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STATUTORY INSTRUMENTS

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**1992 No. 1725 (N.I. 15)**

**The Housing (Northern Ireland) Order 1992 <sup>F1</sup>**

- - - - - 15th July 1992

**F1** functions transf. by SR 1999/481

**PART I**  
**INTRODUCTORY**

**Title and commencement**

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

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

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

(4) The following Orders—

- (a) the Housing (Northern Ireland) Order 1981<sup>F3</sup>;
- (b) the Housing (Northern Ireland) Order 1983<sup>F4</sup>;
- (c) the Housing (Northern Ireland) Order 1986<sup>F5</sup>;
- (d) the Housing (Northern Ireland) Order 1988<sup>F6</sup>; and
- (e) this Order,

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

**F2** fully exercised by SR 1992/402

**F3** [1981 NI 3](#)

**F4** [1983 NI 15](#)

**F5** [1986 NI 13](#)

**F6** [1988 NI 23](#)

**General interpretation**

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

(2) In this Order—

“the Department” means the Department of the Environment;

“the Executive” means the Northern Ireland Housing Executive;

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

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

“the Order of 1986” means the Housing (Northern Ireland) Order 1986;

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

“prescribe” means prescribe by regulations made by the Department.

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

**F7** 1954 c.33 (N.I.)

**PART II****HOUSING ASSOCIATIONS****Part II: Interpretation**

3. In this Part—

“the Act of 1969” means the Industrial and Provident Societies Act (Northern Ireland) 1969<sup>F8</sup>;

“charity” has the same meaning as in the Charities Act (Northern Ireland) 1964<sup>F9</sup>;

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

[<sup>F10</sup>“company” means a company registered under the Companies Act 2006;]

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

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

(a) paragraph (a) of the definition of “housing association”, or

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

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

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

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

“housing trust” means a corporation or body of persons which—

- (a) is required by the terms of its constituent instrument to use the whole of its funds, including any surplus which may arise from its operations, for the purpose of providing housing accommodation, or
- (b) is required by the terms of its constituent instrument to devote the whole, or substantially the whole, of its funds to charitable purposes and in fact uses the whole, or substantially the whole, of its funds for the purpose of providing housing accommodation;

“registrar” means the Registrar for the purposes of the Act of 1969;

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

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

“society” means a society registered under the Act of 1969;

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

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

**F8** 1969 c.24 (N.I.)

**F9** 1964 c.33 (N.I.)

**F10** Art. 3: definition of "company" substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 138(2)** (with art. 10)

## CHAPTER I

### FUNCTIONS OF HOUSING ASSOCIATIONS

#### Functions of the Department

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

- (a) promote and assist the development of registered housing associations and of unregistered self-build societies;
- (b) facilitate the proper exercise and performance of the functions, and publicise the aims and principles, of registered housing associations and unregistered self-build societies;
- (c) establish and maintain a register of housing associations, <sup>[F11]</sup>and exercise supervision and control over registered housing associations.]

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

(3) In exercising its functions under paragraph (1)(a) and (b) the Department may, with the consent of the Department of Finance and Personnel, make grants to voluntary organisations which are not registered housing associations towards the expenses incurred by them in carrying out the objects mentioned in Article 15(3)(f); and any such grant may be made subject to such conditions as the Department may, with the consent of the Department of Finance and Personnel, determine.

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

**F11** Words in [art. 4\(1\)\(c\)](#) substituted (1.4.2007) by [Housing \(Amendment\) \(Northern Ireland\) Order 2006 \(S.I. 2006/3337 \(N.I. 22\)\)](#), arts. 1(3), 3, [Sch. para. 2](#); S.R. 2007/37, [art. 2](#)

### **Power of housing trusts to hold land**

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

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

### **Borrowing by housing associations**

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

- (a) registered housing associations, and
- (b) unregistered self-build societies,

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

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

(3) The Department may guarantee, in such manner and on such conditions as it may think fit, the repayment of the principal of, and the payment of interest on, any sums which a registered housing association or an unregistered self-build society borrows from any person.

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

### **[<sup>F12</sup>Realisation of value of Department's loans portfolio**

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

- (2) The arrangements may provide, with respect to the purpose mentioned in paragraph (1), for—
  - (a) the transfer of any estate or interest of the Department, or
  - (b) the creation or disposal of economic interests not involving the transfer of an estate or interest,

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

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

- (a) any loans made by the Department to registered housing associations under Article 6, or
- (b) any securities related to such loans.

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

**F12** 2003 NI 2

### Recovery of possession of premises let by a housing association

7.—(1) Subject to paragraph (2), on the termination of the tenancy of any premises let by a housing association, possession of the premises may (without prejudice to any other method of recovery) be recovered by the housing association in a summary manner under Part VI of the Magistrates' Courts (Northern Ireland) Order 1981<sup>F13</sup> relating to ejectment proceedings, whatever may be the rent or term of the tenancy.

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

**F13** 1981 NI 26

### Rents

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

- (a) under a tenancy granted by it on or after the day of the coming into operation of this Part; or
- (b) under a tenancy—
  - (i) granted by it before that day, and
  - (ii) in respect of which the Department has not made a determination under paragraph (2).

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

[<sup>F14</sup>(3) The power conferred on a registered housing association under paragraph (1) may be exercised to fix the amount of rent to be charged under a tenancy by way of an equity#sharing lease, whenever granted.]

(4) For the purposes of [<sup>F14</sup> paragraph (2)] the Department—

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

(5) A general determination—

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

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

*Status: Point in time view as at 31/07/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 1992. (See end of Document for details)*

- (a) granted by a registered housing association whose rules restrict membership to persons who are tenants or prospective tenants, and preclude the granting or assignment of tenancies to persons other than members; and
  - (b) under which the tenant (or his personal representatives) either by virtue of the tenancy agreement or the agreement under which he became a member of the association may be entitled on ceasing to be a member of the association to a sum calculated by reference, directly or indirectly, to the value of the house of which he is a tenant.
- (7) The power conferred on a registered housing association under paragraph (1) may be exercised to increase the rent payable under a tenancy, but such power—<sup>F14</sup> may be exercised in relation to any particular tenancy on one occasion only during any financial year]
- (8) Article 26 of the Order of 1981 (increase of Executive rents) shall apply to registered housing associations and their tenants in the same manner as it applies to the Executive and its tenants.

**F14** 2003 NI 2

### **Tenancy agreements, etc.**

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

### **Persons eligible for housing accommodation**

10. Except with the consent of the Department, a housing association shall not—
- (a) if it is a registered housing association, accept as a tenant of any housing accommodation provided by it; or
  - (b) if it is not a registered housing association—
    - (i) accept as a tenant of housing accommodation provided by it under section 1 of the Housing Act (Northern Ireland) 1945<sup>F15</sup> as applied by section 12 of the Housing and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1946<sup>F16</sup>, or
    - (ii) accept as an occupier of accommodation in a hostel provided by it in respect of which any contribution has been made to it under section 15 of the Housing Act (Northern Ireland) 1963<sup>F17</sup>,

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

**F15** 1945 c.2 (N.I.)

**F16** 1946 c.4 (N.I.)

**F17** 1963 c.26 (N.I.)

### **Guidance as to management of accommodation by registered housing associations**

11.—(1) In accordance with the provisions of this Article, the Department may issue guidance with respect to the management of housing accommodation by registered housing associations and, in considering under this Part whether action needs to be taken to secure the proper management of an association's affairs or whether there has been mismanagement, the Department may have regard (among other matters) to the extent to which any such guidance is being or has been followed.

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

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

- (a) the housing demands for which provision should be made and the means of meeting those demands;
- (b) the allocation of housing accommodation between individuals;
- (c) the terms of tenancies and the principles upon which the levels of rent should be determined;
- (d) standards of maintenance and repair and the means of achieving these standards; and
- (e) consultation and communication with tenants.

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

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

### Acquisition of land

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

- (a) acquire any land by agreement or compulsorily;
- (b) dispose of any land so acquired.

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

(3) Section 97(3) of, and Schedule 6 to, the Local Government Act (Northern Ireland) 1972<sup>F18</sup> shall, subject to the modifications specified in Schedule 1, apply for the purposes of the acquisition of land by means of a vesting order made under this Article in the same manner as they apply to the acquisition of land by means of a vesting order made under that Act.

(4) Section 5 of the Stormont Regulation and Government Property Act (Northern Ireland) 1933<sup>F19</sup> shall not affect the disposal of any land acquired or taken on lease under this Article.

**F18** 1972 c.9 (N.I.)

**F19** 1933 c.6 (N.I.)

### Disposal of land, etc.

**13.**—(1) Subject to paragraph (2), any provision contained in the rules of a registered housing association which prevents it from disposing of any land (where such disposal would otherwise be lawful) shall be of no effect.

(2) Notwithstanding anything contained in section 30 of the Act of 1969—

- (a) a registered housing association may not dispose of or mortgage any land, and
- (b) an unregistered housing association may not dispose of any grant-aided land as defined in Schedule 2,



without the consent of the Department.

(3) Any such consent may be given—

- (a) subject to such conditions as the Department sees fit to impose; and
- (b) either generally in relation to all housing associations or to a particular housing association or description of association; or
- (c) in relation to particular land or in relation to a particular description of land.

(4) Paragraph (2)(b) shall not prevent an unregistered housing association from disposing of any land by the granting of a lease for a term ending within the period of 7 years and 3 months beginning on the date of the grant unless—

- (a) there is conferred on the lessee (whether by the lease or otherwise) an option for renewal for a term which, together with the original term, would expire outside that period; or
- (b) the lease is granted wholly or partly in consideration of a fine.

(5) Without prejudice to the generality of the expression “dispose” in paragraph (2), in paragraph (4) the expression “lease” includes an agreement for a lease and a licence to occupy and the expressions “grant” and “term” shall be construed accordingly.

(6) This Article does not apply to a letting of land to one or more individuals by a registered housing association under a secure tenancy or under what would be a secure tenancy but for <sup>F20</sup>paragraphs 1(b) to 10] of Schedule 2 to the Order of 1983.

(7) There shall be included among the matters which are required to be registered in the Statutory Charges Register the statutory condition attaching by virtue of this Article to land acquired by a registered housing association.

<sup>F21</sup>(7A) Paragraph (7) shall not apply in relation to any land acquired by any registered housing association specified by the Department if the association acquired the land for the purpose of granting an equity#sharing lease of that land.]

(8) An application for registration of the statutory condition attaching to land by virtue of this Article shall be made by the Department as soon as is reasonably practicable after the acquisition of the land.

(9) For the purposes of paragraph (8), a registered housing association shall upon acquiring any land forthwith—

- (a) inform the Department of the acquisition, and
- (b) provide such information with respect to the acquisition as the Department may require.

(10) Any person who suffers loss by reason of the failure of the Department to comply with paragraph (8) may bring proceedings in any court of competent jurisdiction against the Department and recover from it the amount of that loss.

**F20** Words in [art. 13\(6\)](#) substituted (31.7.2010) by [Housing \(Amendment\) Act \(Northern Ireland\) 2010](#) (c. 9), [ss. 13, 19\(1\)](#); S.R. 2010/251, [art. 2](#)

**F21** 2003 NI 2



## CHAPTER II

### REGISTRATION OF HOUSING ASSOCIATIONS

#### The register of housing associations

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

#### Eligibility for registration

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

- (a) is a society registered under the Act of 1969, and
- (b) fulfils the following conditions.

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

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

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

(3) The permissible additional purposes or objects are—

- (a) providing land, amenities or services, or providing, constructing, repairing or improving buildings, for the benefit of the association's residents, either exclusively or together with other persons;
- (b) acquiring, or repairing and improving, or creating by the conversion of houses or other property, houses to be disposed of on sale, or lease or by equity-sharing lease;
- (c) constructing houses to be disposed of by equity-sharing lease;
- (d) managing houses which are held on leases or other lettings (not being houses falling within paragraph (2)(a) or (b)), or blocks of flats;
- (e) providing services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement, or encouraging or facilitating the carrying out of such works;
- (f) encouraging and giving advice on the formation of other housing associations or providing services for, and giving advice on the running of, such associations and other voluntary organisations concerned with housing, or matters connected with housing.

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

- (a) to acquire commercial premises or businesses as an incidental part of a project or series of projects undertaken for purposes or objects falling within paragraph (2) or (3);
- (b) to repair, improve or convert any commercial premises acquired as mentioned in subparagraph (a) or to carry on, for a limited period, any business so acquired.

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

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

(7) In this Article—

“block of flats” means a building—

- (a) containing 2 or more flats which are held on leases or other lettings; and
- (b) occupied or intended to be occupied wholly or mainly for residential purposes;

“letting” includes the grant of a licence to occupy;

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

## Registration

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

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

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

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

## Removal of societies from the register

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

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

- (a) is no longer a housing association falling within Article 15(1), or
- (b) has ceased to exist or does not operate,

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

(3) Where a society which is registered—

- (a) has not at any time received—
  - (i) a loan under Article 6 or a grant under Article 33 or 34,
  - (ii) a loan under Article 117 of the Order of 1981 or a grant under Article 137 or 139 of that Order,
  - (iii) any such payment or loan as is specified in paragraph 2 or 3 of Schedule 2, or
  - (iv) a loan under Article 6 of the Housing (Northern Ireland) Order 1976<sup>F22</sup>, or a grant under Article 27 or 29 of that Order; and
- (b) requests the Department to remove it from the register;

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

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

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

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

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

**F22** 1976 NI 25

### **Notifications to and by the registrar**

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

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

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

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

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

### **Accounts and audit**

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

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

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

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

### **Enforcement of Article 19**

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

(2) If—

- (a) the accounts of a registered housing association, as furnished to the Department under Article 19(3), do not comply with the accounting requirements laid down under paragraph (1) of that Article;
- (b) Article 19(3) is not complied with in respect of the accounts and auditor's report; or
- (c) Article 37(9) is not complied with,

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

(3) It is a defence—

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

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

### **[<sup>F23</sup>General power to obtain information]**

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

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

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

- (a) a registered housing association,
- (b) any person who is, or has been, an officer, member, employee or agent of a registered housing association,
- (c) a subsidiary or associate of a registered housing association,
- (d) any person who is, or has been, an officer, member, employee or agent of a subsidiary or associate of a registered housing association, or
- (e) any other person who the Department has reason to believe is or may be in possession of relevant information.

