify in accordance with paragraph (8)—

(a) the rate or rates of interest (whether fixed or variable) which is or are applicable;

(b) the date from which interest is payable, being not earlier than the date of the relevant event; and

(c) any provision for suspended or reduced interest which is applicable.

(7) In paragraph (6)(c)—

(a) the reference to a provision for suspended interest is a reference to a provision whereby, if the amount which is directed to be paid to **[**[F83]the grantor**]** is paid before a date specified in the direction, no interest will be payable for any period after the date of the direction; and

(b) the reference to a provision for reduced interest is a reference to a provision whereby, if that amount is so paid, any interest payable will be payable at a rate or rates lower than the rate or rates which would otherwise be applicable.

(8) The matters specified in a direction as mentioned in sub-paragraphs (a) to (c) of paragraph (6) shall be either—

(a) such as **[**[F84]the grantor**]** , acting in accordance with such principles as **[**[F85]the Department**]** may determine, may specify as being appropriate, or

(b) such as **[**[F86]the grantor**]** may determine to be appropriate in the particular case.

[[F87](9) In this Article "the grantor" means—

(a) in relation to—

(i) any grant made under Article 33 before the commencement date to a registered housing association which is not a designated association, and

(ii) any grant made under that Article after that date,

the Executive;

(b) in relation to—

(i) any grant made under Article 33 before the commencement date to a designated association, and

(ii) any grant, whenever made, under any other provision mentioned in paragraph (1),

the Department.

(10) In paragraph (9)—

(a) "the commencement date" means the date on which Article 3 of the Housing (Amendment) (Northern Ireland) Order 2006 comes into operation; and

(b) "designated association" has the meaning given in Article 33(1B).**]**

F74 Word in art. 35(1)(a) inserted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, **Sch. para. 6(2)(a)**; S.R. 2007/37, **art. 2**

F75 Words in art. 35(1) inserted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, **Sch. para. 6(2)(b)**; S.R. 2007/37, **art. 2**

F76 Words in art. 35(2) substituted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, **Sch. para. 6(3)(a)**; S.R. 2007/37, **art. 2**

F77 Words in art. 35(2) substituted (1.4.2007) by The Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, **Sch. para. 6(3)(b)**; S.R. 2007/37, **art. 2**

F78 Words in art. 35(3) substituted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, **Sch. para. 6(4)**; S.R. 2007/37, **art. 2**

F79 Words in art. 35(5)(a) substituted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, **Sch. para. 6(5)(a)(i)**; S.R. 2007/37, **art. 2**

F80 Words in art. 35(5)(a) substituted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, **Sch. para. 6(5)(a)(ii)**; S.R. 2007/37, **art. 2**

F81 Words in art. 35(5)(b) substituted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, **Sch. para. 6(5)(b)**; S.R. 2007/37, **art. 2**

F82 Words in art. 35(6) substituted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, **Sch. para. 6(6)**; S.R. 2007/37, **art. 2**

F83 Words in art. 35(7)(a) substituted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, **Sch. para. 6(6)**; S.R. 2007/37, **art. 2**

F84 Words in art. 35(8)(a) substituted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, **Sch. para. 6(7)(a)(i)**; S.R. 2007/37, **art. 2**

F85 Words in art. 35(8)(a) substituted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, **Sch. para. 6(7)(a)(ii)**; S.R. 2007/37, **art. 2**

F86 Words in art. 35(8)(b) substituted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, **Sch. para. 6(7)(b)**; S.R. 2007/37, **art. 2**

F87 Art. 35(9)(10) added (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, **Sch. para. 6(8)**; S.R. 2007/37, **art. 2**

Determinations under this Part N.I.

36.—(1) A general determination may either—

(a) make the same provision for all cases; or

(b) make different provision for different cases or descriptions of cases, including different provision for different areas or for different descriptions of housing associations or housing activities;

and for the purposes of this paragraph descriptions may be framed by reference to any matters whatever, including in particular, in the case of housing activities, the manner in which they are financed.

(2) The Department shall not make a general determination under the foregoing provisions of this Part except with the consent of the Department of Finance and Personnel.

(3) Before making a general determination, the Department shall consult such bodies appearing to it to be representative of housing associations as it considers appropriate; and after making such a determination, the Department shall publish the determination in such manner as it considers appropriate for bringing the determination to the notice of the associations concerned.

(4) In this Article "general determination" means a determination under any provision of Articles 33 to 35, other than a determination relating solely to a particular case.

Surplus rental income N.I.

37. [F88] . . . . . .

F88 Art. 37 repealed (30.6.2011) by Housing (Amendment) Act (Northern Ireland) 2011 (c. 22), ss. 17(1), 24, 25(1), **Sch.**; S.R. 2011/241, **art. 2(1)**, Sch. 1

PART III N.I.

