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STATUTORY INSTRUMENTS

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**2003 No. 412**

**The Housing (Northern Ireland) Order 2003**

**PART III**

**GRANTS, &c. FOR RENEWAL OF PRIVATE SECTOR HOUSING**

**CHAPTER II**

**THE MAIN GRANTS**

*Introductory*

**Interpretation of Chapter II**

**34.—(1) In this Chapter—**

“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;

“common parts application”, in relation to an application for a disabled facilities grant, means an application in respect of works to the common parts of a building containing one or more flats;

“conversion application”

(a) in relation to an application for a renovation grant, means an application in respect of works required for the provision of one or more dwellings by the conversion of a house or other building, and

(b) in relation to an application for an HMO grant, means an application for a grant in respect of works for the provision of a house in multiple occupation by the conversion of a house or other building;

“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.

(2) In this Chapter the expressions listed below are defined by or otherwise fall to be construed in accordance with the provisions of this Chapter indicated—

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certificate of future occupation (in relation to an application for an HMO grant)	Article 57(2)
certificate of intended letting (in relation to an application for a renovation grant)	Article 41(3)
certified date	Article 75(3)(b)
common parts grant	Article 35(3)
disabled facilities grant	Article 35(4)

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disabled occupant	Article 51
eligible works	Article 65(2)(a)
estimated expense	Article 65(2)
exempt disposal	Article 85
grant (without more)	Article 35(6)
grant condition	Article 75(1)
grant condition period	Article 75(3)(a)
HMO grant	Article 35(5)
landlord's application (in relation to a common parts grant)	Article 46(1) and (2)
occupying tenant (in relation to an application for a common parts grant)	Article 45(2)
owner-occupation certificate (in relation to an application for a renovation grant)	Article 41(2)
owner's application	#
–in relation to a renovation grant	Article 40(1) and (2)
–in relation to a disabled facilities grant	Article 50(1) and (2)
owner's certificate (in relation to an application for a disabled facilities grant)	Article 52(2)
participating landlord (in relation to a tenants' application for a common parts grant)	Article 46(4)
preliminary or ancillary services and charges	Article 36(4)
qualifying owner's interest	#
–in relation to an application for a renovation grant	Article 40(4)
–in relation to an application for a disabled facilities grant	Article 50(4)
–in relation to an application for an HMO grant	Article 56(3)
qualifying tenant	#
–in relation to an application for a renovation grant	Article 40(5)
–in relation to an application for a disabled facilities grant	Article 50(4)
relevant disposal	Article 84
relevant works (in relation to a grant application)	Article 36(2)(a)
renovation grant	Article 35(2)
tenant (and expressions relating to tenancies)	#

–in the context of a tenant's application for a renovation grant	Article 40(6)
–in the context of a certificate of intended letting	Article 41(4)
–in the context of an application for a common parts grant	Article 45(2)
–in the context of an application for a disabled facilities grant	Article 50(5)
tenant's application	#
–in relation to a renovation grant	Article 40(1) and (2)
–in relation to a disabled facilities grant	Article 50(1) and (2)
tenants' application (in relation to a common parts grant)	Article 46(1) and (2)
tenant's certificate	#
–for the purposes of an application for a renovation grant	Article 42(2)
–for the purposes of an application for a disabled facilities grant	Article 53(2)

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### **Grants for improvements and repairs, &c.**

**35.**—(1) Grants are available from the Executive in accordance with this Chapter towards the cost of works required for—

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

(2) A grant relating to—

- (a) the improvement or repair of a dwelling, or
- (b) the provision of dwellings by the conversion of a house or other building,

is referred to as a “renovation grant”.

(3) A grant relating to the improvement or repair of the common parts of a building is referred to as a “common parts grant”.

(4) A grant for the provision of facilities for a disabled person—

- (a) in a dwelling, or
- (b) in the common parts of a building containing one or more flats,

is referred to as a “disabled facilities grant”.

