
STATUTORY INSTRUMENTS

1986 No. 1301 (N.I. 13)

NORTHERN IRELAND

The Housing (Northern Ireland) Order 1986

Laid before Parliament in draft

Made

25th July 1986

Coming into Operation

26th September 1986

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At the Court at Buckingham Palace, the 25th day of July 1986

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 and of all other powers enabling Her in that behalf, is pleased, by and

1974 c. 28

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with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I

INTRODUCTORY

Title and commencement

1. This Order may be cited as the Housing (Northern Ireland) Order 1986 and shall come into operation on the expiration of 2 months from the day on which it is made.

General interpretation

1954 c. 33 (N.I.)

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

(2) In this Order—

“the commencement date” means the date of the coming into operation of this Order;

“the Department” means the Department of the Environment;

“the Executive” means the Northern Ireland Housing Executive;

1981 NI 3

“the Order of 1981” means the Housing (Northern Ireland) Order 1981;

1983 NI 15

“the Order of 1983” means the Housing (Northern Ireland) Order 1983.

PART II

HOUSING DEFECTS

Interpretation of Part II

3.—(1) In this Part—

“associated arrangement” has the meaning given in Article 7(6);
“cut-off date” is to be construed in accordance with Article 4(2)(b);

“defective dwelling” is to be construed in accordance with Article 4(2);

“designation” means a designation under Article 4;

“housing association” means a housing association registered under Chapter II of Part VII of the Order of 1981, but does not include any such association whose rules—

(a) restrict membership to persons who are tenants or prospective tenants of the association, and

(b) preclude the granting or assignment of tenancies to persons other than members;

“lending institution” means any building society (as defined in Article 3(4) of the Order of 1983) and any of the bodies specified in paragraphs 3, 4 and 5 of Schedule 10 to the Order of 1981;

“person entitled to assistance by way of reinstatement grant” and “person entitled to assistance by way of repurchase” are to be construed in accordance with Article 7(5);

“qualifying defect” is to be construed in accordance with Article 4(2)(a);

“relevant interest” has the meaning given in Article 5(7)(a); and
“work required to reinstate a defective dwelling” is to be construed in accordance with Article 6(7).

(2) In this Part “relevant body” means—

- (a) the Executive or a body which was its statutory predecessor,
- (b) a housing association,
- (c) a body specified under paragraph (3).

(3) For the purposes of paragraph (2), the Department may by order—

- (a) if the Department is satisfied that a body corporate meets the requirements of paragraph (5), specify that body as one that is to be treated as a relevant body, and
- (b) whether or not the Department specifies it under sub-paragraph (a), if the Department is satisfied that a body corporate met those requirements during any period, specify it as a body that is to be treated as having been a relevant body during that period.

(4) An order under paragraph (3) may, in the case of a body previously specified under sub-paragraph (a) of that paragraph which the Department is satisfied has ceased to meet those requirements on any date, provide that it is to be treated for the purposes of this Part as having ceased to be a relevant body on that date.

(5) The requirements mentioned in paragraph (3) are that—

- (a) the affairs of the body are managed by its members and its members hold office as such by virtue of their appointment to that or another office by the head of a Northern Ireland department under any enactment, or
- (b) the body is a subsidiary (within the meaning of the Companies Act (Northern Ireland) 1960) of such a body.

1960 c. 22 (N.I.)

(6) References in this Part to a disposal of an interest in a dwelling by a relevant body include a reference to a disposal of such an interest by a government department.

(7) In this Part (except Article 11 and paragraph 4 of Schedule 2) “dwelling” means any house, flat or other unit designed or adapted for living in; and for the purposes of this Part a building so designed

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or adapted is a house if it is a structure reasonably so called, so that—

- (a) where a building is divided into units so designed or adapted and either it is so divided horizontally or a material part of any unit lies above or below any other unit, those units are not houses (though the building as a whole may be); and
- (b) where a building is divided vertically into units so designed or adapted, those units may be houses.

(8) In any case where—

- (a) a house which is divided into flats or other units is a defective dwelling, and
- (b) a person is eligible for assistance in respect of that dwelling,

the fact that it is so divided is to be disregarded for the purposes of Article 6(4)(a).

(9) Subject to paragraph (10), where any interest in land is disposed of under a contract, the time at which the disposal is made is, for the purposes of this Part, the time the contract is made (and not, if different, the time at which the interest is conveyed).

(10) If the contract is conditional (and in particular if it is conditional on the exercise of an option) the time at which the disposal is made for those purposes is the time when the condition is satisfied.

Eligibility

Designation of defective dwellings

4.—(1) The Department may designate as a class any buildings each of which consists of or includes one or more dwellings if it appears to the Department that—

- (a) buildings in the proposed class are defective by reason of their design or construction, and
- (b) by virtue of the circumstances mentioned in sub-paragraph (a) having become generally known, the value of some or all of the dwellings concerned has been substantially reduced.

(2) Any dwelling which a building in a class designated under this Article consists of or includes is referred to in this Part as a “defective dwelling”; and in this Part in relation to such a dwelling—

- (a) “the qualifying defect” means that which, in the opinion of the Department, is wrong with the buildings in that class; and
- (b) “the cut-off date” means the date by which, in the opinion of the Department, the circumstances mentioned in paragraph (1)(a) became generally known.

(3) A designation under this Article shall describe the qualifying defect and specify—

- (a) the date on which the designation is to come into operation;
- (b) the cut-off date (not being a date falling after the date specified under sub-paragraph (a)); and
- (c) the period within which persons may seek assistance under this Part in respect of the defective dwellings concerned.

(4) The Department may vary or revoke a designation under this Article and may by a variation of the designation extend the period referred to in paragraph (3)(c), whether or not it has expired; but

(a) no variation or revocation shall affect the operation of the provisions of this Part in relation to any dwelling if, before the variation or revocation comes into operation, it is a defective dwelling by virtue of the designation in question and application for assistance in respect of it has been made under Article 6; and

(b) no variation shall alter the cut-off date.

(5) Notice of a designation under this Article and of the variation or revocation of such a designation shall be published in the Belfast Gazette.

(6) Any question arising as to whether a building is or was at any time in a class designated under this Article shall be determined by the Department.

(7) No designation shall describe a designated class by reference to the area in which the buildings concerned are situated.

Eligibility for assistance

5.—(1) Subject to the following provisions of this Part, a person to whom this Article applies is eligible for assistance in respect of a defective dwelling for the purposes of this Part if—

(a) he holds a relevant interest in the dwelling, and

(b) one of the sets of conditions described in paragraphs (2) and (3) is satisfied;

and for the purposes of sub-paragraph (a) a person shall be treated as holding a relevant interest in a dwelling notwithstanding that he has conveyed or assigned that interest to another person by way of mortgage.

(2) The first set of conditions is that—

(a) there was a disposal by a relevant body of a relevant interest in the dwelling before the cut-off date; and

(b) there has been no disposal for value by any person of a relevant interest in the dwelling on or after the cut-off date.

(3) The second set of conditions is that—

(a) a person to whom this Article applies acquired a relevant interest in the dwelling on a disposal for value occurring within the period of twelve months beginning with the cut-off date;

(b) on the date of that disposal that person was unaware of the association of the dwelling with the qualifying defect;

(c) the value by reference to which the price for the disposal was calculated did not take any, or any adequate, account of the qualifying defect; and

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- (d) if the cut-off date had fallen immediately after the date of the disposal, the first set of conditions would have been satisfied.
- (4) No person is eligible for assistance in respect of a defective dwelling if the Executive is of the opinion that—
 - (a) work to the building that consists of or includes the dwelling has been carried out in order to deal with the qualifying defect, and
 - (b) on the completion of the work, no further work relating to the dwelling was required to be done to the building in order to deal satisfactorily with the qualifying defect.
- (5) In this Part, except in paragraph 2 of Schedule 2, references to a disposal include references to a part disposal; but for the purposes of this Part, a disposal of an interest in a dwelling is a disposal of a relevant interest in the dwelling if, and only if, on the disposal the person to whom it is made acquires a relevant interest in the dwelling.
- (6) This Article applies to—
 - (a) an individual who is not a trustee,
 - (b) trustees, if all the beneficiaries are individuals, and
 - (c) personal representatives.
- (7) In this Part—
 - (a) “relevant interest” means an estate in fee simple (including an estate held under a fee farm grant) or a long tenancy unless, in either case, it is subject to a long tenancy;
 - (b) references to an interest in a dwelling are references to an interest in land which is or includes the dwelling;
 - (c) in relation to a person holding an interest in a dwelling formed by the conversion of another dwelling, references to a previous disposal of an interest in the dwelling include a reference to a previous disposal on which an interest in land which included that part of the original dwelling in which his interest subsists was acquired; and
 - (d) references to a disposal of an interest for value are references to a disposal for money or money’s worth, whether or not representing full value for the interest disposed of.
- (8) Subject to paragraph (9) a tenancy is a long tenancy for the purposes of paragraph (7) if—
 - (a) it is a tenancy granted for a term certain exceeding 21 years, whether or not it is (or may become) terminable before the end of that term by a notice given by or to the tenant or by re-entry, forfeiture or otherwise; or
 - (b) it is a tenancy granted in pursuance of Chapter I of Part II of the Order of 1983 or Part III of this Order.
- (9) A tenancy is not a long tenancy for those purposes if it is an

interest created by way of security and liable to termination by the exercise of a right of redemption or otherwise.

Entitlement to reinstatement grant or repurchase

6.—(1) Any person seeking assistance under this Part in respect of a defective dwelling shall make a written application to the Executive within such period as is specified in the designation in question.

(2) Subject to paragraph (8) and Article 17(3), the Executive, on receiving such an application shall, if the applicant is eligible for assistance in respect of the defective dwelling, determine whether he is entitled to assistance by way of reinstatement grant or by way of repurchase.

(3) For the purposes of that determination the applicant is entitled to assistance by way of reinstatement grant if—

- (a) the Executive is satisfied that each of the conditions mentioned in paragraph (4) is met, and
- (b) paragraph (5) does not apply in his case;

and in any other case he is entitled to assistance by way of repurchase.

(4) The conditions referred to in paragraph (3) are that—

- (a) the defective dwelling is a house;
- (b) if the work required to reinstate the dwelling (together with any other work which the Executive is satisfied the applicant proposes to carry out) were carried out—
 - (i) the dwelling would be likely to provide satisfactory housing accommodation for a period of at least 30 years, and
 - (ii) an individual acquiring a fee simple estate in the dwelling with vacant possession would be likely to be able to arrange a mortgage on satisfactory terms with a lending institution;
- (c) giving assistance by way of reinstatement grant is justified having regard, on the one hand, to the amount of reinstatement grant that would be payable in respect of the dwelling in pursuance of this Part and, on the other hand, to the likely value of the fee simple estate in the dwelling with vacant possession after the work required to reinstate it had been carried out; and
- (d) the amount of reinstatement grant that would be so payable would not be likely to exceed the amount which, on the acquisition of the applicant's interest in the dwelling in pursuance of this Part, would be the aggregate of the price payable for the acquisition and any amount to be reimbursed under Article 12.

(5) This paragraph applies in the case of an applicant where the Executive is satisfied on a claim made by him that it would be

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unreasonable to expect him to secure or await the carrying out of the work required to reinstate the defective dwelling.

(6) The Department may by order amend paragraph (4) (whether as originally enacted or as previously amended under this paragraph) so as to—

(a) modify or omit any of the conditions mentioned in that paragraph, or

(b) add or substitute for any of those conditions other conditions; and an order made under this paragraph shall not affect the operation of this Article in relation to applications made under this Article before the order comes into force.

(7) For the purposes of this Part—

(a) the work required to reinstate a defective dwelling is the work relating to the dwelling that is required to be done to the building that consists of or includes the dwelling in order to deal satisfactorily with the qualifying defect, and

(b) where there is work falling within sub-paragraph (a), the work required to reinstate the defective dwelling includes—

(i) any work required, in order to deal satisfactorily with the qualifying defect, to be done to any garage or outhouse designed or constructed as that building is designed or constructed, being a garage or outhouse in which the interest of the person eligible for assistance subsists and which is occupied with and used for the purposes of the dwelling or any part of it, and

(ii) any other work reasonably required in connection with work falling within sub-paragraph (a) or this sub-paragraph.

(8) The Executive shall not entertain an application under this Article in respect of a defective dwelling if at any time (whether before or after the designation in question comes into operation) application for grant under Part III of the Order of 1983 has been made in respect of the dwelling and the relevant works include the whole or any part of the work required to reinstate the defective dwelling unless—

(a) the application under that Part has been refused or has been withdrawn under paragraph (9), or

(b) the relevant works have been completed.

(9) A person who has applied for grant under Part III of the Order of 1983 in respect of any dwelling may, at any time when it is a defective dwelling, withdraw his application, whether or not it has been approved, if the relevant works have not been begun and those works include the whole or any part of the work required to reinstate the defective dwelling.

(10) In paragraphs (8) and (9) “the relevant works” has the same meaning as in Part III of the Order of 1983.

(11) Where a person who is eligible for assistance in respect of a defective dwelling dies or disposes of his interest in the dwelling to a person to whom Article 5 applies (otherwise than on a disposal for value), this Part shall apply as if anything done or treated by virtue of this paragraph as done by or in relation to the person so eligible had been done by or in relation to his personal representatives or, as the case may be, the person acquiring the interest.

Notice of determination

7.—(1) Where the Executive receives an application which it is required to entertain under Article 6 it shall, as soon as it is reasonably practicable to do so, give notice in writing to the applicant stating whether or not in its opinion he is eligible for assistance in respect of the defective dwelling, and also—

- (a) if it is of the opinion that he is not so eligible, the reasons for its view;
- (b) if it is of the opinion that he is so eligible, informing him of his right to make a claim under Article 6(5).

(2) Where the Executive is required to entertain an application from an applicant who is eligible for assistance, it shall, as soon as it is reasonably practicable to do so, give him notice in writing stating—

- (a) the form of assistance to which he is entitled; and
- (b) if, on a claim by the applicant, the Executive has satisfied itself that Article 6(5) does not apply in his case, the reasons for its view.

(3) A notice under paragraph (2) stating that the applicant is entitled to assistance by way of reinstatement grant shall also state—

- (a) the grounds for the Executive's determination;
- (b) the work which, in its opinion, is the work required to reinstate the defective dwelling;
- (c) the amount of expenditure which, in its opinion, may properly be incurred in executing the work;
- (d) the amount of expenditure which, in its opinion, may properly be incurred in entering into any associated arrangement;
- (e) the condition required by Article 8(3) (including the period within which the work is to be carried out); and
- (f) its estimate of the amount of grant that would be payable in respect of the dwelling in pursuance of this Part.

(4) A notice under paragraph (2) stating that the applicant is entitled to assistance by way of repurchase shall also state—

- (a) the grounds for the Executive's determination; and
- (b) the effect of the following provisions of this Part, namely—
Article 9(1), (2) and (6) (except sub-paragraph (b)), and
Article 11(2) and (4) to (6).

(5) References in the following provisions of this Part to a person

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entitled to assistance by way of reinstatement grant or, as the case may be, by way of repurchase in respect of a defective dwelling are references to a person—

- (a) who is eligible for assistance in respect of the dwelling, and
- (b) on whom a notice under this Article has been served stating that he is entitled to that form of assistance.

(6) In this Part “associated arrangement” means any arrangement which—

- (a) is to be entered into in connection with the execution of the work required to reinstate a defective dwelling, and
- (b) is likely to contribute towards the dwelling being regarded as acceptable security by a lending institution.

Forms of assistance

Reinstatement grant

8.—(1) Where a person is entitled to assistance by way of reinstatement grant in respect of a defective dwelling, the Executive shall, subject to and in accordance with the provisions of this Article and Schedule 1, pay reinstatement grant to him in respect of the qualifying work and in respect of any associated arrangement.