GRANTS

Pt.IIICh. 1 (Arts. 38#72) rep. by 2003 NI 2

CHAPTER II N.I.

OTHER GRANTS TOWARDS THE REPLACEMENT AND REPAIR OF DWELLINGS

Replacement grants N.I.

73.—(1) The Executive may, in accordance with regulations made by the Department, pay grant (in this Article referred to as "replacement grant") towards the cost of the replacement of dwellings.

(2) Regulations made under this Article may contain such provision as the Department considers appropriate and, without prejudice to the generality of the foregoing, may include in particular provision with respect to the matters mentioned in paragraph (3).

(3) Regulations made under this Article may—

(a) include provision prescribing—

(i) the class and location of dwellings to which the**[**[F89] regulations apply**]**,

(ii) the eligibility of persons to receive grant,

(iii) the amount of any grant to be made under the regulations or the manner in which any such amount is to be computed, and

(iv) the conditions subject to which any grant is to be made including, in particular, conditions as to the circumstances in which grant is to be repayable;

(b) provide for the Executive to exercise a discretion in dealing with any matter; and

(c) provide that such provision made under Chapter I of this Part as may be prescribed shall apply (with or without modifications) in relation to replacement grants.

(4) Regulations made under this Article may provide that any of the conditions prescribed under paragraph (3)(a)(iv) is to be included among the matters required to be registered in the Statutory Charges Register.

Para. (5) rep. by 2003 NI 2

F89 2003 NI 2

Repairs grants towards costs of meeting certain statutory repairing obligations in respect of dwelling-houses N.I.

74.—(1) Subject to the following provisions of this Article, repairs grants shall be payable by the Executive towards the costs of works specified—

[[F90](a) in a notice of disrepair served in respect of a dwelling-house which is let under a protected tenancy or a statutory tenancy; or**]**

[[F91](b) in a notice served in respect of a dwelling-house under Part 7 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011.**]**

[[F92](1A) In paragraph (1)–

(a) " notice of disrepair " means a notice under Article 19 of the Private Tenancies (Northern Ireland) Order 2006; and

(b) "protected tenancy" and "statutory tenancy" have the meaning given in the Rent (Northern Ireland) Order 1978.**]**

(2) Repairs grant shall be payable to the person [F93]. . . , upon whom the notice was served.

[[F94](2A) A repairs grant shall not be payable—

(a) to a person who is an owner of the dwelling#house and who occupies it as his only or principal home; or

(b) to a person who is a tenant of a dwelling#house at a time when the estate of the landlord under the tenancy belongs to—

(i) the Crown (whether in right of Her Majesty's Government in the United Kingdom or in Northern Ireland),

(ii) a government department (including a department of the Government of the United Kingdom),

(iii) the Executive, or

(iv) a registered housing association; or

(c) to a person of such other description as the Department may prescribe.**]**

(3) Schedule 3 shall have effect with respect to applications for, and the payment of, grants under this Article.

F90 Art. 74(1)(a) substituted (1.4.2007) by Private Tenancies (Northern Ireland) Order 2006 (S.I. 2006/1459 (N.I. 10)), arts. 1(3), **29(2)** (with (6)); S.R. 2006/428, **art. 3(a)**

F91 Art. 74(1)(b) substituted (1.4.2012) by Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23), s. 78, **Sch. 3 para. 12(1)**; S.R. 2012/13, art. 2(2), Sch. 2

F92 Art. 74(1A) inserted (1.4.2007) by Private Tenancies (Northern Ireland) Order 2006 (S.I. 2006/1459 (N.I. 10)), arts. 1(3), **29(3)** (with (6)); S.R. 2006/428, **art. 3(a)**

F93 Words in art. 74(2) repealed (1.4.2007) by Private Tenancies (Northern Ireland) Order 2006 (S.I. 2006/1459 (N.I. 10)), arts. 1(3), 29(4), 75, **Sch. 5** (with art. 29(6)); S.R. 2006/428, **art. 3(a)(c)**

F94 2003 NI 2

F95PART IV N.I.

HOUSES IN MULTIPLE OCCUPATION

F95 Pt. 4 repealed (1.4.2019) by Houses in Multiple Occupation Act (NorthernIreland) 2016 (c. 22), s. 90(2), **Sch. 8**; S.R. 2019/39, art. 2 (with art. 3)

Meaning of "multiple occupation" N.I.

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PART V N.I.

AMENDMENTS OF THE ORDERS OF 1981, 1983 AND 1986

CHAPTER I N.I.

AMENDMENTS OF THE ORDER OF 1981

Power of Executive to make housing management scheme N.I.

88. After Article 8 of the Order of 1981 (delegation of functions by the Executive) there shall be inserted the following Article—

"**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.

(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."

Resettlement of undertakings N.I.

89. After Article 31 of the Order of 1981 (development of housing) there shall be inserted the following Article—

"**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—

"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."