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

- (a) a notice has been served on the registered housing association and has not been complied with, or
- (b) the Department believes that the information or documents in question are not in the possession of the housing association.

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

- (a) the disclosure of anything which a person would be entitled to refuse to disclose on grounds of legal professional privilege in proceedings in the High Court, or
  - (b) the disclosure by a banker of anything in breach of any duty of confidentiality owed by him to a person other than a registered housing association or a subsidiary or associate of a registered housing association.
- (5) A notice under this Article shall be given in writing.
- (6) References in this Article to a document are to anything in which information of any description is recorded; and in relation to a document in which information is recorded otherwise than in legible form, references to producing it are to producing it in legible form.
- (7) Where by virtue of this Article documents are produced to any person, he may take copies of or make extracts from them.
- (8) In this Article—
- “agent” has the meaning given in Article 23(8); and
  - “associate” and “subsidiary” have the same meanings as in Article 23.]

**F23** Arts. 21-21C substituted (31.7.2010) for art. 21 by [Housing \(Amendment\) Act \(Northern Ireland\) 2010](#) (c. 9), [ss. 6, 19\(1\)](#); S.R. 2010/251, [art. 2](#)

#### [<sup>F24</sup>Enforcement of notice to provide information, &c.

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

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

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

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

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

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

**F24** Arts. 21-21C substituted (31.7.2010) for art. 21 by [Housing \(Amendment\) Act \(Northern Ireland\) 2010](#) (c. 9), [ss. 6, 19\(1\)](#); S.R. 2010/251, [art. 2](#)

#### [<sup>F25</sup>Disclosure of information to the Department

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

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

*Status: Point in time view as at 31/07/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 1992. (See end of Document for details)*

- (a) any government department (including a department of the Government of the United Kingdom);
  - (b) any district council;
  - (c) any constable; and
  - (d) any other body or person discharging functions of a public nature (including a body or person discharging regulatory functions in relation to any description of activities).
- (3) This Article has effect subject to any express restriction on disclosure imposed by or under any other statutory provision.
- (4) Nothing in this Article shall be construed as affecting any power of disclosure exercisable apart from this Article.]

**F25** Arts. 21-21C substituted (31.7.2010) for art. 21 by [Housing \(Amendment\) Act \(Northern Ireland\) 2010](#) (c. 9), ss. 6, 19(1); S.R. 2010/251, art. 2

## **[<sup>F26</sup>Disclosure of information by the Department**

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

- (a) for any purpose connected with the discharge of the functions of the Department in relation to such housing association, or
- (b) for the purpose of enabling or assisting that body or person to discharge any of its or his functions.

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

- (a) any government department (including a department of the Government of the United Kingdom);
- (b) any district council;
- (c) any constable; and
- (d) any other body or person discharging functions of a public nature (including a body or person discharging regulatory functions in relation to any description of activities).

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

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

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

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

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

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

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

## Tax relief grants

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

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

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

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

- (a) it is registered;
- (b) it does not trade for profit; and
- (c) it is not approved for the purposes of [F27Chapter 7 of Part 13 of the Corporation Tax Act 2010] (tax treatment of co-operative housing associations).

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

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

- (a) in a case falling within paragraph (1)(a), for affording relief from any tax chargeable on the association for the period in respect of which the claim is made; and
- (b) in a case falling within paragraph (1)(b), for affording relief from such part of any tax so chargeable as the Department considers appropriate having regard to the other functions of the association;

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

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

- (a) in the event of tax in respect of which it was made being found not to be chargeable; or
- (b) in such other events (including the association beginning to trade for profit) as the Department may determine.

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

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

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

**F27** Words in [art. 22\(2\)\(c\)](#) substituted (1.4.2010 with effect as mentioned in [s. 1184\(1\)](#) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), ss. 1177, 1184(1)(3)(4), [Sch. 1 para. 272](#) (with transitionals and savings in [Sch. 2](#))

## Inquiries into affairs of registered housing associations

**23.—**(1) The Department may appoint a person to conduct an inquiry into the affairs of any registered housing association and, if the appointed person considers it necessary for the purposes of the inquiry, he may also inquire into the business of any other body which, at a time which the appointed person considers material, is or was a subsidiary or associate of the association concerned.



(2) No person who is, or at any time has been, an officer of the Department [<sup>F28</sup>or a member or employee of the Executive] shall be appointed to conduct an inquiry under paragraph (1).

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

- (a) the association concerned; or
- (b) any person who is, or has been, an officer, agent or member of the association; or
- (c) any person who is, or has been, an officer, agent or member of a subsidiary or associate of the association; or
- (d) any other person whom the appointed person has reason to believe is or may be in possession of information of relevance to the inquiry;

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

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

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

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

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

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

- (a) by a solicitor, of any privileged communication made to him in his capacity as solicitor; or
- (b) by a housing association's bankers, of any information as to the affairs of any of their other customers.

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

- (a) the association is a member of the company and controls the composition of the board of directors; or
- (b) the association holds more than half in nominal value of the company's equity share capital; or
- (c) the company is a subsidiary, within the meaning of [<sup>F29</sup>the Companies Acts (see section 1159 of the Companies Act 2006)] or the Act of 1969, of another company which, by virtue of paragraph (a) or paragraph (b), is itself a subsidiary of the housing association.

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

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

- (a) any body of which the association is a subsidiary, and
- (b) any other subsidiary of such a body,

and in this paragraph “subsidiary” has the same meaning as in [<sup>F30</sup>the Companies Acts (see section 1159 of the Companies Act 2006)] or the Act of 1969 or, in the case of a body which is itself a housing association, has the meaning assigned by paragraph (9).

(12) In relation to a company which is an industrial and provident society—

- (a) any reference in paragraph (9)(a) or paragraph (10) to the board of directors is a reference to the committee of management of the society; and
- (b) the reference in paragraph (10) to the holders of all or a majority of the directorships is a reference to all or a majority of the members of the committee or, if the housing association is itself a member of the committee, such number as together with the association would constitute a majority.

- F28** Words in art. 23(2) inserted (31.7.2010) by [Housing \(Amendment\) Act \(Northern Ireland\) 2010 \(c. 9\), ss. 7, 19\(1\); S.R. 2010/251, art. 2](#)
- F29** Words in art. 23(9)(c) substituted (1.10.2009) by [Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\), art. 2\(1\), Sch. 1 para. 138\(3\)](#) (with art. 10)
- F30** Words in art. 23(11) substituted (1.10.2009) by [Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\), art. 2\(1\), Sch. 1 para. 138\(3\)](#) (with art. 10)

### Extraordinary audit for purposes of inquiry

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

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

- (a) under section 41(1) of the Act of 1969, is a qualified auditor for the purposes of that Act, or
- (b) under section 41(2) of the Act of 1969, is a qualified auditor in relation to the particular association whose accounts are required to be audited under this paragraph.

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

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

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

### Department's power to act for protection of registered housing associations

**25.—**(1) Where the Department is satisfied as the result of an inquiry or an audit under Article 23 or 24 that there has been any misconduct or mismanagement in the administration of a registered housing association, the Department may do all or any of the following, namely—

- (a) by order remove any member of the committee of the association, or any officer, agent or employee of the association, who has been responsible for or privy to the misconduct or mismanagement or has by his conduct contributed to it or facilitated it;
- (b) by order suspend such a person for up to 6 months, pending determination whether he should be removed;

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*Status: Point in time view as at 31/07/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 1992. (See end of Document for details)*

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- (c) order any bank or other person who holds money or securities on behalf of the association not to part with the money or securities without the approval of the Department;
- (d) by order restrict the transactions which may be entered into, or the nature or amount of the payments which may be made, in the administration of the association without the approval of the Department.

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

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

- (a) the Department may at that time exercise any of the powers conferred by sub-paragraphs (b) to (d) of that paragraph; and
- (b) in relation to the exercise at that time of the power conferred by paragraph (1)(b), the reference therein to a period of 6 months shall be construed as a reference to a period beginning at that time and ending 6 months after the date of the report under Article 23(7).

[<sup>F31</sup>(3A) If, at any time after the commencement of an inquiry under Article 23 or an audit under Article 24, the Department has reasonable grounds to believe —

- (a) that there has been misconduct or mismanagement as mentioned in paragraph (1) in the administration of a registered housing association, and
- (b) that immediate action is needed to protect the interests of the tenants of the registered housing association or to protect the assets of the association,

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

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

- (a) is a bankrupt, or has made an arrangement with his creditors or is incapable of acting by reason of mental disorder within the meaning of the Mental Health (Northern Ireland) Order 1986<sup>F32</sup>;
- (b) has not acted; or
- (c) cannot be found or does not act and his absence or failure to act impedes the committee's proper management of the association's affairs.

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

- (a) in place of a member of the committee removed by it under this Article or otherwise;
- (b) where there are no members of the committee; or
- (c) where the Department is of opinion that it is necessary for the proper management of the association's affairs to have an additional member of its committee;

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

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

- (a) to attend, speak and vote at any general meeting of the association and to receive all notices of and other communications relating to any general meeting which a member of the association is entitled to receive; and
- (b) to require a general meeting of the association to be convened within 21 days of a request to that effect made in writing to the committee of the association.

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

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

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

- (a) to the person whom it intends to remove, and
- (b) to the registered housing association concerned.

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

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

**F31** Art. 25(3A) inserted (31.7.2010) by [Housing \(Amendment\) Act \(Northern Ireland\) 2010 \(c. 9\), ss. 8, 19\(1\); S.R. 2010/251, art. 2](#)  
**F32** 1986 NI 4

### Transfer of land of registered housing associations

**26.**—(1) Where the Department is satisfied, as the result of an inquiry or an audit under Article 23 or 24, that—

- (a) there has been in the administration of a registered housing association any misconduct or mismanagement, or
- (b) the management of the land belonging to any such association would be improved if the land were to be transferred in accordance with this Article,

the Department may direct the association to transfer the land belonging to it to another body in accordance with paragraph (2).

(2) A direction under paragraph (1) may require the association concerned to transfer the land belonging to it,—

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

(3) A transfer in pursuance of a direction under paragraph (1) shall be made on the terms that the Department or, as the case may be, the association to which the land is transferred will pay or

undertake to pay to the association making the transfer such sum, if any, as will be necessary to defray all its proper debts and liabilities (including any debts and liabilities secured on the land to be transferred) after taking into account any money or other assets belonging to the association.

(4) If it appears to the Department to be likely that, as a result of a transfer in pursuance of a direction under paragraph (1), the association making the transfer will be dissolved as mentioned in paragraph (a) or paragraph (b) of section 64 of the Act of 1969, the Department shall secure that the costs of such a dissolution are taken into account in determining the sum payable to the association under paragraph (3).

### **Winding up of registered housing associations**

27. Subject to [<sup>F33</sup>section 64(1)(a)] of the Act of 1969, the Department may present a petition for the winding up under the Insolvency (Northern Ireland) Order 1989<sup>F34</sup> of a registered housing association—

- (a) on the ground that the association is failing properly to carry out its purposes or objects;
- (b) on the ground that the association is unable to pay its debts within the meaning of Article 103 of that Order.

**F33** Words in art. 27 substituted (1.10.2009) by [Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), [Sch. 1 para. 138\(4\)](#) (with art. 10)

**F34** 1989 NI 19

### **Transfer of net assets on dissolution of registered housing associations**

28.—(1) If a registered housing association is dissolved as mentioned in [<sup>F35</sup>subsection (1)(a) or (b)] of section 64 of the Act of 1969 then, notwithstanding anything in that Act or in the rules of the association, there shall be transferred to the Department, or, if the Department so directs, to such registered housing association as may be specified in the direction, so much of the property of the association as remains after meeting the claims of its creditors and any other liabilities arising on or before the dissolution.

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

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

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

**F35** Words in art. 28(1) substituted (1.10.2009) by [Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 2(1), [Sch. 1 para. 138\(5\)](#) (with art. 10)

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

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

(2) The registrar shall not register a special resolution, as defined in section 59(2) of the Act of 1969, which is passed by a registered housing association for the purposes of section 59 or 60 of that Act (amalgamation of societies and transfer of engagements between societies) unless, together with the copy of the special resolution sent to him as mentioned in section 59(4) of that Act, there is sent a copy of the Department's consent to the amalgamation or transfer concerned.

(3) Section 61 of the Act of 1969 (power of registered society to convert itself into, or to transfer its engagements to, a company registered under [<sup>F36</sup>the Companies Act 2006]) shall not apply to a registered housing association.

[<sup>F37</sup>(4) If, in pursuance of section 64(1)(a) of the 1969 Act, a registered housing association resolves by special resolution that it be wound up voluntarily under the Insolvency (Northern Ireland) Order 1989, the resolution has no effect unless—

- (a) before the resolution was passed the Department gave its consent to its passing, and
- (b) a copy of the consent is forwarded to the registrar together with a copy of the resolution required to be so forwarded in accordance with section 64(3) of the 1969 Act.]