(5) A grant for—

- (a) the improvement or repair of a house in multiple occupation, or

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(b) the provision of a house in multiple occupation by the conversion of a house or other building,  
is referred to as an “HMO grant”.

(6) In the following provisions of this Chapter the expression “grant”, without more, means any of these types of grant.

### **Applications for grants**

**36.**—(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 Chapter referred to as the “relevant works”);
- (b) subject to paragraph (3), an estimate from a contractor acceptable to the Executive (see Article 69) 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 the Department may direct.

(3) The Executive may in any particular case direct that an application shall contain estimates from different contractors acceptable to it.

(4) 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*

### **Ineligible applicants**

**37.**—(1) No grant is payable under this Chapter unless the applicant is aged 18 or over on the date of the application.

In the case of a joint application, any applicant under the age of 18 years on the date of the application shall be left out of account.

(2) No grant is payable under this Chapter if the applicant is of a description excluded from entitlement to grant aid by regulations made by the Department.

(3) Regulations under paragraph (2) may proceed wholly or in part by reference to the provisions relating to entitlement to housing benefit, or any other form of assistance, as they have effect from time to time.

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

**38.**—(1) The Executive shall not entertain an application for a grant in respect of premises provided (by construction or conversion) less than 10 years before the date of the application unless—

- (a) the application is for a disabled facilities grant, or
- (b) the application is for an HMO grant in respect of a house in multiple occupation provided by conversion.

(2) The Department may by order amend paragraph (1) so as to substitute another period for that specified.

### **Excluded descriptions of works**

**39.**—(1) No grant is payable in respect of works of a description excluded from grant aid under this Chapter by direction of the Department.

(2) Directions may specify descriptions of works for which grant aid is not to be available without the Department's consent.

(3) The Department may give any such consent with respect to applications generally or to a particular description of application.

### *Renovation grants*

### **Renovation grants: owner's applications and tenant's applications**

**40.**—(1) The Executive shall not entertain an application for a renovation grant unless it is satisfied—

- (a) that 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 other than a conversion application, that the applicant is a qualifying tenant of the dwelling (alone or jointly with others) but does not have, or propose to acquire, an owner's interest in the dwelling.

(2) References in this Chapter to an “owner's application” or a “tenant's application”, in relation to a renovation grant, shall be construed accordingly.

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

(4) References in this Chapter to “a qualifying owner's interest”, in relation to an application for a renovation grant, are to an owner's interest meeting the condition in paragraph (1)(a) or treated by virtue of paragraph (3) as meeting that condition.

(5) In this Chapter a “qualifying tenant”, in relation to an application for a renovation grant, means a person who (alone or jointly with others) is a tenant of the premises to which the application relates—

- (a) who—
  - (i) is required by the terms of his tenancy to carry out the relevant works,
  - (ii) who signed an agreement in respect of the tenancy before the day appointed for the coming into operation of this Article,and whose tenancy is not of a description excluded from this paragraph by an order of the Department, or
- (b) whose tenancy is of a description specified for the purposes of this paragraph by order of the Department.

(6) In paragraph (5) “tenant” includes a person having a licence to occupy the premises concerned which satisfies such conditions as may be specified by order of the Department. References in this Chapter to tenants and other expressions relating to tenancies, in the context of a tenant's application for a renovation grant, shall be construed accordingly.

**Renovation grants: certificates required in case of owner's application**

**41.**—(1) The Executive shall not entertain an owner's application for a renovation grant unless it is accompanied by an owner-occupation certificate or a certificate of intended letting in respect of the dwelling to which the application relates or, in the case of a conversion application, in respect of each of the dwellings to be provided.