Article 90—Amendment

Continuance of certain powers to deal with unoccupied premises N.I.

91.—(1) The provisions of Chapter V of Part III of the Order of 1981 (unoccupied premises) which are in force immediately before the day of the coming into operation of this Article, shall continue in force for the time being.

(2) Article 64 of the Order of 1981 (which provides as to the duration of that Chapter) shall cease to have effect.

Further powers of the Executive in connection with acquisition and disposal of land N.I.

92. After Article 88B of the Order of 1981 (disposal of Executive's interest as mortgagee of land) there shall be inserted the following Articles—

"**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; and

(b) has in relation to each house to which the application relates, obtained the appropriate agreement (within the meaning of paragraph (6)) to its disposal.

(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 paragraph (3)(b).

(6) In paragraph (3) "the appropriate agreement" means—

(a) in the case of an application for the disposal to a registered housing association of—

(i) a building (including a house) which is divided into flats, or

(ii) a group of houses which is provided with special facilities to assist the tenants (for example, a common room in close proximity to the houses),

the agreement of the majority of the tenants of the flats within the building or of the houses within the group, as the case may be;

(b) in any other case, the agreement of the tenant of the house to which the application relates.

(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.

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 or electricity 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[F96]; 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."

F96 1992 NI 1

Compensation in respect of vesting orders, clearance orders, demolition orders and closing orders N.I.

93.—(1) Subject to paragraph (2), in Chapter II of Part V of the Order of 1981 (land compensation matters), the following provisions shall cease to have effect—

(a) in Article 89(2)—

(i) the words "and Schedule 7",

(ii) in the definition of "demolition order" the words "or Schedule 7",

(iii) the definition of "site value";

(b) Articles 90 to 97, 99 and 100; and

(c) Schedule 7.

(2) The provisions mentioned in paragraph (1) shall continue to apply to any of the following orders, namely—

(a) a vesting order made under the Order of 1981 to vest in the Executive land comprising a house, for the purposes of any of the Executive's functions under Chapter III or IV of Part III of that Order;

(b) a clearance order made under Article 33 of that Order;

(c) a demolition order made under Article 35 of that Order;

(d) a closing order made under Article 38 of that Order;

if the order was made before 1st April 1990.

(3) The following Articles shall be inserted in Chapter II of Part V of the Order of 1981 as Articles 90 to 92—

"**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.

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."

Winding up of home purchase assistance scheme **N.I.**

94.—(1) The Department may by order make provision for the purpose of bringing to an end the scheme for assistance for first-time buyers which is contained in the assistance legislation.

(2) Without prejudice to the generality of the power conferred by paragraph (1), an order under that paragraph—

(a) may specify a date or dates with effect from which account will no longer be taken under the assistance legislation of matters specified in the order;

(b) may vary the terms of advances to lending institutions so as to commute what would otherwise be a number of payments or repayments to or by such an institution into a single payment or a smaller number or payments of such amount and payable at such time or times as may be determined in accordance with the order; and

(c) may provide for the amendment or repeal, in whole or in part, of the assistance legislation with effect from such date or dates and subject to such transitional provisions as may be specified in the order.

(3) The following powers, namely—

(a) the power conferred on the Department under Article 153(3) of the Order of 1981 to relax or modify the conditions in that paragraph; and

(b) any power to make an order under any provision of the assistance legislation,

may be exercised so as to make provision for the purpose referred to in paragraph (1).

(4) In this Article "the assistance legislation" means Part IX of, and Schedule 10 to, the Order of 1981.

Article 95—Amendments

CHAPTER II N.I.

AMENDMENTS OF THE ORDER OF 1983

House sales scheme N.I.

96.—(1) In Part II of the Order of 1983 (secure tenancies), for Chapter I there shall be substituted the following Chapter—

"CHAPTER I N.I.

SALE OF DWELLING-HOUSES BY THE EXECUTIVE

House sales scheme

3.—(1) The Executive shall prepare and submit to the Department a scheme to offer for sale or lease to its secure tenants, the dwelling-houses occupied by those tenants.

(2) A scheme submitted under paragraph (1) may contain such provision as the Executive considers appropriate and, without prejudice to the generality of the foregoing, shall include provision with respect to—

(a) the classes of dwelling-houses to which the scheme applies;

(b) the manner in which the purchase price of a dwelling-house is to be determined;

(c) the circumstances in which a purchaser is entitled to a discount of part of the purchase price and the basis upon which that discount is to be calculated;

(d) the circumstances in which discount may be repayable;

(e) the condition and covenants to be included in the conveyance or lease of the dwelling-house;

(f) the terms on which land used for the purposes of a dwelling-house is to be treated as included in the dwelling-house.