(5) If, in pursuance of [<sup>F38</sup>section 64(1)(b)] of the Act of 1969, a registered housing association is to be dissolved by an instrument of dissolution, the registrar shall neither register that instrument, as required by section 67(5) of that Act, nor cause notice of the dissolution to be advertised as mentioned in section 67(6) unless, together with the instrument of dissolution required to be sent to him under section 67(4), there is sent a copy of the Department's consent to the making of that instrument.

(6) Section 9 of the Act of 1969 shall have effect in relation to a registered housing association as if—

- (a) in subsection (1) after the words “shall not be valid” there were inserted the words “without the consent of the Department of the Environment nor” and after paragraph (b) there were inserted the words “and there shall also be sent with the copies of the amendment a copy of the consent of the Department of the Environment under this subsection”; and
- (b) in subsection (2) at the end of the words preceding the paragraphs there were inserted the words “notice of any such change shall be sent to the Department of the Environment and”.

**F36** Words in art. 29(3) substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 138(6)(a)** (with art. 10)

**F37** Art. 29(4) substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 138(6)(b)** (with art. 10)

**F38** Words in art. 29(5) substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 138(6)(c)** (with art. 10)

**Payments by registered housing associations to members, etc.**

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

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

- (b) to any person who is a member of the family of any such person as is referred to in sub-paragraph (a); or
- (c) to any company of which a person falling within sub-paragraph (a) or (b) is a director.
- (2) Paragraph (1) does not apply to—
  - (a) any sum paid, in accordance with the rules of the association concerned, as interest on capital lent to the association or subscribed by way of shares in the association; or
  - (b) any sum which—
    - (i) is paid by an association whose rules restrict membership to persons who are tenants or prospective tenants of the association and preclude the granting or assignment of tenancies to persons other than members; and
    - (ii) is paid to a person who has ceased to be a member of the association; and
    - (iii) is due to that person under his tenancy agreement with the association or under the terms of the agreement under which he became a member of the association.
- (3) The Department may specify the maximum amounts which may be paid by a registered housing association—
  - (a) by way of fees or other remuneration or by way of expenses to a member of the association who is not a member of its committee or an officer or employee of the association;
  - (b) by way of expenses to a member of its committee who is not an officer or employee of the association; or
  - (c) by way of expenses to an officer of the association who does not have a contract of employment with the association.
- (4) Different amounts may be specified under paragraph (3) for different purposes.
- (5) Where a registered housing association—
  - (a) pays any sum or makes any gift in breach of paragraph (1); or
  - (b) pays to any person a sum which exceeds any maximum amount specified in relation to that person under paragraph (3);

the sum or, as the case may be, the value of the gift or, in a case falling within sub-paragraph (b), the amount by which the sum exceeds the maximum shall be recoverable by the association; and proceedings for its recovery shall be taken by the association if the Department gives the association a direction to that effect.
- (6) For the purposes of paragraph (3)(b) and Article 31, a person co-opted by the committee of a registered housing association to serve on the committee (whether he is a member of the association or not) shall be treated as a member of the committee.

### **Payments and grant of benefits by registered housing associations**

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

- (a) a person who is, or at any time within the relevant period has been, a committee member, officer or employee of the association;
- (b) a close relative of such a person; or
- (c) a business trading for profit in which a person falling within sub-paragraph (a) has a personal interest.

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



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

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

(5) This Article does not apply to—

- (a) any payment made or benefit granted by a registered housing association to an officer or employee under his contract of employment with the association;
- (b) any payment of expenses made by such an association to a member of its committee;
- (c) any payment to which, by virtue of paragraph (2) of Article 30, paragraph (1) of that Article does not apply;
- (d) any payment of expenses to which Article 30(3)(c) applies;
- (e) the grant or renewal of a tenancy of a house; or
- (f) any payment made or benefit granted by a registered housing association in such class or classes of case as may be specified in a determination made by the Department.

(6) The Department may make different determinations for the purposes of paragraph (5)(f) and, before making such a determination, the Department shall consult such bodies appearing to it to be representative of registered housing associations as it considers appropriate; and after making such a determination the Department shall publish the determination in such manner as it considers appropriate for bringing it to the notice of the associations concerned.

### Great Britain societies

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

## CHAPTER III

### FINANCIAL ASSISTANCE FOR HOUSING ASSOCIATIONS

#### [<sup>F39</sup>Payment of housing association grants by the Executive]

**33.**—[<sup>F40</sup>(1) The Executive may make housing association grants to registered housing associations in respect of expenditure incurred or to be incurred by them in connection with housing activities.

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

(1B) In paragraph (1A)—

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

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

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

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

- (b) the circumstances in which grant is or is not to be payable;
- (c) the method for calculating, and any limitations on, the amount of grant; and
- (d) the manner in which, and time or times at which, grant is to be paid;

and the Executive shall act in accordance with those directions.

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

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

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

(4) Where—

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

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

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

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

**F39** Art. 33: heading substituted (1.4.2007) by [Housing \(Amendment\) \(Northern Ireland\) Order 2006 \(S.I. 2006/3337 \(N.I. 22\)\)](#), arts. 1(3), 3, **Sch. para. 3(2)**; S.R. 2007/37, **art. 2**

**F40** Art. 33(1)(1A)(1B)(2)(2A)(2B)(3) substituted (1.4.2007) for art. 33(1)-(3) by [Housing \(Amendment\) \(Northern Ireland\) Order 2006 \(S.I. 2006/3337 \(N.I. 22\)\)](#), arts. 1(3), 3, **Sch. para. 3(2)**; S.R. 2007/37, **art. 2**

#### [<sup>F41</sup>Payment of grants to designated associations

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

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

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

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

- (a) the procedure to be followed in relation to applications for grant;
- (b) the circumstances in which grant is or is not to be payable;
- (c) the method for calculating, and any limitations on, the amount of grant; and
- (d) the manner in which, and time or times at which, grant is to be paid.

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

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

**F41** Art. 33A inserted (1.4.2007) by [Housing \(Amendment\) \(Northern Ireland\) Order 2006 \(S.I. 2006/3337 \(N.I. 22\)\)](#), arts. 1(3), 3, **Sch. para. 4**; S.R. 2007/37, **art. 2**

### Revenue deficit grants

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

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

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

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

- (a) shall act in accordance with such principles as it may determine; and
- (b) may act on such assumptions (whether or not borne out or likely to be borne out by events) as it may determine.

(3) [<sup>F42</sup>Paragraphs (4) and (5) of Article 33A] shall apply for the purposes of this Article as they apply for the purposes of that Article.

**F42** Words in [art. 34\(3\)](#) substituted (1.4.2007) by [Housing \(Amendment\) \(Northern Ireland\) Order 2006 \(S.I. 2006/3337 \(N.I. 22\)\)](#), arts. 1(3), 3, **Sch. para. 5**; S.R. 2007/37, **art. 2**

### Recovery, etc. of grants

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

- (a) a grant under Article 33 [<sup>F43</sup>, 33A] or 34, or
- (b) a grant under Article 137 of the Order of 1981 or any provision replaced by that Article,

has been made to a registered housing association, the powers conferred by paragraph (2) are exercisable [<sup>F44</sup>by the grantor] in such events (including the association not complying with any conditions) as the Department may determine (in this Article referred to as “relevant events”).

(2) [<sup>F45</sup>The grantor], acting in accordance with such principles as [<sup>F46</sup>the Department] may determine, may—

- (a) reduce the amount of, or of any payment in respect of, the grant;
- (b) suspend or cancel any instalment of the grant; or
- (c) direct the association to pay to it an amount equal to the whole, or such proportion as it may specify, of the amount of any payment made to the association in respect of the grant,

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

(3) Where, after a grant to which this Article applies has been made to an association, a relevant event occurs, the association shall notify [<sup>F47</sup>the grantor] and, if so required by written notice of

[<sup>F47</sup>the grantor] , shall furnish it with such particulars of and information relating to the event as are specified in the notice.

(4) Where—

- (a) a grant to which this Article applies has been made to an association, and
- (b) at any time property to which the grant relates becomes vested in, or is leased for a term of years to, or reverts to, some other registered housing association,

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

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

- (a) [<sup>F48</sup>the grantor], acting in accordance with such principles as [<sup>F49</sup>the Department] may determine, may specify as being appropriate; or
- (b) [<sup>F50</sup>the grantor] may determine to be appropriate.

(6) A direction under paragraph (2)(c) requiring the payment of interest on the amount directed to be paid to [<sup>F51</sup>the grantor] shall specify in accordance with paragraph (8)—

- (a) the rate or rates of interest (whether fixed or variable) which is or are applicable;
- (b) the date from which interest is payable, being not earlier than the date of the relevant event; and
- (c) any provision for suspended or reduced interest which is applicable.

(7) In paragraph (6)(c)—

- (a) the reference to a provision for suspended interest is a reference to a provision whereby, if the amount which is directed to be paid to [<sup>F52</sup>the grantor] is paid before a date specified in the direction, no interest will be payable for any period after the date of the direction; and
- (b) the reference to a provision for reduced interest is a reference to a provision whereby, if that amount is so paid, any interest payable will be payable at a rate or rates lower than the rate or rates which would otherwise be applicable.

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

- (a) such as [<sup>F53</sup>the grantor] , acting in accordance with such principles as [<sup>F54</sup>the Department] may determine, may specify as being appropriate, or
- (b) such as [<sup>F55</sup>the grantor] may determine to be appropriate in the particular case.

[<sup>F56</sup>(9) In this Article “the grantor” means—

- (a) in relation to—
  - (i) any grant made under Article 33 before the commencement date to a registered housing association which is not a designated association, and
  - (ii) any grant made under that Article after that date,
 the Executive;
- (b) in relation to—
  - (i) any grant made under Article 33 before the commencement date to a designated association, and
  - (ii) any grant, whenever made, under any other provision mentioned in paragraph (1),
 the Department.

(10) In paragraph (9)—

- (a) “the commencement date” means the date on which Article 3 of the Housing (Amendment) (Northern Ireland) Order 2006 comes into operation; and
- (b) “designated association” has the meaning given in Article 33(1B).]

<b>F43</b>	Word in art. 35(1)(a) inserted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, <b>Sch. para. 6(2)(a)</b> ; S.R. 2007/37, <b>art. 2</b>
<b>F44</b>	Words in art. 35(1) inserted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, <b>Sch. para. 6(2)(b)</b> ; S.R. 2007/37, <b>art. 2</b>
<b>F45</b>	Words in art. 35(2) substituted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, <b>Sch. para. 6(3)(a)</b> ; S.R. 2007/37, <b>art. 2</b>
<b>F46</b>	Words in art. 35(2) substituted (1.4.2007) by The Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, <b>Sch. para. 6(3)(b)</b> ; S.R. 2007/37, <b>art. 2</b>
<b>F47</b>	Words in art. 35(3) substituted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, <b>Sch. para. 6(4)</b> ; S.R. 2007/37, <b>art. 2</b>
<b>F48</b>	Words in art. 35(5)(a) substituted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, <b>Sch. para. 6(5)(a)(i)</b> ; S.R. 2007/37, <b>art. 2</b>
<b>F49</b>	Words in art. 35(5)(a) substituted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, <b>Sch. para. 6(5)(a)(ii)</b> ; S.R. 2007/37, <b>art. 2</b>
<b>F50</b>	Words in art. 35(5)(b) substituted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, <b>Sch. para. 6(5)(b)</b> ; S.R. 2007/37, <b>art. 2</b>
<b>F51</b>	Words in art. 35(6) substituted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, <b>Sch. para. 6(6)</b> ; S.R. 2007/37, <b>art. 2</b>
<b>F52</b>	Words in art. 35(7)(a) substituted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, <b>Sch. para. 6(6)</b> ; S.R. 2007/37, <b>art. 2</b>
<b>F53</b>	Words in art. 35(8)(a) substituted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, <b>Sch. para. 6(7)(a)(i)</b> ; S.R. 2007/37, <b>art. 2</b>
<b>F54</b>	Words in art. 35(8)(a) substituted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, <b>Sch. para. 6(7)(a)(ii)</b> ; S.R. 2007/37, <b>art. 2</b>
<b>F55</b>	Words in art. 35(8)(b) substituted (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, <b>Sch. para. 6(7)(b)</b> ; S.R. 2007/37, <b>art. 2</b>
<b>F56</b>	Art. 35(9)(10) added (1.4.2007) by Housing (Amendment) (Northern Ireland) Order 2006 (S.I. 2006/3337 (N.I. 22)), arts. 1(3), 3, <b>Sch. para. 6(8)</b> ; S.R. 2007/37, <b>art. 2</b>

## Determinations under this Part

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

- (a) make the same provision for all cases; or
- (b) make different provision for different cases or descriptions of cases, including different provision for different areas or for different descriptions of housing associations or housing activities;

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

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

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

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

### **Surplus rental income**

**37.—**(1) An association to which this Article applies, that is to say, a registered housing association which has at any time received a payment in respect of—

(a) a grant under Article 33, or

(b) a grant under Article 137 of the Order of 1981 or any provision replaced by that Article, (in this Article referred to as a “relevant grant”) shall show separately in its accounts for any period ending on or after the day of the coming into operation of this Part the surpluses arising from increased rental income during that period from such housing activities to which the grant relates as the Department may determine.

(2) The surpluses shall be shown by each association in a fund to be known as its rent surplus fund; and the method of constituting that fund and of showing it in the association's accounts shall be as required by order of the Department under Article 19(1) (requirements as to accounts) and such an order may make provision applying to any period to which this Article applies.

(3) The surpluses in respect of a period shall be calculated in such manner as the Department may determine; and a determination under this paragraph may provide that, in calculating surpluses, an association shall act on such assumptions (whether or not borne out or likely to be borne out by events) as may be specified in the determination.

(4) A determination under paragraph (1) or (3) may—

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

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

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

(5) Before making a determination under paragraph (1) or (3), the Department shall consult such bodies appearing to it to be representative of housing associations as it considers appropriate; and after making such a determination, the Department shall publish it in such manner as the Department considers appropriate for bringing it to the notice of the associations concerned.