- (2) An “owner-occupation certificate” certifies that the applicant—
- (a) has or proposes to acquire a qualifying owner's interest, and
  - (b) intends that throughout the grant condition period he or a member of his family will live in the dwelling as his (or that member's) only or main residence.
- (3) A “certificate of intended letting” certifies that the applicant—
- (a) has or proposes to acquire a qualifying owner's interest, and
  - (b) intends that throughout the grant condition period the dwelling will be let or available for letting as a residence (and not for a holiday) to a person who is not connected with the owner for the time being of the dwelling.

In sub-paragraph (b) “letting” does not include a letting on a long tenancy.

(4) In paragraph (3) references to letting include the grant of a licence to occupy premises. References in this Chapter to tenants and other expressions relating to tenancies, in the context of a certificate of intended letting, shall be construed accordingly.

**Renovation grants: certificates required in case of tenant's application**

**42.**—(1) The Executive shall not entertain a tenant's application for a renovation grant unless it is accompanied by a tenant's certificate.

- (2) A “tenant's certificate” certifies—
- (a) that the applicant is a qualifying tenant of the dwelling, and
  - (b) that he or a member of his family intends to live in the dwelling as his (or that member's) only or main residence.

(3) Except where the Executive considers it unreasonable in the circumstances to seek such a certificate, the Executive shall not entertain a tenant's application for a renovation grant unless it is also accompanied by a certificate of intended letting (see Article 41(3)) by the person who at the time of the application is the landlord under the tenancy.

**Renovation grants: purposes for which grant may be given**

**43.**—(1) The purposes for which an application for a renovation grant, other than a conversion application, may be approved are the following—

- (a) to comply with a notice under Article 41 of the Order of 1981 (repair notices) or otherwise to render a dwelling fit for human habitation;
- (b) to put the dwelling in reasonable repair;
- (c) to provide adequate facilities for space heating;
- (d) to provide satisfactory internal arrangements;
- (e) to provide means of escape in case of fire or other fire precautions, not being precautions required under or by virtue of any statutory provision (whenever made);
- (f) to ensure that the dwelling complies with such requirements with respect to construction or physical condition as may be specified by the Department;
- (g) 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 as are so specified;

(h) any other purpose for the time being specified for the purposes of this Article by order of the Department.

(2) The purpose for which a conversion application may be approved is to provide one or more dwellings by the conversion of a house or other building.

(3) If in the opinion of the Executive the relevant works are more or less extensive than is necessary to achieve any of the purposes set out in paragraph (1) or (2), 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 it to be necessary for that purpose.

(4) The reference in sub-paragraph (e) of paragraph (1) to precautions required under or by virtue of a statutory provision does not include precautions required to comply with a notice under Article 80 of the Order of 1992 (notice requiring execution of works to render house in multiple occupation fit for number of occupants) so far as it relates to premises which are not part of a house in multiple occupation for the purposes of this Part.

(5) In exercise of the powers conferred by sub-paragraphs (f) and (g) of paragraph (1) the Department may specify requirements generally or for particular cases.

#### **Renovation grants: approval of application**

44.—(1) The Executive may approve an application for a renovation grant if it thinks fit, subject to the following provisions.

(2) The Executive shall not approve an application for a renovation grant unless it is satisfied that the works are necessary for one or more of the purposes set out in Article 43(1) or (2).

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

(4) Where the Executive proposes to approve an application for a renovation grant, it shall consider whether the premises to which the application relates are fit for human habitation.

(5) If it appears to the Executive that the premises are not fit for human habitation, the Executive shall not approve the application unless it is satisfied—

- (a) that on completion of the relevant works, together with any other works proposed to be carried out, the premises will be fit for human habitation;
- (b) that there are satisfactory financial and other arrangements for carrying out those works, and
- (c) that the carrying out of the works is the most satisfactory course of action.

(6) In considering whether to approve an application for a renovation grant the Executive shall have regard to the expected life of the building (taking account, where appropriate, of the effect of carrying out the works).

#### *Common parts grants*

#### **Common parts grants: occupation of flats by occupying tenants**

45.—(1) The Executive shall not entertain an application for a common parts grant unless it is satisfied that at the date of the application at least the required proportion of the flats in the building concerned is occupied by occupying tenants.