(3) A scheme submitted under paragraph (1) shall, if the Department so directs, include provision for the Executive to offer, in such circumstances as the Department may direct, to grant equity-sharing leases in relation to dwelling-houses to which the scheme applies.

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

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

(6) The Executive may at any time, and if the Department so directs shall, submit to the Department proposals amending a scheme approved under paragraph (4) or a scheme replacing any such scheme; and paragraphs (3) to (5) shall have effect in relation to those proposals or a scheme replacing an existing scheme as they have effect in relation to a scheme.

House sales scheme: supplemental provision

4.—(1) In this Chapter—

"equity-sharing lease" has the meaning given in Article 31(6)(a) of the principal Order;

"purchase price" includes the consideration for the grant of a lease;

"sale" includes sale in consideration of a fee farm rent, rent charge or similar periodic payment; and

"secure tenant" has the meaning given in Article 24(1)."

(2) Chapter I of Part I of, and Schedules 1 and 1A to, the Order of 1983, as that Chapter and those Schedules had effect immediately before the day of the coming into operation of Article 96 of the Housing (Northern Ireland) Order 1992 shall, notwithstanding anything in this Article or Part I of Schedule 9 continue to apply where, before that day, a secure tenant has served on the Executive a written notice under Article 7 of the Order of 1983 claiming to exercise the right to buy.

(3) In Article 106(2) of the Order of 1983 (regulations and orders subject to negative resolution) for the words "Article 21, 28(2)(a) or 92(3)" there shall be substituted " Article 28(2)(a) or 92(3) ".

CHAPTER III N.I.

AMENDMENTS OF THE ORDER OF 1986

Amendments relating to defective housing N.I.

97.—(1) Part II of the Order of 1986 shall be amended in accordance with the following provisions of this Article.

(2) In paragraph (2) of Article 6 of that Order (determination of form of assistance to which applicant is entitled), after the word "determine" there shall be inserted " as soon as reasonably practicable ".

(3) After paragraph (7) of that Article (meaning of "work required for reinstatement, etc.") there shall be inserted the following paragraph—

"(7A) In any case where—

(a) the most satisfactory way of dealing with the qualifying defect is substantially to demolish the building that consists of or includes the defective dwelling or a part of that building, and

(b) it is practicable to rebuild the building or part concerned on, or substantially on, its existing foundations and reconstruct the dwelling to the same, or substantially the same, plan,

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

(4) In Article 17 of the Order of 1986 (modification of Part II of that Order in relation to equity-sharing leases) for paragraphs (1) to (3) there shall be substituted the following paragraphs—

"(1) If it appears to the Executive that the interest of a person eligible for assistance in respect of a defective dwelling is—

(a) an equity-sharing lease, or

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

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

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

(5) Any power of the Department to make regulations under paragraph (4) of Article 17 of the Order of 1986 shall cease to have effect; and in sub-paragraph (c) of that paragraph after the word "class" there shall be inserted "or description".

PART VI N.I.

PRIVATE SECTOR TENANTS

Regulated tenancy standards N.I.

98. [F97] . . . . . .

F97 Art. 98 repealed (1.4.2007) by Private Tenancies (Northern Ireland) Order 2006 (S.I. 2006/1459 (N.I. 10)), arts. 1(3), 75, **Sch. 5**; S.R. 2006/428, **art. 3(b)(c)**

Department's power to remove tenancies from register of rents N.I.

99. [F98] . . . . . .

F98 Art. 99 repealed (1.4.2007) by Private Tenancies (Northern Ireland) Order 2006 (S.I. 2006/1459 (N.I. 10)), arts. 1(3), 75, **Sch. 5**; S.R. 2006/428, **art. 3(b)(c)**

Reduction of rent on failure to comply with certificate of disrepair N.I.

100. [F99] . . . . . .

F99 Art. 100 repealed (1.4.2007) by Private Tenancies (Northern Ireland) Order 2006 (S.I. 2006/1459 (N.I. 10)), arts. 1(3), 75, **Sch. 5**; S.R. 2006/428, **art. 3(b)(c)**

Service of documents under Rent (Northern Ireland) Order 1978 N.I.

101. After Article 73 (service of notices on landlord's agents) of the Rent (Northern Ireland) Order 1978[F100] there shall be inserted the following Article—

"**Method of serving certain documents**

73A.—(1) Any document to be served under any of the following provisions of this Order, namely Articles 8, 9, 10, 25(6), 25A(2), 26(4), 46 and 73(2) and paragraph 2(1) of Schedule 6 may be served by being sent by ordinary post.

(2) In section 24(1) of the Interpretation Act (Northern Ireland) 1954 (service of documents), as it applies to the service by post of such a document, the word "registering" shall be omitted."

F100 1978 NI 20

Other amendments of Rent (Northern Ireland) Order 1978 N.I.

102. The amendments to the Rent (Northern Ireland) Order 1978, which are set out in Schedule 7 shall have effect.

PART VII N.I.

