

---

STATUTORY INSTRUMENTS

---

**1992 No. 1725**

**The Housing (Northern Ireland) Order 1992**

**PART III**

**GRANTS**

**CHAPTER I**

**GRANTS TOWARDS COST OF IMPROVEMENTS AND REPAIRS, ETC.**

*Introductory*

**Interpretation of this Chapter**

**38.—**(1) In this Chapter, except where the context otherwise requires,—

“certified date” means the date certified by the Executive as the date on which the execution of the eligible works is completed to its satisfaction;

“charity” does not include a registered housing association but, subject to that, has the same meaning as in the Charities Act (Northern Ireland) 1964(1);

“common parts”, in relation to a building, includes the structure and exterior of the building and common facilities provided, whether in the building or elsewhere, for persons who include the occupiers of one or more flats in the building;

“disabled person” has the meaning assigned by Article 52(6);

“dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it;

“the eligible works” shall be construed in accordance with Article 54(2)(a);

“the estimated expense” shall be construed in accordance with Article 54(2);

“flat”, in relation to a building, means a dwelling which is a separate set of premises, whether or not on the same floor, divided horizontally from some other part of the building;

“group repair scheme” has the meaning assigned by Article 65(1);

“house in multiple occupation” has the same meaning as in Part IV;

“improvement” includes alteration and enlargement;

“initial period” means the period of 5 years beginning with the certified date;

“landlord’s common parts application” has the meaning assigned by Article 43(2)(b);

“occupying tenant” has the meaning assigned by Article 43(2)(a);

“owner”, in relation to a dwelling, means the person who—

- (a) is for the time being entitled to receive from a lessee of the dwelling (or would be so entitled if the dwelling were let) a rent of not less than two-thirds of the net annual value of the dwelling; and
- (b) is not himself liable as lessee of the dwelling, or of property which includes the dwelling, to pay such a rent to a superior landlord;

and, in relation to a house in multiple occupation, “owner” has the same meaning as in Article 2 of the Order of 1981;

“owner’s interest” has the meaning assigned by Article 42(2);

“participating landlord” has the meaning assigned by Article 43(3);

“preliminary or ancillary services and charges” has the meaning assigned by Article 40(3);

“the relevant works” has the meaning assigned by Article 40(2)(a);

“tenancy” includes a sub-tenancy and an agreement for a tenancy or sub-tenancy;

“tenant” includes a sub-tenant and any person deriving title under the original tenant or sub-tenant;

“tenants’ common parts application” has the meaning assigned by Article 43(2)(c).

(2) Article 2(4) and (5) of the Order of 1981 (meaning of “members of a person’s family”) shall apply in determining whether a person is a member of another’s family for the purposes of this Part.

### **Grants for improvements and repairs**

**39.**—(1) In accordance with this Chapter, grants are payable by the Executive towards the cost of works required—

- (a) for the improvement or repair of dwellings, houses in multiple occupation or the common parts of buildings containing one or more flats; and
- (b) for the provision of dwellings or houses in multiple occupation by the conversion of a house or other building; and
- (c) for the provision of facilities for disabled persons in dwellings and in the common parts of buildings containing one or more flats.

(2) In this Chapter—

- (a) a grant relating to the improvement or repair of a dwelling or to the provision of dwellings by the conversion of a house or other building is referred to as a “renovation grant”; and
- (b) a grant relating to the improvement or repair of the common parts of a building is referred to as a “common parts grant”; and
- (c) a grant for the provision of facilities for a disabled person in a dwelling or in the common parts of a building containing one or more flats is referred to as a “disabled facilities grant”; and
- (d) a grant for the improvement or repair of a house in multiple occupation or for the provision of a house in multiple occupation by the conversion of a house or other building is referred to as an “HMO grant”;

and in the following provisions of this Chapter the expression “grant”, without more, means any of these types of grant.

(3) This Chapter shall have effect in place of Part III of the Order of 1983 (grants towards works of improvement, repair and conversion); but that Part shall continue to apply to any application for a grant—

- (a) made under Article 50 of that Order, and

- (b) received by the Executive before the day appointed under Article 1(3) for the coming into operation of this Part.

### **Applications for grants**

**40.**—(1) No grant shall be paid unless an application for it is made to the Executive in accordance with the provisions of this Chapter and is approved by it.

(2) An application for a grant shall be in writing and shall specify the premises to which it relates and contain—

- (a) particulars of the works in respect of which the grant is sought (in this Part referred to as “the relevant works”);
- (b) unless the Executive otherwise directs in any particular case, an estimate from a contractor acceptable to the Executive of the cost of carrying out the relevant works;
- (c) particulars of any preliminary or ancillary services and charges in respect of the cost of which the grant is also sought; and
- (d) such other particulars as may be prescribed.

(3) In this Chapter “preliminary or ancillary services and charges”, in relation to an application for a grant, means services and charges which—

- (a) relate to the application and the preparation for and the carrying out of works; and
- (b) are specified for the purposes of this paragraph by the Department.

### *Preliminary conditions*

#### **The age of the property**

**41.**—(1) The Executive may not entertain an application for a grant, other than a disabled facilities grant, unless it is satisfied that, at the date of the application, the dwelling, common parts or house or other building concerned was provided not less than the relevant period before that date.

(2) In paragraph (1)—

- (a) “provided” means provided by construction or conversion; and
- (b) “the relevant period” means 10 years or such other period as the Department may by order provide.

#### **The interest of the applicant in the property**

**42.**—(1) Subject to paragraphs (4) and (5), the Executive may not entertain an application for a grant, other than a common parts grant, unless it is satisfied that—

- (a) the applicant has, or proposes to acquire, an owner’s interest in every parcel of land on which the relevant works are to be carried out; or
- (b) in the case of an application for a renovation grant (other than an application in respect of works required for the provision of one or more dwellings by the conversion of a house or other building), the applicant is a tenant of the dwelling (alone or jointly with others) but does not have, or propose to acquire, an owner’s interest in the dwelling; or
- (c) in the case of an application for a disabled facilities grant in respect of works to a dwelling, the applicant is a tenant of the dwelling (alone or jointly with others) but does not have, or propose to acquire, an owner’s interest in the dwelling; or
- (d) in the case of an application for a disabled facilities grant in respect of works to the common parts of a building containing one or more flats, the applicant is a tenant of a flat

in the building (alone or jointly with others) but does not have, or propose to acquire, such an owner's interest as is referred to in sub-paragraph (a);

and references in this Chapter to an "owner's application" or a "tenant's application" shall be construed accordingly.