(6) The Department may give notice to an association to which this Article applies requiring it to pay to the Department, with interest if demanded, or to apply or appropriate for purposes the Department specifies, any sums standing in its rent surplus fund at the end of a period of account.

(7) Any interest demanded by such a notice is payable—

(a) at the rate or rates (whether fixed or variable) previously determined by the Department, with the consent of the Department of Finance and Personnel, for housing associations generally and published by the Department or, if no such determination has been made, at the rate or rates (whether fixed or variable) specified with the consent of the Department of Finance and Personnel in the notice; and

(b) either from the date of the notice or from such other date, not earlier than the end of the period of account, as may be specified in the notice.

(8) A notice under paragraph (6) demanding interest may with the consent of the Department of Finance and Personnel provide that, if the sums required by the notice to be paid to the Department are paid before a date specified in the notice—

(a) no interest shall be payable for any period after the date of the notice; and

- (b) any interest payable shall be payable at a rate or rates lower than the rate or rates given by paragraph (7).

- (9) The Department may give notice—

- (a) to all associations to which this Article applies,
- (b) to associations to which this Article applies of a particular description, or
- (c) to particular associations to which this Article applies,

requiring them to furnish the Department with such information as the Department may reasonably require in connection with the exercise of its functions under this Article; and a notice under sub-paragraph (a) or (b) may be given by publication in such manner as the Department considers appropriate for bringing it to the attention of the associations concerned.

- (10) Where—

- (a) an association has received a payment in respect of a relevant grant, and
- (b) at any time property to which the grant relates becomes vested in, or is leased for a term of years to, or reverts to, some other registered housing association,

this Article (including this paragraph) shall have effect in relation to periods after that time as if the payment, or such proportion of it as may be determined by the Department to be appropriate, had been made to that other association.

## PART III

### GRANTS

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

## CHAPTER II

### OTHER GRANTS TOWARDS THE REPLACEMENT AND REPAIR OF DWELLINGS

#### **Replacement grants**

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

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

- (3) Regulations made under this Article may—

- (a) include provision prescribing—
  - (i) the class and location of dwellings to which the<sup>F57</sup> regulations apply],
  - (ii) the eligibility of persons to receive grant,
  - (iii) the amount of any grant to be made under the regulations or the manner in which any such amount is to be computed, and
  - (iv) the conditions subject to which any grant is to be made including, in particular, conditions as to the circumstances in which grant is to be repayable;
- (b) provide for the Executive to exercise a discretion in dealing with any matter; and



*Status: Point in time view as at 31/07/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 1992. (See end of Document for details)*

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

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

*Para. (5) rep. by 2003 NI 2*

**F57** 2003 NI 2

### **Repairs grants towards costs of meeting certain statutory repairing obligations in respect of dwelling-houses**

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

- [<sup>F58</sup>(a) in a notice of disrepair served in respect of a dwelling-house which is let under a protected tenancy or a statutory tenancy; or]
- (b) in a notice served in respect of a dwelling-house under the Public Health (Ireland) Act 1878<sup>F59</sup>.

[<sup>F60</sup>(1A) In paragraph (1)—

- (a) “notice of disrepair” means a notice under Article 19 of the Private Tenancies (Northern Ireland) Order 2006; and
- (b) “protected tenancy” and “statutory tenancy” have the meaning given in the Rent (Northern Ireland) Order 1978.]

(2) Repairs grant shall be payable to the person <sup>F61</sup>. . . , upon whom the notice was served.

[<sup>F62</sup>(2A) A repairs grant shall not be payable—

- (a) to a person who is an owner of the dwelling#house and who occupies it as his only or principal home; or
- (b) to a person who is a tenant of a dwelling#house at a time when the estate of the landlord under the tenancy belongs to—
  - (i) the Crown (whether in right of Her Majesty's Government in the United Kingdom or in Northern Ireland),
  - (ii) a government department (including a department of the Government of the United Kingdom),
  - (iii) the Executive, or
  - (iv) a registered housing association; or
- (c) to a person of such other description as the Department may prescribe.]

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

**F58** Art. 74(1)(a) substituted (1.4.2007) by [Private Tenancies \(Northern Ireland\) Order 2006](#) (S.I. 2006/1459 (N.I. 10)), arts. 1(3), **29(2)** (with (6)); S.R. 2006/428, **art. 3(a)**

**F59** 1878 c.52

**F60** Art. 74(1A) inserted (1.4.2007) by [Private Tenancies \(Northern Ireland\) Order 2006](#) (S.I. 2006/1459 (N.I. 10)), arts. 1(3), **29(3)** (with (6)); S.R. 2006/428, **art. 3(a)**

**F61** Words in art. 74(2) repealed (1.4.2007) by [Private Tenancies \(Northern Ireland\) Order 2006](#) (S.I. 2006/1459 (N.I. 10)), arts. 1(3), 29(4), 75, **Sch. 5** (with art. 29(6)); S.R. 2006/428, **art. 3(a)(c)**

F62 2003 NI 2

## PART IV

### HOUSES IN MULTIPLE OCCUPATION

#### Meaning of “multiple occupation”

**75.**—<sup>[F63]</sup>(1) In this Part “house in multiple occupation” means a house occupied by more than 2 qualifying persons, being persons who are not all members of the same family <sup>[F64]</sup> and for that purpose “family” includes uncle, aunt, nephew and niece.]

(1A) In paragraph (1) “qualifying persons” means persons whose only or principal residence is the house in multiple occupation, and for that purpose a person undertaking a full time course of further or higher education who resides during term time in a house shall, during the period of that person's residence, be regarded as residing there as his only or principal residence.]

(2) For the purposes of this Article “house”, in the expression “house in multiple occupation”, includes any part of a building which—

- (a) apart from this paragraph would not be regarded as a house; and
- (b) was originally constructed or subsequently adapted for occupation by a single household;

and any reference in this Part to a flat in multiple occupation is a reference to a part of a building which, whether by virtue of this paragraph or without regard to it, constitutes a house in multiple occupation.

F63 2003 NI 2

**F64** Words in [art. 75\(1\)](#) added (31.7.2010) by [Housing \(Amendment\) Act \(Northern Ireland\) 2010 \(c. 9\)](#), **ss. 14, 19(1)**; S.R. 2010/251, **art. 2**

#### <sup>[F65]</sup> Interpretation of other expressions used in this Part

**75A.** In this Part—

“occupancy direction”, in connection with special control provisions, has the meaning given in Article 75I;

“registration scheme” has the meaning given in Article 75B;

“relevant management failure”, for the purposes of Articles 75G to 75J, has the meaning given in Article 75K;

“special control provisions” has the meaning given in Article 75G.]

F65 2003 NI 2

#### Registration scheme for houses in multiple occupation

**75B.**—(1) The Executive shall prepare and submit to the Department a scheme (in this Article and Articles 75C to 75M referred to as a “registration scheme”) authorising the Executive to compile and maintain a register of houses in multiple occupation.

(2) Subject to Articles 75C to 75J, a registration scheme may contain such provision as the Executive considers appropriate.

(3) A registration scheme need not be for the whole of Northern Ireland and need not apply to every description of house in multiple occupation.

(4) The Department may approve a registration scheme submitted to it under paragraph (1), with or without modification.

(5) The Executive shall comply with a registration scheme approved under paragraph (4).

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

### **Contents of registration scheme**

**75C.**—(1) A registration scheme shall make it the duty of such person as may be specified by the scheme to register a house to which the scheme applies and to renew the registration as and when required by the scheme.

(2) A registration scheme shall provide that registration under the scheme—

- (a) shall be for a period of 5 years from the date of first registration, and
- (b) may on application be renewed, subject to such conditions as are specified in the scheme, for further periods of 5 years at a time.

(3) A registration scheme may—

- (a) specify the particulars to be inserted in the register,
- (b) make it the duty of such persons as may be specified by the scheme to give the Executive as regards a house all or any of the particulars specified in the scheme,
- (c) make it the duty of such persons as may be specified by the scheme to notify the Executive of any change which makes it necessary to alter the particulars inserted in the register as regards a house.

(4) A registration scheme shall, subject to paragraph (5)—

- (a) require the payment on first registration of a reasonable fee of an amount determined by the Executive, and
- (b) require the payment on any renewal of registration of half the fee which would then have been payable on a first registration of the house.

(5) The Department may by order make provision as to the fee payable on registration—

- (a) specifying the maximum permissible fee (whether by specifying an amount or a method for calculating an amount), and
- (b) specifying cases in which no fee is payable.

### **Control provisions**

**75D.**—(1) A registration scheme may contain control provisions, that is to say, provisions for preventing multiple occupation of a house unless—

- (a) the house is registered, and
- (b) the number of households or persons occupying it does not exceed the number registered for it.

(2) Control provisions may prohibit persons from permitting others to take up residence in a house or part of a house but shall not prohibit a person from taking up or remaining in residence in the house.

(3) Control provisions shall not prevent the occupation of a house by a greater number of households or persons than the number registered for it if all of those households or persons have been in occupation of the house without interruption since before the number was first registered.

### **Control provisions: decisions on applications and appeals**

**75E.**—(1) Control provisions may enable the Executive, on an application for first registration of a house or a renewal or variation of registration—

- (a) to refuse the application on the ground that the house is unsuitable and incapable of being made suitable for such occupation as would be permitted if the application were granted;
- (b) to refuse the application on the ground that the person having control of the house or the person intended to be the person managing the house is not a fit and proper person;
- (c) to require as a condition of granting the application that such works as will make the house suitable for such occupation as would be permitted if the application were granted are executed within such time as the Executive may determine;
- (d) to impose such conditions relating to the management of the house during the period of registration as the Executive may determine.

(2) Control provisions shall provide that the Executive shall give an applicant a written statement of its reasons where it—

- (a) refuses to grant his application for first registration or for a renewal or variation of registration,
- (b) requires the execution of works as a condition of granting such an application, or
- (c) imposes conditions relating to the management of the house.

(3) Where the Executive—

- (a) notifies an applicant that it refuses to grant his application for first registration or for the renewal or variation of a registration,
- (b) notifies an applicant that it requires the execution of works as a condition of granting such an application,
- (c) notifies an applicant that it intends to impose conditions relating to the management of the house, or
- (d) does not within the specified period of receiving the application, register the house or vary or renew the registration in accordance with the application,

the applicant may, within 21 days of being so notified or of the end of the specified period, appeal to the county court.

In this paragraph “the specified period” means such period as the registration scheme shall specify.

(4) On appeal the court may confirm, reverse or vary the decision of the Executive.

(5) Where the decision of the Executive was a refusal—

- (a) to grant an application for first registration of a house, or
- (b) for the renewal or variation of the registration,

the court may direct the Executive to grant the application as made or as varied in such manner as the court may direct.

(6) For the purposes of paragraphs (4) and (5) an appeal under paragraph (3)(d) shall be treated as an appeal against a decision of the Executive to refuse the application.

(7) Where the decision of the Executive was to impose conditions relating to the management of the house, the court may direct the Executive to grant the application without imposing the conditions or to impose the conditions as varied in such manner as the court may direct.

**Control provisions: other decisions and appeals**

**75F.**—(1) Control provisions may enable the Executive at any time during a period of registration (whether or not an application has been made)—

- (a) to alter the number of households or persons for which a house is registered or revoke the registration on the ground that the house is unsuitable and incapable of being made suitable for such occupation as is permitted by virtue of the registration; or
- (b) to alter the number of households or persons for which a house is registered or revoke the registration unless such works are executed within a specified time as will make the house in question suitable for such occupation as is permitted by virtue of the registration.

(2) Control provisions which confer on the Executive any such power as is mentioned in paragraph (1) shall provide that the Executive shall, in deciding whether to exercise the power, apply the same standards in relation to the circumstances existing at the time of the decision as were applied at the beginning of the period of registration.

(3) Control provisions may enable the Executive to revoke a registration if it considers that—

- (a) the person having control of the house or the person managing it is not a fit and proper person, or
- (b) there has been a breach of conditions relating to the management of the house.

(4) Control provisions shall also provide that the Executive shall—

- (a) notify the person having control of a house and the person managing it of any decision by the Executive to exercise a power mentioned in paragraph (1) or (3) in relation to the house, and
- (b) at the same time give them a written statement of the Executive's reasons.

(5) A person who has been so notified may within 21 days of being so notified, or such longer period as the Executive may in writing allow, appeal to the county court.

(6) On appeal the court may confirm, reverse or vary the decision of the Executive.

**Special control provisions**

**75G.**—(1) A registration scheme which contains control provisions may also contain special control provisions, that is, provisions for preventing houses in multiple occupation, by reason of their existence or the behaviour of their residents, from adversely affecting the amenity or character of the area in which they are situated.

(2) Special control provisions may provide for the refusal or revocation of registration, for reducing the number of households or persons for which a house is registered and for imposing conditions of registration.

(3) The conditions of registration may include conditions relating to the management of the house or the behaviour of its occupants.

(4) Special control provisions may authorise the revocation of registration in the case of—

- (a) occupation of the house by more households or persons than the registration permits, or
- (b) a breach of any condition imposed in pursuance of the special control provisions,

which is due to a relevant management failure.

(5) Special control provisions shall not authorise the refusal of—

- (a) an application for first registration of a house which has been in operation as a house in multiple occupation since before the introduction by the Executive of a registration scheme with special control provisions, or

(b) any application for renewal of registration of a house previously registered under such a scheme,

unless there has been a relevant management failure.

(6) Special control provisions may provide that in any other case where an application is made for first registration of a house the Executive may take into account the number of houses in multiple occupation in the vicinity in deciding whether to permit or refuse registration.

