
STATUTORY INSTRUMENTS

1992 No. 1725

The Housing (Northern Ireland) Order 1992

PART III

GRANTS

CHAPTER I

GRANTS TOWARDS COST OF IMPROVEMENTS AND REPAIRS, ETC.

Conditions of grants and repayments

Conditions as to completion of works

56.—(1) In approving an application for a grant, the Executive may require as a condition of the grant that the eligible works are carried out in accordance with such specification as it determines.

(2) Subject to paragraph (3), it is a condition of the grant that the eligible works are carried out within 12 months from the date of approval of the application concerned.

(3) The Executive may, if it thinks fit, extend the period of 12 months referred to in paragraph (2) and may, in particular, do so where it is satisfied that the eligible works cannot be, or could not have been, carried out without carrying out other works which could not have been reasonably foreseen at the time the application was made.

Condition as to availability for letting

57.—(1) This Article applies where an application for a renovation grant or a disabled facilities grant, other than an application for a disabled facilities grant in respect of works to the common parts of a building containing flats, has been approved by the Executive and the application for the grant was accompanied by a certificate of intended letting.

(2) It is a condition of the grant that throughout the initial period—

- (a) the dwelling will be let or available for letting as a residence, and not for a holiday, by the owner for the time being of the dwelling to a person who is not connected with him, or
- (b) the dwelling will be occupied or available for occupation by an approved worker, that is to say, a worker on a farm which is certified by the Department of Agriculture to be of such a nature and extent as to provide full-time employment for a worker in agricultural operations on the farm.

(3) For the purposes of paragraph (2), a person is connected with the owner for the time being of a dwelling if,—

- (a) in a case where personal representatives or trustees are the owner, he is a person who under the will or intestacy or, as the case may be, under the terms of the trust concerned is beneficially entitled to an interest in the dwelling or to the proceeds of sale of the dwelling;

- (b) in a case where the owner has a life estate in the dwelling, he is entitled in remainder or reversion; and
 - (c) in any other case, he is a member of the family of the owner.
- (4) It is also a condition of the grant—
- (a) that if, at any time within the initial period, the Executive serves notice on the owner of the dwelling requiring him to do so, he will, within the period of 21 days beginning on the date on which the notice was served, furnish to the Executive a statement showing how the condition in paragraph (2) is being fulfilled; and
 - (b) that, if required to do so by the owner of the dwelling, any tenant of the dwelling will furnish the owner with such information as he may reasonably require to enable him to comply with a notice served under sub-paragraph (a).
- (5) Any condition under paragraph (2) or (4)—
- (a) shall be included among the matters required to be registered in the Statutory Charges Register; and
 - (b) shall, subject to paragraph (9) and Article 63 remain in force with respect to the dwelling for a period of 5 years from the certified date.
- (6) So long as a condition under paragraph (2) or (4) remains in force with respect to a dwelling—
- (a) it is binding on any person, other than the Executive or registered housing association, who is for the time being the owner of the dwelling; and
 - (b) it is enforceable against all other persons having an interest in the dwelling as if it were a condition of the terms of every tenancy of, or of property including, the dwelling.
- (7) In the event of a breach of a condition under paragraph (2) or (4), the Executive may demand that the owner for the time being of the dwelling pay a sum equal to the amount of the grant less so much (if any) of it as has already been repaid under Article 58, together with compound interest on that sum as from the certified date, calculated at such reasonable rate as the Executive may determine and with yearly rests.
- (8) The Executive may determine not to make such a demand or may demand a lesser amount.
- (9) On satisfaction of the liability arising from a demand under this Article, the conditions under paragraphs (2) and (4) and paragraph (2) of Article 58 shall cease to be in force with respect to the dwelling in question.

Condition requiring repayment of grant in case of certain disposals where certificate of intended letting given

58.—(1) This Article applies where an application for a renovation grant (other than a tenant's application) has been approved by the Executive and where the application for the grant was accompanied by a certificate of intended letting.

- (2) It is a condition of the grant that—
- (a) where an owner makes a relevant disposal (other than an exempt disposal) of the dwelling with vacant possession within the initial period, he shall pay to the Executive on demand the amount of the grant; and
 - (b) where an owner makes such a disposal otherwise than with vacant possession within the initial period, he shall pay to the Executive on demand the amount of the grant, reduced by one-fifth for each complete year which has elapsed after the certified date and before the disposal.
- (3) A condition under paragraph (2)—

- (a) shall be included among the matters required to be registered in the Statutory Charges Register; and
 - (b) shall, subject to paragraph (5) and Article 63, remain in force with respect to the dwelling for a period of 5 years from the certified date.
- (4) So long as a condition under paragraph (2) remains in force with respect to a dwelling it is binding on any person who is for the time being an owner of the dwelling.
- (5) On satisfaction of the liability arising from a demand under this Article, any condition under paragraph (2) shall cease to be in force with respect to the dwelling in question.
- (6) The expressions “relevant disposal” and “exempt disposal” have the meanings assigned by Article 62.