MISCELLANEOUS AND SUPPLEMENTARY

Miscellaneous

Powers of Executive and Department as respects provision of services and assistance for owners and occupiers of houses N.I.

103.—(1) The Executive shall have power to provide professional, technical and administrative services for owners or occupiers of dwellings in connection with their arranging or carrying out relevant works or to encourage or facilitate the carrying out of such works, whether or not on payment of such charges as the Executive may determine.

(2) Works are relevant works in relation to a dwelling or, as the case may be, a dwelling in any area, if they are works of any of the following descriptions, that is to say—

(a) works to cause the dwelling to be fit for human habitation,

(b) where the occupant is disabled, works for any of the purposes specified in**[**[F101] Article 54 of the Housing (Northern Ireland) Order 2003 (disabled facilities grants: purposes)**]**,

(c) works for any of the purposes specified in**[**[F101] Article 43 or 58 of the Housing (Northern Ireland) Order 2003 (renovation grants or HMO grants: purposes)**]**, and

[[F101](d) works for which home repair assistance may be available under Articles 106 to 109 of the Housing (Northern Ireland) Order 2003**]**

(3) It shall be the duty of the Executive when exercising any power conferred by paragraph (1)—

(a) to consider whether or not to make a charge for exercising it; and

(b) to take such measures as are reasonably available to the Executive to secure contributions from other persons towards the cost of exercising it.

(4) The Executive shall have power to give financial assistance in any form to—

(a) any housing association,

(b) any charity, or

(c) any body, or body of any description, approved by the Department,

towards the cost of the provision by that association, charity or body of services of any description for owners or occupiers of dwellings in arranging works of maintenance, repair or improvement or the encouraging or facilitating the carrying out of such works.

(5) It shall be the duty of the Executive—

(a) in deciding whether to exercise any power conferred by paragraph (4) in relation to any association, charity or body, to have regard to the existence and extent of any financial assistance available from other persons to that association, charity or body; and

(b) in exercising any power conferred by paragraph (4) in relation to any association, charity or body—

(i) to have regard to whether that association, charity or body has made or will make charges and their amount; and

(ii) to encourage the association, charity or body to take such measures as are reasonably available to them to secure contributions from other persons.

(6) The Department may, with the consent of the Department of Finance and Personnel, give financial assistance in any form to any person in respect of expenditure incurred or to be incurred by that person in connection with the provision, whether or not by that person, of services of any

description for owners or occupiers of dwellings in arranging or carrying out works of maintenance, repair or improvement, or in connection with the encouraging or facilitating, whether or not by that person, the carrying out of such works.

(7) The giving of financial assistance under paragraph (6) shall be on such terms (which may include terms as to repayment) as the Department, with the consent of the Department of Finance and Personnel, considers appropriate.

(8) The person receiving assistance shall comply with the terms on which it is given and compliance may be enforced by the Department.

(9) In this Article—

"charity" means any institution, corporate or not, which is established for charitable purposes and is subject to the control of the High Court in the exercise of the Court's jurisdiction with respect to charities;

"housing association" means a housing association within the meaning of Article 3(1) or a body established by such a housing association for the purpose of, or having among its purposes or objects, those mentioned in Article 15(3)(c) (providing services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement, or encouraging or facilitating the carrying out of such works).

F101 2003 NI 2

Service of certain documents N.I.

104.—**[**[F102](1) Any document required or authorised by a statutory provision to be given to or served on any person by the Executive or a registered housing association may be given to or served on that person by being sent by ordinary post.**]**

(2) A process under Part VI of the Magistrates' Courts (Northern Ireland) Order 1981[F103] for the recovery of any sum due to the Executive**[**[F104] or such other body as may be prescribed**]** on foot of a tenancy agreement may be served—

(a) by being sent[F104]. . . by ordinary post; or

(b) by any mode of service permitted by magistrates' courts rules.

(3) In section 24(1) of the Interpretation Act (Northern Ireland) 1954[F105] (service of documents), as it applies to the service by post of any document or process mentioned in paragraph (1) or (2), the word "registering" shall be omitted.

F102 Art. 104(1) substituted (30.6.2011) by Housing (Amendment) Act (Northern Ireland) 2011 (c. 22), **ss. 18(2)**, 25(1); S.R. 2011/241, **art. 2(1)**, Sch. 1
F103 1981 NI 26
F104 2003 NI 2
F105 1954 c.33 (N.I.)

Repeal of Small Dwellings Acquisition Acts N.I.

105.—(1) Subject to regulations made under paragraph (2), the Small Dwellings Acquisition Acts (Northern Ireland) 1899 to 1948 shall cease to have effect.

(2) Without prejudice to Article 108(2), the Department may by regulations make such saving provision as it considers appropriate with respect to advances made under the Small Dwellings Acquisition Acts (Northern Ireland) 1899 to 1948 before the repeal of those Acts.