(2) In this Article and that Schedule “qualifying work”, in relation to a defective dwelling, means the work stated in a notice under Article 7(2) or paragraph 3 of that Schedule to be, in the opinion of the Executive, the work which is required to reinstate the dwelling.

(3) It shall be a condition of payment of the grant that the qualifying work is carried out to the satisfaction of the Executive within the period specified in the notice under Article 7(2) or within that period as extended; but payment of the grant shall not be subject to any other condition, however expressed.

(4) The period so specified shall be such reasonable period (not being less than 12 months) beginning with the service of the notice as the Executive may determine.

(5) The Executive shall, if there are reasonable grounds for doing so, by notice in writing served on the person entitled to assistance extend, or further extend, the period for carrying out that work (whether or not that period has expired).

(6) Part II of Schedule 1 has effect to require the repayment of grant in certain circumstances.

Repurchase

9.—(1) A person who is entitled to assistance by way of repurchase in respect of a defective dwelling may, within the period of 3 months beginning with the service of the Executive’s notice under Article 7(2) (or within that period as extended) request the Executive in

writing to notify him of the proposed terms and conditions for its acquisition of his interest so far as subsisting in the defective dwelling and any garage, outhouse, garden, yard and appurtenances occupied and used for the purposes of the dwelling or any part of it (in this paragraph referred to as the "interest to be acquired").

(2) The Executive shall, within the period of 3 months beginning with the making of a request under paragraph (1), serve on the person so entitled a notice in writing specifying the proposed terms and conditions and stating—

- (a) its opinion as to the value of the interest to be acquired, and
- (b) the effect of paragraphs (3) to (5) and (6) (except subparagraph (a)).

(3) Subject to the following provisions of this Part, any agreement for the acquisition by the Executive of the interest to be acquired shall contain such provisions as the parties have agreed or, in default of agreement, as have been determined in accordance with this Part to be reasonable.

(4) The Executive shall, within 3 months of all the provisions to be included in the agreement being agreed or determined, draw up an agreement for execution by the parties embodying those provisions and serve a copy of the agreement on the person so entitled.

(5) The person so entitled may, at any time within the period of 6 months beginning with the service of the copy of that agreement (or within that period as extended), notify the Executive in writing that he requires it to enter into an agreement embodying those provisions and the Executive shall comply with the requirement.

(6) The Executive shall, if there are reasonable grounds for doing so, by notice in writing served on the person so entitled, extend (or further extend)—

- (a) the period within which under paragraph (1) he may make a request under that paragraph; and
- (b) the period within which under paragraph (5) he may notify it of his requirement;

whether or not the period in question has expired.

(7) Schedule 2 has effect to supplement the provisions of this Article.

Purchase of certain land by authority possessing powers of compulsory acquisition

10.—(1) In any case where—

- (a) there was a disposal of an interest in a defective dwelling, being an interest held by a person (in this Article referred to as "the owner") who immediately before the time of disposal was eligible for assistance in respect of the dwelling,
- (b) the disposal was made to an authority possessing compulsory acquisition powers, otherwise than in pursuance of Article 9,

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(c) on the disposal, the authority acquired an interest in any affected land, that is to say, the defective dwelling and any garage, outhouse, garden, yard and appurtenances occupied with and used for the purposes of the dwelling or any part of it, and

(d) the amount paid in consideration of the disposal did not include any amount attributable to the owner's right to apply for assistance in respect of the dwelling,

the owner is entitled, subject to the following provisions of this Article, to be paid by the Executive the amount (if any) by which ninety-five per cent. of the defect-free value exceeds the amount of compensation for the disposal.

(2) For the purposes of this Article, the amount of compensation for the disposal is—

(a) the amount that would have been the proper amount of compensation for the disposal (having regard, where any relevant determination has been made by the Lands Tribunal, to that determination), or

(b) if greater, the amount paid as the consideration for the disposal,

but excluding any amount payable for disturbance or any other matter not directly based on the value of the land.

(3) In this Article "defect-free value" means the amount that would have been the proper amount of compensation for the disposal (excluding any amount so payable) if none of the defective dwellings to which the designation in question related had been affected by the qualifying defect.

(4) For the purposes of this Article—

(a) it is to be assumed that the disposal occurred on a compulsory acquisition (in cases where it did not in fact do so),

(b) where the compensation for the disposal fell to be assessed by reference to the value of the land as a site cleared of buildings and available for development then, for the purpose of determining the defect-free value, it is to be assumed that the compensation did not fall to be so assessed, and

(c) any amount which, apart from this sub-paragraph, would be payable by the Executive under paragraph (1) shall be reduced by the amount of any payment made in respect of the defective dwelling under Article 93 of the Order of 1981.

(5) The Executive is not required to make a payment to any person under this Article unless he makes a written application to it for the payment before the end of the period of two years beginning with the time of disposal.

(6) Where the Executive refuses an application for a payment under this Article on the grounds that the owner was not eligible for

assistance in respect of the defective dwelling at the time of the disposal, it shall give to the applicant a notice in writing stating the reasons for its view.

(7) Any question arising under this Article as to the amount of compensation for a disposal or defect-free value shall be determined by the district valuer if the owner or the Executive so requires by notice in writing served on the district valuer.

(8) Before making a determination in pursuance of paragraph (7), the district valuer shall consider any representations by the owner or the Executive made to him within four weeks from the service of the notice under that paragraph.

(9) A person serving a notice on the district valuer under paragraph (7) shall serve notice in writing of that fact on the Executive or, as the case may be, the owner.

(10) In this Article—

“authority possessing compulsory acquisition powers” means a person with power to acquire an interest in land otherwise than by agreement;

“district valuer” has the meaning given in Article 2(2) of the Rates (Northern Ireland) Order 1977.

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(11) In this Article references to the owner include a reference to his personal representatives.

Secure tenancies

11.—(1) This Article applies where the Executive acquires an interest in a defective dwelling in pursuance of Article 9 and the land in which the interest subsists is or includes a dwelling-house occupied as a separate dwelling (in this Article referred to as a “relevant dwelling-house”).

(2) Where an individual is an occupier of a relevant dwelling-house throughout the qualifying period and either—

- (a) he is a person entitled to assistance by way of repurchase in respect of the defective dwelling, or
- (b) the persons so entitled are, in relation to the interest concerned, his trustees,

the Executive shall, subject to the following provisions of this Article, grant him a secure tenancy on completion of its acquisition of the interest concerned.

(3) Where an individual—

- (a) is at the end of the qualifying period a tenant of a relevant dwelling-house under a periodic tenancy, and
- (b) has been an occupier of the dwelling-house throughout the qualifying period,

the Executive shall, subject to the following provisions of this Article,

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grant him a secure tenancy on completion of its acquisition of the interest concerned.

(4) If two or more persons qualify under paragraph (2) or (3) for the grant of a secure tenancy in respect of the same relevant dwelling-house, the Executive shall, subject to the following provisions of this Article, grant the tenancy to such one or more of them as they may agree among themselves or (if there is no such agreement) to all of them.

(5) The dwelling-house let under the secure tenancy to be granted to any person under this Article shall—

- (a) if the circumstances do not fall within paragraph 2 of Schedule 3, be the dwelling-house of which he is the occupier at the end of the qualifying period;
- (b) if the circumstances do fall within paragraph 2 of that Schedule, be another dwelling-house which, so far as is reasonably practicable, affords accommodation which meets the requirements of suitability set out in paragraph 3 of that Schedule.

(6) The Executive shall not be required to grant to any person a secure tenancy under this Article unless that person requests it to do so in writing before the service on the person entitled to assistance of a copy of the agreement drawn up under Article 9(4) or paragraph 3(4) of Schedule 2.

(7) On receiving a request under paragraph (6), the Executive shall, as soon as it is reasonably practicable to do so, give notice in writing to the person making the request stating—

- (a) whether or not in its opinion the circumstances of his case fall within paragraph 2 of Schedule 3, and
- (b) if its opinion is that they do—
 - (i) which of the Cases specified in that paragraph is applicable to those circumstances, and
 - (ii) the effect of paragraph (5) and Schedule 3.

(8) If at any time after the service of a notice under Article 7(2) it appears to the Executive that a person may be entitled to request it to grant him a tenancy under paragraph (3), it shall forthwith give him notice in writing of that fact.

(9) In this Article—

“dwelling-house” has the same meaning as in Chapter II of Part II of the Order of 1983;

“occupier”, in relation to a dwelling-house, means a person who occupies the dwelling-house as his only or principal home;

“qualifying period” means the period beginning with the making of an application under Article 6 in respect of the defective dwelling and ending immediately before completion of the Executive’s acquisition;

“relevant dwelling-house” has the meaning given in paragraph (1);

“secure tenancy” has the same meaning as in Chapter II of Part II of the Order of 1983;

and references to the grant of a secure tenancy are references to the grant of a tenancy which would be a secure tenancy assuming that the tenant under the tenancy occupies the dwelling-house concerned as his only or principal home.

Expenses incidental to applications for assistance

12.—(1) A person whose interest in a defective dwelling is acquired by the Executive in pursuance of Article 9 is entitled to be reimbursed by the Executive the proper amount of—

- (a) any expenses in respect of legal services provided in connection with the Executive’s acquisition, and
- (b) any other expenses in connection with negotiating the terms of that acquisition,

being in each case expenses which are reasonably incurred by him after receipt of a notice under Article 9(2).

(2) Any agreement between any person and the Executive shall be void in so far as it purports to oblige him to bear any part of the costs or expenses incurred by the Executive in connection with the exercise by him of his rights under this Part.

Miscellaneous and Supplemental

Dwellings included in more than one designation

13.—(1) For the purposes of this Part, where a person is already eligible for assistance in respect of a defective dwelling at a time when a further designation comes into operation, being a designation of a class within which the building that consists of or includes the dwelling falls, that designation is to be disregarded in his case if either—

- (a) he would not be eligible for assistance in respect of the defective dwelling if it were the only designation, or
- (b) he is entitled to assistance by way of repurchase in respect of the defective dwelling.

(2) Where a person is eligible for assistance in respect of a defective dwelling and the building that consists of or includes the dwelling falls within two or more designations, being designations which are not required to be disregarded in his case (in this paragraph referred to as “applicable designations”), then, in relation to the dwelling, this Part (except Article 4) shall have effect as if—

- (a) references to the designation by virtue of which it is a defective dwelling were references to any applicable designation,

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- (b) references to the qualifying defect were references to any qualifying defect described in any applicable designation,
- (c) references to the period within which persons may seek assistance under this Part were references to any period specified for that purpose in any applicable designation, and
- (d) the reference in paragraph 1(1)(c) of Schedule 1 to the maximum amount permitted to be taken into account for the purposes of that paragraph were a reference to the sum of those maximum amounts for each applicable designation.

(3) In any case where—

- (a) notice has been given to a person at any time under Article 7(1) stating that he is, in the opinion of the Executive, eligible for assistance in respect of a defective dwelling, and
- (b) the building that consists of or includes the dwelling falls within a class designated under Article 4 by a designation coming into operation after that time,

the Executive shall, as soon after that time as it is reasonably practicable to do so, give him notice in writing stating whether or not in its opinion the designation referred to in sub-paragraph (b) is to be disregarded in his case; and if, in the opinion of the Executive, it is to be disregarded, the reasons for its view.

(4) Paragraphs (5) to (8) apply in any case where—

- (a) a person is entitled to assistance by way of reinstatement grant in respect of a defective dwelling at a time when a designation under Article 4 comes into operation, being a designation of a class within which the building that consists of or includes the dwelling falls (in this and the following paragraphs referred to as the “later designation”), and
- (b) the later designation is not required to be disregarded in his case.

(5) Where it becomes apparent to the Executive that this paragraph applies in the case of any person, it shall forthwith give him notice in writing—

- (a) stating the effect of paragraph (2) and paragraph (6) and of the further designation, and
- (b) informing him that he has the right to make a claim under Article 6(5).

(6) Where it becomes apparent to the Executive that this paragraph applies in the case of any person, it shall as soon as it is reasonably practicable to do so—

- (a) make a further determination under Article 6(2) (taking account of the later designation), and
- (b) give a further notice under Article 7(2) in place of the previous notice,

and where the determination is that he is entitled to assistance by way

of repurchase, the notice shall state the effect of paragraphs (7) and (8).

(7) Where a further notice under Article 7(2) stating that a person is entitled to assistance by way of repurchase is given in place of a previous notice and either—

- (a) he satisfies the Executive that he has, before the further notice is received, entered into a contract with another to provide services or materials for the purpose of executing any of the work stated in the previous notice or in a notice under paragraph 3 of Schedule 1 (in this paragraph and paragraph (8) referred to as the “relevant work”), or
- (b) any of the relevant work has been carried out before the further notice is received and has been carried out to the satisfaction of the Executive,

then, notwithstanding anything in paragraph (6), the previous notice and any notice under paragraph 3 of that Schedule given before the further notice is received shall continue to have effect for the purposes of Article 8 and Schedule 1 in relation to the relevant work or, in a case falling within sub-paragraph (b), in relation to so much of the relevant work as has been carried out as mentioned in that sub-paragraph; and the Executive shall, subject to paragraph (8), pay reinstatement grant accordingly.

(8) In any case where—

- (a) the relevant work is not completed but part of that work is carried out to the satisfaction of the Executive,
- (b) the notice in question continues to have effect in relation to that part of the work by virtue of paragraph (7), and
- (c) that part of the work is carried out within the period stated in the notice in question,

paragraph 5 of Schedule 1 shall not apply in relation to reinstatement grant paid in respect of that part of the work and the amount payable in respect of that part of the work shall be an amount equal to the maximum instalment of grant that would have been payable under paragraph 4 of that Schedule in respect of that part of the work.

Notices

14.—(1) The Executive shall, within the period of 3 months beginning with the coming into operation of a designation or a variation of such a designation—

- (a) publish in more than one newspaper a notice suitable for the purpose of bringing the effect of the designation or variation to the attention of persons who may be eligible for assistance in respect of dwellings to which the designation applies; and
- (b) in the case of persons appearing to the Executive likely to be eligible for assistance in respect of those dwellings, take such

other steps as are reasonably practicable to inform them of the fact that assistance is available.

(2) If at any time it becomes apparent to the Executive that a person is likely to be eligible for assistance in respect of a defective dwelling, it shall forthwith take such steps as are reasonably practicable to inform him of the fact that assistance is available.

(3) A relevant body shall, where a person is to acquire a relevant interest in a defective dwelling on a disposal by that body, give him notice in writing before the time of disposal—

(a) specifying the qualifying defect, and

(b) stating that he will not be eligible for assistance under this Part in respect of the dwelling.

(4) A relevant body shall, before it conveys a relevant interest in a defective dwelling in pursuance of a contract to any person on whom a notice under paragraph (3) has not been served, give him notice in writing—

(a) specifying the qualifying defect,

(b) stating, where the time of disposal of the interest falls after the cut-off date, that he will not be eligible for assistance under this Part, and

(c) stating the effect of paragraph (5).

(5) A person on whom a notice under paragraph (4) is served—

(a) shall have the right to withdraw from the transaction and may, within the period of 6 months beginning with the service of that notice on him, exercise that right by notifying the relevant body in writing of his withdrawal, whereupon the parties to the contract shall be discharged from any obligations in connection with it and any deposit paid shall be repaid; and

(b) shall not, in any event, be obliged to complete the conveyance before the expiry of the period referred to in subparagraph (a).

(6) Where the Executive is required to serve a notice under Article 7(1) of the Order of 1983 (Executive's response to notice claiming exercise of right to buy) in respect of a defective dwelling, the notice under paragraph (3) is to be served with that notice.

(7) The notice under paragraph (3) (where it has not been served in accordance with paragraph (6)) or paragraph (4) is to be served at the earliest date at which it is reasonably practicable to do so.