Condition requiring repayment of a grant in case of certain disposals where owner-occupation certificate given

59.—(1) This Article applies where an application for a renovation grant has been approved by the Executive and the application for the grant was accompanied by an owner-occupation certificate.

(2) It is a condition of the grant that, where an owner makes a relevant disposal (other than an exempt disposal) of the dwelling within the period of 3 years beginning on the certified date, he shall pay to the Executive on demand the amount of the grant, reduced by one-third for each complete year which has elapsed after the certified date and before the disposal.

- (3) A condition under paragraph (2)—
- (a) shall be included among the matters required to be registered in the Statutory Charges Register; and
 - (b) shall subject to paragraphs (5) to (7) and Article 63, remain in force with respect to the dwelling for a period of 3 years from the certified date.
- (4) So long as a condition under paragraph (2) remains in force with respect to a dwelling it is binding on any person who is for the time being an owner of the dwelling.
- (5) In any case where—
- (a) there is a relevant disposal of the dwelling concerned which is an exempt disposal; or
 - (b) there is a relevant disposal of the dwelling concerned (not being an exempt disposal) for no consideration or for consideration of an amount less than that either prescribed, or calculated in accordance with a formula prescribed, by regulations made by the Department;

any condition under paragraph (2) shall cease to be in force with respect to the dwelling.

(6) On satisfaction of the liability arising from a demand under this Article, any condition under paragraph (2) shall cease to be in force with respect to the dwelling in question.

- (7) In any case where—
- (a) within the period referred to in paragraph (2) an owner makes a relevant disposal of the dwelling concerned (not being an exempt disposal), and
 - (b) the Executive is satisfied that he is elderly or infirm and is making the disposal with the intention of going to live in sheltered housing or a residential care home as his only or main residence,

the Executive may determine not to make any demand under paragraph (2) and, on the making of such a determination, any condition under that paragraph shall cease to be in force with respect to the dwelling.

(8) The expressions “relevant disposal” and “exempt disposal” have the meanings assigned by Article 62.

Conditions relating to HMO grant

60.—(1) This Article applies where an application for an HMO grant has been approved by the Executive; and in the following provisions of this Article “the house” means the house to which the eligible works relate.

(2) It is a condition of the grant that, throughout the initial period, the house will be residentially occupied or available for residential occupation, under tenancies or licences, by persons who are not connected with the owner for the time being of the house.

(3) The references in paragraph (2) to residential occupation do not include occupation for a holiday; and paragraph (3) of Article 57 applies for the purposes of paragraph (2), substituting a reference to a house for any reference to a dwelling.

(4) It is also a condition of the grant—

- (a) that if, at any time within the initial period, the Executive serves notice on the owner of the house requiring him to do so, he will, within the period of 21 days beginning on the date on which the notice was served, furnish to the Executive a statement showing how the condition in paragraph (2) is being fulfilled; and
- (b) that, if required to do so by the owner of the house, any tenant or licensee in residential occupation of the house will furnish the owner with such information as he may reasonably require to enable him to comply with a notice served under sub-paragraph (a).

(5) In any case where—

- (a) there is, with respect to the house, a breach of a condition under paragraph (2) or (4), or
- (b) at any time within the initial period the Executive has given a direction under Article 85 (power to limit number of occupants of house) with respect to the house and that direction has not been revoked or varied under that Article,

the Executive may demand that the owner for the time being of the house pay a sum equal to the amount of the grant, together with compound interest on that sum as from the certified date, calculated at such reasonable rate as the Executive may determine and with yearly rests; but the Executive may determine not to make such a demand or may demand a lesser amount.

(6) It is also a condition of the grant that, if an owner makes a relevant disposal of the house (other than an exempt disposal) within the initial period, he shall pay to the Executive on demand the amount of the grant.

(7) A condition under any of paragraphs (2), (4) and (6) (in the following provisions of this Article referred to as “an HMO condition”)—

- (a) shall be included among the matters required to be registered in the Statutory Charges Register; and
- (b) shall, subject to paragraph (9) and Article 63, remain in force with respect to the house for a period of 5 years from the certified date.

(8) So long as an HMO condition remains in force with respect to a house it is binding on any person, other than a registered housing association, who is for the time being an owner of the house.

(9) On satisfaction of the liability arising from a demand under paragraph (5) or (6), any HMO condition shall cease to be in force with respect to the house.

(10) The expressions “relevant disposal” and “exempt disposal” have the meanings assigned by Article 62.

Condition requiring repayment of grant on certain disposals in case of landlord's common parts application

61.—(1) This Article applies where a landlord's common parts application has been approved by the Executive.

(2) It is a condition of the grant that where the applicant makes a relevant disposal (other than an exempt disposal) of the building within the initial period, he shall pay to the Executive on demand the amount of the grant.

(3) A condition under paragraph (2)—

(a) shall be included among the matters required to be included in the Statutory Charges Register; and

(b) shall, subject to paragraph (5) and Article 63, remain in force with respect to the building for a period of 5 years from the certified date.

(4) So long as a condition under paragraph (2) remains in force with respect to a building it is binding on any person who is for the time being a successor in title to that interest in the building by virtue of which, under Article 43(2)(b), the applicant made his application.