Supplementary

Orders and regulations N.I.

106. Any order (other than a vesting order or an order under Article 1(3) or 25) or regulations made by the Department under this Order shall be subject to negative resolution.

Minor and consequential amendments N.I.

107. The statutory provisions mentioned in Schedule 8 shall have effect subject to the amendments set out there.

Repeals, transitional provisions and savings N.I.

Para. (1)—Repeals

(2) The Department may by order make such transitional provisions and savings (whether or not involving the modification of any statutory provision) as it considers necessary or expedient in consequence of the provision made by this Order.

SCHEDULES

SCHEDULE 1 N.I.

Article 12(3).

MODIFICATIONS OF SCHEDULE 6 TO THE LOCAL GOVERNMENT ACT (NORTHERN IRELAND) 1972 FOR THE PURPOSES OF ARTICLE 12(3)

1. References to the Department or to the council shall be construed as references to the Department within the meaning of this Order.

2. References to Schedule 6 to the Local Government Act (Northern Ireland) 1972[F106] shall be construed as references to that Schedule as modified by this Schedule.

F106 1972 c.9 (N.I.)

3. Omit paragraph 1 of that Schedule.

4. In paragraph 2 of that Schedule—

(a) for the words "notice of application" substitute "notice of the Department's intention to acquire the land compulsorily";

(b) omit the words "in such form and manner as the Department directs";

(c) in sub-paragraph (c) for the words "as may be prescribed" substitute the words "as the Department considers fit".

5. In paragraph 3(1)(b) for the words in brackets substitute "if the Department thinks it necessary to do so".

6. In paragraph 4 omit the words from "and may provide" onwards.

7. In paragraph 5—

(a) in sub-paragraph (1)(a) omit the words "in the prescribed form and manner";

(b) in sub-paragraph (1)(b) the two references to the said Act of 1972 shall be construed as references to this Order;

(c) in sub-paragraph (1)(d) omit the words "in the prescribed form";

(d) in sub-paragraph (2) for the words "as may be prescribed" substitute the words "as the Department considers fit".

8. In paragraph 6(2) for the words "fund out of which the expenses of the council in acquiring the land are to be defrayed" substitute the words "Consolidated Fund" and for the words "out of the Compensation Fund" there shall be substituted the words "made by the Department".

9. In paragraph 11(3) omit the words "in the prescribed form".

10. In paragraph 12—

(a) in sub-paragraph (1) omit the words "such" and "as may be prescribed";

(b) in sub-paragraph (2) for the words from "clerk" to "directs" substitute the words "Department as correct, and publish".

11. In paragraph 14(1) omit the words "in the prescribed form".

12. In paragraph 15(1) for the words "in the prescribed form" substitute the words "in such form as may be approved by the Department"

13. Omit paragraph 19.

14. Omit paragraph 20(2).

SCHEDULE 2 N.I.

[[F107]Article 13A(1) **]**

GRANT-AIDED LAND

F107 Sch. 2 shoulder reference substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 1(2)(a)**, 10(2)

1. For the purposes of **[**[F108]Article 13A**]** "grant-aided land" means land—

(a) in respect of which such payment as is specified in paragraph 2 falls to be made in respect of a period ending after 10th November 1976; or

(b) on which is or has been secured a loan which is of a description specified in paragraph 3 and in respect of which any repayment (whether by way of principal or interest or both) falls to be made after that date.

F108 Words in Sch. 2 para. 1 substituted (29.8.2020) by Housing (Amendment) Act (Northern Ireland) 2020 (c. 5), **ss. 1(2)(b)**, 10(2)

2. The payments referred to in paragraph 1(a) are contributions which became payable before 10th November 1976—

(a) by way of exchequer contributions under section 1 of the Housing Act (Northern Ireland) 1945[F109] as applied to housing associations by virtue of section 12 of the Housing and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1946[F110];

(b) by way of exchequer contributions under section 15 of the Housing Act (Northern Ireland) 1963[F111] (contributions for hostels).

F109 1945 c.2 (N.I.)
F110 1946 c.4 (N.I.)
F111 1963 c.26 (N.I.)

3. The loans referred to in paragraph 1(b) are—

(a) loans under section 14 of the Housing (Ireland) Act 1919[F112], as applied to the Executive by virtue of section 3(1) of the Housing Executive Act (Northern Ireland) 1971[F113] (powers of promoting and assisting public utility societies); and

(b) loans under section 44 of the Housing Act (Northern Ireland) 1956[F114] (power to make loans to certain associations).

F112 1919 c.45
F113 1971 c.5 (N.I.)
F114 1956 c.10 (N.I.)

SCHEDULE 3 N.I.

Article 74(3).