Reinstatement of defective dwelling by the Executive

15. Where a relevant interest in a defective dwelling has been disposed of by a relevant body, then (without prejudice to any of its other powers) the Executive may before the end of the period within which a person may seek assistance under this Part in respect of the

dwelling enter into an agreement with any person holding an interest in the dwelling to execute at his expense any of the work required to reinstate the dwelling.

Jurisdiction of county court

16.—(1) Subject to Articles 4(6) and 10(7) and paragraph 3 of Schedule 2, a county court has jurisdiction to determine any question arising under this Part and to entertain any proceedings brought in connection with the performance or discharge of any obligations so arising, including proceedings for the recovery of damages or compensation in the event of the obligations not being performed.

(2) The jurisdiction conferred by this Article includes jurisdiction to entertain proceedings on any question so arising notwithstanding that no other relief is sought than a declaration.

(3) Where the Executive is required by Article 8(5) or 9(6) to extend or further extend any period and fails to do so, the county court may by order extend or further extend that period until such date as may be specified in the order.

Modification of this Part in relation to equity-sharing leases

17.—(1) The Department may by regulations provide for this Part to have effect, in its application to any case in which a person is eligible for assistance in respect of a defective dwelling and his interest in the dwelling is either—

- (a) an equity-sharing lease, or
- (b) the fee simple acquired under the terms of an equity-sharing lease,

subject to such modifications as may be specified in the regulations.

(2) Regulations under this Article may (without prejudice to the generality of paragraph (1))—

- (a) require the Executive on receiving an application under Article 6 by a person who—
 - (i) is eligible for assistance in respect of a defective dwelling, and
 - (ii) holds an interest falling within sub-paragraph (a) or (b) of paragraph (1),
to determine under that Article that he is entitled to assistance by way of repurchase, and
- (b) make any provision that may be made by an order under Article 6(6).

(3) The Executive shall not entertain an application under Article 6 by a person whose interest in the defective dwelling concerned falls within sub-paragraph (a) or (b) of paragraph (1) unless regulations under this Article are in force at the time of application in respect of that interest.

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(4) In this Article “equity-sharing lease” means—

- (a) an equity-sharing lease as defined in Article 31(6) of the Order of 1981;
- (b) a lease of a description specified in the regulations; or
- (c) a lease determined, or falling within a class determined, by the Department to be an equity-sharing lease;

but where a lease becomes an equity-sharing lease by virtue of regulations under this Article or a determination under subparagraph (c), that shall not affect the operation of the provisions of this Part in relation to a person who is eligible for assistance in respect of a defective dwelling if application for assistance in respect of the dwelling has previously been made by him under Article 6.

Application of this Part in relation to mortgagees

18.—(1) The Department may by regulations make provision for the purpose of conferring rights and obligations on any mortgagee of a defective dwelling where—

- (a) a power of sale (whether conferred by section 19 of the Conveyancing Act 1881 or otherwise) is exercisable by the mortgagee, and
- (b) the mortgagor is eligible for assistance in respect of the defective dwelling.

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(2) The rights that may be conferred on a mortgagee by regulations under this Article are—

- (a) rights corresponding to those conferred by this Part on a person holding a relevant interest in the defective dwelling,
- (b) the right to require the Executive to acquire in accordance with the regulations any interest in the defective dwelling to be disposed of in exercise of the power of sale, and
- (c) where the mortgagee is the Executive, the right by deed to vest the dwelling in itself,

and the rights that may be so conferred may be conferred in place of any rights conferred on any other person by this Part.

(3) Regulations under this Article may provide that, where the conditions in paragraph (1)(a) and (b) are or have been satisfied, this Part, the power of sale in question and any enactment relating to the power of sale shall have effect subject to such modifications as may be specified in the regulations.

(4) Where a defective dwelling is vested in a mortgagee in pursuance of regulations under this Article, the regulations may provide for the payment in respect of the vesting of an amount calculated on the assumption that none of the defective dwellings to which the designation in question relates are affected by the qualifying defect.

(5) In this Article “mortgagee” and “mortgagor” have the same meaning as in the Conveyancing Act 1881.

Repurchase of defective dwellings disposed of by housing associations

19.—(1) Where the Executive—

- (a) gives a notice under Article 7(2) to any person stating that he is entitled to assistance by way of repurchase in respect of a defective dwelling; and
- (b) is of the opinion that there has at any time been a disposal of a relevant interest in the dwelling by a housing association or by a housing association which was a predecessor of that association;

it shall forthwith give to the housing association a notice in writing (together with a copy of the notice referred to in sub-paragraph (a)) stating that the association may acquire in accordance with this Part the interest of the person entitled to assistance.

(2) A housing association notified under paragraph (1) may, within the period of four weeks beginning with the service of the notice, give notice in writing to the Executive—

- (a) stating that the association wishes to acquire the interest, and
- (b) specifying the address of the principal office of the association and any other address that may also be used as an address for service.

(3) Where the Executive receives a notice under paragraph (2), it shall forthwith give to the person entitled to assistance notice in writing (in the following provisions of this Article referred to as a “transfer notice”) of—

- (a) the contents of the notice under paragraph (2), and
- (b) the effects of paragraphs (4) and (5).

(4) The housing association concerned shall, at any time after the transfer notice is given, be treated as being responsible (in place of the Executive) for the purposes of anything done or falling to be done under this Part by or in relation to the Executive.

(5) Where a transfer notice has been given in respect of an interest—

- (a) a request under Article 9(1) in respect of the interest may be made either to the Executive or to the housing association concerned, and
- (b) such a request made to the Executive (whether before or after the transfer notice is given) shall be forwarded by it to the housing association concerned.

PART III

SECURE TENANTS

Interpretation of Part III

20. In this Part—

“additional contribution” has the meaning given by paragraph 4(1) of Schedule 6;

- “additional share” shall be construed in accordance with paragraph 3 of that Schedule;
- “equity-sharing lease” has the meaning given in Article 31(6) of the Order of 1981;
- “initial contribution” has the meaning given by paragraph 2(1) of Schedule 6;
- “initial share” shall be construed in accordance with paragraph 1 of that Schedule;
- “right to an equity-sharing lease” means the right conferred by Article 29;
- “total share” has the meaning given by paragraph 3(9) of Schedule 6.

CHAPTER I

THE RIGHT TO BUY, ETC.

Interpretation of Chapter I

21. In this Chapter expressions used in Chapter I of Part II of the Order of 1983 have the same meanings as in that Chapter.

Right to buy

Extension to certain cases where Executive does not own fee simple in dwelling-house

22.—(1) This Article and Schedule 4 shall have effect for the purpose of extending the right to buy conferred by Chapter I of Part II of the Order of 1983 to certain cases where the Executive does not own the fee simple in the dwelling-house.

(2) In Article 4(1) of the Order of 1983 (right to acquire fee simple or long lease) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs—

“(a) if the dwelling-house is a house and the Executive owns the fee simple, to acquire the dwelling-house for an estate in fee simple;

(b) if the Executive does not own the fee simple or if (whether or not the Executive owns it) the dwelling-house is a flat, to be granted a lease of the dwelling-house;”.

(3) At the end of Article 5(1) of the Order of 1983 (exceptions to right to buy) there shall be inserted the words “or has an interest sufficient to grant a lease in pursuance of this Chapter—

(a) where the dwelling-house is a house, for a term exceeding 21 years commencing with the relevant time;

(b) where the dwelling-house is a flat, for a term of not less than 50 years commencing with that time.”.

(4) The amendments made by this Article and Schedule 4 shall not

apply where the Executive's notice under Article 7(1) of the Order of 1983 was served before the commencement date.

Variation of circumstances in which right to buy does not arise

23. For Part I of Schedule 1 to the Order of 1983 there shall be substituted the following Part—

“PART I

CIRCUMSTANCES IN WHICH RIGHT TO BUY DOES NOT ARISE

1. The dwelling-house is one of a group of dwelling-houses which are particularly suitable, having regard to their location, size, design, heating systems and other features, for occupation by persons of pensionable age or by persons who are physically disabled and which it is the practice of the Executive to let for occupation by such persons, and special facilities are provided wholly or mainly for the purpose of assisting those persons which consist of or include either—

- (a) the services of a resident warden; or
- (b) the services of a non-resident warden, a system for calling him and the use of a common room in close proximity to the group of dwelling-houses.

2. The dwelling-house is one of a group of dwelling-houses which it is the practice of the Executive to let for occupation by persons who are suffering or have suffered from a mental disorder (within the meaning of the Mental Health (Northern Ireland) Order 1986) and a social service or special facilities are provided wholly or partly for the purpose of assisting those persons.

3.—(1) The Department has determined, on the application of the Executive, that the right to buy is not to be capable of being exercised with respect to the dwelling-house; and the Department shall so determine if, and only if, it is satisfied that the dwelling-house—

- (a) is particularly suitable, having regard to its location, size, design, heating system and other features, for occupation by persons of pensionable age; and
- (b) was let to the tenant or to a predecessor in title of his for occupation by a person of pensionable age (whether the tenant or predecessor or any other person).

(2) An application for a determination under this paragraph shall be made within four weeks or, in a case falling within Article 7(2), eight weeks of the service of the notice claiming to exercise the right to buy.

4. Paragraphs 1 and 2 do not apply where the Executive's notice under Article 7(1) was served before the date of the coming into operation of the Housing (Northern Ireland) Order 1986 and

paragraph 3 does not apply where the tenant's claim to exercise the right to buy was made before that date."

Further periods to count for qualification and discount

24.—(1) For paragraphs (2) to (8) of Article 4 of the Order of 1983 (determination of qualifying period) there shall be substituted the following paragraphs—

"(2) The right to buy does not arise unless the period which, in accordance with Part I of Schedule 1A, is to be taken into account for the purposes of this paragraph is a period of not less than two years.

(3) Where the secure tenancy is a joint tenancy the condition in paragraph (2) need be satisfied with respect to one only of the joint tenants."

(2) For paragraph (2) of Article 7 of the Order of 1983 (periods counting for purposes of relevant period under Article 4(2)) there shall be substituted the following paragraph—

"(2) A case falls within this paragraph if the periods counting towards the two years required by Article 4(2) include a period during which the landlord was not the Executive."

(3) For paragraph (1) of Article 9 of the Order of 1983 (discount) there shall be substituted the following paragraphs—

"(1) A person exercising the right to buy is entitled to a discount equal, subject to the following provisions of this Article, to the following percentage of the price before discount, that is to say—

(a) if the period which, in accordance with Part I of Schedule 1A, is to be taken into account for the purposes of discount is less than three years, 32 per cent.; and

(b) if that period is three years or more, 32 per cent., plus one per cent. for each complete year by which that period exceeds two years, but not together exceeding 60 per cent.;

and where joint tenants exercise the right to buy, that Part of that Schedule shall be construed as if for the secure tenant there were substituted that one of the joint tenants whose substitution will produce the largest discount.

(1A) There shall be deducted from the discount any amount which, in accordance with Part II of Schedule 1A, falls to be so deducted."

(4) Paragraphs (4) to (9) of that Article and Article 16 of that Order (children succeeding parents) shall be omitted.

(5) After Schedule 1 to the Order of 1983 there shall be inserted, as Schedule 1A, the Schedule set out in Schedule 5.

(6) The amendments made by this Article shall not apply—

(a) for the purposes of Article 4(2) of the Order of 1983, where

- the Executive's notice under Article 7(1) of that Order was served before the commencement date; or
- (b) for the purposes of discount, where the notice under Article 11(1) of that Order was served before that date.

Inclusion of land let with or used for purposes of dwelling-house

25.—(1) For the avoidance of doubt it is hereby declared that in Chapter I of Part II of the Order of 1983 “dwelling-house” has the meaning given by Article 24(2) of that Order as extended by Article 3(8) of that Order.

(2) In paragraph (6) of Article 3 of the Order of 1983 (land used for purposes of dwelling-house) after the words “by virtue of” there shall be inserted the words “paragraph (8) or”.

(3) For paragraph (8) of that Article there shall be substituted the following paragraphs—

“(8) There shall be treated as included in a dwelling-house any land which is or has been used for the purposes of the dwelling-house if—

- (a) the tenant, by a written notice served on the Executive at any time before he exercises the right to buy, requires the land to be included in the dwelling-house; and
- (b) it is reasonable in all the circumstances for the land to be so included.

(8A) A notice under paragraph (8) may be withdrawn by a written notice served on the Executive at any time before the tenant exercises the right to buy.”.

(4) Where, after the service of the notice under Article 11(1) of the Order of 1983, a notice under Article 3(8) of that Order is served or withdrawn, the parties shall, as soon as practicable after the service or withdrawal of that notice, take all such steps (whether by way of amending, withdrawing or re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are (as nearly as may be) in the same position as that in which they would have been if the notice under Article 3(8) of that Order had been served or withdrawn before the service of the notice under Article 11(1) of that Order.

Repayment of discount on early disposal

26.—(1) In paragraph (1) of Article 10 of the Order of 1983 (repayment of discount on early disposal) for the words “disposal falling within paragraph (3)” there shall be substituted the words “relevant disposal which is not exempted by paragraph (3A)”.

(2) For paragraph (3) of that Article there shall be substituted the following paragraphs—

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“(3) A disposal is a relevant disposal for the purposes of this Article if it is—

- (a) a further conveyance of the fee simple or an assignment of the lease; or
- (b) the grant of a lease or sub-lease for a term of more than twenty-one years otherwise than at a rack rent,

whether the disposal is of the whole or part of the dwelling-house; and for the purposes of sub-paragraph (b) it shall be assumed that any option to renew or extend a lease or sub-lease, whether or not forming part of a series of options, is exercised, and that any option to terminate a lease or sub-lease is not exercised.

(3A) A relevant disposal is exempted by this paragraph if—

- (a) it is a disposal of the whole of the dwelling-house and a further conveyance of the fee simple or an assignment of the lease and the person or each of the persons to whom it is made is a qualifying person;
- (b) it is a vesting of the whole of the dwelling-house in a person taking under a will or on an intestacy;
- (c) it is a disposal of the whole of the dwelling-house in pursuance of an order under Article 26 of the Matrimonial Causes (Northern Ireland) Order 1978 or Article 4 of the Inheritance (Provision for Family and Dependants) (Northern Ireland) Order 1979;
- (d) the property disposed of is acquired compulsorily or by a person who has made or would have made, or for whom another person has made or would have made, a vesting order authorising its acquisition compulsorily for the purposes for which it is acquired; or
- (e) the property disposed of is land included in the dwelling-house by virtue of Article 3(8) or 24(2).

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(3B) For the purposes of paragraph (3A)(a) a person is a qualifying person in relation to a disposal if he—

- (a) is the person or one of the persons by whom it is made;
- (b) is the spouse or a former spouse of that person or one of those persons; or
- (c) is a member of the family of that person or one of those persons and has resided with him throughout the period of six months ending with the disposal.

(3C) Where there is a relevant disposal which is exempted by paragraph (3A)(d) or (e)—

- (a) the covenant required by paragraph (1) shall not be binding on the person to whom the disposal is made or any successor in title of his; and
- (b) that covenant and the charge taking effect by virtue of paragraph (4) shall cease to apply in relation to the property disposed of.”.

(3) In paragraphs (4)(b) and (5) of that Article for any reference to a lending institution there shall be substituted a reference to a specified body.

(4) After paragraph (6) there shall be inserted the following paragraphs—

‘(6A) In paragraphs (4)(b) and (5) “specified body” means a lending institution or such other body as the Department may, by order made with the consent of the Department of Finance and Personnel, specify.

(6B) Before making an order under paragraph (6A) varying or revoking an order previously made, the Department shall give an opportunity for representations to be made on behalf of any body which, if the order were made, would cease to be a body falling within that paragraph.’