(2) In this Chapter "owner's interest" means an interest which—

- (a) is held by the applicant alone or jointly with others; and
- (b) is either a freehold interest in possession (whether legal or equitable) or a tenancy granted or extended for a term of years of which not less than 5 years remain unexpired at the date of the application.

(3) Where the Executive entertains an owner's application made by a person who proposes to acquire the necessary interest, it shall not approve the application until it is satisfied that he has done so.

(4) In accordance with directions given by the Department, the Executive may treat the condition in paragraph (1)(a) as fulfilled by a person who has, or proposes to acquire, an owner's interest in only part of the land concerned.

(5) This Article does not apply to—

- (a) an application for a grant by a religious denomination or body, or on behalf of a religious denomination or body by the trustees of the denomination or body; and
- (b) an application for a grant made by a charity or on behalf of a charity by the trustees of the charity.

(6) The Executive may not entertain a tenant's application unless—

- (a) the tenant is required by the terms of his tenancy to carry out the relevant works and he signed an agreement in respect of the tenancy before 5th December 1991; or
- (b) his application is for a disabled facilities grant.

### **Common parts grants: preliminary conditions**

**43.—**(1) The Executive may not entertain an application for a common parts grant unless it is satisfied—

- (a) that, at the date of the application, at least the required proportion of the flats in the building concerned is occupied by occupying tenants; and
- (b) that the application is either a landlord's common parts application or a tenants' common parts application.

(2) In this Chapter—

- (a) an "occupying tenant", in relation to a flat in a building, is a person—
  - (i) who has (alone or jointly with others) such an interest in the flat as is mentioned in any of sub-paragraphs (b) to (e) of paragraph (4); and
  - (ii) who occupies the flat as his only or main residence;
- (b) a "landlord's common parts application", in relation to works to the common parts of a building, is an application for a common parts grant made by a person who—
  - (i) has (alone or jointly with others) such an interest in the building as is mentioned in sub-paragraph (a) or sub-paragraph (b) of paragraph (4); and
  - (ii) has a duty or power to carry out the relevant works; and
- (c) a "tenants' common parts application", in relation to works to the common parts of a building, is an application for a common parts grant made, subject to paragraph (3), by at least three-quarters of the occupying tenants of the building who, under their tenancies,

have a duty to carry out, or to make a contribution in respect of the carrying out of, some or all of the relevant works;

and in any case where a tenancy is held by 2 or more persons jointly, those persons shall be regarded as a single occupying tenant in deciding, for the purposes of sub-paragraph (c), whether the application is made by at least three-quarters of the occupying tenants referred to in that paragraph.

(3) For the purposes of sub-paragraph (c) of paragraph (2), a tenant whose tenancy is of a description specified for the purpose of that paragraph by an order made by the Department shall be treated as an occupying tenant falling within that sub-paragraph; and a person who falls within sub-paragraph (b)(i) of that paragraph and has a duty or power to carry out any of the relevant works may also join in a tenants' common parts application; and, where such a person does join in an application, he is in this Chapter referred to as a "participating landlord".

(4) The interests referred to in paragraph (2) are as follows—

- (a) a freehold estate in possession (whether legal or equitable);
- (b) a tenancy granted or extended for a term of years of which not less than 5 years remain unexpired at the date of the application;
- (c) a protected tenancy within the meaning of Article 3(1) of the Rent (Northern Ireland) Order 1978(2);
- (d) a statutory tenancy within the meaning of Article 4(5) of that Order; and
- (e) a tenancy which satisfies such conditions as may be specified by order made by the Department.

(5) The required proportion mentioned in paragraph (1) is three-quarters or such other proportion as may be—

- (a) specified for the purposes of this Article by an order made by the Department; or
- (b) approved by the Department, in relation to a particular case or description of case, on application made by the Executive.

#### **Certificate as to future occupation, etc.**

**44.**—(1) Subject to paragraph (9) and Article 64, the Executive may not entertain an application for a renovation grant or a disabled facilities grant unless it is accompanied by a certificate falling within one of paragraphs (2) to (5) in respect to the dwelling, building or flat to which the application relates.

(2) A certificate under this paragraph (an "owner-occupation certificate") certifies—

- (a) that the applicant has, or proposes to acquire, an owner's interest in the dwelling or building; and
- (b) that he, or a member of his family, intends to live in the dwelling or, as the case may be, a flat in the building as his (or that member's) only or main residence for a period of not less than 12 months beginning on the certified date.

(3) A certificate under this paragraph (a "tenant's certificate") certifies—

- (a) that the applicant is a tenant of the dwelling who falls within paragraph (5) of Article 42 or that his application is a tenant's application for a disabled facilities grant; and
- (b) that he or a member of his family intends to live in the dwelling or, as the case may be, a flat in the building as his (or that member's) only or main residence.

(4) A certificate under this paragraph (a “certificate of intended letting”) certifies that the applicant has or proposes to acquire an owner’s interest in the dwelling or building and intends to or already has let the dwelling or, as the case may be, one or more flats in the building as a residence—

- (a) to some one other than a member of his family; and
- (b) except where the tenancy relates to a disabled facilities grant, for a period of not less than 5 years beginning on the certified date.

(5) A certificate under this paragraph (a “special certificate”) certifies that the applicant has, or proposes to acquire, an owner’s interest in the dwelling or building and is an applicant of a class prescribed for the purposes of this Article.

(6) The Executive may not entertain a tenant’s application unless—

- (a) it is also accompanied by a certificate of intended letting made by the person who at the time of the application is the landlord under the tenancy; or
- (b) the Executive considers it unreasonable in the circumstances to seek such a certificate.

(7) The Executive may not entertain an application for an HMO grant unless it is accompanied by a certificate that the applicant has or proposes to acquire an owner’s interest in the house in question and intends—

- (a) to license the use of part of it as a residence as mentioned in sub-paragraphs (a) and (b) of paragraph (4), or
- (b) to let part of it as a residence as mentioned in those sub-paragraphs,

or has already so licensed or let part of it.

(8) The Executive may not entertain an application for a common parts grant unless it is accompanied by a certificate signed by the applicant or, as the case may be, by each of the applicants which—

- (a) specifies the interest of the applicant or, as the case may be, each of the applicants in the building or in each flat in the building; and
- (b) certifies that the required proportion, within the meaning of Article 43, of the flats in the building is occupied by occupying tenants.

(9) This Article does not apply to—

- (a) an application for a grant by a religious denomination or body, or on behalf of a religious denomination or body by the trustees of the denomination or body; and
- (b) an application for a grant made by a charity or on behalf of a charity by the trustees of the charity.