### **Special control provisions: general provisions as to decisions and appeals**

**75H.**—(1) Special control provisions shall provide that the Executive shall give a written statement of its reasons to the applicant where it refuses to grant his application for first registration, or for a renewal or variation of a registration, or imposes conditions of registration on such an application.

(2) Special control provisions shall provide that the Executive shall give written notice to the person having control of the house and the person managing it of any decision by the Executive—

(a) to vary the conditions of registration (otherwise than on an application to which paragraph (1) applies), or

(b) to revoke the registration of the house,

and at the same time give them a written statement of the Executive's reasons.

(3) Where in accordance with special control provisions the Executive—

(a) notifies an applicant that it refuses to grant his application for first registration or for the renewal or variation of a registration,

(b) notifies such an applicant of the imposition of conditions of registration, or

(c) gives notice to the person having control or the person managing the house of any such decision as is mentioned in paragraph (2),

that person may, within 21 days of being so notified, or such longer period as the Executive may in writing allow, appeal to the county court.

(4) If on appeal it appears to the court—

(a) that there has been any informality, defect or error in, or in connection with, the Executive's decision, or

(b) that the Executive acted unreasonably,

the court may reverse or vary the decision of the Executive.

(5) In so far as an appeal is based on the ground mentioned in paragraph (4)(a), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(6) Where the decision of the Executive was a refusal—

(a) to grant an application for first registration of a house, or

(b) for the renewal or variation of the registration,

the court may direct the Executive to grant the application as made or as varied in such manner as the court may direct.

(7) Where the decision of the Executive was to impose conditions of registration, the court may direct the Executive to grant the application without imposing the conditions or to impose the conditions as varied in such manner as the court may direct.

**Special control provisions: occupancy directions**

**75I.**—(1) Special control provisions may provide that where the Executive decides that the registration of a house should be revoked the Executive may direct that the level of occupation of the house be reduced, within such period of not less than 28 days as it may direct, to a level such that the registration scheme does not apply.

Such a direction is referred to in this Part as an “occupancy direction”.

(2) Special control provisions shall provide that the Executive shall only make an occupancy direction if it appears to the Executive that there has been a relevant management failure resulting in a serious adverse effect on the amenity or character of the area in which the house is situated.

(3) In considering whether to make an occupancy direction the Executive shall take into account the interests of the occupants of the house and the person having control of the house as well as the interests of local residents and businesses.

(4) Special control provisions may require the person having control of the house, and the person managing it, to take all reasonably practicable steps to comply with an occupancy direction.

(5) Nothing in this Article affects any liability in respect of any other contravention or failure to comply with control provisions or special control provisions.

**Special control provisions: decisions and appeals relating to occupancy directions**

**75J.**—(1) Special control provisions shall provide that where the Executive makes an occupancy direction in respect of a house it shall give written notice of the direction to the person having control of the house and the person managing it and at the same time give them a written statement of the Executive's reasons.

(2) A person aggrieved by an occupancy direction may, within 21 days after the date of the service of notice as mentioned in paragraph (1), appeal to the county court.

(3) If on appeal it appears to the court—

(a) that there has been any informality, defect or error in, or in connection with, the Executive's decision, or

(b) that the Executive acted unreasonably,

the court may make such order either confirming, quashing or varying the notice as it thinks fit.

(4) In so far as an appeal is based on the ground mentioned in paragraph (3)(a), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(5) If an appeal is brought the direction does not become operative until—

(a) a decision on the appeal confirming the direction (with or without variation) is given and the period within which an appeal to the Court of Appeal may be brought expires without any such appeal having been brought, or

(b) if a further appeal to the Court of Appeal is brought, a decision on that appeal is given confirming the direction (with or without variation).

(6) For this purpose the withdrawal of an appeal has the same effect as a decision confirming the direction or decision appealed against.

**Special control provisions: “relevant management failure”**

**75K.** A “relevant management failure” for the purposes of Articles 75G to 75J (special control provisions) means a failure on the part of the person having control of, or the person managing, a house in multiple occupation to take such steps as are reasonably practicable to prevent the existence of the house or the behaviour of its residents from adversely affecting the amenity or character of the area in which the house is situated, or to reduce any such adverse effect.



### **Offences in connection with registration schemes**

**75L.**—(1) A person who contravenes or fails to comply with a provision of a registration scheme commits an offence.

(2) A person who commits an offence under this Article consisting of a contravention of so much of control provisions as relates—

- (a) to occupation to a greater extent than permitted under those provisions of a house which is not registered, or
- (b) to occupation of a house which is registered by more households or persons than the registration permits,

is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) A person who commits an offence under this Article consisting of a contravention of so much of special control provisions as requires all reasonably practicable steps to be taken to comply with an occupancy direction is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) A person who commits any other offence under this Article is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **Steps required to inform public about registration scheme**

**75M.**—(1) Where the Executive intends to submit a registration scheme for the approval of the Department, the Executive shall publish notice of its intention at least one month before the scheme is submitted.

(2) As soon as the scheme is approved by the Department, the Executive shall publish a notice stating—

- (a) that a registration scheme has been approved by the Department, and
- (b) the date on which the scheme is to come into operation.

(3) A notice under paragraph (1) of the Executive's intention to submit a scheme for approval shall—

- (a) describe any steps which will have to be taken under the scheme by those concerned with registrable houses (other than steps which have only to be taken after a notice from the Executive), and
- (b) specify a place where a copy of the scheme may be seen at all reasonable hours.

(4) After publication of a notice under paragraph (2) that a registration scheme has been approved by the Department, and for as long as the scheme is in operation, the Executive—

- (a) shall keep a copy of the scheme, and of the register, available for public inspection at such of the Executive's offices as the Executive considers appropriate free of charge at all reasonable hours, and
- (b) on request, and on payment of such reasonable fee as the Executive may require, shall supply a copy of the scheme or the register, or of any entry in the register, to any person.

(5) If the Executive revokes a registration scheme it shall publish notice of the revocation.

(6) In this Article “publish” means publish in two or more newspapers circulating in Northern Ireland or in the parts of Northern Ireland to which the registration scheme applies.

### **Power to require information for purposes of scheme**

**75N.**—(1) The Executive may—

- (a) for the purpose of ascertaining whether a house is registrable, and

- (b) for the purpose of ascertaining the particulars to be entered in the register as regards a house,

require the person having control of the house or the person managing the house or any person who has an estate or interest in, or who lives in, the house to state in writing any information in his possession which the Executive may reasonably require for that purpose.

(2) A person who is required in pursuance of this Article to give information to the Executive, shall do so within 5 weeks of being notified of the requirement, or within such longer period as the Executive may allow.

(3) A person who, having been required in pursuance of this Article to give information to the Executive, fails to give the information, or knowingly makes a mis-statement in respect of it, commits an offence and is liable on summary conviction to a fine not exceeding—

- (a) level 3 on the standard scale in the case of such a failure; or
- (b) level 5 on the standard scale in the case of such a mis-statement.

### **Overcrowding in houses in multiple occupation**

76.—(1) If it appears to the Executive, in the case of a house in multiple occupation, that an excessive number of persons is being or is likely to be accommodated on the premises having regard to the rooms available, the Executive may serve a notice under this paragraph (an “overcrowding notice”) complying with paragraphs (3) and (4) and including either—

- (a) the requirement set out in paragraph (5); or
- (b) that set out in paragraph (6).

(2) The notice may be served—

- (a) on the person having control of the house; or
- (b) on the person managing the house;

and the Executive shall inform any other person who is to its knowledge an owner, lessee, occupier or mortgagee of the house of the fact that the notice has been served.

(3) An overcrowding notice shall state, in relation to every room on the premises, what is in the Executive's opinion the maximum number of persons by whom it is suitable to be occupied as sleeping accommodation at any one time or, as the case may be, that it is in its opinion unsuitable to be occupied as sleeping accommodation.

(4) An overcrowding notice may, in relation to any room, specify special maxima applicable in any case where some or all of the persons occupying the room are under such age as may be specified in the notice.

(5) The requirement referred to in paragraph (1)(a) is that the person on whom the overcrowding notice is served must refrain from—

- (a) knowingly permitting any room to be occupied as sleeping accommodation otherwise than in accordance with the overcrowding notice; or
- (b) knowingly permitting such number of persons to occupy the premises as sleeping accommodation that it is not possible, without—
  - (i) one or more rooms to which the overcrowding notice relates being occupied as sleeping accommodation otherwise than in accordance with that notice; or
  - (ii) any part of the premises which is not a room being occupied as sleeping accommodation;

to avoid persons of opposite sexes and over the age of 12 years (other than persons living together as husband and wife) occupying sleeping accommodation in the same room.

(6) The requirement referred to in paragraph (1)(b) is that the person on whom the overcrowding notice is served must refrain from—

- (a) knowingly permitting any room to be occupied by a new resident as sleeping accommodation otherwise than in accordance with the overcrowding notice; or
- (b) knowingly permitting a new resident to occupy any part of the premises as sleeping accommodation if it is not possible, without—
  - (i) one or more rooms to which the overcrowding notice relates being occupied as sleeping accommodation otherwise than in accordance with that notice; or
  - (ii) any part of the premises which is not a room occupied as sleeping accommodation; both to permit the new resident so to occupy any part of the premises and to avoid persons of opposite sexes and over the age of 12 years (other than persons living together as husband and wife) occupying sleeping accommodation in the same room.

(7) In paragraph (6) “new resident” means a person who was not living in the house immediately before the date on which the overcrowding notice was served.

(8) Where the Executive has served an overcrowding notice on any person and that notice includes the requirement referred to in paragraph (6), the Executive may, at any time, withdraw that overcrowding notice and serve on that person, in its place, an overcrowding notice which includes the requirement referred to in paragraph (5).

(9) Not less than 7 days before serving an overcrowding notice, the Executive shall—

- (a) in writing inform the person on whom the notice is to be served of its intention to serve the notice, and
- (b) ensure, so far as is reasonably possible, that every person living in the house is informed of that intention;

and shall afford to any such person an opportunity of making representations regarding its proposal to serve the notice.

(10) The Executive may serve on the person on whom it has served the overcrowding notice, a further notice requiring him to furnish it within 7 days with a statement in writing giving all or any of the following particulars, that is to say—

- (a) the number of individuals who are, on a date specified in the notice, occupying any part of the premises as sleeping accommodation;
- (b) the number of families or households to which those individuals belong;
- (c) the names of those individuals and of the heads of each of those families or households; and
- (d) the rooms used by those individuals and families or households respectively.

(11) Any person aggrieved by an overcrowding notice may, within 21 days from the date of service of the notice, appeal to a court of summary jurisdiction and, on any such appeal the court may make such order confirming, quashing or varying the notice as it thinks fit.

(12) The Executive may at any time, on the application of any person having an estate in the house, revoke an overcrowding notice or vary it so as to allow more people to be accommodated in the house.

(13) If the Executive refuses an application under paragraph (12), or does not within 35 days from the making of such an application, or within such further period as the applicant may in writing allow, notify the applicant of its decision on the application, and the applicant may appeal to a court of summary jurisdiction, and on the appeal the court shall have power to revoke the notice or vary it in any manner in which it might have been varied by the Executive.

(14) Any person who contravenes an overcrowding notice shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(15) Any person who knowingly fails to comply with the requirements of a notice under paragraph (10), or furnishes a statement which he knows is false in a material particular, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

### **Date of operation of notices**

77.—(1) A notice served under paragraph (1) of Article 76 shall, if no appeal is brought under paragraph (11) of that Article, become operative on the expiration of 21 days from the date of service of the notice and shall be final and conclusive as to any matters which could have been raised on such an appeal.

(2) A notice served under paragraph (1) of Article 76 against which an appeal is brought under paragraph (11) of that Article shall, if and so far as it is confirmed by the court, become operative on such date as may be specified by the court or, where no date is so specified, as from the final determination of the appeal.

(3) For the purposes of this Article, the withdrawal of an appeal shall be deemed to be the final determination thereof, having the like effect as a decision confirming the notice against which the appeal is brought.

### **Regulations prescribing management code**

78.—(1) The Department may, with a view to providing a code for the management of houses in multiple occupation, by regulations make provision for the purpose of ensuring that a house is occupied in accordance with proper standards of management.

(2) Subject to paragraph (3), regulations under this Article may in particular, require—

- (a) the repair, maintenance, cleansing and good order of—
  - (i) all means of water supply and drainage in the house,
  - (ii) all means of escape from fire and all apparatus, systems and other things provided by way of fire precautions,
  - (iii) kitchens, bathrooms and water closets in common use,
  - (iv) sinks and wash-basins in common use,
  - (v) common staircases, corridors and passage ways, and
  - (vi) outbuildings, yards and gardens in common use;
- (b) the making of satisfactory arrangements for the disposal of refuse and litter from the house; and
- (c) that all means of escape from fire are kept clear of obstructions.

(3) The person managing the house shall only be liable by virtue of regulations under paragraph (2) to ensure the repair, maintenance, cleansing and good order of any premises outside the house if and to the extent that he has power or is otherwise liable to ensure those matters in respect of any such premises.

(4) Regulations under this Article may—

- (a) provide for keeping a register of the names and addresses of those who are managers of houses;
- (b) impose duties on persons who have an estate in a house or any part of a house, to which the regulations apply as to the giving of information to the Executive, and in particular may make it the duty of any person who acquires or ceases to hold an estate in the house to notify the Executive;

- (c) prescribe the persons who are, for the purposes of this Part and of regulations made thereunder, to be treated as the managers of houses;
- (d) impose duties on persons who live in the house for the purpose of ensuring that the person managing the house can effectively carry out the duties imposed on him by the regulations;
- (e) authorise the Executive to obtain information as to the number of individuals or households accommodated in the house;
- (f) make it the duty of the person managing the house to cause a copy of the regulations, to be displayed in a suitable position in the house; and
- (g) contain such other incidental and supplementary provisions as appear to the Department to be expedient.