PROVISIONS WITH RESPECT TO REPAIRS GRANTS UNDER ARTICLE 74

1.—(1) No repairs grant shall be paid by the Executive unless an application is made to it in accordance with this Schedule by the person to whom the grant is payable.

(2) An application for a repairs grant shall—

(a) specify the premises to which the application relates;

(b) contain particulars of the works in respect of which the grant is sought (in this Schedule referred to as "the relevant works") and an estimate of their cost; and

(c) contain such other particulars as may for the time being be specified to the Executive by the Department.

2.—(1) Subject to paragraphs (2) to (4), the Executive shall not approve an application for a repairs grant unless the Executive is satisfied that on completion of the relevant works the dwelling-house will attain the relevant standard of repair.

(2) Without prejudice to the discretion of the Executive to approve or decline to approve an application for a repairs grant, if, in the opinion of the Executive, the relevant works are more extensive than is necessary for the purpose of securing that the dwelling-house will attain the relevant standard of repair, the Executive may, with the consent of the applicant, treat the application as varied so that the relevant works include only such works as seem to the Executive to be necessary for that purpose, and may approve the application as so varied.

(3) Where the Executive is of the opinion—

(a) that the dwelling-house may be demolished within the period of 5 years from the date on which it received the application for the repairs grant; or

(b) that, notwithstanding that the relevant works are completed, the dwelling-house will, within that period become unfit for human habitation and will, at the expiration of that period, be incapable of being rendered fit at reasonable expense,

the Executive may dispense with the condition in paragraph (1).

(4) In determining for the purposes of this paragraph whether a dwelling-house meets the relevant standard of repair, regard shall be had to **[**[F115]the works specified in the notice of disrepair served under Article 19 of the Private Tenancies (Northern Ireland) Order 2006 in relation to the dwelling-house**]** or, as the case may be, to the requirements of the notice served under **[**[F116]section 65 of the Clean Neighbourhoods and Environment Act (Northern Ireland) 2011**]** in relation to the dwelling-house.

F115 Words in Sch. 3 para. 2(4) substituted (1.4.2007) by Private Tenancies (Northern Ireland) Order 2006 (S.I. 2006/1459 (N.I. 10)), arts. 1(3), **29(5)** (with (6); S.R. 2006/428, **art. 3(a)**

F116 Words in Sch. 3 para. 2(4) substituted (1.4.2012) by Clean Neighbourhoods and Environment Act (Northern Ireland) 2011 (c. 23), s. 78, **Sch. 3 para. 12(2)**; S.R. 2012/13, art. 2(2), Sch. 2

3.—(1) Where the Executive approves an application for a repairs grant, it shall determine the amount of the expense (in this Schedule referred to as "the eligible expense") which in its opinion is proper to be incurred for the execution of the relevant works and shall notify the applicant of that amount.

(2) If the applicant satisfies the Executive that the relevant works cannot be or could not have been carried out without the carrying out of additional works and that this could not have been

reasonably foreseen at the time the application was made, the Executive may determine a higher amount under paragraph (1).

(3) Except in a case or description of case in respect of which the Department approves a higher eligible expense, the eligible expense for the purposes of a repairs grant shall be so much of the amount determined under paragraph (1) as does not exceed**[**[F117] £7,500**]** or such other amount as the Department may by order specify.

(4) The amount of a repairs grant shall be such as may be fixed by the Executive when it approves the application for the grant but, subject to paragraph (5), shall not exceed the appropriate percentage of the eligible expense and, together with the notification under paragraph (1), the Executive shall send to the applicant a notification of the amount of the grant.

(5) **[**[F117]Subject to sub-paragraph (6)**]** in any case where, after the amount of a repairs grant has been notified to the applicant under paragraph (4), the Executive, in exercise of its powers under paragraph (2), determines a higher amount under paragraph (1), the eligible expense shall be re-calculated under paragraph (3), and if, on that re-calculation, the amount of the eligible expense is greater than it was at the time when the application was approved—

(a) the amount of the repairs grant shall be increased accordingly; and

(b) the Executive shall notify the applicant of the increased amount of the grant.

[[F117](6) The total amount of repairs grant payable in any period of 3 years in respect of any one dwelling-house shall not exceed £7,500 or such other amount as the Department may by order specify.**]**

F117 2003 NI 2

4.—(1) In this Schedule "the appropriate percentage" (which is relevant for determining the grant or the maximum amount of grant) shall, in relation to an application for a repairs grant, be the percentage applicable to that application in accordance with the following provisions of this paragraph.