### *Restrictions on grant aid*

#### **Certain dwellings and works excluded from grant aid**

**45.—**(1) In each of the cases in paragraph (2), the Executive may not approve an application for a grant unless—

- (a) it is an application which it is required to approve by virtue of Article 50 and completion of the relevant works is necessary to comply with a notice under Article 41 of the Order of 1981 (repair notice requiring works to render premises fit for human habitation); or
- (b) it is an application which it is required to approve by virtue of Article 51.

(2) The cases referred to in paragraph (1) are as follows—

- (a) if, in the case of an application in respect of a dwelling or house which is not fit for human habitation, the Executive considers that the carrying out of the relevant works will not be sufficient to cause the dwelling or house to be fit for human habitation;
  - (b) if or to the extent that the relevant works have been completed before the date of service of the notice of refusal under Article 54(1);
  - (c) if, within the period of 3 months beginning on the date of service of the notice of refusal, the Executive intends to make a demolition or closing order relating to the dwelling, house or building under Article 35 or 38 of the Order of 1981;
  - (d) if, within the period of 12 months beginning on the date of service of the notice of refusal, the Executive intends to declare a clearance area under Article 32 of the Order of 1981 or a re-development area under Article 47 of that Order for an area which includes the dwelling, house or building;
  - (e) if the dwelling, house or building is or forms part of a building of a class designated under Article 4 of the Order of 1986 (defective dwellings), the applicant is eligible for assistance under Part II of that Order in respect of a defective dwelling which is or forms part of the dwelling, house or building concerned and the relevant works are, within the meaning of that Part, work required to reinstate that defective dwelling; and
  - (f) if, in the case of an application for a common parts grant, the Executive considers that the carrying out of the relevant works will not be sufficient to cause the building to meet the requirements mentioned in sub-paragraphs (a) to (e) of Article 46(2) of the Order of 1981 (fitness for human habitation).
- (3) Where a group repair scheme has been approved by the Department, the Executive may not approve an application for a grant in so far as it relates to works which will be carried out in pursuance of agreements entered into, or to be entered into, in pursuance of the scheme.
- (4) The Executive may not approve an application for a grant so far as it relates to works which are of a description excluded from grant aid by directions made by the Department.
- (5) Unless it is an application which it is required to approve by virtue of Article 51, the Executive may not approve an application for an HMO grant so far as it relates to works—
- (a) which relate to means of escape from fire or other fire precautions; and
  - (b) which are required to be carried out under or by virtue of any statutory provision (whenever passed).
- (6) If directions made by the Department under paragraph (4) specify a description of works for which grant aid is not to be available without its consent, the Executive may not approve an application for a grant, so far as it relates to works of that description, unless the Department has given its consent with respect to those works.
- (7) The Department may give its consent for the purposes of paragraph (6) with respect to applications generally or to a particular description of applications.

### **Restriction on grants for works already begun**

**46.**—(1) Subject to paragraphs (2) and (3), the Executive may not approve an application for a grant if the relevant works have been commenced before the application is approved and shall serve a notice of refusal to that effect on the applicant.

(2) Paragraph (1) does not apply to—

- (a) an application which the Executive is required to approve by virtue of Article 50 if completion of the relevant works is necessary to comply with a notice under Article 41 of the Order of 1981 (repair notice requiring works to render premises fit for human habitation); or

- (b) an application which the Executive is required to approve by virtue of Article 51.
- (3) Where the relevant works have not been completed, the Executive may approve the application for a grant if it is satisfied that there were good reasons for beginning the works before the application was approved.
- (4) Where the Executive decides to approve an application in accordance with paragraph (3)—
  - (a) it may, with the consent of the applicant, treat the application as varied so that the relevant works are limited to those that remain to be completed at the date of the application; and
  - (b) in determining for the purposes of Articles 51, 52 and 53 the physical condition of the dwelling, common parts or house or other building concerned, it shall consider the condition of the premises at the date of the application.

### **Owner-occupiers and tenants**

**47.**—(1) Where an application for a grant is accompanied by an owner-occupier certificate, a tenant's certificate or a special certificate, then, if the financial resources of the applicant exceed the applicable amount, the amount of any grant which may be paid shall be reduced from what it would otherwise have been in accordance with regulations made by the Department with the consent of the Department of Finance and Personnel.

(2) For the purposes of this Chapter, the Department may by regulations made with the consent of the Department of Finance and Personnel—

- (a) make provision for the determination of the amount which is to be taken to be the financial resources of an applicant for a grant; and
- (b) make provision for the determination of the applicable amount referred to in paragraph (1).
- (3) Without prejudice to the generality of paragraph (2), regulations under this Article—
  - (a) may make provision for account to be taken of the income, assets, needs and outgoings not only of the applicant himself but also of his spouse, any person living with him or intending to live with him and any person on whom he is dependent or who is dependent on him;
  - (b) may make provision for amounts specified in or determined under the regulations to be taken into account for particular purposes.

### **Landlords**

**48.**—(1) Subject to Article 64, this Article applies—

- (a) where an application for a grant is accompanied by a certificate of intended letting with respect to a dwelling and is not a tenant's application;
- (b) where an application for an HMO grant is accompanied by a certificate under Article 44(7);
- (c) where, by virtue of Article 42(5) or 44(9), Article 42 or, as the case may be, Article 44 does not apply to an application for a grant; and
- (d) where an application for a grant is a landlord's common parts application.

(2) Subject to the following provisions of this Article and to Article 54(5), the amount of the grant (if any) shall be such as may be determined by the Executive, having regard to—

- (a) the cost of the relevant works;
- (b) where a regulated tenancy (within the meaning of the Rent (Northern Ireland) Order 1978(3)) subsists in the dwelling, the amount of the rent recoverable and of any increase which might reasonably be expected in that rent to take account of the relevant works, when completed;