(5) In paragraph (7) of that Article for the words “disposal falling within paragraph (3)” there shall be substituted the words “relevant disposal which is not exempted by paragraph (3A)”.

(6) Where any conveyance or grant executed in pursuance of Chapter I of Part II of the Order of 1983 before the commencement date contains the covenant required by Article 10(1) of that Order, then, as from that date, that covenant shall have effect with such modifications as may be necessary to bring it into conformity with the amendments made by this Article.

Notice to complete

27.—(1) For paragraphs (1) and (2) of Article 17 of the Order of 1983 there shall be substituted the following paragraphs—

‘(1) Where a secure tenant has claimed to exercise the right to buy and that right has been established, the Executive shall be bound, subject to the following provisions of this Article, to make to the tenant—

(a) if the dwelling-house is a house in which the Executive owns the fee simple estate, a grant of the dwelling-house for an estate in fee simple; and

(b) if the Executive does not own the fee simple estate or if (whether or not the Executive owns it) the dwelling-house is a flat, a grant of a lease of the dwelling-house for the appropriate term, at a ground rent not exceeding £10 per annum, within the meaning of paragraph (2);

as soon as all relevant matters have been agreed or determined.

(2) Subject to paragraph (2A), in paragraph (1) “the appropriate term” means—

(a) if at the time the grant is made the Executive’s interest in the dwelling-house is not less than a lease for a term of which more than 125 years and 5 days are then unexpired, a term of 125 years;

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(b) in any other case, a term expiring 5 days before the term of the Executive's lease of the dwelling-house (or, as the case may require, 5 days before the first date on which the term of any lease under which the Executive holds any part of the dwelling-house is to expire).

(2A) If the dwelling-house is a flat contained in a building which also contains one or more other flats and the Executive has, since the coming into operation of this Order, granted a lease of one or more of them for the appropriate term, the lease of the dwelling-house may be for a term expiring at the end of the term for which the other lease (or one of the other leases) was granted.'

(2) For paragraph (3) of that Article there shall be substituted the following paragraphs—

“(3) Subject to paragraphs (3A) and (4), the Executive may at any time serve on the tenant a written notice—

(a) requiring him—

(i) if all relevant matters have been agreed or determined, to complete the transaction within a period stated in the notice;

(ii) if any relevant matters are outstanding, to serve on the Executive within that period a written notice to that effect specifying those matters; and

(b) informing the tenant of the effect of this paragraph and of paragraphs (3A), (4), (7) and (7B);

and the period stated in a notice under this paragraph shall be such period (not less than 56 days) as may be reasonable in the circumstances.

(3A) A notice under paragraph (3) shall not be served at any time if, at that time—

(a) any requirement for the determination or re-determination of the value of the dwelling-house by the district valuer has not been complied with;

(b) any proceedings for the determination of any other relevant matter have not been disposed of; or

(c) any relevant matter stated to be outstanding in a written notice served on the Executive by the tenant has not been agreed in writing or determined.”.

(3) In paragraph (4) of that Article for the words “three months”, in each place where they occur, there shall be substituted the words “nine months”.

(4) For paragraph (7) of that Article there shall be substituted the following paragraphs—

“(7) If the tenant does not comply with a notice under paragraph (3), the Executive may serve on him a further written notice—

- (a) requiring him to complete the transaction within a period stated in the notice; and
- (b) informing him of the effect of paragraph (7B);

and the period stated in a notice under this paragraph shall be such period (not less than 56 days) as may be reasonable in the circumstances.

(7A) At any time before the end of the period stated in a notice under paragraph (7) (or that period as extended under this paragraph), the Executive may by a written notice served on the tenant extend (or further extend) that period.

(7B) If the tenant does not comply with a notice under paragraph (7) the notice claiming to exercise the right to buy shall be deemed to be withdrawn at the end of the period stated in the notice under that paragraph or, as the case may require, that period as extended under paragraph (7A).’.

(5) In paragraph (8) of that Article for the words “paragraph (7)” there shall be substituted the words “paragraph (7B)” and in paragraph (10) of that Article for the words “paragraph (3)” there shall be substituted the words “paragraph (7)”.

(6) After paragraph (12) of that Article there shall be inserted the following paragraph—

‘(13) In this Article “relevant matters” means matters relating to the grant and to the amount to be left outstanding or advanced on the security of the dwelling-house.’.

(7) Paragraph (7B) of Article 17 of the Order of 1983 shall apply in relation to a notice under paragraph (3) of that Article served before the commencement date as it applies to a notice under paragraph (7) of that Article served after that date.

Department’s power to give assistance

28. After Article 23 of the Order of 1983 there shall be inserted the following Article—

“Department’s power to give assistance

23A.—(1) Where, in relation to any proceedings or prospective proceedings to which this Article applies, the actual or prospective party to the proceedings who has claimed to exercise or has exercised the right to buy, or is a successor in title of a person who has exercised that right, applies to the Department for assistance under this Article, the Department may grant the application if it thinks fit to do so—

- (a) on the ground that the case raises a question of principle;
or
- (b) on the ground that it is unreasonable having regard to the complexity of the case or to any other matter, to expect

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the applicant to deal with the case without any assistance under this Article; or

(c) by reason of any other special consideration.

(2) This Article applies to any proceedings under this Chapter and any proceedings to determine any question arising under or in connection with this Chapter or any conveyance or grant executed in pursuance of this Chapter, other than proceedings to determine any question as to the value of a dwelling-house (or part of a dwelling-house).

(3) Assistance by the Department under this Article may include—

- (a) giving advice;
- (b) procuring or attempting to procure the settlement of the matter in dispute;
- (c) arranging for the giving of advice or assistance by a solicitor or counsel;
- (d) arranging for representation by a solicitor or counsel, including such assistance as is usually given by a solicitor or counsel in the steps preliminary or incidental to any proceedings, or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings;
- (e) any other form of assistance which the Department may consider appropriate,

but sub-paragraph (d) above shall not affect the law and practice regulating the descriptions of persons who may appear in, conduct, defend, and address the court in, any proceedings.

(4) In so far as expenses are incurred by the Department in providing the applicant with assistance under this Article, the recovery of those expenses (as taxed or assessed in such manner as may be prescribed by rules of court) shall constitute a first charge for the benefit of the Department—

- (a) on any costs which (whether by virtue of a judgment or order of a court or an agreement or otherwise) are payable to the applicant by any other person in respect of the matter in connection with which the assistance is given; and
- (b) so far as relates to any costs, on his rights under any compromise or settlement arrived at in connection with that matter to avoid or bring to an end any proceedings.

(5) A charge conferred by paragraph (4) is subject to any charge under the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 and to any provision of that Order for payment of any sum into the legal aid fund.

(6) Any sums received by the Department by virtue of any charge conferred by paragraph (4) shall be paid into the Consolidated Fund.

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(7) A reference in this Article to a solicitor includes a reference to the person acting as the solicitor to the Department.”.

Right to an equity-sharing lease

Right to be granted an equity-sharing lease

29.—(1) Where a secure tenant has claimed to exercise the right to buy and the conditions mentioned in paragraph (2) are satisfied, the tenant shall, subject to paragraph (3), also have the right to be granted an equity-sharing lease of the dwelling-house.

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

- (a) that the right to buy has been established and the tenant’s notice under Article 7(1) of the Order of 1983 remains in force;
- (b) that the tenant has applied for a mortgage under Article 14 of that Order and the amount which the tenant is entitled, or treated as entitled, to leave outstanding, or have advanced to him, on the security of the dwelling-house is less than the purchase price; and
- (c) that the tenant has, within the period of three months beginning with the service on him of the notice under Article 14(5) of that Order or within that period as extended by Article 17(6) of that Order, served a notice on the Executive claiming to be entitled to defer completion and has, within that period, deposited the sum of £100 with the Executive.

(3) An equity-sharing lease granted under this Article shall conform with Schedule 6 and the provisions of Article 18 of the Order of 1983 shall apply to such a lease in the same manner as those provisions apply to a lease granted under Article 17 of that Order.

Notice claiming exercise of right

30.—(1) Where a secure tenant serves on the Executive a written notice claiming to exercise the right to be granted an equity-sharing lease, the Executive shall (unless the notice is withdrawn) serve on the tenant within four weeks either—

- (a) a written notice admitting the tenant’s right; or
- (b) a written notice denying the tenant’s right and stating the reasons why, in the opinion of the Executive, the tenant does not have the right to be granted an equity-sharing lease.

(2) A tenant’s notice under paragraph (1)—

- (a) shall state the initial share which he proposes to acquire; and
- (b) may be withdrawn or varied at any time by notice in writing served on the Executive.

(3) On the service of a tenant’s notice under paragraph (1), any notice served by the Executive under paragraph (3) or (7) of Article 17 of the Order of 1983 (notice requiring the tenant to complete the

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transaction in accordance with Chapter I of Part II of that Order) shall be deemed to have been withdrawn; and no notice shall be served by the Executive under the said paragraph (3) or (7) whilst a tenant's notice under paragraph (1) remains in force.

(4) If, on the service by the tenant of a further notice under Article 14(2) of the Order of 1983, the amount which he is entitled, or treated as entitled, to leave outstanding, or have advanced to him, on the security of the dwelling-house is equal to the purchase price, the tenant shall not be entitled to exercise the right to be granted an equity-sharing lease and any notice of his under paragraph (1) shall be deemed to have been withdrawn.

(5) Where a tenant's notice under paragraph (1) is withdrawn, or deemed to have been withdrawn, the tenant may, subject to Article 17(7B) of the Order of 1983, complete the transaction in accordance with Chapter I of Part II of that Order.

Notice of initial contribution, etc.

31. Where a secure tenant has claimed to exercise the right to be granted an equity-sharing lease and that right has been established (whether by the Executive's admission or otherwise) the Executive shall, within eight weeks, serve on the tenant a written notice stating—

- (a) the amount which, in the opinion of the Executive, should be the amount of the consideration for the grant of the lease determined in accordance with paragraph 2(1) of Schedule 6 on the assumption that his initial share is as stated in the notice under Article 30(1);
- (b) the effective discount on an acquisition of that share for that consideration determined in accordance with paragraph 6(3) of that Schedule;
- (c) the provisions which, in the opinion of the Executive, should be included in the lease; and
- (d) any variation in the provisions which, in the opinion of the Executive, should be contained in the deed by which the mortgage is to be effected.

Right to further advances

32.—(1) Where a secure tenant—

- (a) exercises the right to be granted an equity-sharing lease; and
- (b) obtains a mortgage under Article 14 of the Order of 1983;

then, without prejudice to the provisions of Article 19 of that Order, the deed by which the mortgage is effected shall, unless otherwise agreed between the parties, enable the tenant to require further sums to be advanced to him in the circumstances and subject to the limits stated in this Article; and the right so conferred shall be exercisable, within three months of the tenant claiming to exercise his right to

acquire an additional share, on the tenant serving written notice on the Executive.

(2) A notice under paragraph (1) may be withdrawn at any time by notice in writing served on the Executive.

(3) The amount which a tenant exercising the right to a further advance is entitled to have advanced to him is, subject to the limit imposed by this Article, the amount of his additional contribution.

(4) The amount mentioned in paragraph (3) is subject to the limit that the aggregate of that amount and the amount for the time being secured by the mortgage does not exceed the amount to be taken into account, in accordance with regulations under this Article, as the tenant's available annual income multiplied by such factor as, under the regulations, is appropriate to it.

(5) Where the right to a further advance belongs to more than one person the limit is that the aggregate of the amount mentioned in paragraph (3) and the amount for the time being secured by the mortgage does not exceed the aggregate of the amounts to be taken into account in accordance with the regulations as the available annual income of each of them, after multiplying each of those amounts by the factor appropriate to it under the regulations.

(6) The Department may by regulations make provision for calculating the amount which is to be taken into account under this Article as a person's available annual income and for specifying a factor appropriate to it; and the regulations may provide for arriving at a person's available annual income by deducting from the sums taken into account as his annual income sums related to his needs and commitments, and may exclude sums from those to be taken into account as a person's annual income.

(7) As soon as practicable after the service on it of a notice required by paragraph (1) the Executive shall serve on the tenant a written notice stating—

- (a) the amount which, in the opinion of the Executive, the tenant is entitled to have advanced to him on the assumption that the additional share is as stated in the tenant's notice under paragraph 3(1) of Schedule 6;
- (b) if greater than that amount, the amount which, in the opinion of the Executive, the tenant would be entitled to have advanced to him if the additional share were such that his total share would be 100 per cent.;
- (c) how that amount or those amounts have been arrived at; and
- (d) the provisions which, in the opinion of the Executive, should be contained in the deed by which the further mortgage is effected.

Completion

33.—(1) Where a secure tenant has claimed to exercise the right to

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be granted an equity-sharing lease and that right has been established, then, as soon as all relevant matters have been agreed or determined, the Executive shall be bound, subject to the following provisions of this Article, to make to the tenant a grant of an equity-sharing lease of the dwelling-house for the appropriate term in accordance with Article 17(2) of the Order of 1983.

(2) Where the transaction is duly completed, the sum of £100 deposited by the tenant with the Executive shall be treated as having been paid towards the tenant's initial contribution.

(3) Subject to paragraphs (4) and (5), the Executive may at any time serve on the tenant a written notice—

- (a) requiring him—
 - (i) if all relevant matters have been agreed or determined, to complete the transaction within a period stated in the notice;
 - (ii) if any relevant matters are outstanding, to serve on the Executive within that period a written notice to that effect specifying those matters; and
- (b) informing the tenant of the effect of this paragraph and of paragraphs (4), (5), (6) and (8);

and the period stated in a notice under this paragraph shall be such period (not less than 56 days) as may be reasonable in the circumstances.

(4) A notice under paragraph (3) shall not be served at any time if, at that time—

- (a) any requirement for the determination or re-determination of the value of the dwelling-house by the district valuer has not been complied with;
- (b) any proceedings for the determination of any other relevant matter have not been disposed of; or
- (c) any relevant matter stated to be outstanding in a written notice served on the Executive by the tenant has not been agreed in writing or determined.

(5) A notice under paragraph (3) shall not be served before the end of the period mentioned in Article 17(4)(c) of the Order of 1983.

(6) If the tenant does not comply with a notice under paragraph (3), the Executive may serve on him a further written notice—

- (a) requiring him to complete the transaction within a period stated in the notice; and
- (b) informing him of the effect of paragraph (8);

and the period stated in a notice under this paragraph shall be such period (not less than 56 days) as may be reasonable in the circumstances.

(7) At any time before the end of the period stated in a notice

under paragraph (6) (or that period as extended under this paragraph), the Executive may by written notice served on the tenant extend (or further extend) that period.

(8) If the tenant does not comply with a notice under paragraph (6), the notice claiming to exercise the right to be granted an equity-sharing lease and the notice claiming to exercise the right to buy shall be deemed to have been withdrawn at the end of the period stated in the notice under that paragraph or, as the case may require, that period as extended under paragraph (7).

(9) If the tenant has failed to pay rent or any other payment due from him as a tenant for a period of four weeks after it has been lawfully demanded from him, then, while the whole or part of it remains outstanding—

- (a) the Executive shall not be bound to complete; and
- (b) if a notice under paragraph (6) has been served on the tenant, the tenant shall be deemed not to comply with the notice.

(10) The duty imposed on the Executive by paragraph (1) shall be enforceable by injunction.

(11) On the grant of an equity-sharing lease the secure tenancy of the dwelling-house shall come to an end and, if there is then a sub-tenancy, section 9 of the Real Property Act 1845 shall apply as on a merger or surrender.

1845 c. 106

(12) In this Article “relevant matters” means matters relating to the grant and to the amount to be left outstanding or advanced on the security of the dwelling-house.