(2) The appropriate percentage shall be—

(a) where the application is in respect of a dwelling-house which is subject to a protected or statutory tenancy under the Rent (Northern Ireland) Order 1978[F118], 90%;

(b) where it appears to the Executive that the applicant would not without undue hardship be able to finance so much of the cost of relevant works as is not met by the grant, 90%;

(c) where the net annual value of the house to which the application relates, other than a house in respect of which a district council has issued a regulated rent certificate under Article 9 of the Rent (Northern Ireland) Order 1978, is less than £60, 100%;

[[F119](d) in any other case,

(i) 75% where the net annual value is greater than £59 and less than £131;

(ii) 50% where the net annual value is greater than £130 and less than £226; and

(iii) 25% where the net annual value is greater than £225.**]**

(3) The Department may by order, made with the approval of the Department of Finance and Personnel, modify paragraph (2) in such manner as it thinks fit.

F118 1978 NI 20
F119 SR 1995/284; 1996/387

5. If the Executive—

(a) does not approve an application for a repairs grant, or

(b) fixes the amount of the grant at less than the appropriate percentage of the eligible expense,

it shall state in writing to the applicant its reasons for doing so.

SCHEDULE 4 N.I.

Article 82.

HOUSES IN MULTIPLE OCCUPATION: MEANS OF ESCAPE FROM FIRE

Exercise of powers of Executive

1. Subject to Article 80, if it appears to the Executive that a house in multiple occupation is not provided with such means of escape from fire as the Executive considers necessary the Executive may exercise such of its powers under this Schedule as appear to it most appropriate; and it shall do so if the house is of such description or occupied in such manner as the Department may by order specify.

Powers available to Executive

2.—(1) The Executive may serve a notice on any person on whom a notice may be served under Article 80(3) specifying the works which in the opinion of the Executive are required to provide the necessary means of escape from fire.

(2) Paragraphs (5) and (6) of Article 80 shall apply in relation to a notice under sub-paragraph (1) in the same manner as they apply to a notice under that Article.

3. If it appears to the Executive that the means of escape from fire would be adequate if part of the house were not used for human habitation, the Executive may secure that that part is not so used.

4. The Executive may secure that part of the house is not used for human habitation and serve a notice under paragraph 2 specifying such works only as in the opinion of the Executive are required to provide the means of escape from fire which will be necessary if that part is not so used.

5. For the purpose of securing that a part of the house is not used for human habitation the Executive may, if after consultation with any person appearing to it to be an owner of the house, accept an undertaking from him that that part will not be used for human habitation without the permission of the Executive.

6. If the Executive does not accept an undertaking under paragraph 5 with respect to a part of the house, or if, in a case where it has accepted such an undertaking, that part of the house is at any time used in contravention of the undertaking, the Executive may make a closing order with respect to that part of the house.

Enforcement

7. Any person who, knowing that an undertaking has been accepted under paragraph 5, uses the part of the house to which the undertaking relates in contravention of the undertaking, or permits that part of the house 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 of one tenth of the amount corresponding to that level for every day, or part of a day, on which he so uses it or permits it to be so used, after conviction.

Consultation with [F120Northern Ireland Fire and Rescue Service Board]

F120 Words in Sch. 4 para. 8 and heading substituted (1.7.2006) by Fire and Rescue Services (Northern Ireland) Order 2006 (S.I. 2006/1254 (N.I. 9)), arts. 1(3), 63(1), **Sch. 3 para. 18** (with art. 62); S.R. 2006/257, **art. 2(b)(d)**

8. The Executive shall, before serving a notice, accepting an undertaking or making a closing order under this Schedule, consult with the [F121Northern Ireland Fire and Rescue Service Board] .

F121 Words in Sch. 4 para. 8 and heading substituted (1.7.2006) by Fire and Rescue Services (Northern Ireland) Order 2006 (S.I. 2006/1254 (N.I. 9)), arts. 1(3), 63(1), **Sch. 3 para. 18** (with art. 62); S.R. 2006/257, **art. 2(b)(d)**

Exclusion of protection under Rent (Northern Ireland) Order 1978

9. Nothing in the Rent (Northern Ireland) Order 1978 shall prevent possession being obtained of any part of a house which, in accordance with any undertaking in pursuance of this Schedule, cannot for the time being be used for human habitation.

Application of Chapter II of Part III of the Order of 1981

10. Chapter II of Part III of the Order of 1981 shall apply to a closing order made under this Schedule as it applies to a closing order under Article 38(1) of that Order, but the ground on which, under Article 39(1) of that Order, the Executive is required to determine the order shall be that it is satisfied that the means of escape from fire with which the house is provided is adequate (owing to a change of circumstances) and will remain adequate if the part of the house with respect to which the order was made is again used for human habitation.

Matters requiring to be registered in the Statutory Charges Register

11. There shall be included in the matters which are required to be registered in the Statutory Charges Register—

(a) any notice served under paragraph 2,

(b) any undertaking accepted under paragraph 5, and

(c) any closing order made under paragraph 6.

N.I.

Schedule 5—Amendments

N.I.

Schedule 6-8—Amendments

N.I.

Schedule 9—Repeals

Changes to legislation:
There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 1992.