- (c) where the dwelling is currently let, but sub-paragraph (b) does not apply, the amount of the rent payable and of any increase which might reasonably be expected in that rent to take account of the relevant works, when completed;
  - (d) where the dwelling is not currently let, the amount of rent which might reasonably be expected to be obtained on a letting of the dwelling on the open market when the relevant works are complete; and
  - (e) such other matters as the Department may direct.
- (3) In making a determination under paragraph (2), the Executive may take account—
- (a) in relation to sub-paragraph (b) of that paragraph, of any certificate of future rent issued under Article 32 of the Rent (Northern Ireland) Order 1978<sup>(4)</sup>; and
  - (b) in relation to sub-paragraph (c) or (d) of that paragraph, of any assessment of rent undertaken by a rent officer in pursuance of regulations made under paragraph (4).
- (4) The Department may by regulations make such provision as it thinks fit with respect to assessments of rent for the purposes of paragraph (3)(b).
- (5) Without prejudice to the generality of paragraph (4), the regulations may, in particular, make provision as to—
- (a) the functions of the rent officer;
  - (b) the procedure to be followed in making an assessment of rent; and
  - (c) the basis on which an assessment of rent is to be made.
- (6) In paragraphs (3) and (5) “rent officer” means the rent officer nominated under paragraph 3 of Schedule 5 to the Rent (Northern Ireland) Order 1978 and includes the deputy rent officer.
- (7) Where the applicant is a charity or the application is in respect of a religious denomination or body, the Executive shall also have regard—
- (a) to any obligation or practice on the part of the applicant to let dwellings at a rent less than that which could be obtained on the open market;
  - (b) to any financial resources available to the applicant in addition to the rent from the dwelling; and
  - (c) generally to the circumstances of the applicant concerned.
- (8) In the case of an application for an HMO grant, in paragraphs (2) to (7), any reference to rent shall be construed as a reference to the aggregate of the consideration under licences or lettings of the house in question and any reference to letting a dwelling shall be construed accordingly.
- (9) Where the application is for a grant in respect of the residence house of a religious denomination, paragraphs (b) to (d) of paragraph (2) shall not apply and the Executive shall also have regard—
- (a) to any financial resources available to the applicant; and
  - (b) generally to the circumstances of the applicant.
- (10) In a case where the application is a landlord’s common parts application, each of the dwellings in the building concerned shall be taken into account under sub-paragraph (b) or (c) of paragraph (2) so as to determine an aggregate rent for the purposes of that paragraph.

### **Tenants' common parts applications**

**49.—**(1) This Article applies where an application for a grant is a tenants' common parts application.

---

(4) 1978 NI 20

(2) The Executive shall decide how much of the cost of the relevant works is attributable to the applicants (in this Article referred to as “the attributable cost”); and, for the purposes of this Article, the attributable cost is an amount equal to the proportion, referred to in paragraph (3), of the cost of the relevant works.

(3) The proportion mentioned in paragraph (2) is as follows—

- (a) where it can be ascertained, the proportion that the aggregate of each of the applicant’s respective liabilities to carry out or contribute to the carrying out of the relevant works bears to the aggregate of all such liabilities on the part of all persons (including the applicants) so liable; or
- (b) where the proportion mentioned in sub-paragraph (a) cannot be ascertained, the proportion that the number of applicants bears to the number of persons (including the applicants) liable to carry out or contribute to the carrying out of works to the building;

and in any case where the interest by virtue of which the liability referred to in sub-paragraph (b) arises is held jointly by 2 or more persons, those persons shall be regarded as a single person in deciding for the purposes of that sub-paragraph the number of persons so liable.

(4) The Executive shall then apportion the attributable cost to each of the applicants—

- (a) in a case where the attributable cost is calculated by reference to the proportion mentioned in sub-paragraph (a) of paragraph (3), according to the proportion that his liabilities to carry out or contribute to the carrying out of the relevant works bears to the aggregate of the applicants’ liabilities mentioned in that sub-paragraph; or
- (b) in a case where the attributable cost is calculated by reference to the proportion mentioned in sub-paragraph (b) of that paragraph, equally;

and the amount of grant payable shall be the aggregate of the grants that would be payable to each of the applicants under Article 47 or, in the case of a participating landlord, Article 48 if each of the applicants was an individual applicant under Article 47 or, as the case may be, Article 48 in respect of his apportionment of the attributable cost under sub-paragraph (a) or, as the case may be, sub-paragraph (b).

### *Approvals, notification and payment*

#### **Duty to approve applications to render certain dwellings fit for human habitation**

**50.**—(1) Subject to the preceding provisions of this Chapter, on receipt of an application for a renovation grant (other than an application in respect of works required for the provision of one or more dwellings by the conversion of a house or other building), the Executive shall determine whether the dwelling is fit for human habitation.

(2) In any case where the Executive—

- (a) determines under paragraph (1) that a dwelling is not fit for human habitation, and
- (b) considers that completion of the relevant works will cause the dwelling to be fit for human habitation, and
- (c) is satisfied that completion of the relevant works is the most satisfactory course of action,

then, subject to paragraphs (4) and (5), it shall approve the application so far as it relates to that dwelling.

(3) If, in the case of any application, the Executive considers that the relevant works include works for which assistance is available under Part II of the Order of 1986 (assistance for owners of defective housing), it shall treat the application as if the relevant works did not include those works.

(4) If, in the case of any application, other than one to which Article 51 or 53(6) applies, the Executive considers that the relevant works include works in addition to those which will cause the dwelling to be fit for human habitation (“the additional works”), it shall treat the application—

- (a) as an application under this Article in so far as it relates to works other than the additional works; and
- (b) as an application under Article 53 in so far as it relates to the additional works;

but, for the purposes of Article 54 and the subsequent provisions of this Chapter, the 2 applications shall be treated as one application.

(5) The Executive shall not be under a duty under this Article to approve an application—

- (a) which is accompanied by a certificate of intended letting and is not a tenant’s application; or
- (b) if it expects, within the period of 12 months beginning with the date of receipt of the application, to prepare a group repair scheme in respect of a building which includes or comprises the dwelling.

(6) Article 46 of the Order of 1981 (fitness for human habitation) applies for the purposes of this Chapter, as it applies for the purposes of that Order.

(7) In deciding whether it is satisfied as mentioned in paragraph (2)(c), the Executive shall have regard to any guidance given under Article 46A of the Order of 1981 and, for that purpose, the Executive shall treat any guidance given in respect of the serving of a repair notice under Article 41(1) of that Order as guidance given in respect of the completion of the relevant works.

#### **Duty to approve applications arising out of certain statutory notices**

**51.** Subject to Article 50(3), the Executive shall approve an application falling within Article 48(1) (in this Article referred to as a “landlord’s application”) if completion of the relevant works is necessary to comply with a notice or notices under either of the following provisions—

- (a) Article 80 of this Order (notice requiring works to render premises fit for number of occupants);
- (b) Article 41 of the Order of 1981 (repair notice requiring works to render premises fit for human habitation).