Supplemental

Errors and omissions in notices

34.—(1) Without prejudice to section 25 of the Interpretation Act (Northern Ireland) 1954, a notice served by a tenant under Chapter I of Part II of the Order of 1983 or this Chapter shall not be invalidated by any error or omission from any particulars which are required by regulations under Article 21 of that Order to be contained in the notice.

1954 c. 33 (N.I.)

(2) Where as a result of any such error or omission—

- (a) the Executive has mistakenly admitted or denied the right to buy in a notice under Article 7(1) of the Order of 1983 or the right to be granted an equity-sharing lease in a notice under Article 30(1); or
- (b) the Executive has formed a mistaken opinion as to any matter required to be stated in a notice by any of the provisions specified in paragraph (3) and has stated that opinion in the notice,

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the parties shall, as soon as practicable after they become aware of the mistake, take all such steps (whether by way of amending, withdrawing or re-serving any notice or extending any period or otherwise) as may be requisite for the purpose of securing that all parties are (as nearly as may be) in the same position as that in which they would have been if the mistake had not been made.

(3) The said provisions are—

- (a) Article 11(1)(a) of the Order of 1983 (notice of purchase price);
- (b) Article 14(5)(a) of that Order (notice of mortgage entitlement);
- (c) Article 31(a) (notice of initial contribution);
- (d) Article 32(7) (notice of entitlement to further advance); and
- (e) paragraph 3(4)(a) of Schedule 6 (notice of additional contribution).

(4) Paragraph (2) shall not apply in any case where the tenant has exercised the right to which the notice relates before the commencement date or before the parties become aware of the mistake.

Transitional provisions

35.—(1) This Article applies where—

- (a) a secure tenant has claimed to exercise the right to buy, that right has been established and the tenant's notice under Article 7(1) of the Order of 1983 remains in force on the commencement date;
- (b) the tenant has applied for a mortgage and the Executive has, before the commencement date, served a notice on the tenant under Article 14(5) of that Order; and
- (c) the amount which, in the opinion of the Executive, the tenant is entitled to leave outstanding, or to have advanced to him, on the security of the dwelling-house is less than the purchase price.

(2) The Executive shall, within four weeks of the commencement date, serve on the tenant a notice in writing informing him of the effect of this Chapter so far as relating to the right to be granted an equity-sharing lease; and that notice shall be accompanied by a form for use by the tenant in claiming in accordance with Article 30(1), the right to be granted an equity-sharing lease.

(3) Any notice served by the Executive under Article 17(3) of the Order of 1983 before the commencement date shall be deemed to have been withdrawn.

(4) No notice shall be served by the Executive under paragraph (3) of Article 17 of the Order of 1983 earlier than, and a notice may be served by the tenant under paragraph (5)(c) of that Article at any time before, the expiration of the period of three months beginning with the service of the notice under paragraph (2).

CHAPTER II

OTHER RIGHTS OF SECURE TENANTS

Grounds and orders for possession

36.—(1) In Part I of Schedule 3 to the Order of 1983 (grounds on which court may order possession) after ground 5 there shall be inserted the following ground—

“Ground 5A

The tenancy was assigned to the tenant, or to a predecessor in title of his who is a member of his family and is residing in the dwelling-house, by an assignment made by virtue of Article 32A and a premium was paid either in connection with that assignment or the assignment which the tenant or predecessor himself made by virtue of that Article.

In this paragraph ‘premium’ means any fine or other like sum and any other pecuniary consideration in addition to rent.”.

(2) After paragraph (3) of Article 29 of that Order there shall be inserted the following paragraph—

“(3A) The matters to be taken into account by the court in determining whether it is reasonable to make an order on ground 11 shall include—

- (a) the age of the tenant;
- (b) the period during which the tenant has occupied the dwelling-house as his only or principal home; and
- (c) any financial or other support given by the tenant to the previous tenant.”.

Assignments

37.—(1) In Article 32(1) of the Order of 1983, at the end of sub-paragraph (b) there shall be added the following—

“or

- (c) the assignment is made in pursuance of Article 32A.”.

(2) After Article 32 of that Order there shall be inserted the following Article—

“Assignments by way of exchange

32A.—(1) It is by virtue of this Article a term of every secure tenancy that the tenant may, with the written consent of the landlord, assign the tenancy to a person to whom this paragraph applies; and this paragraph applies to any person who is the tenant under a secure tenancy and has the written consent of the landlord to assign the tenancy either to the first mentioned tenant or to another person to whom this paragraph applies.

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(2) The consent required by virtue of this Article is not to be withheld except on one or more of the grounds set out in Schedule 3A and, if withheld otherwise than on one of those grounds, shall be treated as given.

(3) The landlord shall not be entitled to rely on any of the grounds set out in Schedule 3A unless, within 42 days of the tenant's application for the consent, the landlord has served on the tenant a notice specifying that ground and giving particulars of it.

(4) Where any rent lawfully due from the tenant has not been paid or any obligation of the tenancy has been broken or not performed, the consent required by virtue of this Article may be given subject to a condition requiring the tenant to pay the outstanding rent, remedy the breach or perform the obligation.

(5) Except as provided by paragraph (4), a consent required by this Article cannot be given subject to a condition, and any condition imposed otherwise than as so provided shall be disregarded."

(3) After Schedule 3 to the Order of 1983 there shall be inserted, as Schedule 3A, the Schedule set out in Schedule 7 to this Order.

Rent not to increase on account of certain improvements

38. In Article 36 of the Order of 1983 (rent not to be increased on account of tenant's improvements) after sub-paragraph (b) there shall be added the following sub-paragraphs—

“or

- (c) if he has assigned the tenancy and the assignment was made as mentioned in sub-paragraph (a) or (b) of Article 32(1), at any time whilst the assignee is a secure tenant of that dwelling-house; or
- (d) if the tenancy has been transferred to his spouse or former spouse by an order under Schedule 2 to the Rent (Northern Ireland) Order 1978 as applied by Article 43 or by an order under the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984, at any time whilst the transferee is a secure tenant of that dwelling-house;”.

Right to carry out repairs

39. After Article 38 of the Order of 1983 there shall be inserted the following Article—

‘Other rights of secure tenants

Right to carry out repairs

38A.—(1) The Department may by regulations make a scheme

for entitling secure tenants, subject to and in accordance with the provisions of the scheme—

- (a) to carry out to the dwelling-houses of which they are secure tenants repairs which their landlords are obliged by repairing covenants to carry out; and
- (b) after carrying out the repairs, to recover from their landlords such sums as may be determined by or under the scheme.

(2) Regulations under this Article may make such procedural, incidental, supplementary and transitional provision as may appear to the Department to be necessary or expedient.

(3) Without prejudice to the generality of paragraph (2), regulations under this Article—

- (a) may provide for any question arising under the scheme to be referred to and determined by the county court; and
- (b) may provide that where a secure tenant makes application under the scheme his landlord's obligation under the repairing covenant shall cease to apply for such period and to such extent as may be determined by or under the scheme.

(4) In this Article "repairing covenant", in relation to a dwelling-house, means a covenant (whether express or implied) obliging the landlord to keep in repair the dwelling-house or any part of the dwelling-house.'

PART IV

MISCELLANEOUS AND SUPPLEMENTARY

Repayment of housing association grant

40.—(1) In Article 138(3) of the Order of 1981 (repayment of housing association grant in certain circumstances), after subparagraph (a) there shall be inserted the following sub-paragraph—

- “(aa) there has been paid to the association in respect of any land to which the grant relates an amount payable—
 - (i) in pursuance of any covenant contained in a conveyance or lease, the effect of which is to require a person acquiring a dwelling-house from an association to pay a sum to the association if he disposes of the dwelling-house within the period of 5 years from the date on which he acquired it; or
 - (ii) where a purchaser acquires a further share in a dwelling-house in pursuance of an equity-sharing lease, within the meaning of Article 31(6);
 - (iii) in respect of a disposal of a dwelling-house by a person

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who holds his interest in it under an equity-sharing lease;”.

(2) If, after a housing association grant has been made under Article 137 of the Order of 1981 to an association registered under Article 124 of that Order—

- (a) there is such a disposal as is mentioned in sub-paragraph (a) of paragraph (3) of Article 138 of that Order; or
- (b) there is made such a payment as is mentioned in sub-paragraph (aa) of that paragraph;

the association shall notify the Department of the disposal or payment and, if so required by written notice of the Department, shall furnish it with such particulars of and information relating to the disposal or payment as are specified in the notice.

(3) Where a housing association grant has been so made, the Registrar of Titles or, as the case may be, the Registrar of Deeds may furnish the Department with such particulars and information as it may reasonably require for the purpose of determining—

- (a) whether there has been such a disposal as is mentioned in sub-paragraph (a) of paragraph (3) of Article 138 of the Order of 1981; or
- (b) whether there has been made such a payment as is mentioned in sub-paragraph (aa) of that paragraph.

(4) The amendment made by paragraph (1) shall apply whether the payment was made before or after the commencement date.

Power of the Executive to enter into indemnity agreements with recognised bodies

41. After Article 156 of the Order of 1981 (and before Article 156A of that Order) there shall be inserted the following Article—

“Indemnity agreements with recognised bodies

156AA.—(1) Article 156 shall apply in relation to recognised bodies, subject to the modifications set out in paragraphs (2) to (4).

(2) In paragraphs (1) to (5) of Article 156, for any reference to a building society there shall be substituted a reference to a recognised body.

(3) In paragraph (5)(b) of that Article the reference to the Registrar of Friendly Societies for Northern Ireland shall be omitted.

(4) For paragraph (6) of that Article there shall be substituted the following paragraphs—

‘(6) In this Article “recognised body” means any body specified or of a class or description specified in an order made by the Department, with the consent of the Department of Finance and Personnel.

(7) Before making an order under paragraph (6) varying or revoking an order previously made, the Department shall give an opportunity for representations to be made on behalf of any recognised body which, if the order were made, would cease to be such a body.

(8) An order made under paragraph (6) shall be subject to negative resolution.’”

Statutory tenancies by succession

42.—(1) Schedule 1 to the Rent (Northern Ireland) Order 1978 shall be amended in accordance with the following provisions of this Article. 1978 NI 20

(2) For paragraph 2 of that Schedule there shall be substituted the following paragraph—

“2. The surviving spouse (if any) of the original tenant, if residing in the dwelling-house immediately before the death of the original tenant, shall after the death be the statutory tenant if and so long as he or she occupies the dwelling-house as his or her residence.”

(3) For paragraph 7 of that Schedule there shall be substituted the following paragraph—

“7. The surviving spouse (if any) of the first successor, if residing in the dwelling-house immediately before the death of the first successor, shall after the death be the statutory tenant if and so long as he or she occupies the dwelling-house as his or her residence.”

(4) The following provisions of that Schedule shall be omitted—

- (a) in paragraphs 1 and 4(a) the words “or 3”;
- (b) paragraphs 3 and 8;
- (c) in paragraph 5 the reference to paragraph 3; and
- (d) in paragraphs 6 and 9 the words “or 8”.

(5) In paragraph 10(1)(a) for the word “to” there shall be substituted the word “and”.

(6) The amendments made by this Article shall have effect only in relation to deaths occurring after the commencement date.

Orders and regulations

43.—(1) An order made under Article 6(6) shall be subject to affirmative resolution.

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(2) An order made under Article 3(3), paragraph 1 or 2 of Schedule 1 or Schedule 6 shall be subject to negative resolution.

(3) Regulations made under Article 17, 18 or 32 shall be subject to negative resolution.

Amendments

44. The statutory provisions mentioned in Schedule 8 shall have effect subject to the amendments there specified (being minor amendments or amendments consequential on the provisions of Part III).

Revocations

45. The statutory provisions set out in Schedule 9 are hereby revoked to the extent specified in the third column of that Schedule.

G. I. de Deney,
Clerk of the Privy Council.

SCHEDULES

SCHEDULE 1

Article 8.

REINSTATEMENT GRANT

PART I

PAYMENT OF GRANT

Amount

1.—(1) Subject to the following provisions of this Schedule, the amount of reinstatement grant payable is the appropriate percentage of—

- (a) the amount stated in a notice under Article 7(2) or under paragraph 3 to be the amount of expenditure which, in the opinion of the Executive, may properly be incurred in executing the qualifying work and entering into any associated arrangement,
- (b) the expenditure incurred in executing the qualifying work and entering into any associated arrangement, or
- (c) the expenditure which is the maximum amount permitted to be taken into account for the purposes of this paragraph,

whichever is the least.

(2) In this Schedule “appropriate percentage” means 90 per cent. or, in any case where the Executive is satisfied that the person entitled to assistance would suffer financial hardship unless a higher percentage of the expenditure referred to in sub-paragraph (1) were paid to him, 100 per cent.

(3) The Department may by order vary either or both of the percentages mentioned in sub-paragraph (2).

Expenditure limit

2. The maximum amount permitted to be taken into account for the purposes of paragraph 1 shall be the amount specified as the expenditure limit by order made by the Department, except in a case or description of case in which the Department, on the application of the Executive, approves a higher amount.

Changes in work or expenditure

3. Where the Executive is satisfied that—

- (a) the work required to reinstate the defective dwelling is more extensive than that stated in the notice under Article 7(2) or a previous notice under this paragraph,
- (b) the amount of expenditure which may properly be incurred in executing that work is greater than that so stated,
- (c) there is an amount of expenditure which may properly be incurred in entering into an associated arrangement but no such amount is stated in a notice under Article 7(2) or a previous notice under this paragraph, or
- (d) where such an amount is so stated, the amount of expenditure which may be properly so incurred is greater than that amount,

it shall by notice in writing served on the person entitled to assistance state its

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opinion as to that amount or, as the case may be, that work and that amount, and the amount of reinstatement grant payable shall be adjusted accordingly.

Payment

4.—(1) The Executive may pay reinstatement grant in a single sum on completion of the qualifying work or by instalments.

(2) No instalment of reinstatement grant is to be paid at any time to the person entitled to assistance if that instalment (together with any amount previously paid) would exceed the appropriate percentage of the cost of so much of the qualifying work as has been executed at that time.

(3) The Executive shall pay reinstatement grant in respect of any associated arrangement when payment in respect of the expenditure incurred in entering into the arrangement concerned falls to be made.

PART II

REPAYMENT OF GRANT

5.—(1) This paragraph applies where—

- (a) an amount of reinstatement grant has been paid in one or more instalments to the person who was entitled to assistance, and
- (b) the qualifying work is not completed within the period for carrying out that work.

(2) Where this paragraph applies, the Executive may, if it thinks fit, require that person to repay to it forthwith the amount referred to in sub-paragraph (1)(a) and, if it does so—

- (a) he shall comply with the requirement, and
- (b) that amount or (if it was paid in more than one instalment) the amount of each instalment shall carry interest from the date on which it was paid until repayment at the prescribed rate within the meaning of Article 2(2) of the Order of 1981.

Article 9.

SCHEDULE 2

REPURCHASE

PART I

ACQUISITION OF INTEREST

The price

1.—(1) The price payable for the acquisition of an interest in pursuance of Part II of this Order is 95 per cent. of the value of that interest at the relevant time.

(2) In this Schedule “the relevant time” means the time at which the notice under Article 9(2) is served on the person entitled to assistance.

The value

2.—(1) For the purposes of this Schedule, the value of an interest in a defective dwelling at the relevant time is the amount which, at that time, would be realised by a disposal of that interest on the open market by a willing seller to a person other than the Executive on the assumptions specified in sub-paragraph (2) and on the basis that no account is to be taken of any right to the grant of a tenancy under Article 11.