(5) Any person who knowingly contravenes or without reasonable excuse fails to comply with any regulations under this Article as applied under this Part in relation to any house shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Power to require work to make good neglect of proper standards of management**

**79.**—(1) If, in the opinion of the Executive, the condition of a house to which regulations under Article 78 apply is defective in consequence of failure to comply with the requirements imposed by the regulations, the Executive may serve a notice specifying the works which, in the opinion of the Executive, are required to make good the neglect, and requiring the person on whom the notice is served to execute those works.

(2) If it is not practicable after reasonable inquiry to ascertain the name or address of the person managing the house, the notice under this Article may be served by addressing it to him by the description of “manager of the house” (naming the house to which it relates) and by delivering it to some person on the premises.

(3) A notice under this Article shall require the person on whom it is served to execute the works specified in the notice as follows, namely—

- (a) to begin those works not later than such reasonable date, being not earlier than the twenty-first day after the date of service of the notice, as is specified in the notice; and
- (b) to complete those works within such reasonable period as is so specified.

(4) Where the Executive serves a notice on any person under this Article, it shall inform any other person who appears to it to be an owner, lessee or mortgagee of the house of the fact that such a notice has been served.

(5) A person on whom a notice is served under this Article or any other person who is an owner, lessee or mortgagee of the house to which the notice relates may, within 21 days from the service of the notice or within such longer period as the Executive may in writing allow, appeal to a court of summary jurisdiction on any of the following grounds which are appropriate in the circumstances—

- (a) that the condition of the house did not justify the Executive in requiring the execution of the works specified in the notice;
- (b) that there has been some informality, defect or error in, or in connection with, the notice;
- (c) that the Executive has refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary;
- (d) that the date specified for beginning the works is not reasonable;
- (e) that the time within which the works are to be executed is not reasonably sufficient for the purpose;

- (f) that some person other than the appellant is wholly or in part responsible for the state of affairs calling for the execution of the works, or will, as the holder of an estate in the premises, derive a benefit from the execution of the works, and that that person ought to pay the whole or any part of the expenses of executing the works.
- (6) Where an appeal under this Article is based solely on the ground of some informality, defect or error in, or in connection with, the notice, the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (7) Where the grounds on which an appeal is brought under this Article include the ground specified in paragraph (5)(f), the appellant shall serve a copy of his notice of appeal on each other person referred to, and, on the hearing of the appeal any such other person may appear and be heard and, the court may make such order as it considers just with respect to the payment to be made by any such other person to the appellant or, where the work is executed by the Executive, to the Executive.
- (8) Paragraph (2) of Article 76 shall apply in relation to the service of a notice under this Article as it applies to the service of a notice under that Article.

#### **Power to require execution of works to render premises fit for number of occupants**

**80.**—(1) Subject to Article 82, the Executive may serve a notice under this Article where, in the opinion of the Executive, a house in multiple occupation fails to meet one or more of the requirements in sub-paragraphs (a) to (e) of paragraph (2) and, having regard to the number of individuals or households or both for the time being accommodated on the premises, by reason of that failure the premises are not reasonably suitable for occupation by those individuals or households.

(2) The requirements in respect of a house in multiple occupation referred to in paragraph (1) are the following, that is to say,—

- (a) there are satisfactory facilities for the storage, preparation and cooking of food including an adequate number of sinks with a satisfactory supply of hot and cold water;
- (b) it has an adequate number of suitably located water-closets for the exclusive use of the occupants;
- (c) it has, for the exclusive use of the occupants, an adequate number of suitably located fixed baths or showers and wash-hand basins each of which is provided with a satisfactory supply of hot and cold water;
- (d) subject to Article 82, there are adequate means of escape from fire; and
- (e) there are adequate other fire precautions.

(3) The Executive may serve a notice specifying the works which, in the opinion of the Executive, are required for rendering the house reasonably suitable for such occupation as aforesaid, and requiring the person on whom the notice is served to execute those works; but the notice shall not specify any works to any premises outside the house.

(4) If the Executive is satisfied that, after the service of the notice, the number of individuals or households living on the premises has been reduced to a level which will make the work specified in the notice unnecessary, and that, either in consequence of its exercise of the powers conferred by this Part to limit the number of persons living on the premises or otherwise, that number will be maintained at or below that level, it may notify in writing the person on whom the notice was served of the withdrawal of the notice, but the withdrawal of the notice shall be without prejudice to the issue of a further notice.

(5) A notice under this Article shall require the execution of the works as follows, namely—

- (a) to begin those works not later than such reasonable date, being not earlier than the twenty-first day after the date of service of the notice, as is specified in the notice; and
- (b) to complete those works within such reasonable period as is so specified.

(6) Where the Executive serves a notice on any person under this Article, it shall inform every other person on whom a notice under paragraph (1) may be served of the fact that such a notice has been served.

(7) Paragraph (2) of Article 76 shall apply in relation to the service of a notice under this Article as it applies to the service of a notice under that Article.

### **Further provisions relating to overcrowded houses**

**81.**—(1) If the condition of a house which, or a part of which, is in multiple occupation fails, in the opinion of the Executive, to meet one or more of the requirements set out in paragraph (2) of Article 80, having regard to the number of individuals or households, or both, accommodated for the time being on the premises, the notice which the Executive may serve under paragraph (1) of that Article may be a notice specifying the works which, in the opinion of the Executive, are required for rendering the premises reasonably suitable for occupation by a number of individuals or households smaller than the number accommodated on the premises.

(2) A notice served under Article 80 in pursuance of paragraph (1) shall specify the number of individuals or households, or both, which, in the opinion of the Executive, the premises could reasonably accommodate if the works specified in the notice were carried out.

(3) Where the Executive has, in pursuance of paragraphs (1) and (2), served a notice under Article 80 specifying the number of individuals or households, or both, which, in the opinion of the Executive, the premises could reasonably accommodate if the works specified in the notice were carried out, the Executive may adopt that number in fixing a limit under Article 85 as respects the house.

### **Means of escape from fire**

**82.** Schedule 4 shall have effect as to the means of escape from fire to be provided in houses in multiple occupation.

### **Right of appeal against notice requiring execution of works**

**83.**—(1) A person on whom a notice is served under Article 80 or paragraph 2 of Schedule 4 may, within 21 days from the service of the notice or within such longer period as the Executive may in writing allow, appeal to a court of summary jurisdiction on any of the following grounds which are appropriate in the circumstances—

- (a) that the condition of the house did not justify the Executive, having regard to the requirements set out in paragraph (2) of that Article, in requiring the execution of the works specified in the notice, or, in the case of a notice under paragraph 2 of Schedule 4, that the notice is not justified by the terms of that Article;
- (b) that there has been some informality, defect or error in, or in connection with the notice;
- (c) that the Executive has refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary;
- (d) that the time within which the works are to be executed is not reasonably sufficient for the purpose;
- (e) that the date specified for the beginning of the works is not reasonable;
- (f) that some person other than the appellant is wholly or in part responsible for the state of affairs calling for the execution of the works, or will as the holder of an estate in the premises derive a benefit from the execution of the works, and that that person ought to pay the whole or any part of the expenses of executing the works;

- (g) where the appeal is against a notice served under Article 80 in pursuance of Article 81(1), that the number of persons or households, or both, specified in the notice pursuant to Article 81(2) is unreasonably low.

(2) Where an appeal under this Article is based solely on the ground of some informality, defect or error in, or in connection with, the notice, the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(3) Where the grounds upon which an appeal under this Article is brought include the ground specified in paragraph (1)(f), the court, if satisfied that any other person referred to in the notice of appeal has had proper notice of the appeal, may, on the hearing of the appeal, make such order as it thinks fit with respect to the payment to be made by that other person to the appellant or, where the work is done by the Executive, to the Executive.

(4) For the purposes of paragraph (3), any person referred to in a notice of appeal may appear and be heard on the hearing of the appeal.

(5) If, on an appeal under this Article against a notice served under Article 80—

- (a) the court is satisfied that the number of persons living in the house has been reduced, and
- (b) that adequate steps (whether by the exercise by the Executive of the powers conferred by the following provisions of this Part to limit the number of persons living in the house or otherwise) have been taken to prevent that number being again increased,

the court may, if it thinks fit, revoke the notice or vary the list of works specified in the notice.

### **Carrying out of works by the Executive**

**84.**—(1) If a notice under Article 79, 80 or 81 or the following provisions of this Article or paragraph 2 of Schedule 4 is not complied with, the Executive may do the work required to be done by the notice.

(2) Compliance with a notice means beginning and completing the works specified in the notice—

- (a) if no appeal is brought against the notice, not later than such date and within such period as is specified in the notice;
- (b) if an appeal is brought against the notice and is not withdrawn, not later than such date and within such period as may be fixed by the court determining the appeal; and
- (c) if an appeal brought against the notice is withdrawn, not later than the twenty-first day after the date of withdrawal of the appeal and within such period (beginning on that twenty-first day) as is specified in the notice.

(3) If, before the expiry of the period which under paragraph (2) is appropriate for completion of the works specified in the notice, it appears to the Executive that reasonable progress is not being made towards compliance with the notice, the Executive may itself do the work required to be done by the notice.

(4) Not less than 7 days before the Executive enters any house for the purpose of doing any works by virtue of paragraph (1) or (3), it shall serve notice of its intention to do so on the person on whom the notice referred to in paragraph (1) was served and, if it thinks fit, also on any other owner of the house.

(5) If, after the Executive has served notice under paragraph (4), the works are in fact carried out (otherwise than by the Executive), any administrative and other expenses incurred by the Executive with a view to doing the work itself in accordance with paragraph (1) or (3) shall be treated for the purposes of the following provisions of this Article as expenses incurred by it under this Article in carrying out the works in a case where the notice referred to in paragraph (1) has not been complied with.



(6) Notwithstanding anything in paragraph (1), if, before the expiration of the time mentioned in that paragraph, the person on whom the notice was served notifies the Executive in writing that he is not able to do the work in question, the Executive may, if it considers fit, do the work forthwith.

(7) Any expenses reasonably incurred by the Executive under this Article, together with interest at the prescribed rate from the date when a demand for the expenses is served until payment, may, except so far as they are by any direction of the court on appeal recoverable under an order of the court, be recovered by it summarily as a civil debt from the person on whom the notice was served or, if he was served with the notice in his capacity only as an agent or trustee for some other person, then either from him or from that other person, or as to part from him and as to the remainder from that other person; but if the person on whom the notice is served proves that he—

- (a) was served with the notice in his capacity only as an agent or trustee for some other person; and
- (b) has not, and since the date of the service on him of the demand has not had, in his hands on behalf of that other person, sufficient money to discharge the whole demand of the Executive;

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

(8) Any expenses recoverable by the Executive under paragraph (7), together with interest accrued due thereon, shall, until recovered, be a charge on the estate in the premises of the person on whom the notice was served; but, if that person was only properly served with the notice as being an agent or trustee for some other person, those expenses shall be a charge on the estate (if any) in the premises of that other person, and not on that of the first-mentioned person.

(9) The charge under paragraph (8) may be recovered by the same means and in the like manner in all respects as if it were a mortgage by deed created by the owner of the estate in favour of the Executive, and, for the recovery thereof, the Executive may exercise the powers conferred by sections 19, 21 and 22 of the Conveyancing Act 1881<sup>F66</sup> on mortgages by deed.

(10) If the Executive applies to a court of summary jurisdiction and satisfies the court—

- (a) that any expenses reasonably incurred by it under this Article (with the interest accrued due thereon) have not been, and are unlikely to be, recovered; and
- (b) that some person is profiting by the execution of the works in respect of which the expenses were incurred to obtain rents or other payments which would not have been obtainable if the number of persons living in the house was limited to that appropriate for the house in its state before the works were executed;

the court may, if satisfied that that person has had proper notice of the application, order him to make such payment or payments to the Executive as appear to the court to be just.

(11) In all summary proceedings by the Executive for the recovery of expenses under this Article, the time within which the proceedings may be taken shall be reckoned from the date of the service of the demand.

(12) In proceedings by the Executive for the recovery of any expenses under paragraph (7), it shall not be open to the defendant to raise any question which he could have raised on an appeal under this Part against the notice requiring the execution of the works.

**F66** 1881 c.41

## Directions to prevent or reduce overcrowding in houses in multiple occupation

**85.**—(1) The Executive may, for the purpose of preventing the occurrence of, or remedying, a state of affairs calling for the service of a notice or a further notice under Article 80, fix as a limit

for the house what is, in its opinion, the highest number of individuals or households, or both, who or which should, having regard to the requirements set out in paragraph (2) of that Article, occupy the house in its existing condition, and give a direction applying that limit to the house.

(2) A direction under paragraph (1) shall have effect so as to make it the duty of the occupier of the house not to permit the number of individuals or households occupying the house to increase to a number above the limit specified in the direction, and, if it is above that number, not to permit it to increase further.

(3) References in paragraphs (1) and (2) to a house include references to part of a house, and the Executive shall have regard to the desirability of applying separate limits where different parts of a house are, or are likely to be, occupied by different persons.

(4) The reference in paragraph (2) to the occupier includes a reference to any person who is entitled or authorised to permit individuals or households to take up residence in the house, or any part of it.

(5) Not less than 7 days before giving a direction under this Article, the Executive shall—

- (a) serve on every person appearing to it to be an owner of the house notice of its intention to give the direction; and
- (b) exhibit such a notice in some position in the house where it is accessible to those living in the house;

and shall afford to any person on whom a notice is so served an opportunity of making representations regarding its proposal to give the direction.