#### **Approval of applications to provide certain facilities for the disabled**

**52.—(1)** The Executive shall not approve an application for a disabled facilities grant unless it is satisfied—

- (a) that the relevant works are necessary and appropriate to meet the needs of the disabled occupant; and
- (b) that it is reasonable and practicable to carry out the relevant works, having regard to the age and condition of the dwelling or building;

and, in considering the matter specified in sub-paragraph (a), the Executive shall consult the relevant Health and Social Services Board.

(2) The Executive shall not approve an application for a disabled facilities grant in respect of works to the common parts of a building containing one or more flats unless it is satisfied that the applicant has a power or is under a duty to carry out the relevant works.

(3) Subject to the preceding provisions of this Chapter, the Executive shall approve an application for a disabled facilities grant if the relevant works are for any one or more of the following purposes —

- (a) facilitating access by the disabled occupant to and from the dwelling or the building in which the dwelling or, as the case may be, flat is situated;
- (b) facilitating access by the disabled occupant to a room used or usable as the principal family room;
- (c) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room used or usable for sleeping;
- (d) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room in which there is a lavatory, bath, shower or washhand basin or facilitating the use by the disabled occupant of such a facility;
- (e) facilitating the preparation and cooking of food by the disabled occupant;
- (f) improving any heating system in the dwelling to meet the needs of the disabled occupant or, if there is no existing heating system in the dwelling or any such system is unsuitable for use by the disabled occupant, providing a heating system suitable to meet his needs;
- (g) facilitating the use by the disabled occupant of a source of power, light or heat by altering the position of one or more means of access to or control of that source or by providing additional means of control; and
- (h) facilitating access and movement by the disabled occupant around the dwelling in order to enable him to care for a person who is normally resident in the dwelling and is in need of such care.

(4) Subject to the preceding provisions of this Chapter, the Executive may approve an application for a disabled facilities grant where the relevant works do not fall within paragraph (3) but are for the purpose of making the dwelling or building suitable for the accommodation, welfare or employment of the disabled occupant.

(5) In this Article “the disabled occupant” means the disabled person for whose benefit it is proposed to carry out any of the relevant works.

(6) In this Part “disabled person” means—

- (a) a person who is registered in pursuance of arrangements made under Article 15(1) of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(5)</sup>; or
- (b) any other person for whose welfare arrangements have been made under that provision or, in the opinion of the relevant Health and Social Services Board, might be made under it.

(7) For the purposes of this Article “the relevant Health and Social Services Board” means the Health and Social Services Board for the area in which the dwelling is situated.

### **Discretionary approval of certain applications**

**53.—**(1) Subject to the preceding provisions of this Chapter, the Executive may approve an application for a grant, other than a common parts grant, in any case where—

- (a) the relevant works go beyond or are other than those which will cause the dwelling to be fit for human habitation, but
- (b) the Executive is satisfied that the relevant works are necessary for one or more of the purposes set out in paragraph (3).

(2) Subject to the preceding provisions of this Chapter, the Executive may approve an application for a common parts grant if the Executive is satisfied that the relevant works—

- (a) are necessary for one or more of the purposes set out in sub-paragraphs (a) and (c) to (f) of paragraph (3); or

- (b) will cause the building to meet the requirements mentioned in sub-paragraphs (a) to (e) of Article 46(2) of the Order of 1981.
- (3) The purposes referred to in paragraph (1) are—
  - (a) to put the dwelling or building in reasonable repair;
  - (b) to provide the dwelling by the conversion of a house or other building;
  - (c) to provide adequate facilities for space heating;
  - (d) to provide satisfactory internal arrangements;
  - (e) to ensure that the dwelling or building complies with such requirements with respect to construction or physical condition as may for the time being be specified by the Department for the purposes of this Article; and
  - (f) to ensure that there is compliance with such requirements with respect to the provision or condition of services and amenities to or within the dwelling or building as may for the time being be so specified.
- (4) In the case of an application for an HMO grant, any reference in paragraphs (1) and (3) to the dwelling shall be construed as a reference to the house.
- (5) In considering whether to approve an application for a grant in exercise of its discretion under paragraph (1) or (2), the Executive shall have regard to the expected life of the building (taking account, where appropriate, of the effect of carrying out the relevant works).
- (6) Subject to the preceding provisions of this Chapter, the Executive may approve an application falling within Article 48(1) (in this Article referred to as a “landlord’s application”) if—
  - (a) the relevant works are for the purpose of rendering the dwelling or house to which the application relates fit for human habitation, or
  - (b) in the case of an application for an HMO grant, the relevant works are for the purpose of enabling the house in question to meet one or more of the requirements in Article 80(2),and (in either case) the Executive is satisfied that the relevant works are necessary for the purpose concerned.
- (7) If in the opinion of the Executive the relevant works are more or less extensive than is necessary to achieve the result referred to in sub-paragraph (b) of paragraph (2) or any of the purposes set out in paragraph (3), or, as the case may be, the purpose falling within paragraph (6), the Executive may, with the consent of the applicant, treat the application as varied so that the relevant works are limited to or, as the case may be, include such works as seem to the Executive to be necessary for that purpose.
- (8) In determining what is “reasonable repair”, in relation to a dwelling or building for the purposes of paragraph (3)(a), the Executive—
  - (a) shall have regard to the age and character of the dwelling or building and the locality in which it is situated; and
  - (b) shall disregard the state of internal decorative repair.
- (9) In the exercise of the powers conferred by sub-paragraphs (e) and (f) of paragraph (3), the Department—
  - (a) may specify requirements generally or for particular cases; and
  - (b) may specify different requirements for different areas.

**Approval and refusal of applications**

**54.**—(1) The Executive shall, by notice in writing, notify an applicant for a grant as soon as reasonably practicable, and, in any event, not later than 6 months after the date of the application concerned, whether the application is approved or refused.

(2) Where the Executive decides to approve an application for a grant, it shall determine—

- (a) which of the relevant works, taking into account any variation of the application under Article 46(4)(a) or Article 53(7), are eligible for grant (in this Chapter referred to as “the eligible works”);
- (b) the amount of the expenses which in its opinion are properly to be incurred in the execution of the eligible works;
- (c) the amount of the costs which in its opinion have been or are to be properly incurred with respect to preliminary or ancillary services and charges; and
- (d) the amount of grant it has decided to pay in respect of the eligible works, taking into account sub-paragraphs (b) and (c), paragraph (5) and such of Articles 47 to 53 as may be applicable;

and shall specify in the notice under paragraph (1) the eligible works, the total of the amounts referred to in sub-paragraphs (b) and (c) (in this Chapter referred to as “the estimated expense”) and the amount of the grant.