(2) In this Chapter an “occupying tenant”, in relation to a flat in a building, means a person who has in relation to the flat (alone or jointly with others)—

- (a) a protected tenancy,

- (b) a statutory tenancy, or
- (c) a tenancy or licence which satisfies such conditions as may be specified by order of the Department,

and who occupies the flat as his only or main residence.

References in this Chapter to other expressions relating to tenancies, in the context of an application for a common parts grant, shall be construed accordingly.

(3) 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 of the Department, or
- (b) approved by the Department, in relation to a particular case or description of case, on application made by the Executive.

#### **Common parts grants: landlord's and tenants' applications**

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

- (a) that the applicant has an owner's interest in the building and has a duty or power to carry out the relevant works, or
- (b) that the application is made 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.

(2) References in this Chapter to a “landlord's application” and a “tenants' application”, in relation to a common parts grant, shall be construed accordingly.

(3) In deciding whether the requirement in sub-paragraph (b) of paragraph (1) is met—

- (a) where a tenancy is held by 2 or more persons jointly, those persons shall be regarded as a single occupying tenant; and
- (b) a tenant whose tenancy is of a description specified for the purposes of that sub-paragraph by order of the Department shall be treated as an occupying tenant falling within that sub-paragraph.

(4) A person who has an owner's interest in the building and who has a duty or power to carry out any of the relevant works may also join in a tenants' application for a common parts grant; and where such a person does join in an application, he is in this Chapter referred to as a “participating landlord”.

#### **Common parts grants: certificates required to accompany application**

**47.—**(1) The Executive shall not entertain a landlord's application for a common parts grant unless it is accompanied by a certificate signed by the applicant which—

- (a) specifies the interest of the applicant in the building, and
- (b) certifies that the required proportion of the flats in the building is occupied by occupying tenants.

(2) The Executive shall not entertain a tenants' application for a common parts grant unless it is accompanied by a certificate signed by each of the applicants which—

- (a) specifies the interest of each of the applicants in each flat in the building, and
- (b) certifies that the required proportion of the flats in the building is occupied by occupying tenants.



### **Common parts grants: purposes for which grant may be given**

**48.**—(1) The purposes for which an application for a common parts grant may be approved are—

- (a) to comply with a notice under Article 41 of the Order of 1981 (repair notices) or otherwise to cause the building to meet the requirements in Article 46(2) of that Order;
- (b) to comply with a notice under Article 80 of the Order of 1992 (notice requiring works to render premises fit for the number of occupants) or otherwise to enable the house to meet one or more of the requirements in paragraph (2) of that Article;
- (c) to provide adequate facilities for space heating;
- (d) to provide satisfactory internal arrangements;
- (e) to provide means of escape in case of fire or other fire precautions, not being precautions required under or by virtue of any statutory provision (whenever made);
- (f) to ensure that the building complies with such requirements with respect to construction or physical condition as may be specified by the Department;
- (g) to ensure that there is compliance with such requirements with respect to the provision or condition of services and amenities to or within the building as are so specified;
- (h) any other purpose for the time being specified for the purposes of this Article by order of the Department.

(2) If in the opinion of the Executive the relevant works are more or less extensive than is necessary to achieve any of the purposes set out in paragraph (1), 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 it to be necessary for that purpose.

(3) In exercise of the powers conferred by sub-paragraphs (f) and (g) of paragraph (1) the Department may specify requirements generally or for particular cases.

### **Common parts grants: approval of application**

**49.**—(1) The Executive may approve an application for a common parts grant if it thinks fit, subject to the following provisions.

(2) The Executive shall not approve an application for a common parts grant unless it is satisfied that the works are necessary for one or more of the purposes set out in Article 48(1).