- (2) Those assumptions are—
- (a) that none of the defective dwellings to which the designation in question relates are affected by the qualifying defect;
 - (b) that no liability has arisen or will arise under a covenant required by Article 10 of the Order of 1983 or paragraph 6(1) or 7(1) of Schedule 6 (covenant to repay discount or, in the case of an equity-sharing lease, pay for outstanding share) or any covenant to like effect;
 - (c) that no obligation to acquire the interest arises under Part II of this Order;
 - (d) where, at the time at which the value of the interest falls to be considered, there has been since the relevant time a material change in circumstances affecting the value of the interest, that the change had occurred before the relevant time; and
 - (e) that (subject to the preceding paragraphs) the seller is selling with and subject to the rights and burdens with and subject to which the disposal is to be made.

Determination of value

3.—(1) Any question arising under this Schedule as to the value of an interest in a defective dwelling shall be determined by the district valuer in accordance with this paragraph.

(2) Within the period beginning with the service on the person entitled to assistance of a notice under paragraph (2) of Article 9 and ending with the service of a copy of the agreement drawn up under paragraph (4) of that Article for execution by the parties, the person entitled to assistance or the Executive may, by notice in writing served on the district valuer, require the value to be determined or redetermined.

(3) If, after the end of that period but before the parties enter into an agreement for the acquisition of the interest of the person so entitled, there is a material change in circumstances affecting the value of the interest, that person or the Executive may by notice in writing served on the district valuer before the parties enter into such an agreement require that value to be determined or redetermined.

(4) In any case where, in accordance with sub-paragraph (3), the district valuer is required, after the end of the period referred to in sub-paragraph (2), to determine the value of an interest, then—

- (a) the Executive shall, within 3 months of all the provisions of the agreement for the acquisition of the interest of the person so entitled by the Executive being agreed or determined, draw up an agreement for execution by the parties embodying those provisions and serve a copy of the agreement on that person; and
- (b) paragraph (5) of Article 9 shall, instead of applying in relation to the agreement drawn up under paragraph (4) of that Article, apply in relation to the agreement drawn up under head (a) of this sub-paragraph.

(5) Before making a determination in pursuance of this paragraph, the district valuer shall consider any representation made to him by the person so entitled or the Executive within 4 weeks from the service of the notice under this paragraph.

(6) A person serving notice on the district valuer under this paragraph shall

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serve notice in writing of that fact on the Executive or, as the case may be, the person so entitled.

1977 NI 28 (7) In this paragraph “district valuer” has the meaning given in Article 2(2) of the Rates (Northern Ireland) Order 1977.

Effect of acquisition

4.—(1) Where an interest acquired in pursuance of Article 9 is or includes a dwelling in relation to which a grant has been paid under Part III of the Order of 1983—

- (a) any conditions imposed under or by virtue of that Part as conditions of the grant shall cease to be in force with respect to the dwelling with effect from the time of disposal of the interest, and
- (b) the owner for the time being of the dwelling shall not be liable to make in relation to the grant any payment under any grant condition made under Article 69(2)(c) of the Order of 1983 unless the liability to do so arises from a demand made before the time of disposal of the interest.

(2) In sub-paragraph (1)—

- (a) “dwelling” means a house as defined in Article 2(2) of the Order of 1981, and
- (b) owner has the same meaning as in that Article.

PART II

DISCHARGE OF CHARGES ON INTEREST

Interpretation

5. In this Part—

- (a) “interest acquired” means the interest in a defective dwelling of which the vendor disposes under an agreement entered into in pursuance of Article 9;
“purchase price” means the price which such an agreement requires the Executive to pay for the interest acquired; and
“vendor” means the person with whom the Executive enters into such an agreement; and
- (b) references to a charge are references to a charge securing the performance of an obligation, and—
 - (i) include a mortgage or lien, but
 - (ii) do not include a rentcharge (that is to say any annual or other periodic sum charged on or issuing out of land, other than rent reserved by a lease or tenancy or any sum payable by way of interest).

Effect of conveyance

6.—(1) Subject to paragraph 7(3), a conveyance executed under an agreement entered into in pursuance of Article 9 shall, by virtue of this paragraph, be effective to discharge the interest acquired—

- (a) from any relevant charge to which it is subject immediately before it is conveyed to the Executive, and
- (b) from the operation of any order made by a court for the enforcement of such a charge;

without the persons entitled to or interested in such a charge, order or term of years becoming parties to or executing the conveyance.

(2) The effect of this paragraph is restricted to discharging the interest acquired from the charge concerned and does not affect personal liabilities.

(3) For the purposes of this paragraph, a charge is a relevant charge if—

(a) it secures the performance of an obligation, and

(b) it is not a registered statutory charge within the meaning of section 94 of the Land Registration Act (Northern Ireland) 1970.

1970 c. 18 (N.I.)

Application of purchase price

7.—(1) Where by virtue of paragraph 6 a conveyance will be effective to discharge a charge securing the payment of money, the Executive shall, subject to sub-paragraph (2), apply the purchase price in the first instance in or towards the redemption of the charge and, if there is more than one, then according to their priorities.

(2) No duty arises under sub-paragraph (1) in the case of—

(a) any charge in favour of the holders of a series of debentures issued by any body, or

(b) any charge in favour of trustees for such debenture holders which at the date of the conveyance, is a floating charge,

and the Executive shall disregard such charges in performing its duty under that sub-paragraph.

(3) If the Executive—

(a) does not apply an amount which, under sub-paragraph (1), it is required to apply in or towards the redemption of a charge, and

(b) does not pay that amount into court in accordance with paragraph 9,

the charge shall not be discharged by virtue of paragraph 6 and the interest acquired shall remain subject to the charge as security for that amount.

(4) For the purpose of determining the amount which the Executive is required to pay under sub-paragraph (1), a person entitled to a charge shall not be permitted to exercise any right to consolidate that charge with a separate charge on other property.

(5) For the purpose of redeeming a charge in pursuance of sub-paragraph (1), a person may be required to accept three months or any longer notice of the intention to pay the principal or any part of it secured by the charge, together with interest to the date of payment, notwithstanding that this differs from the terms of the security as to the time and manner of payment.

(6) A charge to which the vendor or the Executive itself is entitled shall rank for payment in pursuance of sub-paragraph (1) as it would if another person were entitled to it.

8. Paragraphs 6(1) and 7(1) do not prevent a person from joining in the conveyance for the purpose of discharging the interest acquired from any charge without payment or for less payment than that to which he would otherwise be entitled; and, if he does so, the person to whom the purchase price ought to be paid shall be determined accordingly.

Payment into court

9.—(1) Where under paragraph 6(1) the interest acquired is to be discharged from any charge falling within that sub-paragraph, and in accordance

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with paragraph 7(1) a person is or may be entitled in respect of the charge to receive the whole or part of the purchase price, then if—

- (a) for any reason difficulty arises in ascertaining how much is payable in respect of the charge; or
- (b) for any reason mentioned in sub-paragraph (2) difficulty arises in making a payment in respect of the charge;

the Executive may pay into court on account of the purchase price the amount, if known, of the payment to be made in respect of the charge or, if that amount is not known, the whole of the purchase price or such less amount as the Executive thinks right in order to provide for that payment.

(2) The reasons referred to in sub-paragraph (1)(b) are—

- (a) that a person who is or may be entitled to receive payment cannot be found or ascertained;
- (b) that any such person refuses or fails to make out a title, or to accept payment and give a proper discharge, or to take any steps reasonably required of him to enable the sum payable to be ascertained and paid; or
- (c) that a tender of the sum payable cannot, by reason of complications in the entitlement to payment or the want of two or more trustees or for other reasons, be effected, or not without incurring or involving unreasonable cost or delay.

(3) Without prejudice to sub-paragraph (1)(a), the purchase price shall be paid by the Executive into court if before the execution of a conveyance under an agreement entered into in pursuance of Article 9 written notice is given to it—

- (a) that the vendor or a person entitled to a charge on the interest of which the vendor disposes under such an agreement so requires for the purpose of protecting the rights of persons so entitled, or for reasons related to the bankruptcy or winding up of the vendor; or
- (b) that steps have been taken to enforce any charge on the interest of which the vendor disposes under such an agreement by the bringing of proceedings in any court, or by the appointment of a receiver, or otherwise;

and where payment is to be made into court by reason only of a notice under this sub-paragraph, and notice is given with reference to proceedings in a court specified in the notice other than the county court, payment shall be made into the court so specified.

Article 11.

SCHEDULE 3

ALTERNATIVE ACCOMMODATION

Interpretation

1. In this Schedule—

- “dwelling-house” has the same meaning as in Article 11;
- “prospective tenant” means the person who is to be granted a secure tenancy under paragraph (2) of Article 11 or, as the case may be, a periodic tenancy under paragraph (3) of that Article; and
- “current dwelling-house” means the dwelling-house which, on the assumption that the circumstances do not fall within paragraph 2,

would be required to be let to the prospective tenant under that Article.

Cases where change of dwelling-house is necessary

2. Circumstances fall within this paragraph if either of the following cases is applicable to them—

Case 1

By reason of the condition of any building of which the current dwelling-house consists of or which it forms part, the dwelling-house may not safely be occupied for residential purposes.

Case 2

The Executive intends, within a reasonable time of the completion of its acquisition of the interest concerned—

- (a) to demolish or reconstruct the building which consists of or includes the defective dwelling in question, or
- (b) to carry out work on any building or land in which the interest concerned subsists,

and cannot reasonably do so if the current dwelling-house remains in residential occupation.

Suitability of accommodation

3. The suitability of accommodation is to be assessed by reference to the following matters, namely—

- (a) whether it is similar as regards extent and character to the accommodation afforded by the current dwelling-house;
- (b) whether it is reasonably suitable to the means of the prospective tenant and his family; and
- (c) whether it is reasonably suitable to the needs of the prospective tenant and his family having regard to the proximity to place of work and place of education.

SCHEDULE 4

Article 22.

EXTENSION OF RIGHT TO BUY TO CERTAIN CASES WHERE
EXECUTIVE DOES NOT OWN FEE SIMPLE

1. In Article 3(4) of the Order of 1983, in the definition of “purchase price”, and in Article 11(1)(a) of that Order for the words “long lease” there shall be substituted the word “lease”.

2. In Article 8(4)(a) of the Order of 1983 (assumptions on the grant of a lease) for the words from “for 125 years” onwards there shall be substituted the words “with vacant possession for the appropriate term defined in Article 17.”.

3. Article 19 of the Order of 1983 (terms of mortgage deed) shall be renumbered as paragraph (1) of that Article; in that provision as so renumbered the words from “but the Department” onwards shall be omitted and after that provision as so renumbered there shall be inserted the following paragraphs—

“(2) Where the mortgagor’s estate in the dwelling-house is leasehold and the term of the lease is less than 25 years, paragraph (1)(b) shall have

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effect as if the reference to 25 years were a reference to the term of the lease.

(3) The Department may by order specify additional terms to be contained in any deed by which a mortgage is effected in pursuance of this Chapter or vary the provisions of paragraphs (1)(a) and (b) and (2), but only in relation to deeds executed after the order comes into force.”

4. After paragraph 1 of Schedule 2 to the Order of 1983 (tenancies which are not secure tenancies) there shall be added the following paragraph—

“1A. For the purposes of this paragraph a tenancy granted in pursuance of Chapter I of Part II of this Order is a long lease notwithstanding that it is granted for a term not exceeding 21 years.”

Article 24.

SCHEDULE 5

SCHEDULE INSERTED AFTER SCHEDULE 1 TO THE ORDER OF 1983

SCHEDULE 1A

QUALIFICATION AND DISCOUNT

PART I

**DETERMINATION OF RELEVANT PERIOD FOR THE PURPOSES OF ARTICLES
4(2) AND 9(1)**

1. The period to be taken into account for the purposes of Article 4(2) and the period which under Article 9(1) is to be taken into account for the purposes of discount shall be the period qualifying, or the aggregate of the periods qualifying, under the following provisions of this Part.

2.—(1) A period qualifies under this paragraph if it is a period during which, before the relevant time—

- (a) the secure tenant;
- (b) the secure tenant’s spouse; or
- (c) the secure tenant’s deceased spouse,

was a public sector tenant or the spouse of a public sector tenant.

(2) A period shall not qualify by virtue of sub-paragraph (1)(a), (b) or (c) as a period during which the person there mentioned was the spouse of a public sector tenant unless during that period that person occupied as his only or principal home the dwelling-house of which his spouse was such a tenant.

(3) A period shall not qualify by virtue of sub-paragraph (1)(b) unless the secure tenant and his spouse were living together at the relevant time.

(4) A period shall not qualify by virtue of sub-paragraph (1)(c) unless the secure tenant and his deceased spouse were living together at the time of the death.

(5) For the purposes of this paragraph a person who, as a joint tenant under a public sector tenancy, occupied a dwelling-house as his only or principal home shall be treated as the public sector tenant under that tenancy.

3.—(1) A period qualifies under this paragraph if it is a period during which, before the relevant time—

- (a) the secure tenant;
- (b) the secure tenant’s spouse; or

- (c) the secure tenant's deceased spouse,
was an armed forces occupier or the spouse of an armed forces occupier.
- (2) A period shall not qualify by virtue of sub-paragraph (1)(a), (b) or (c) as a period during which the person there mentioned was the spouse of an armed forces occupier unless during that period that person occupied the accommodation of which his spouse was such an occupier.
- (3) A period shall not qualify by virtue of sub-paragraph (1)(b) unless the secure tenant and his spouse were living together at the relevant time.
- (4) A period shall not qualify by virtue of sub-paragraph (1)(c) unless the secure tenant and his deceased spouse were living together at the time of the death.

4.—(1) This paragraph applies where the public sector tenant of a dwelling-house died or otherwise ceased to be a public sector tenant of the dwelling-house, and thereupon a child of his who occupied the dwelling-house as his only or principal home (in this paragraph referred to as "the new tenant") became the public sector tenant of the dwelling-house (whether under the same or under another public sector tenancy).

(2) A period during which the new tenant, since reaching the age of sixteen, occupied as his only or principal home a dwelling-house of which a parent of his was the public sector tenant or one of joint tenants under a public sector tenancy, being either—

- (a) the period at the end of which he became the public sector tenant; or
(b) a period ending not earlier than two years before another period falling within this sub-paragraph,

shall be regarded for the purposes of paragraph 2 as a period during which he was a public sector tenant.

(3) For the purposes of this paragraph two persons shall be treated as parent and child if they would be so treated under sub-paragraphs (a) and (b) of Article 24(3).

PART II

REDUCTION OF DISCOUNT IN CERTAIN CIRCUMSTANCES

5. There shall be deducted from the discount an amount equal to any previous discount qualifying, or the aggregate of any previous discounts qualifying, under paragraph 6.

6.—(1) A previous discount qualifies under this paragraph if it was given under this Order, under Part V of the Housing Act 1985, under Chapter I of Part I of the Housing Act 1980 or under Part I of the Tenants' Rights, Etc. (Scotland) Act 1980—

1985 c. 68
1980 c. 51
1980 c. 52

- (a) to the person or one of the persons exercising the right to buy;
(b) to the spouse of that person or one of those persons; or
(c) to the deceased spouse of that person or one of those persons.

(2) A previous discount shall not qualify by virtue of sub-paragraph (1)(b) unless the person concerned and his spouse were living together at the relevant time.

(3) A previous discount shall not qualify by virtue of sub-paragraph (1)(c) unless the person concerned and his deceased spouse were living together at the time of the death.

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7.—(1) Where the whole or any part of a previous discount has been recovered by the person by whom it was given (whether by the receipt of a payment determined by reference to the discount or by a reduction so determined of any consideration given by that person or in any other way), so much of the discount as has been so recovered shall be disregarded for the purposes of paragraph 6.

(2) Any reference in this paragraph to the person by whom a previous discount was given includes a reference to any successor in title of his.

8. Where a previous discount was given to two or more persons jointly, paragraphs 6 and 7 shall be construed as if each of those persons had been given an equal proportion of that discount.