(3) Where an application for a grant is approved, then, except—

- (a) with the consent of the Department, or
- (b) as provided by Article 56(1),

the Executive may not impose any condition in relation to the approval or making of the grant, whether purporting to operate by way of a condition of the grant, a personal covenant or otherwise.

(4) If, after an application for a grant has been approved, the Executive is satisfied that, owing to circumstances beyond the control of the applicant,—

- (a) the eligible works cannot be, or could not have been, carried out on the basis of the amount of expenses referred to in paragraph (2)(b), or
- (b) the eligible works cannot be, or could not have been, carried out without carrying out additional works which could not have been reasonably foreseen at the time the application was made,

the Executive may re-determine the estimated expense and, subject to paragraph (5), the amount of the grant.

(5) The Department may, if it thinks fit, by order specify a maximum amount, or a formula for calculating a maximum amount, of grant which the Executive may pay in respect of an application for a grant; and the Executive may not pay any grant in excess of that amount.

**Payment of grants**

**55.**—(1) Where the Executive has approved an application for a grant, it shall pay the grant, subject to paragraph (3) and to Articles 70 and 71.

(2) The grant may be paid—

- (a) in whole after the completion of the eligible works, or
- (b) in part by instalments as the works progress and the balance after completion of the works.

(3) The payment of a grant, or part of a grant, is conditional upon—

- (a) the eligible works or the corresponding part of the works being executed to the satisfaction of the Executive; and

- (b) the Executive being provided with an acceptable invoice, demand or receipt for payment for the works and any preliminary or ancillary services and charges in respect of which the grant or part of the grant is to be paid.
- (4) For the purposes of paragraph (3) an invoice, demand or receipt is acceptable if it satisfies the Executive and is not given by the applicant or a member of his family.
- (5) Where a grant is paid by instalments, the aggregate of the instalments paid before the completion of the eligible works shall not at any time exceed nine-tenths of the amount of the grant.

### *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<sup>(6)</sup> (property adjustment orders in connection with matrimonial proceedings) or Article 4 of the Inheritance (Provision for Family and Dependants) (Northern Ireland) Order 1979<sup>(7)</sup> (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;
  - (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

---

<sup>(6)</sup> 1978 NI 15

<sup>(7)</sup> 1979 NI 8

- (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<sup>(8)</sup> (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<sup>(9)</sup>, 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) 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.

(8) 1988 c. 1  
(9) 1882 c. 38

### *Group repair schemes*

#### **Group repair schemes and persons eligible to participate**

**65.**—(1) In accordance with a scheme under this Article prepared by the Executive and approved by the Department, the Executive may, with the consent of the persons participating in the scheme, enter into agreements to secure the carrying out of such external works to qualifying buildings to which the scheme relates as will ensure that, on completion of the works, the exterior of those buildings will be in reasonable repair; and in this Chapter such a scheme is referred to as a “group repair scheme”.

(2) The approval of the Department under paragraph (1) may be given either to a specific scheme or generally to schemes which fulfil such criteria as the Department may specify; and any such approval may be made conditional upon compliance with requirements specified by the Department.

(3) Subject to paragraphs (4) and (5), every person who, at the date of the approval of the scheme, has an owner’s interest in a dwelling or other premises comprised in a building to which a group repair scheme relates and who fulfils the conditions in paragraph (6) is eligible to participate in the scheme as an assisted participant.

(4) A registered housing association (within the meaning of Article 3) which has an owner’s interest in a dwelling or other premises comprised in a building to which a group repair scheme relates is eligible to participate in the scheme, but only as an unassisted participant.

(5) The Executive may participate in a group repair scheme by including in the scheme a dwelling or other premises comprised in a building in which it has an owner’s interest.

(6) The conditions referred to in paragraph (3) are—

- (a) that, as respects the dwelling or other premises in which he has an owner’s interest, the person concerned either is able to give possession of any part of the building to which external works are proposed to be carried out or has the consent of the occupier of that part to the carrying out of those works; and
- (b) that, if the owner’s interest which he has is an interest in a dwelling and this paragraph is not excluded by paragraph (7), he gives a certificate of future occupation which falls within paragraph (2) or (4) of Article 44; and
- (c) that, if the owner’s interest which the person concerned has is an interest in a house in multiple occupation and that person is not a charity or the trustee of a charity, he gives a certificate under Article 44(7).

(7) Paragraph (6)(b) does not apply if—

- (a) the person concerned is a charity or the trustee of a charity; or
- (b) the person concerned is a religious denomination or body or the trustee of such a denomination or body, acting on its behalf, and the dwelling is the residence of a minister of religion.

(8) If the Department so directs in the case of any scheme or any description of scheme, such of the provisions of this Article and Articles 66 to 68 as are specified in the direction shall not apply in relation to that scheme or, as the case may be, in relation to a scheme of that description.

(9) The power to give directions under paragraph (8) may be exercised so as to make different provision for different cases, different descriptions of cases and different areas.

#### **Qualifying buildings and external works, etc.**

**66.**—(1) A building is not a qualifying building in relation to a group repair scheme unless, at the time the scheme is prepared, the whole or some part of the exterior of the building is not in reasonable

repair and that lack of reasonable repair affects at least 75 per cent. of the houses contained in the building.

(2) Every group repair scheme shall relate to at least one qualifying building (in this Article referred to as “the primary building”) which was constructed so as to comprise not less than 4 separate houses and may also relate to one or more other qualifying buildings if the following conditions are fulfilled with respect to each of them—

- (a) the building was constructed so as to comprise at least one house and is contiguous or adjacent to the primary building; and
- (b) the exterior of the building is not in reasonable repair and is in need of works similar to those required to the exterior of the primary building; and
- (c) carrying out the works to the building and the primary building at the same time is the most effective way of securing the repair of each of them.

(3) The question whether a building was constructed so as to comprise not less than 4 houses or at least one house shall be determined according to the configuration of the building at the date of its construction.

(4) For the purposes of this Article—

- (a) a terrace of houses shall be regarded as one building except that, if it appears appropriate to the Executive to do so, having regard in particular to the requirements of paragraph (1), it may treat part only of the terrace as a building; and
- (b) if, apart from this sub-paragraph, one building would be regarded as containing 2 or more purpose-built flats and one or more houses, the part of the building containing the purpose-built flats and the part or parts of the building containing the houses shall be regarded as separate buildings.

(5) In relation to a group repair scheme, “external works” are works to any part of the exterior of a building to which the scheme relates and, so far only as may be necessary to give satisfactory effect to such works, additional works to other parts of the building.

