



# Housing (Amendment) Act (Northern Ireland) 2020

## 2020 CHAPTER 5

An Act to amend the law relating to housing associations; and for connected purposes. [28th August 2020]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

### **Disposal of land etc**

1.—(1) For Article 13 of the 1992 Order (disposal of land) substitute—

#### **“Disposal of land: registered housing associations**

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.

#### **Disposal of land: unregistered housing associations**

**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.”.

(2) In Schedule 2 to the 1992 Order (grant-aided land)—

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- (a) for the shoulder reference substitute “Article 13A(1)”;
- (b) in paragraph 1, for “Article 13” substitute “Article 13A”.
- (3) In consequence of the amendment made by subsection (1)—
  - (a) paragraph 41(a) of Schedule 11 to the Land Registration Act (Northern Ireland) 1970 is repealed;
  - (b) any entry in the Statutory Charges Register that was made in pursuance of Article 13(7) of the 1992 Order ceases to have effect.
- (4) The following provisions are repealed—
  - (a) Article 141 of the Housing (Northern Ireland) Order 2003;
  - (b) section 13 of the Housing (Amendment) Act (Northern Ireland) 2010.

### **Inquiries into affairs of registered housing associations**

2.—(1) Article 23 of the 1992 Order (inquiries into registered housing associations) is amended as follows.

(2) For paragraph (1) substitute—

“(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.”

- (3) In paragraph (2), for “paragraph (1)” substitute “paragraph (1A)”.
- (4) In paragraph (3), for “paragraph (1)” substitute “paragraph (1B)”.

### **Power to act for protection of registered housing association**

3.—(1) Article 25 of the 1992 Order (power to act for protection of registered housing association) is amended as follows.

(2) For the words preceding sub-paragraph (a) of paragraph (1) substitute—

“(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—”.

(3) In sub-paragraph (a) of what becomes paragraph (1B), for “the misconduct or mismanagement” substitute “the failure mentioned in paragraph (1A)”.

(4) In paragraph (3)—

- (a) for “there has been misconduct or mismanagement as mentioned in paragraph (1)” substitute “there is or has been a failure as mentioned in paragraph (1A)”;
- (b) for “that paragraph” substitute “paragraph (1B)”;
- (c) for “paragraph (1)(b)” substitute “paragraph (1B)(b)”.

(5) In paragraph (3A)—

- (a) for “there has been misconduct or mismanagement as mentioned in paragraph (1)” substitute “there is or has been a failure as mentioned in paragraph (1A)”;
- (b) for “of paragraph (1)” substitute “of paragraph (1B)”.

(6) In paragraph (4)(c), for “impedes the committee’s proper management of the association’s affairs” substitute “compromises the committee’s ability to ensure that the association complies with the duties and requirements mentioned in paragraph (1A)”.

(7) In paragraph (5)(c), for the words from “for the proper management” to the end of the sub-paragraph substitute “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);”.

(8) In paragraph (8)—

- (a) for “paragraph (1)(a)” substitute “paragraph (1B)(a)”;
- (b) for “paragraph (1)(b)” substitute “paragraph (1B)(b)”.

(9) In paragraph (9), for “paragraph (1)(a)” substitute “paragraph (1B)(a)”.

(10) In paragraph (10), for “paragraph (1)(c)” substitute “paragraph (1B)(c)”.

(11) In consequence of the amendment made by subsection (2), in Article 11(1) of the 1992 Order (guidance as to management of accommodation by registered housing associations), omit the words from “and, in considering under this Part” to the end of the paragraph.

### **Transfer of land of registered housing associations**

4.—(1) Article 26 of the 1992 Order (transfer of land of registered housing associations) is amended as follows.

(2) For paragraph (1) substitute—

“(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).”.

(3) In paragraph (2)—

- (a) for “paragraph (1)” substitute “paragraph (1D)”;

- (b) for “the land belonging to it” substitute “the land identified in the direction”.
- (4) In paragraph (3)—
  - (a) for “paragraph (1)” substitute “paragraph (1D)”;
  - (b) for “the land” substitute “the identified land”.
- (5) In paragraph (4), for “paragraph (1)” substitute “paragraph (1D)”.

### **Power to petition for winding up of registered housing association**

5. Article 27 of the 1992 Order (winding up of registered housing association) is repealed.

### **Restrictions on exercise of certain powers of registered housing associations**

6.—(1) Article 29 of the 1992 Order (restrictions on exercise of certain powers of registered housing associations) is amended as follows.

- (2) In paragraph (2), for the words from “unless” to the end substitute “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 subparagraph (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) In paragraph (4), for the words from “unless” to the end substitute “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 subparagraph (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.”.
- (4) In paragraph (5), for the words from “unless” to the end substitute “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 subparagraph (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).”.
- (5) For paragraph (6) substitute—

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“(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;”.”.

### **Abolition of right-to-buy scheme**

7.—(1) Article 3A of the Housing (Northern Ireland) Order 1983 is repealed (and, accordingly, the scheme under that Article ceases to have effect); but this is subject to subsection (2).

(2) Where a person has, before the date on which this section comes into operation, made an application under the scheme to exercise the rights conferred by it, the scheme continues to have effect in relation to that person.

(3) The Schedule contains repeals that are consequential on this section.

### **Grants for support of non-statutory right-to-buy schemes**

8.—(1) The Department for Communities may make grants to registered housing associations in respect of right-to-buy discounts.

(2) A “right-to-buy discount” is a discount given to a tenant of a dwelling-house on the disposal of the dwelling to the tenant otherwise than in the exercise

of a right conferred by a statutory provision (within the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954).

(3) A grant under this section may be made on any terms and conditions the Department considers appropriate.

### **Interpretation**

9. In this Act “the 1992 Order” means the Housing (Northern Ireland) Order 1992.

### **Commencement**

10.—(1) Sections 7 and 8 (and the Schedule) come into operation 2 years after Royal Assent.

(2) The remainder of this Act comes into operation on the day after this Act receives Royal Assent.

### **Short title**

11. This Act may be cited as the Housing (Amendment) Act (Northern Ireland) 2020.



SCHEDULE

Section 7(3).

Abolition of right-to-buy scheme: consequential amendments

*Housing (Northern Ireland) Order 2003*

1. In the Housing (Northern Ireland) Order 2003—
  - (a) in Article 12(4), omit “or 3A” and “(see Article 131)”;
  - (b) omit Article 131 (which inserts Article 3A of the 1983 Order).

*Housing (Amendment) Act (Northern Ireland) 2016*

2. In section 2(7)(d) of the Housing (Amendment) Act (Northern Ireland) 2016 omit “or 3A”.