PART III

SUPPLEMENTAL

9.—(1) For the purposes of this Schedule, a tenancy which is not granted under a long lease and under which a dwelling-house is let as a separate dwelling is a public sector tenancy at any time when the conditions described below as the landlord condition and the tenant condition are satisfied.

(2) The landlord condition is that the interest of the landlord belongs to—

- (a) a district council;
- (b) an Education and Library Board;
- (c) the Executive;
- (d) the Fire Authority for Northern Ireland;
- (e) a government department;
- (f) a registered housing association within the meaning of Article 24(1);
- (g) the Northern Ireland Electricity Service;
- (h) the Northern Ireland Transport Holding Company;
- (i) the Police Authority for Northern Ireland;
- (j) the Sports Council for Northern Ireland;
- (k) any authority or body named in paragraph 7(1) of Schedule 4 to the Housing Act 1985 or any person prescribed by an order made under paragraph 8 of that Schedule, or any person mentioned in section 1(10) of the Tenants' Rights, Etc. (Scotland) Act 1980 or any person prescribed by an order made under that provision;
- (l) any predecessor of any person falling within the foregoing subparagraphs; or
- (m) any person specified for the purposes of this paragraph in an order made by the Department.

1985 c. 68

1980 c. 52

(3) The tenant condition is that the tenant is an individual and occupies the dwelling-house as his only or principal home or, where the tenancy is a joint tenancy, each of the joint tenants is an individual and at least one of them occupies the dwelling-house as his only or principal home.

(4) References in this paragraph to a public sector tenancy or a public sector tenant are, in relation to any time before the coming into operation of the Housing (Northern Ireland) Order 1986, references to a tenancy which would have been a public sector tenancy if that Order had then been in operation or to a person who would have then been a public sector tenant; and for the purpose of determining whether a person would have been a public sector tenant and his tenancy a public sector tenancy, a housing

association shall be deemed to have been registered under Chapter II of Part VII of the principal Order, or Part I of the Housing Associations Act 1985, if it is or was so registered at any later time. 1985 c. 69

(5) Where a person who is not the tenant of a dwelling-house has a licence (whether or not granted for a consideration) to occupy the dwelling-house and the circumstances are such that, if the licence were a tenancy, it would be a public sector tenancy, then, subject to sub-paragraph (6), this Schedule applies to the licence as it applies to a public sector tenancy and, as so applying, has effect as if expressions appropriate to a licence were substituted for "landlord", "tenant", "public sector tenant", "tenancy" and "public sector tenancy".

(6) Sub-paragraph (5) does not apply to a licence which was granted to a person who entered a dwelling-house or any other land as a trespasser (whether or not before another licence to occupy that or another dwelling-house had been granted to him).

10.—(1) In this Schedule—

"armed forces occupier" means a person who occupies accommodation provided for him as a member of the regular armed forces of the Crown;

"conveyance" means a conveyance of the fee simple or an assignment of a long lease;

"dwelling-house" includes a house within the meaning of the Order of 1981;

"grant" means a grant of a long lease;

"long lease" means a lease creating a tenancy falling within paragraph 1 of Schedule 2, a long tenancy within the meaning of section 115 of the Housing Act 1985 or a lease to which paragraph 1 of Schedule 1 to the Tenants' Rights, Etc. (Scotland) Act 1980 applies;

1985 c. 68
1980 c. 52

"previous discount" means a discount which was given, before the relevant time, on a conveyance or grant with respect to which the requirements of sub-paragraph (2) were satisfied;

"public sector tenancy" has the meaning given in paragraph 9(1).

(2) The requirements of this sub-paragraph are satisfied with respect to a conveyance or grant of a dwelling-house if the vendor or lessor is—

(a) a person falling within paragraph 9(2); or

(b) in such circumstances as may be specified for the purposes of this sub-paragraph by order made by the Department, a person who is so specified.

SCHEDULE 6

Article 29.

TERMS OF AN EQUITY-SHARING LEASE

Tenant's initial share

1.—(1) Subject to sub-paragraph (2), the tenant's initial share in the dwelling-house shall be as stated in his notice under Article 30(1).

(2) The tenant's initial share in the dwelling-house shall be a multiple of the specified percentage and shall not be less than the minimum initial share.

(3) The lease shall state the tenant's initial share in the dwelling-house.

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(4) In this paragraph “minimum initial share” means 50 per cent. or such other percentage as the Department may by order specify.

(5) In this paragraph and paragraph 3 “the specified percentage” means 12.5 per cent. or such other percentage as the Department may by order specify.

Tenant's initial contribution

2.—(1) The consideration for the grant of the lease (in Part III of the Order referred to as the tenant's initial contribution) shall be determined by the formula—

$$C = \frac{S(V - D)}{100}$$

where—

C = the tenant's initial contribution;

S = the tenant's initial share expressed as a percentage;

V = the amount agreed between the parties or determined by the district valuer as the amount which, under this paragraph, is to be taken as the value of the dwelling-house at the relevant time;

D = the discount which, if the tenant were exercising the right to buy, would be applicable under Article 9 of the Order of 1983.

(2) The value of the dwelling-house at the relevant time shall be taken to be the price which, at that time, it would realise if sold on the open market by a willing vendor—

(a) where the dwelling-house is a house in which the Executive owns an estate in fee simple, on the assumptions stated in paragraph (3) of Article 8 of the Order of 1983;

(b) where the Executive is not the owner of the dwelling-house for an estate in fee simple or if (whether or not the Executive is the owner in fee simple) the dwelling-house is a flat, on the assumptions stated in paragraph (4) of that Article,

and (in either case) disregarding any improvements made by any of the persons specified in paragraph (5) of that Article and any failure by any of those persons to keep the dwelling-house in good internal repair.

Additional shares

3.—(1) The lease shall contain provision enabling the tenant to acquire additional shares in the dwelling-house; and the right so conferred shall be exercisable at any time during the term of the lease on the tenant serving written notice on the Executive.

(2) Subject to sub-paragraph (3), an additional share shall be as stated in the tenant's notice under sub-paragraph (1).

(3) An additional share shall be the specified percentage or a multiple of the specified percentage.

(4) Where the tenant claims to exercise the right to acquire an additional share, the Executive shall, as soon as practicable, serve on the tenant a written notice stating—

(a) the amount which, in the opinion of the Executive, should be the amount of the consideration for that share determined in accordance with paragraph 4(1) on the assumption that the share is as stated in the notice under sub-paragraph (1); and

(b) the effective discount on an acquisition of that share for that consideration determined in accordance with paragraph 6(3).

(5) Where the dwelling-house is a house of which the Executive is the owner in fee simple, the lease shall also provide that, on his acquiring an additional share such that his total share will be 100 per cent., the tenant shall be entitled to require the fee simple estate in the dwelling-house to be conveyed either to himself or to such other person as he may direct; and the right so conferred shall be exercisable at any time during the term of the lease on the tenant serving written notice on the Executive.

(6) As soon as practicable after such a right as is mentioned in sub-paragraph (5) has become exercisable, the Executive shall serve on the tenant a written notice—

(a) informing the tenant of the right; and

(b) stating the provisions which, in the opinion of the Executive, should be contained in the conveyance.

(7) A conveyance executed in pursuance of such a right as is mentioned in sub-paragraph (5) shall preserve the effect of the covenant required by paragraph 6(1).

(8) A notice required by this paragraph may be withdrawn at any time by notice in writing served on the Executive.

(9) Any reference in this Part of the Order to a tenant's total share is a reference to his initial share plus any additional share or shares in the dwelling-house acquired by him.

Additional contributions

4.—(1) The consideration for an additional share (in Part III of the Order referred to as an additional contribution) shall be determined by the formula—

$$C = \frac{S(V - D)}{100}$$

where—

C = the additional contribution;

S = the additional share expressed as a percentage;

V = the amount agreed between the parties or determined by the district valuer as the amount which, under this paragraph, is to be taken as the value of the dwelling-house at the time when the notice under paragraph 3(1) is served;

D = the discount which, on the assumptions stated in sub-paragraph (2), would be applicable under Article 9 of the Order of 1983.

(2) The said assumptions are that—

(a) the equity-sharing lease had not been granted and the secure tenancy had not come to an end; and

(b) the tenant was exercising the right to buy and his notice under paragraph 3(1) were a notice under Article 7(1) of the Order of 1983.

(3) The value of the dwelling-house at the time when the notice under paragraph 3(1) is served shall be taken to be the price which, at that time, the interest of the tenant would realise if sold on the open market by a willing vendor on the assumption that any mortgages of that interest and any liability

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under the covenants required by paragraphs 6(1) and 7(1) would be discharged by the vendor and disregarding—

- (a) any interests in or rights over the dwelling-house created by the tenant;
- (b) any improvements made by the tenant or any of the other persons specified in Article 8(5) of the Order of 1983; and
- (c) any failure by the tenant or any of those persons—
 - (i) where the dwelling-house is a house, to keep the dwelling-house in good repair (including decorative repair);
 - (ii) where the dwelling-house is a flat, to keep the interior of the dwelling-house in such repair.

Rent

5.—(1) The lease shall provide that, for any period for which the tenant's total share is less than 100 per cent., the rent payable under the lease shall be determined by the formula—

$$R = \frac{F(100 - S)}{100}$$

where—

R = the rent payable;

F = the amount determined by the Executive as the rent which would be payable for that period if the equity-sharing lease had not been granted and the secure tenancy had not come to an end, but excluding any element attributable to rates or to services provided by the Executive;

S = the tenant's total share expressed as a percentage.

(2) The lease shall also provide that, for any such period, if the Department by order so provides—

- (a) the rent payable under the lease as so determined; or
- (b) any amount payable by the tenant under the lease which is payable, directly or indirectly, for repairs, maintenance or insurance,

shall be adjusted in such manner as may be provided by the order.

(3) The lease shall provide that, for any period for which the tenant's total share is 100 per cent., the rent payable under the lease shall be £10 per annum.

(4) In making a determination under sub-paragraph (1), the Executive shall take into account all matters which appear to it to be relevant including, in particular, where comparable dwelling-houses in the locality are let on secure tenancies, the rents payable under those tenancies.

(5) The Department may by order under sub-paragraph (2) provide for such adjustment as it considers appropriate having regard to the differing responsibilities for repairs, maintenance and insurance of a tenant under an equity-sharing lease and a secure tenant.

Repayment of discount on early disposal

6.—(1) The lease shall contain a covenant binding on the tenant and his successors in title to pay to the Executive on demand the amount specified in sub-paragraph (2) if, within a period of five years commencing with the acquisition by the tenant of his initial share or the acquisition by him of an

additional share, there is a relevant disposal which is not exempted by sub-paragraph (5); but if there is more than one such disposal, then only on the first of them.

(2) The amount payable under the covenant is the aggregate of the following amounts, namely—

- (a) an amount equal to the effective discount (if any) to which the tenant was entitled on the acquisition of his initial share; and
- (b) for each additional share acquired by the tenant, an amount equal to the effective discount (if any) to which the tenant was entitled on the acquisition of that share,

but reduced, in each case, by 20 per cent. of the discount for each complete year that elapses after the acquisition and before the disposal.

(3) The effective discount to which the tenant was entitled on the acquisition of his initial share or an additional share shall be determined by the formula—

$$E = \frac{S \times D}{100}$$

where—

E = the effective discount;

S = the tenant's initial share or, as the case may be, the additional share expressed (in either case) as a percentage;

D = the discount which was applicable by virtue of paragraph 2(1) or, as the case may be, paragraph 4(1).

(4) A disposal is a relevant disposal for the purposes of this paragraph and paragraphs 7 to 9 if it is—

- (a) an assignment of the lease; or
- (b) the grant of a lease or sub-lease for a term of more than twenty-one years otherwise than at a rack rent,

whether the disposal is of the whole or part of the dwelling-house; and for the purposes of paragraph (b) it shall be assumed that any option to renew or extend a lease or sub-lease, whether or not forming part of a series of options, is exercised, and that any option to terminate a lease or sub-lease is not exercised.

(5) A relevant disposal is exempted by this sub-paragraph if—

- (a) it is a disposal of the whole of the dwelling-house and an assignment of the lease and the person or each of the persons to whom it is made is a qualifying person;
- (b) it is a vesting of the whole of the dwelling-house in a person taking under a will or on an intestacy;
- (c) it is a disposal of the whole of the dwelling-house in pursuance of an order under Article 26 of the Matrimonial Causes (Northern Ireland) Order 1978 or Article 4 of the Inheritance (Provision for Family and Dependents) (Northern Ireland) Order 1979;
- (d) the property disposed of is acquired compulsorily or by a person who has made or would have made, or for whom another person has made or would have made, a vesting order authorising its acquisition compulsorily for the purposes for which it is acquired; or
- (e) the property disposed of is land included in the dwelling-house by virtue of Article 3(8) or 24(2) of the Order of 1983.

1978 NI 15
1979 NI 8

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(6) For the purposes of sub-paragraph (5)(a) a person is a qualifying person in relation to a disposal if he—

- (a) is the person or one of the persons by whom it is made;
- (b) is the spouse or a former spouse of that person or one of those persons; or
- (c) is a member of the family of that person or one of those persons and has resided with him throughout the period of six months ending with the disposal.

(7) Where there is a relevant disposal which is exempted by sub-paragraph (5)(d) or (e)—

- (a) the covenant required by sub-paragraph (1) shall not be binding on the person to whom the disposal is made or any successor in title of his; and
- (b) that covenant and the charge taking effect by virtue of sub-paragraph (10) shall cease to apply in relation to the property disposed of.

(8) The reference in sub-paragraph (4) to a lease or sub-lease does not include a mortgage term.

(9) For the purposes of this paragraph and paragraphs 7 to 9 the grant of an option enabling a person to call for a relevant disposal which is not exempted by sub-paragraph (5) shall be treated as such a disposal.

(10) Paragraphs (4) and (5) of Article 10 of the Order of 1983 shall apply in relation to the liability that may arise under the covenant required by sub-paragraph (1) and that required by paragraph 7(1) as they apply in relation to the liability that may arise under the covenant required by paragraph (1) of that Article.

Payment for outstanding share on disposal

7.—(1) The lease shall contain a covenant binding on the tenant and his successors in title to pay to the Executive on demand for the outstanding share an amount determined in accordance with sub-paragraph (2) if, at a time when the tenant's total share is less than 100 per cent., there is—

- (a) a relevant disposal which is not exempted by sub-paragraph (5) of paragraph 6; or
- (b) a relevant disposal which is exempted by sub-paragraph (5)(d) of that paragraph (in this paragraph and paragraph 8 referred to as a "compulsory disposal").

(2) The amount payable under the covenant shall be determined by the formula—

$$P = \frac{V(100 - S)}{100}$$

where—

P = the amount payable under the covenant;

V = the amount agreed between the parties or determined by the district valuer as the amount which, under this paragraph, is to be taken to be—

- (a) except in the case of a compulsory disposal of part of the dwelling-house, the value at the time of the disposal of the dwelling-house; or

(b) in the said excepted case, the value at the time of the disposal of the part of the dwelling-house disposed of;

S = the tenant's total share expressed as a percentage.

(3) The value at the time of the disposal of the dwelling-house or the part of the dwelling-house disposed of shall be taken to be the price which, at that time, the interest of the tenant therein would realise if sold on the open market by a willing vendor on the assumption that any mortgages of that interest and any liability under the covenants required by paragraph 6(1) and sub-paragraph (1) would be discharged by the vendor and disregarding—

- (a) any interests in or rights over the dwelling-house created by the tenant;
- (b) any improvements made by the tenant or any of the other persons specified in Article 8(5) of the Order of 1983; and
- (c) any failure by the tenant or any of those persons—
 - (i) where the dwelling-house is a house, to keep the dwelling-house in good repair (including decorative repair);
 - (ii) where the dwelling-house is a flat, to keep the interior of the dwelling-house in such repair.