(6) For the purposes of this Chapter, the exterior of a building means—

- (a) any part thereof which is exposed to the elements of wind and rain or otherwise faces into the open air (including, in particular, roofs, chimneys, walls, doors, windows, rainwater goods and external pipework); and
- (b) the curtilage of the building, including any wall within the curtilage which is constructed as a retaining wall or otherwise to protect the structure of the building;

and, in relation to works to any part of the curtilage referred to in sub-paragraph (b), the reference in paragraph (5) to additional works to other parts of the building includes a reference to additional works on land outside the curtilage.

(7) In this Article—

- (a) “house” means a dwelling which is not a flat (and, accordingly, does not include a house constructed as a house in multiple occupation); and
- (b) a “purpose-built flat” means a part of a building which, at the date of the construction of the building, was constructed as a flat.

(8) For the purposes of this Chapter, unless the exterior of a building is substantially free from rising or penetrating damp, it shall not be regarded as in reasonable repair.

### **Contributions by participants and limitations on works**

67.—(1) Those persons who are eligible to participate in a group repair scheme and who participate in the scheme by signifying consent (in this Article referred to as “scheme consent”), in

accordance with the terms of the scheme, to the proposals to carry out the external works specified in the scheme shall be liable, subject to paragraph (2), to contribute to the cost, as notified to them under the scheme, of such of those works as relate to the house or other premises in which they have an interest at a rate determined in accordance with this Article.

(2) For the purposes of paragraph (1), “house” includes premises which were originally constructed as a house but which, by the time the group repair scheme is prepared, have been divided so as to form one or more flats, with or without other premises; and, in the case of a house which has been so divided, the cost of such of the external works as relate to the house shall be apportioned between the several parts into which the house has been divided in such way as may be agreed between the persons with owner’s interests in those parts or, in default of agreement, equally.

(3) In the case of a person who participates in a scheme as an unassisted participant, the rate of contribution shall be 100 per cent.

(4) In the case of a person who participates in a scheme as an assisted participant but whose owner’s interest in the part of the qualifying building in question is an interest in premises other than a house or flat, the rate of contribution, subject to paragraph (5), shall be—

- (a) 25 per cent. in a case where the qualifying building is in a housing action area; and
- (b) 50 per cent. in any other case;

and in this paragraph “house” includes a house in multiple occupation.

(5) The Department may by order amend sub-paragraph (a) or (b) of paragraph (4) so as to specify a percentage different from that which applied before the coming into operation of the order.

(6) In the case of any other person who participates in a scheme as an assisted participant, the rate of contribution shall be such percentage as may be determined by the Executive, being a percentage between nil and that which would be appropriate if paragraph (4) applied; and, in making its determination under this paragraph in the case of any person, the Executive shall have regard—

- (a) to the way in which Article 47 or 48 would apply in his case if he were an applicant for a renovation grant or, as the case may require, an HMO grant; and
- (b) to any guidance given by the Department for the purposes of this Article;

and paragraph (8) of Article 65 applies to the power to give guidance as mentioned in sub-paragraph (b) as it applies to any power to give directions under that Article.

(7) Except as provided by paragraph (8), no external works shall be carried out to a part of a building which consists of a house, flat or other premises in respect of which no person eligible to participate has signified scheme consent.

(8) Paragraph (7) does not apply—

- (a) to works carried out to a part of a building in respect of which there is no person (or no ascertainable person) eligible to participate in the scheme; or
- (b) to works which—
  - (i) are carried out to a part of a building in respect of which the person eligible to participate consents to their being carried out but has not signified scheme consent (and, accordingly, is not liable to contribute); and
  - (ii) it is necessary to carry out in order satisfactorily to carry out any external works specified in the scheme to another part of the building in respect of which a person eligible to participate has signified scheme consent.

#### **Payment of balance of costs in case of certain disposals**

**68.—**(1) When the external works specified in a group repair scheme are completed, the Executive shall, for the purposes of this Article, send to each assisted participant a certificate

specifying the date on which the works were completed to its satisfaction; and in paragraph (2) that date is referred to as “the completion date”.

(2) It shall be a condition of participation in a group repair scheme as an assisted participant that if, before the expiry of the period of 3 years beginning with the completion date, the assisted participant makes a relevant disposal (other than an exempt disposal) of the dwelling or other premises in which he had an owner’s interest at the date of the approval of the scheme, then, subject to paragraph (8), he shall pay to the Executive on demand the outstanding balance determined in accordance with paragraphs (5) and (6) or such lesser amount, being not less than one-third of that outstanding balance, as the Executive may specify in the demand.

(3) A condition under paragraph (2)—

- (a) shall be included among the matters required to be registered in the Statutory Charges Register; and
- (b) subject to paragraph (8), shall remain in force with respect to the dwelling for a period of 3 years from the completion date.

(4) So long as a condition under paragraph (2) remains in force with respect to a dwelling it shall be binding on any person who is for the time being the owner of the dwelling.

(5) Subject to paragraph (6), in the case of any assisted participant, the outstanding balance referred to in paragraph (2) is the difference between—

- (a) the cost, as notified to him under the scheme, of such of the external works specified in the scheme as relate to the house or other premises in which his owner’s interest subsisted; and
- (b) the amount of the contribution in respect of that cost paid by him by virtue of Article 67.

(6) If, in the case of any assisted participant, the cost of the external works relating to the house in which he had an owner’s interest falls to be apportioned as mentioned in paragraph (2) of Article 67, the reference in paragraph (5) to the cost of the works relating to the house shall be construed as a reference to that part of the cost which is apportioned to the part of the house in which his owner’s interest subsisted.

(7) Article 62 applies for the purposes of this Article as it applies for the purposes of Articles 58 to 61, except that for any reference in that Article to the dwelling there shall be substituted a reference to the house (or part of a house) or other premises in which the assisted participant had an owner’s interest.

(8) The duty of an assisted participant under paragraph (2) shall cease to apply if he makes such a disposal as is mentioned in that paragraph either 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.

(9) In paragraphs (5) to (7) “house” shall be construed in accordance with Article 67(2).