(5) On satisfaction of the liability arising from a demand under this Article, any condition under paragraph (2) shall cease to be in force with respect to the building in question.

(6) The expressions "relevant disposal" and "exempt disposal" have the meanings assigned by Article 62.

Meaning of relevant disposal and exempt disposal for the purposes of Articles 58 to 61

62.—(1) A disposal, whether of the whole or part of the dwelling, is a relevant disposal for the purposes of Articles 58 to 61 if it is—

(a) a conveyance of a freehold estate or an assignment of the lease, or

(b) the grant of a lease (other than a mortgage term) for a term of more than 21 years otherwise than at a rack rent.

(2) For the purposes of paragraph (1)(b) it shall be assumed—

(a) that any option to renew or extend a lease or sub-lease, whether or not forming part of a series of options, is exercised, and

(b) that any option to terminate a lease or sub-lease is not exercised.

(3) A disposal is an exempt disposal for the purposes of Articles 58 to 61 if it is—

(a) a disposal of the whole of the dwelling and a conveyance of a freehold estate or an assignment of the lease and the person or each of the persons to whom it is made is a qualifying person as defined in paragraph (4);

(b) a vesting of the whole of the dwelling in a person taking under a will or on an intestacy;

(c) a disposal of the whole of the dwelling in pursuance of an order (not being an order for sale) made under Article 26(1) of the Matrimonial Causes (Northern Ireland) Order 1978(1) (property adjustment orders in connection with matrimonial proceedings) or Article 4 of the Inheritance (Provision for Family and Dependants) (Northern Ireland) Order 1979(2) (orders as to financial provision to be made from estate);

(d) a compulsory disposal, that is to say, a disposal to a person who has made or who would have made, or for whom another person has made or would have made, a vesting order authorising its acquisition compulsorily for the purposes for which it is acquired;

(1) 1978 NI 15

(2) 1979 NI 8

- (e) a disposal of property consisting of land included in the dwelling and used for the purposes of the dwelling; or
 - (f) a disposal under which the interest of a person entitled to assistance by way of repurchase under Part II of the Order of 1986 (assistance for owners of defective housing) is acquired in accordance with Schedule 2 to that Order.
- (4) A person is a qualifying person for the purposes of paragraph (3)(a) if—
- (a) in the case of an individual, he is—
 - (i) the person, or one of the persons, by whom the disposal is made;
 - (ii) the spouse, or former spouse, of that person or one of those persons; or
 - (iii) a member of the family of that person or one of those persons; or
 - (b) in the case of a company, it is an associated company of the company by whom the disposal is made;

and, for the purposes of sub-paragraph (b), section 416 of the Income and Corporation Taxes Act 1988⁽³⁾ (meaning of associated company) shall apply in determining whether a company is an associated company of another.

(5) For the purposes of Articles 58 to 61, the grant of an option enabling a person to call for a relevant disposal which is not an exempt disposal shall be treated as such a disposal made to him.

Repayment of grant

63.—(1) Any reference in this Article to a “grant condition” is a reference to a condition for the time being in force under paragraph (2) or (4) of Article 57, paragraph (2) of Article 58, paragraph (2) of Article 59, any of paragraphs (2), (4) and (6) of Article 60 or paragraph (2) of Article 61.

(2) If at any time while a grant condition remains in force with respect to a dwelling, house or building—

- (a) the owner of the dwelling, house or building to which the condition relates pays the amount of the grant to the Executive, or
- (b) a mortgagee of the interest of the owner in that dwelling, house or building being a mortgagee entitled to exercise a power of sale, makes such a payment,

the grant condition and any other grant conditions shall cease to be in force with respect to that dwelling, house or building.

(3) In the case of a grant condition imposed on a landlord’s common parts application any reference in paragraph (2) to the owner of the building is a reference to the applicant or any such successor in title as is referred to in Article 61(4).

(4) An amount paid by a mortgagee under paragraph (2)(b) shall be treated as part of the sums secured by the mortgage and may be discharged accordingly.

(5) The purposes authorised for the application of capital money by sections 21 and 63 of the Settled Land Act 1882⁽⁴⁾, include the making of payments under paragraph (2).

Renovation grants relating to 2 or more dwellings

64.—(1) Subject to paragraph (2), no application for a renovation grant may be made in respect of more than one dwelling.

(2) A single application may be made for a renovation grant towards the cost of works required for the provision of 2 or more dwellings by the conversion of a house or other building.

(3) 1988 c. 1

(4) 1882 c. 38

- (3) In the case of such a single application as is referred to in paragraph (2)—
- (a) for the purposes of Article 44, a separate certificate may be given in respect of each dwelling or in respect of any one or more of them;
 - (b) if the application is accompanied by more than one certificate and at least one of them is an owner-occupation certificate or a special certificate the application shall be treated as falling within Article 47 and not within Article 48;
 - (c) each dwelling shall be treated separately for the purposes of Articles 57 to 63; and
 - (d) the grant shall, for those purposes, be treated as apportioned equally between each of the dwellings, and any reference in those Articles to the amount of the grant shall be construed accordingly.