(6) The Executive shall, within 7 days from the giving of the direction—

- (a) serve a copy of the direction on every person appearing to it to be an owner of the house; and
- (b) exhibit a copy of the direction in some position in the house where it is accessible to those living in the house.

(7) The power conferred by paragraph (1) may be exercised as regards any premises notwithstanding the existence of any previous direction under that paragraph laying down a higher maximum.

(8) The Executive may at any time, having regard to the works which have been executed in the house, or any other change of circumstances, and on the application of any person having an estate in the house, revoke any direction given under paragraph (1), or vary it so as to allow more individuals to be accommodated in the house.

(9) If the Executive—

- (a) refuses an application under paragraph (8); or
- (b) does not within 35 days from the making of such an application, or within such further period as the applicant may in writing allow, notify the applicant of its decision on the application;

the applicant may appeal to a court of summary jurisdiction, and, on the appeal, the court may revoke the direction or vary it in any manner in which it might have been varied by the Executive.

(10) The Executive may serve on the person appearing to it to be the occupier of a house, or part of a house, in respect of which a direction under this Article is in force a notice requiring him to furnish it, within 7 days, with a statement in writing giving all or any of the following particulars—

- (a) the number of individuals who are, on a date specified in the notice, living in the house or, as the case may be, the part of the house;
- (b) the number of families or households to which those individuals belong;
- (c) the names of those individuals and of the heads of each of those families or households;

(d) the rooms used by those individuals and families or households respectively.

(11) Any person on whom a notice is served under paragraph (10) who fails to comply with it or furnishes a statement which to his knowledge is false in any material particular, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(12) Any person who knowingly fails to comply with a direction given under paragraph (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(13) The powers conferred by this Article shall be exercisable whether or not a notice has been given under Article 80 and shall be without prejudice to the powers conferred by Article 76.

### **Supplemental provisions**

**86.**—(1) If, on an application made by a person required by a notice under this Part to execute any works, it appears to a court of summary jurisdiction that any other person having an estate in the premises has unreasonably refused to give any consent required to enable the works to be executed, the court may give the necessary consent in place of that other person.

(2) Article 13 of the Order of 1981 (powers of entry) shall apply to entry for the purposes of exercising any functions conferred on the Executive by or under this Part, and, without prejudice to the generality of the foregoing, shall apply in particular to entry for the purposes of—

- (a) ascertaining whether any function conferred on the Executive by or under this Part should be exercised;
- (b) ascertaining whether there has been any contravention of any notice, regulation or direction given, made or applied under this Part;

but so much of that Article as requires notice to be given of the intended entry shall not apply to entry for the purposes mentioned in sub-paragraph (b).

(3) Article 160 of the Order of 1981 (penalty for obstruction) shall apply for the purposes of this Part in the same manner, as it applies for the purposes of that Order.

(4) There shall be included among the matters which are required to be registered in the Statutory Charges Register—

- (a) any notice served under Article 76(1), 79(1), 80(1) or 84(4);
- (b) any charge created under Article 84(8).

### **Penalty for failure to execute works**

**87.**—(1) A person on whom a notice has been served under Article 79, 80 or 81, or paragraph 2 of Schedule 4 (notices requiring the execution of works) who wilfully fails to comply with the notice shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) The obligation to execute the works specified in the notice continues notwithstanding that the period for compliance has expired; and a person who wilfully fails to comply with that obligation, after being convicted of an offence in relation to the notice under paragraph (1) or this paragraph, shall be guilty of a further offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(3) In this Article compliance with a notice means the completion of the works specified in the notice within the period of compliance, which is—

- (a) if no appeal is brought against the notice, the period specified in the notice with any extension duly allowed by the Executive;

- (b) if an appeal is brought against the notice, and the notice is confirmed in whole or in part on the appeal, the period of 28 days from the final determination of the appeal or such longer period as the court in determining the appeal may fix.
- (4) No liability arises under paragraph (1) if the Executive, on being notified in accordance with Article 84(6) that the person on whom the notice was served is not able to do the work in question, serves notice that it proposes to do the work and relieves him from liability under paragraph (1).
- (5) The provisions of this Article are without prejudice to the exercise by the Executive of its power under Article 84 to carry out the works itself.

## PART V

### AMENDMENTS OF THE ORDERS OF 1981, 1983 AND 1986

#### CHAPTER I

##### AMENDMENTS OF THE ORDER OF 1981

#### **Power of Executive to make housing management scheme**

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

#### **“Housing management scheme**

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

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

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

(a) specify—

- (i) the category and range of management functions to be delegated by the Executive,
- (ii) the form of management agreements by means of which management functions are to be delegated, and
- (iii) the procedure for consulting tenants of houses to which a management agreement would apply; and

(b) provide—

- (i) that a management agreement is not to be implemented unless it is approved by a majority of the tenants consulted in relation to it in pursuance of sub-paragraph (a)(iii);
- (ii) that the Department's approval (which may be given either unconditionally or subject to conditions) is required both for the terms of a management agreement and the identity of a manager.

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

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

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

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

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

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

### **Resettlement of undertakings**

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

#### **“Acquisition and development of land for resettlement of certain undertakings**

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

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

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

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

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

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

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

(6) In this Article—

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

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

#### *Article 90—Amendment*

**Continuance of certain powers to deal with unoccupied premises**

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

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

**Further powers of the Executive in connection with acquisition and disposal of land**

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

**“Disposal of houses let by the Executive to secure tenants**

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

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

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

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

- (a) has, in accordance with the requirements of paragraphs (4) and (5), consulted—
  - (i) every tenant of a house to which the application relates, or
  - (ii) every such tenant other than one expected to have vacated the house in question before the disposal; and
- (b) has in relation to each house to which the application relates, obtained the appropriate agreement (within the meaning of paragraph (6)) to its disposal.

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

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

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

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

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

and informing him of the effect of paragraph (3)(b).

(6) In paragraph (3) “the appropriate agreement” means—

- (a) in the case of an application for the disposal to a registered housing association of—
  - (i) a building (including a house) which is divided into flats, or
  - (ii) a group of houses which is provided with special facilities to assist the tenants (for example, a common room in close proximity to the houses),the agreement of the majority of the tenants of the flats within the building or of the houses within the group, as the case may be;
- (b) in any other case, the agreement of the tenant of the house to which the application relates.

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

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

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

### **Extinguishment of public rights of way**

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

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

(3) An extinguishment order may—

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

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

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

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

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

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

### **Procedures for approving extinguishment orders**

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

*Status: Point in time view as at 31/07/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 1992. (See end of Document for details)*

- (a) stating the general effect of the order;
  - (b) specifying a place in the relevant area where a copy of the order and of any relevant map or plan may be inspected by any person at all reasonable hours during a period of 28 days from the date of publication of the notice; and
  - (c) stating that, within that period, any person may by notice to the Department object to the making of the order.
- (2) Not later than the date on which that notice is so published, the Executive shall serve a copy of the notice, together with a copy of the extinguishment order and of any relevant map or plan, on—
- (a) every district council in whose area any land to which the order relates is situated;
  - (b) any gas or electricity undertaker having any cables, mains, pipes, or wires laid along, across, under or over any land over which a right of way is to be extinguished, under the order; and
  - (c) the operator of any telecommunications code system for the purposes of which any telecommunication apparatus is kept installed along, across, under or over any such land.
- (3) The Department may cause a public local inquiry to be held to hear objections to the extinguishment order.
- (4) After considering any objections to the extinguishment order which are not withdrawn and, where a public local inquiry is held, the report of the person who held the inquiry, the Department may approve the order either without modification or subject to such modifications as it thinks fit.
- (5) Where the Department approves an extinguishment order the Executive shall publish, in the manner specified in paragraph (1), a notice stating that the order has been approved, and naming a place where a copy of the order may be seen at all reasonable hours; and paragraph (2) shall have effect in relation to any such notice as it has effect in relation to a notice under paragraph (1).
- (6) In this Article—
- (a) “electricity undertaker” means a holder of a licence under Article 10(1) of the Electricity (Northern Ireland) Order 1992<sup>F67</sup>; and
  - (b) “the relevant area”, in relation to an extinguishment order, means the area in which any land to which the order relates is situated.”

**F67** 1992 NI 1

### **Compensation in respect of vesting orders, clearance orders, demolition orders and closing orders**

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

- (a) in Article 89(2)—
  - (i) the words “and Schedule 7”,
  - (ii) in the definition of “demolition order” the words “or Schedule 7”,
  - (iii) the definition of “site value”;
- (b) Articles 90 to 97, 99 and 100; and
- (c) Schedule 7.



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

- (a) a vesting order made under the Order of 1981 to vest in the Executive land comprising a house, for the purposes of any of the Executive's functions under Chapter III or IV of Part III of that Order;
- (b) a clearance order made under Article 33 of that Order;
- (c) a demolition order made under Article 35 of that Order;
- (d) a closing order made under Article 38 of that Order;

if the order was made before 1st April 1990.

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

**“Land acquired compulsorily in re-development areas and housing action areas**

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

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

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

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

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

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

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

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

whichever amount is the greater.

(4) In any case where—

- (a) a closing order has been made in respect of any premises, and

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

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

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

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

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

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

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

- (2) In any case where—

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

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

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

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

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

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

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

### **Winding up of home purchase assistance scheme**

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

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

- (a) may specify a date or dates with effect from which account will no longer be taken under the assistance legislation of matters specified in the order;
- (b) may vary the terms of advances to lending institutions so as to commute what would otherwise be a number of payments or repayments to or by such an institution into a single payment or a smaller number or payments of such amount and payable at such time or times as may be determined in accordance with the order; and
- (c) may provide for the amendment or repeal, in whole or in part, of the assistance legislation with effect from such date or dates and subject to such transitional provisions as may be specified in the order.

(3) The following powers, namely—

- (a) the power conferred on the Department under Article 153(3) of the Order of 1981 to relax or modify the conditions in that paragraph; and
- (b) any power to make an order under any provision of the assistance legislation,

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

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

*Article 95—Amendments*

## **CHAPTER II**

### **AMENDMENTS OF THE ORDER OF 1983**

#### **House sales scheme**

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

#### **“CHAPTER I**

#### **SALE OF DWELLING-HOUSES BY THE EXECUTIVE**

#### **House sales scheme**

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

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

- (a) the classes of dwelling-houses to which the scheme applies;
- (b) the manner in which the purchase price of a dwelling-house is to be determined;
- (c) the circumstances in which a purchaser is entitled to a discount of part of the purchase price and the basis upon which that discount is to be calculated;

- (d) the circumstances in which discount may be repayable;
- (e) the condition and covenants to be included in the conveyance or lease of the dwelling-house;
- (f) the terms on which land used for the purposes of a dwelling-house is to be treated as included in the dwelling-house.

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

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

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

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

#### **House sales scheme: supplemental provision**

4.—(1) In this Chapter—

- “equity-sharing lease” has the meaning given in Article 31(6)(a) of the principal Order;
- “purchase price” includes the consideration for the grant of a lease;
- “sale” includes sale in consideration of a fee farm rent, rent charge or similar periodic payment; and
- “secure tenant” has the meaning given in Article 24(1).”

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

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

## **CHAPTER III**

### **AMENDMENTS OF THE ORDER OF 1986**

#### **Amendments relating to defective housing**

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

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

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

- “(7A) In any case where—

- (a) the most satisfactory way of dealing with the qualifying defect is substantially to demolish the building that consists of or includes the defective dwelling or a part of that building, and
- (b) it is practicable to rebuild the building or part concerned on, or substantially on, its existing foundations and reconstruct the dwelling to the same, or substantially the same, plan,

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

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

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

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

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

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

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

## PART VI

### PRIVATE SECTOR TENANTS

#### Regulated tenancy standards

**98.** <sup>F68</sup> .....

**F68** Art. 98 repealed (1.4.2007) by [Private Tenancies \(Northern Ireland\) Order 2006 \(S.I. 2006/1459 \(N.I. 10\)\)](#), arts. 1(3), 75, [Sch. 5](#); S.R. 2006/428, [art. 3\(b\)\(c\)](#)

#### Department's power to remove tenancies from register of rents

**99.** <sup>F69</sup> .....

**F69** Art. 99 repealed (1.4.2007) by [Private Tenancies \(Northern Ireland\) Order 2006 \(S.I. 2006/1459 \(N.I. 10\)\)](#), arts. 1(3), 75, [Sch. 5](#); S.R. 2006/428, [art. 3\(b\)\(c\)](#)

#### Reduction of rent on failure to comply with certificate of disrepair

**100.** <sup>F70</sup> .....

**F70** Art. 100 repealed (1.4.2007) by Private Tenancies (Northern Ireland) Order 2006 (S.I. 2006/1459 (N.I. 10)), arts. 1(3), 75, **Sch. 5**; S.R. 2006/428, **art. 3(b)(c)**

### Service of documents under Rent (Northern Ireland) Order 1978

**101.** After Article 73 (service of notices on landlord's agents) of the Rent (Northern Ireland) Order 1978<sup>F71</sup> there shall be inserted the following Article—

#### “Method of serving certain documents

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

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

**F71** 1978 NI 20

### Other amendments of Rent (Northern Ireland) Order 1978

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

## PART VII

### MISCELLANEOUS AND SUPPLEMENTARY

#### *Miscellaneous*

#### **Powers of Executive and Department as respects provision of services and assistance for owners and occupiers of houses**

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

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

- (a) works to cause the dwelling to be fit for human habitation,
- (b) where the occupant is disabled, works for any of the purposes specified in<sup>F72</sup> Article 54 of the Housing (Northern Ireland) Order 2003 (disabled facilities grants: purposes)],
- (c) works for any of the purposes specified in<sup>F72</sup> Article 43 or 58 of the Housing (Northern Ireland) Order 2003 (renovation grants or HMO grants: purposes)], and
- <sup>F72</sup>(d) works for which home repair assistance may be available under Articles 106 to 109 of the Housing (Northern Ireland) Order 2003]