### *Minor works*

#### **Assistance for provision of minor works to dwellings**

**69.**—(1) Subject to the provisions of regulations made under paragraph (3), on an application made to it for the purpose, the Executive may give assistance as mentioned in paragraph (2)—

- (a) for the carrying out of works of repair to a dwelling—
  - (i) which, at the time of the application, is included in a clearance area, within the meaning of Article 32 of the Order of 1981, or a re-development area, within the meaning of Chapter III of Part III of that Order, or



- (ii) which the Executive intends to include in such a clearance area or a re-development area within the period of 12 months beginning at the date of the application;
  - (b) to an elderly owner or tenant of a dwelling for the carrying out of works of repair, improvement or adaptation;
  - (c) for the carrying out of works to adapt a dwelling to enable an elderly person who is not an owner or tenant of the dwelling but who is or proposes to be resident in the dwelling to be cared for;
  - (d) for carrying out to a dwelling occupied by a disabled person, works for one or more of the purposes mentioned in Article 52(3); or
  - (e) for any other purpose specified by order made by the Department.
- (2) Assistance under this Article may be in the form of a grant or the provision of materials but—
- (a) the total amount or value of the assistance given on any one application shall not exceed £1,000 or such other sum as may be determined for the purposes of this sub-paragraph in accordance with regulations under paragraph (3);
  - (b) the total amount or value of assistance given under this Article in any period of 3 years in respect of any one dwelling shall not exceed £3,000 or such other sum as may be determined for the purposes of this sub-paragraph in accordance with regulations under paragraph (3); and
  - (c) no assistance may be given under this Article in respect of works if they are or are included in the eligible works in relation to an application for a grant which has been approved under the preceding provisions of this Chapter, unless that application is withdrawn.
- (3) The Department may by regulations make provision for the determination of sums for the purposes of sub-paragraphs (a) and (b) of paragraph (2) and, in addition, may for the purposes of this Article specify—
- (a) the manner in which an application for assistance is to be made and the content of such an application;
  - (b) the descriptions of dwellings and works in respect of which assistance may be given;
  - (c) the descriptions of persons to whom assistance may be given;
  - (d) the procedure for dealing with applications under paragraph (1) and for ensuring that works are carried out to any standard specified in the regulations; and
  - (e) the way in which the amount of assistance to be given on any application is to be calculated, taking account, in such manner and to such extent as may be determined under the regulations, of the financial circumstances of the applicant.

### *Supplementary provisions*

#### **Persons entitled to grants**

**70.**—(1) In relation to a grant or an application for a grant, references in the preceding provisions of this Part, and in paragraph (2), to the applicant shall be construed in relation to any time after his death as a reference to his personal representatives.

(2) Where an application for a grant is approved but before the certified date the applicant ceases to be a person entitled to apply for a grant of that description—

- (a) in the case of any grant, other than a common parts grant, no grant shall be paid or, as the case may be, no further instalments shall be paid, and

(b) in the case of a common parts grant, other than one made on a tenants' common parts application, the Executive may refuse to pay the grant or any further instalment, and the Executive may demand that any instalment of the grant which has been paid be repaid forthwith, together with interest from the date on which it was paid until repayment at such reasonable rate as the Executive may determine.

(3) For the purposes of paragraph (2) an applicant ceases to be a person entitled to apply for a grant, other than a common parts grant,—

- (a) if he ceases to have the owner's interest by virtue of which the condition in Article 42(1) (a) was (or was treated as) fulfilled, or
- (b) if he ceases to be a tenant of the dwelling, or
- (c) if he, or a member of his family, ceases to have the intention specified in a certificate under paragraph (2), (3) or (4) (as the case may be) of Article 44, or
- (d) if, in the case of an applicant for an HMO grant, he ceases to have the intention specified in a certificate under Article 44(7).

(4) For the purposes of paragraph (2) an applicant whose application is a landlord's common parts application ceases to be a person entitled to apply for a common parts grant—

- (a) if he ceases to have a duty or power to carry out the relevant works; or
- (b) if he ceases to have such an interest in the building as is referred to in sub-paragraph (a) or (b) of Article 43(4).

### **Cases in which grants may be re-calculated, withheld or repaid**

**71.—**(1) Where an application for a grant has been approved by the Executive, paragraph (2) applies in any case where—

- (a) the eligible works are not completed to the satisfaction of the Executive within the period specified under paragraph (2) of Article 56, or such extended period as they may allow under paragraph (3) of that Article; or
- (b) the Executive ascertains that the aggregate of the cost of completing the eligible works and the costs incurred with respect to preliminary or ancillary services and charges, is or is likely to be lower than the estimated expense; or
- (c) the Executive ascertains that without its knowledge the eligible works were started before the application was approved and the application was neither—
  - (i) one which the Executive was required to approve by virtue of Article 50 in a case where completion of the relevant works was necessary to comply with a notice under Article 41 of the Order of 1981 (repair notice requiring works to render premises fit for human habitation); nor
  - (ii) one which the Executive was required to approve by virtue of Article 51.

(2) Where this paragraph applies, the Executive may—

- (a) refuse to pay the grant or any further instalment of grant which remains to be paid; or
- (b) make a reduction in the grant which, in a case falling within paragraph (1)(b), is to be a reduction proportionate to the reduction in the estimated expenses;

and may demand repayment by the applicant forthwith, in whole or part, of the grant or any instalment of the grant paid, together with interest at such reasonable rate as the Executive may determine from the date of payment until repayment.

### **Power of Executive to carry out works which would attract grant**

**72.**—(1) The Executive may by agreement with a person having the requisite interest execute at his expense—

- (a) any works towards the cost of which a grant under this Chapter is payable or might be paid on an application duly made and approved; and
- (b) any further works which it is in the opinion of the Executive necessary or desirable to execute together with the works mentioned in sub-paragraph (a).

(2) Except in the case of a common parts grant, the “requisite interest” means an owner’s interest in every parcel of land on which the works are to be carried out or, in a case where (if an application was made) Article 42(4) might apply, in part only of the land concerned.

(3) In the case of a common parts grant, the reference in paragraph (1) to a person having the requisite interest is a reference to the person who—

- (a) has a power or duty to carry out the relevant works; and
- (b) has such an interest in the building or in a flat in the building as is referred to in paragraph (4) of Article 43.

## **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 scheme applies,
  - (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
- (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.

(5) Regulations under this Article shall be made subject to the approval of the Department of Finance and Personnel.

**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—

- (a) in a certificate of disrepair issued in respect of a dwelling-house under Article 46 of the Rent (Northern Ireland) Order 1978<sup>(10)</sup>; or
- (b) in a notice served in respect of a dwelling-house under the Public Health (Ireland) Act 1878<sup>(11)</sup>.

(2) Repairs grant shall be payable to the person to whom the certificate of disrepair was issued or, as the case may be, upon whom the notice was served.

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

---

<sup>(10)</sup> 1978 NI 20

<sup>(11)</sup> 1878 c. 52