(4) The lease shall also provide that, on the discharge of a liability arising under the covenant required by sub-paragraph (1),—

- (a) except in the case of a compulsory disposal of part of the dwelling-house, the rent payable under the lease shall be £10 per annum; and
- (b) in the said excepted case, the rent payable under the lease so far as relating to the part of the dwelling-house disposed of shall be £10 per annum.

(5) Where the dwelling-house is a house of which the Executive is the owner in fee simple, the lease shall also provide that on the discharge of a liability arising under the covenant required by sub-paragraph (1),—

- (a) except in the case of a compulsory disposal of part of the dwelling-house, any person in whom the tenant's interest in the dwelling-house is vested; or
- (b) in the said excepted case, any person in whom the tenant's interest in the part of the dwelling-house disposed of is vested,

shall be entitled to require the fee simple estate in the dwelling-house to be conveyed either to himself or to such other person as he may direct; and a right so conferred on any person shall be exercisable at any time during the term of the lease on that person serving written notice on the Executive.

(6) As soon as practicable after such a right as is mentioned in sub-paragraph (5) has become exercisable by any person, the Executive shall serve on that person a written notice—

- (a) informing him of the right; and
- (b) stating the provisions which, in the opinion of the Executive, should be contained in the conveyance.

(7) A notice required by sub-paragraph (5) may be withdrawn at any time by notice in writing served on the Executive.

No disposals of part while share outstanding

8.—(1) The lease shall contain a covenant binding on the tenant and his successors in title that there will be no relevant disposal of part of the

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dwelling-house, other than a compulsory disposal, at any time when the tenant's total share is less than 100 per cent.

(2) Any disposal in breach of the covenant required by sub-paragraph (1) shall be void.

Supplemental

9.—(1) The lease shall provide that, in the event of a relevant disposal which is exempted by sub-paragraph (5)(a), (b) or (c) of paragraph 6, references to the tenant in the provisions of the lease required by this Schedule shall include references to the person to whom the disposal is made.

(2) The lease shall also provide that, in the event of a relevant disposal which is exempted by sub-paragraph (5)(d) of that paragraph, being a disposal of part of the dwelling-house, references to the dwelling-house in the provisions of the lease required by this Schedule shall be construed as references to the remaining part of the dwelling-house.

Article 37.

SCHEDULE 7

SCHEDULE INSERTED AFTER SCHEDULE 3 TO ORDER OF 1983

SCHEDULE 3A

**GROUND S FOR WITHHOLDING CONSENT TO ASSIGNMENT
BY WAY OF EXCHANGE**

Ground 1

The tenant or the proposed assignee is obliged to give up possession of the dwelling-house of which he is the secure tenant in pursuance of an order of the court, or will be so obliged at a date specified in such an order.

Ground 2

Proceedings have been begun for possession of the dwelling-house of which the tenant or the proposed assignee is the secure tenant on one or more of grounds 1 to 5A as set out in Part I of Schedule 3 or there has been served on the tenant or the proposed assignee a notice under Article 28 which specifies one or more of those grounds and that notice is still in force.

Ground 3

The accommodation afforded by the dwelling-house is substantially more extensive than is reasonably required by the proposed assignee.

Ground 4

The extent of the accommodation afforded by the dwelling-house is not reasonably suitable to the needs of the proposed assignee and his family.

Ground 5

The dwelling-house has features which are substantially different from those of ordinary dwelling-houses and which are designed to make it suitable for occupation by a physically disabled person who requires accommodation of the kind provided by the dwelling-house and, if the assignment were made, there would no longer be such a person residing in the dwelling-house.

Ground 6

The landlord is a registered housing association which lets dwelling-houses

only for occupation (alone or with others) by persons whose circumstances (other than merely financial circumstances) make it especially difficult for them to satisfy their need for housing and, if the assignment were made, there would no longer be such a person residing in the dwelling-house.

Ground 7

The dwelling-house is one of a group of dwelling-houses which it is the practice of the landlord to let for occupation by persons with special needs and a social service or special facility is provided in close proximity to the group of dwelling-houses in order to assist persons with those special needs and, if the assignment were made, there would no longer be a person with those special needs residing in the dwelling-house.

SCHEDULE 8

Article 44.

AMENDMENTS

Interpretation

1. In this Schedule expressions used in Part III of the Order have the same meanings as in that Part.

*The Leasehold (Enlargement and Extension) Act
(Northern Ireland) 1971 (c. 7)*

2. In section 1 of the Leasehold (Enlargement and Extension) Act (Northern Ireland) 1971—

- (a) in subsection (3) after “(6)” add the words “to (8)”;
- (b) in paragraph (h) of subsection (4) after the word “granted” insert the words “, otherwise than in pursuance of Chapter I of Part III of the Housing (Northern Ireland) Order 1986,”; and
- (c) after subsection (6) add the following subsections—

“(7) Subject to subsection (8), where a lease is granted in pursuance of Chapter I of Part II of the Housing (Northern Ireland) Order 1983 or of Chapter I of Part III of the Housing (Northern Ireland) Order 1986, this section shall have effect in relation to such a lease as if paragraph (a) of subsection (3) were omitted.

(8) Notwithstanding anything in subsection (7), where, in pursuance of Chapter I of Part III of the Housing (Northern Ireland) Order 1986, a lease is granted in respect of a dwelling-house which is a house, then, so long as the rent payable under the lease exceeds £10 per annum, this section shall not have effect in relation to such a lease.

(9) Expressions used in subsections (7) and (8), which are defined in Chapter I of Part II of the Housing (Northern Ireland) Order 1983, shall have the meanings given in that Chapter.”.

The Order of 1981

3.—(1) In Article 129(2)(a) of the Order of 1981 after the word “bankrupt” insert the words “or has made an arrangement with his creditors”.

(2) In Article 153(2) of the Order of 1981 for the words “is within” substitute the words “does not exceed”.

The Order of 1983

4.—(1) In Article 3(4) of the Order of 1983, in the definition of “lending

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institution”, for the words “paragraphs 2 to 5” substitute the words “paragraphs 2 to 6”.

(2) Article 3(8) and (8A) of that Order (meaning of “house”, “flat”, “dwelling-house”, etc.) shall have effect as if any reference to the right to buy included a reference to the right to be granted an equity-sharing lease.

5. Article 6(3) of the Order of 1983 (joint tenants and members of family occupying dwelling-house otherwise than as joint tenants) shall have effect as if the reference to Chapter I of Part II of that Order included a reference to Part III of this Order.

6.—(1) After paragraph (1) of Article 7 of the Order of 1983 (notice claiming to exercise right to buy) insert the following paragraph—

“(1A) The Executive’s notice under paragraph (1) shall inform the tenant of any application for a determination under paragraph 3 of Part I of Schedule 1 and, in the case of a notice admitting the tenant’s right, shall be without prejudice to any determination made on such an application.”.

(2) The amendment made by sub-paragraph (1) shall not apply where the tenant’s claim to exercise the right to buy was made before the commencement date.

7. At the end of Article 8 of the Order of 1983 (purchase price) add the following paragraph—

“(6) Where the secure tenant’s tenancy has at any time been assigned by virtue of Article 32A, the persons specified in paragraph (5) shall not include any person who under that tenancy was a secure tenant before the assignment.”.

8. In Article 10(4) of the Order of 1983 (charge securing repayment of discount on early disposal), in sub-paragraph (b)—

(a) after the words “right to buy” insert the words “or the right to be granted an equity-sharing lease”, and

(b) for the word “it” substitute the words “either right”.

9.—(1) In Article 11(1) of the Order of 1983 (notice of purchase price, etc.) for the words “as soon as practicable” substitute the words “within eight weeks or, where the right is that mentioned in Article 4(1)(b), twelve weeks”.

(2) In Article 11(2) of that Order for the words “Article 9(4)” substitute the words “Article 9(1)” and for the words “Article 9(2) or (3)” substitute the words “Article 9(1A), (2) or (3)”.

(3) In Article 11(3) of that Order, in sub-paragraph (b) after the words “and 17(3) to (5)” add “(7) and (7B)” and at the end of that sub-paragraph add the following sub-paragraph—

“and

(c) of the effect of Part III of the Housing (Northern Ireland) Order 1986 so far as relating to the right to be granted an equity-sharing lease.”.

(4) The amendments made by this paragraph shall not apply where the notice under Article 11(1) was served before the commencement date.

10. In Article 14 of the Order of 1983 (application for mortgage) after paragraph (6) add the following paragraph—

“(6A) Where the amount which, in the opinion of the Executive, the tenant is entitled to leave outstanding, or have advanced to him, on the

security of the dwelling-house is less than the purchase price, the notice shall also inform the tenant of the effect of Part III of the Housing (Northern Ireland) Order 1986 so far as relating to the right to be granted an equity-sharing lease and shall be accompanied by a form for use by the tenant in claiming, in accordance with Article 30(1) of that Order, that right.”.

11. In Article 15(1) of the Order of 1983 (change of secure tenant after notice claiming right to buy) after the words “same secure tenancy” insert the words “otherwise than on an assignment made by virtue of Article 32A.”.

12.—(1) Article 19 of the Order of 1983 (terms of mortgage deed) shall have effect as if any reference to the deed by which a mortgage is effected in pursuance of Chapter I of Part II of the Order of 1983 included a reference to the deed by which a further mortgage is effected in pursuance of Article 32 of this Order.

(2) Where that Article applies in relation to such a deed by virtue of sub-paragraph (1), it shall also have effect as if any reference to the term of a lease were a reference to the unexpired term of that lease.

13.—(1) For Article 20 of the Order of 1983 (costs) substitute the following Article—

“Costs

20.—(1) Any agreement between a tenant claiming—

(a) to exercise the right to buy and the Executive; or

(b) to be entitled to a mortgage under Article 13(1) and the Executive,

shall be void in so far as it purports to oblige the tenant to bear any part of the costs incurred by the Executive in connection with the tenant’s claim.

(2) Where a tenant exercising the right to buy also obtains from the Executive a mortgage under Article 14, the Executive may charge to him the costs incurred by it in connection with the tenant’s application for a mortgage, but only on the execution of the deed by which the mortgage is effected and to the extent that those costs do not exceed such amount as the Department may by order specify.”.

(2) Article 20 of that Order as so substituted shall have effect as if—

(a) the reference to the right to buy included a reference to the right to be granted an equity-sharing lease and to such rights as are mentioned in paragraphs 3(1) and (5) and 7(5) of Schedule 6 to this Order; and

(b) the reference to an entitlement to a mortgage included a reference to such a right as is mentioned in Article 32(1) of this Order.

14.—(1) The provision in Article 21 of the Order of 1983 (notices) shall be numbered as paragraph (1) of that Article, and at the end of that paragraph there shall be added the following paragraph—

“(2) Where the form of and the particulars to be contained in a notice under this Chapter are so prescribed, a tenant who proposes to claim or has claimed to exercise the right to buy may request the Executive to supply him with a form for use in giving such a notice, and the Executive shall do so within seven days of the request.”.

(2) Article 21 of that Order shall have effect as if any reference to Chapter I of Part II of that Order included a reference to Part III of this Order.

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15. Articles 23 and 23A of the Order of 1983 shall have effect as if any reference to Chapter I of Part II of that Order included a reference to Part III of this Order and any reference to the right to buy included the right to be granted an equity-sharing lease.

16. In Article 24(1) of the Order of 1983, in sub-paragraph (b) of the definition of "registered housing association" for the word "tenants" substitute the word "members".

17.—(1) In Article 26(4) of the Order of 1983 (meaning of successor)—

- (a) at the beginning insert the words "Subject to paragraph (4A)"; and
- (b) omit the words from "but a tenant" onwards.

(2) After paragraph (4) of Article 26 of that Order insert the following paragraph—

"(4A) A tenant to whom the tenancy was assigned in pursuance of an order under Article 26 of the Matrimonial Causes (Northern Ireland) Order 1978 is a successor only if the other party to the marriage was himself a successor; and a tenant to whom the tenancy was assigned by virtue of Article 32A is a successor only if he was a successor in relation to the tenancy which he himself assigned by virtue of that Article."

18.—(1) In Article 46(2) of the Order of 1983 (jurisdiction of county court), after sub-paragraph (a) insert the following sub-paragraph—

"(aa) whether any consent required by Article 32A was withheld otherwise than on one or more of the grounds set out in Schedule 3A;".

(2) Article 46 of that Order shall have effect as if any reference to any question arising under Chapter I or II of Part II of the Order of 1983 or under Chapter I of Part II of that Order included a reference to any question arising under Part III of this Order or any lease granted in pursuance of it.

19. Part II of Schedule 1A to the Order of 1983 (qualification and discount) shall have effect as if "previous discount" included a discount which was given, before the relevant time, whether in pursuance of the provision required by paragraph 3 of Schedule 6 to this Order, or otherwise.

20.—(1) Paragraph 1 of Schedule 2 to the Order of 1983 (tenancies which are not secure tenancies) shall have effect as if the reference to a tenancy granted in pursuance of Chapter I of Part II of that Order included a reference to a tenancy granted in pursuance of Part III of this Order.

(2) In paragraph 6 of that Schedule for the words "or his predecessor in title", in the first place where they occur, substitute the words "(or a predecessor in title of his)" and for the words "(or his predecessor in title)", in the second place where they occur, substitute the words "or predecessor".

(3) After paragraph 8 of that Schedule add the following paragraph—

"Defective dwelling-houses"

9. A tenancy is not a secure tenancy if—

- (a) the tenant became a tenant of the landlord by virtue of the landlord's acquisition of an interest in the dwelling-house under Part II of the Housing (Northern Ireland) Order 1986; and
- (b) the tenant is not entitled to be granted a secure tenancy under paragraph (2) or (3) of Article 11 of that Order."

21. In Part I of Schedule 3 to the Order of 1983, in ground 6, for the words

“or his predecessor in title”, in the first place where they occur, there shall be substituted the words “(or a predecessor in title of his)” and for the words “he (or his predecessor in title)”, in both places where they occur, there shall be substituted the words “the tenant or predecessor”.

The Family Law (Miscellaneous Provisions)
(Northern Ireland) Order 1984 (NI 14)

22. In Schedule 1 (which amends the Rent (Northern Ireland) Order 1978 (NI 20)) in sub-paragraph (4) of paragraph 2 for the words “paragraph 1” substitute the words “paragraph 2”.

SCHEDULE 9

Article 45.

REVOCATIONS

Number	Title	Extent of Revocation
1978 NI 20	The Rent (Northern Ireland) Order 1978.	In Schedule 1— (a) in paragraphs 1 and 4(a) the words “or 3”, (b) paragraph 3, (c) in paragraph 5 the reference to paragraph 3, (d) in paragraphs 6 and 9 the words “or 8”, and (e) paragraph 8.
1983 NI 15	The Housing (Northern Ireland) Order 1983.	Articles 9(4) to (9) and 16. In Article 19 the words from “but the Department” onwards.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes further provision with respect to housing in Northern Ireland.

Part I is introductory.

The purpose of Part II of the Order is to facilitate the provision of financial assistance to certain private owners of dwellings in Northern Ireland which have been sold by the Northern Ireland Housing Executive or certain other public bodies and which are defective by reason of their design or construction and which, as a result of those defects having become generally known, have been substantially reduced in value. The assistance is to be provided to eligible owners of defective dwellings, in the form of reinstatement grant or, in certain circumstances, by repurchase of the owner's interest in the dwelling, if the owner wishes. On such repurchase the owner of the dwelling, or in certain circumstances his tenant, is entitled to require the granting of a secure tenancy by the Executive.

Part III extends the circumstances under which a secure tenant of the Executive has the right to buy his home and amends other rights of secure tenants under Part II of the Housing (Northern Ireland) Order 1983.

Part IV contains provisions of a miscellaneous and supplemental nature.