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STATUTORY INSTRUMENTS

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**1975 No. 1039**

**Defective Premises (Northern Ireland) Order 1975**

**Cases excluded from remedy under Article 3**

**4.—(1) Where—**

- (a) in connection with the provision of a dwelling or its first sale or letting for habitation any rights in respect of defects in the state of the dwelling are conferred by an approved scheme to which this Article applies on a person having or acquiring an estate in the dwelling; and
- (b) it is stated in a document of a type approved for the purposes of this Article that the requirements as to design or construction imposed by or under the scheme have, or appear to have, been substantially complied with in relation to the dwelling;

no action shall be brought by any person having or acquiring an estate in the dwelling for breach of the duty imposed by Article 3 in relation to the dwelling.

**(2) A scheme to which this Article applies—**

- (a) may consist of any number of documents and any number of agreements or other transactions between any number of persons; but
- (b) must confer, by virtue of agreements entered into with persons having or acquiring an estate in the dwellings to which the scheme applies, rights on such persons in respect of defects in the state of the dwellings.

(3) In this Article “approved” means approved by the Department, and the power of the Department to approve a scheme or document for the purposes of this Article shall be exercisable by order, except that any requirements as to construction or design imposed under a scheme to which this Article applies may be approved without making any order or, if the Department thinks fit, by order.

**(4) The Department—**

- (a) may approve a scheme or document for the purposes of this Article with or without limiting the duration of the approval; and
- (b) without prejudice to any power to revoke or vary a previous order under this Article, may revoke or vary a previous approval under this Article given otherwise than by order.

(5) An order under this Article shall be subject to negative resolution.

**(6) Where an estate in a dwelling is compulsorily acquired—**

- (a) no action shall be brought by the acquiring authority for breach of the duty imposed by Article 3 in respect of the dwelling; and
- (b) if any work for or in connection with the provision of the dwelling was done otherwise than in the course of a business by the person in occupation of the dwelling at the time of the compulsory acquisition, the acquiring authority and not that person shall be treated as the person who took on the work and accordingly as owing that duty.

**Changes to legislation:**

There are currently no known outstanding effects for the Defective Premises (Northern Ireland) Order 1975, Section 4.