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

- (a) to consider whether or not to make a charge for exercising it; and
  - (b) to take such measures as are reasonably available to the Executive to secure contributions from other persons towards the cost of exercising it.
- (4) The Executive shall have power to give financial assistance in any form to—
- (a) any housing association,
  - (b) any charity, or
  - (c) any body, or body of any description, approved by the Department,
- towards the cost of the provision by that association, charity or body of services of any description for owners or occupiers of dwellings in arranging works of maintenance, repair or improvement or the encouraging or facilitating the carrying out of such works.
- (5) It shall be the duty of the Executive—
- (a) in deciding whether to exercise any power conferred by paragraph (4) in relation to any association, charity or body, to have regard to the existence and extent of any financial assistance available from other persons to that association, charity or body; and
  - (b) in exercising any power conferred by paragraph (4) in relation to any association, charity or body—
    - (i) to have regard to whether that association, charity or body has made or will make charges and their amount; and
    - (ii) to encourage the association, charity or body to take such measures as are reasonably available to them to secure contributions from other persons.
- (6) The Department may, with the consent of the Department of Finance and Personnel, give financial assistance in any form to any person in respect of expenditure incurred or to be incurred by that person in connection with the provision, whether or not by that person, of services of any description for owners or occupiers of dwellings in arranging or carrying out works of maintenance, repair or improvement, or in connection with the encouraging or facilitating, whether or not by that person, the carrying out of such works.
- (7) The giving of financial assistance under paragraph (6) shall be on such terms (which may include terms as to repayment) as the Department, with the consent of the Department of Finance and Personnel, considers appropriate.
- (8) The person receiving assistance shall comply with the terms on which it is given and compliance may be enforced by the Department.
- (9) In this Article—
- “charity” means any institution, corporate or not, which is established for charitable purposes and is subject to the control of the High Court in the exercise of the Court's jurisdiction with respect to charities;
- “housing association” means a housing association within the meaning of Article 3(1) or a body established by such a housing association for the purpose of, or having among its purposes or objects, those mentioned in Article 15(3)(c) (providing services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement, or encouraging or facilitating the carrying out of such works).

**F72** 2003 NI 2

## Service of certain documents

- 104.**—(1) The following documents, that is to say—

*Status: Point in time view as at 31/07/2010.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 1992. (See end of Document for details)*

- (a) a notice under Article 25 of the Order of 1981 (notice substituting or varying tenancy agreement);
- (b) a notice under Article 26 of that Order (notice increasing Executive rent);
- (c) any document to be provided under Chapter II of Part II of the Order of 1983 by the<sup>F73</sup> . . . landlord of a secure tenancy;

may be served by being sent by<sup>F73</sup> . . . ordinary post.

(2) A process under Part VI of the Magistrates' Courts (Northern Ireland) Order 1981<sup>F74</sup> for the recovery of any sum due to the Executive<sup>F73</sup> or such other body as may be prescribed] on foot of a tenancy agreement may be served—

- (a) by being sent<sup>F73</sup> . . . by ordinary post; or
- (b) by any mode of service permitted by magistrates' courts rules.

(3) In section 24(1) of the Interpretation Act (Northern Ireland) 1954<sup>F75</sup> (service of documents), as it applies to the service by post of any document or process mentioned in paragraph (1) or (2), the word “registering” shall be omitted.

**F73** 2003 NI 2  
**F74** 1981 NI 26  
**F75** 1954 c.33 (N.I.)

## Repeal of Small Dwellings Acquisition Acts

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

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

## Supplementary

### Orders and regulations

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

### Minor and consequential amendments

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

### Repeals, transitional provisions and savings

#### *Para. (1)—Repeals*

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



## SCHEDULES

### SCHEDULE 1

Article 12(3).

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

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

2. References to Schedule 6 to the Local Government Act (Northern Ireland) 1972<sup>F76</sup> shall be construed as references to that Schedule as modified by this Schedule.

**F76** 1972 c.9 (N.I.)

3. Omit paragraph 1 of that Schedule.
4. In paragraph 2 of that Schedule—
  - (a) for the words “notice of application” substitute “notice of the Department's intention to acquire the land compulsorily”;
  - (b) omit the words “in such form and manner as the Department directs”;
  - (c) in sub-paragraph (c) for the words “as may be prescribed” substitute the words “as the Department considers fit”.
5. In paragraph 3(1)(b) for the words in brackets substitute “if the Department thinks it necessary to do so”.
6. In paragraph 4 omit the words from “and may provide” onwards.
7. In paragraph 5—
  - (a) in sub-paragraph (1)(a) omit the words “in the prescribed form and manner”;
  - (b) in sub-paragraph (1)(b) the two references to the said Act of 1972 shall be construed as references to this Order;
  - (c) in sub-paragraph (1)(d) omit the words “in the prescribed form”;
  - (d) in sub-paragraph (2) for the words “as may be prescribed” substitute the words “as the Department considers fit”.
8. In paragraph 6(2) for the words “fund out of which the expenses of the council in acquiring the land are to be defrayed” substitute the words “Consolidated Fund” and for the words “out of the Compensation Fund” there shall be substituted the words “made by the Department”.
9. In paragraph 11(3) omit the words “in the prescribed form”.
10. In paragraph 12—
  - (a) in sub-paragraph (1) omit the words “such” and “as may be prescribed”;
  - (b) in sub-paragraph (2) for the words from “clerk” to “directs” substitute the words “Department as correct, and publish”.
11. In paragraph 14(1) omit the words “in the prescribed form”.

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

**13.** Omit paragraph 19.

**14.** Omit paragraph 20(2).

## SCHEDULE 2

Article 13(2).

### GRANT-AIDED LAND

- 1.** For the purposes of Article 13 “grant-aided land” means land—
  - (a) in respect of which such payment as is specified in paragraph 2 falls to be made in respect of a period ending after 10th November 1976; or
  - (b) on which is or has been secured a loan which is of a description specified in paragraph 3 and in respect of which any repayment (whether by way of principal or interest or both) falls to be made after that date.
- 2.** The payments referred to in paragraph 1(a) are contributions which became payable before 10th November 1976—
  - (a) by way of exchequer contributions under section 1 of the Housing Act (Northern Ireland) 1945<sup>F77</sup> as applied to housing associations by virtue of section 12 of the Housing and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1946<sup>F78</sup>; or
  - (b) by way of exchequer contributions under section 15 of the Housing Act (Northern Ireland) 1963<sup>F79</sup> (contributions for hostels).

**F77** 1945 c.2 (N.I.)

**F78** 1946 c.4 (N.I.)

**F79** 1963 c.26 (N.I.)

- 3.** The loans referred to in paragraph 1(b) are—
  - (a) loans under section 14 of the Housing (Ireland) Act 1919<sup>F80</sup>, as applied to the Executive by virtue of section 3(1) of the Housing Executive Act (Northern Ireland) 1971<sup>F81</sup> (powers of promoting and assisting public utility societies); and
  - (b) loans under section 44 of the Housing Act (Northern Ireland) 1956<sup>F82</sup> (power to make loans to certain associations).

**F80** 1919 c.45

**F81** 1971 c.5 (N.I.)

**F82** 1956 c.10 (N.I.)

## SCHEDULE 3

Article 74(3).

### PROVISIONS WITH RESPECT TO REPAIRS GRANTS UNDER ARTICLE 74

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

- (2) An application for a repairs grant shall—
- (a) specify the premises to which the application relates;
  - (b) contain particulars of the works in respect of which the grant is sought (in this Schedule referred to as “the relevant works”) and an estimate of their cost; and
  - (c) contain such other particulars as may for the time being be specified to the Executive by the Department.

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

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

(3) Where the Executive is of the opinion—

- (a) that the dwelling-house may be demolished within the period of 5 years from the date on which it received the application for the repairs grant; or
- (b) that, notwithstanding that the relevant works are completed, the dwelling-house will, within that period become unfit for human habitation and will, at the expiration of that period, be incapable of being rendered fit at reasonable expense,

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

(4) In determining for the purposes of this paragraph whether a dwelling-house meets the relevant standard of repair, regard shall be had to [<sup>F83</sup>the works specified in the notice of disrepair served under Article 19 of the Private Tenancies (Northern Ireland) Order 2006 in relation to the dwelling-house] or, as the case may be, to the requirements of the notice served under section 110 of the Public Health (Ireland) Act 1878<sup>F84</sup> in relation to the dwelling-house.

**F83** Words in [Sch. 3 para. 2\(4\)](#) substituted (1.4.2007) by [Private Tenancies \(Northern Ireland\) Order 2006 \(S.I. 2006/1459 \(N.I. 10\)\)](#), arts. 1(3), **29(5)** (with (6); [S.R. 2006/428](#), **art. 3(a)**)

**F84** 1878 c.52

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

(2) If the applicant satisfies the Executive that the relevant works cannot be or could not have been carried out without the carrying out of additional works and that this could not have been reasonably foreseen at the time the application was made, the Executive may determine a higher amount under paragraph (1).

(3) Except in a case or description of case in respect of which the Department approves a higher eligible expense, the eligible expense for the purposes of a repairs grant shall be so much of the amount determined under paragraph (1) as does not exceed<sup>F85</sup> £7,500] or such other amount as the Department may by order specify.

(4) The amount of a repairs grant shall be such as may be fixed by the Executive when it approves the application for the grant but, subject to paragraph (5), shall not exceed the appropriate percentage

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*Changes to legislation: There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 1992. (See end of Document for details)*

of the eligible expense and, together with the notification under paragraph (1), the Executive shall send to the applicant a notification of the amount of the grant.

(5) [<sup>F85</sup>Subject to sub-paragraph (6)] in any case where, after the amount of a repairs grant has been notified to the applicant under paragraph (4), the Executive, in exercise of its powers under paragraph (2), determines a higher amount under paragraph (1), the eligible expense shall be re-calculated under paragraph (3), and if, on that re-calculation, the amount of the eligible expense is greater than it was at the time when the application was approved—

- (a) the amount of the repairs grant shall be increased accordingly; and
- (b) the Executive shall notify the applicant of the increased amount of the grant.

[<sup>F85</sup>(6) The total amount of repairs grant payable in any period of 3 years in respect of any one dwelling-house shall not exceed £7,500 or such other amount as the Department may by order specify.]

**F85** 2003 NI 2

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

(2) The appropriate percentage shall be—

- (a) where the application is in respect of a dwelling-house which is subject to a protected or statutory tenancy under the Rent (Northern Ireland) Order 1978<sup>F86</sup>, 90%;
- (b) where it appears to the Executive that the applicant would not without undue hardship be able to finance so much of the cost of relevant works as is not met by the grant, 90%;
- (c) where the net annual value of the house to which the application relates, other than a house in respect of which a district council has issued a regulated rent certificate under Article 9 of the Rent (Northern Ireland) Order 1978, is less than £60, 100%;

[<sup>F87</sup>(d) in any other case,

- (i) 75% where the net annual value is greater than £59 and less than £131;
- (ii) 50% where the net annual value is greater than £130 and less than £226; and
- (iii) 25% where the net annual value is greater than £225.]

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

**F86** 1978 NI 20

**F87** SR 1995/284; 1996/387

5. If the Executive—

- (a) does not approve an application for a repairs grant, or
- (b) fixes the amount of the grant at less than the appropriate percentage of the eligible expense,

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

## SCHEDULE 4

Article 82.

### HOUSES IN MULTIPLE OCCUPATION: MEANS OF ESCAPE FROM FIRE

#### Exercise of powers of Executive

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

#### Powers available to Executive

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

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

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

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

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

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

#### Enforcement

7. Any person who, knowing that an undertaking has been accepted under paragraph 5, uses the part of the house to which the undertaking relates in contravention of the undertaking, or permits that part of the house to be so used, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale and to a further fine of one tenth of the amount corresponding to that level for every day, or part of a day, on which he so uses it or permits it to be so used, after conviction.

#### Consultation with <sup>F88</sup>Northern Ireland Fire and Rescue Service Board]

**F88** Words in Sch. 4 para. 8 and heading substituted (1.7.2006) by [Fire and Rescue Services \(Northern Ireland\) Order 2006 \(S.I. 2006/1254 \(N.I. 9\)\)](#), arts. 1(3), 63(1), [Sch. 3 para. 18](#) (with art. 62); [S.R. 2006/257, art. 2\(b\)\(d\)](#)

8. The Executive shall, before serving a notice, accepting an undertaking or making a closing order under this Schedule, consult with the <sup>F89</sup>Northern Ireland Fire and Rescue Service Board] .

**Status:** Point in time view as at 31/07/2010.

**Changes to legislation:** There are currently no known outstanding effects for the *The Housing (Northern Ireland) Order 1992*. (See end of Document for details)

**F89** Words in [Sch. 4 para. 8](#) and heading substituted (1.7.2006) by [Fire and Rescue Services \(Northern Ireland\) Order 2006](#) (S.I. 2006/1254 (N.I. 9)), arts. 1(3), 63(1), [Sch. 3 para. 18](#) (with art. 62); S.R. 2006/257, [art. 2\(b\)\(d\)](#)

### Exclusion of protection under Rent (Northern Ireland) Order 1978

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

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

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

### Matters requiring to be registered in the Statutory Charges Register

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

- (a) any notice served under paragraph 2,
- (b) any undertaking accepted under paragraph 5, and
- (c) any closing order made under paragraph 6.

### *Schedule 5—Amendments*

### *Schedule 6-8—Amendments*

### *Schedule 9—Repeals*

**Status:**

Point in time view as at 31/07/2010.

**Changes to legislation:**

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