(3) Where the Executive proposes to approve an application for a common parts grant, the Executive shall consider whether the building to which the application relates meets the requirements mentioned in sub-paragraphs (a) to (e) of Article 46(2) of the Order of 1981.

(4) If it appears to the Executive that the building does not meet those requirements, the Executive shall not approve the application unless it is satisfied—

- (a) that on completion of the relevant works, together with any other works proposed to be carried out, the building will meet those requirements,
- (b) that there are satisfactory financial and other arrangements for carrying out those works, and
- (c) that the carrying out of the works is the most satisfactory course of action.

(5) In considering whether to approve an application for a common parts grant the Executive shall have regard to the expected life of the building (taking account, where appropriate, of the effect of carrying out the works).

*Disabled facilities grants***Disabled facilities grants: owner's and tenant's applications**

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

- (a) that 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) that the applicant is a tenant (alone or jointly with others)—
  - (i) in the case of an application in respect of works to a dwelling, of the dwelling, or
  - (ii) in the case of a common parts application, of a flat in the building,
 and, in either case, does not have or propose to acquire such an owner's interest as is mentioned in sub-paragraph (a).

(2) References in this Chapter to an “owner's application” or a “tenant's application”, in relation to a disabled facilities grant, shall be construed accordingly.

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

(4) In this Chapter, in relation to an application for a disabled facilities grant—

- (a) “qualifying owner's interest” means an owner's interest meeting the condition in paragraph (1)(a) or treated by virtue of paragraph (3) as meeting that condition; and
- (b) “qualifying tenant” means a tenant who meets the conditions in paragraph (1)(b).

(5) In this Chapter “tenant”, in relation to a disabled facilities grant, includes—

- (a) a person who has a protected tenancy or statutory tenancy,
- (b) an employee (whether full-time or part-time) who occupies the dwelling or flat concerned for the better performance of his duties, and
- (c) a person having a licence to occupy the dwelling or flat concerned which satisfies such conditions as may be specified by order of the Department,

and other expressions relating to tenancies, in the context of an application for a disabled facilities grant, shall be construed accordingly.

**Disabled facilities grants: the disabled occupant**

**51.** In this Chapter the “disabled occupant”, in relation to an application for a disabled facilities grant, means the disabled person for whose benefit it is proposed to carry out any of the relevant works.

**Disabled facilities grants: certificate required in case of owner's application**

**52.**—(1) The Executive shall not entertain an owner's application for a disabled facilities grant unless it is accompanied by an owner's certificate in respect of the dwelling to which the application relates or, in the case of a common parts application, in respect of each flat in the building occupied or proposed to be occupied by a disabled occupant.

(2) An “owner's certificate”, for the purposes of an application for a disabled facilities grant, certifies that the applicant—

- (a) has or proposes to acquire a qualifying owner's interest, and

- (b) intends that the disabled occupant will live in the dwelling or flat as his only or main residence throughout the grant condition period or for such shorter period as his health and other relevant circumstances permit.

#### **Disabled facilities grants: certificates required in case of tenant's application**

**53.**—(1) The Executive shall not entertain a tenant's application for a disabled facilities grant unless it is accompanied by a tenant's certificate.

(2) A “tenant's certificate”, for the purposes of an application for a disabled facilities grant, certifies—

- (a) that the application is a tenant's application, and
- (b) that the applicant intends that he (if he is the disabled occupant) or the disabled occupant will live in the dwelling or flat as his only or main residence throughout the grant condition period or for such shorter period as his health and other relevant circumstances permit.

(3) Except where the Executive considers it unreasonable in the circumstances to seek such a certificate, the Executive shall not entertain a tenant's application for a disabled facilities grant unless it is also accompanied by an owner's certificate from the person who at the time of the application is the landlord under the tenancy.

#### **Disabled facilities grants: purposes for which grant must or may be given**

**54.**—(1) The purposes for which an application for a disabled facilities grant must be approved, subject to the provisions of this Chapter, are the following—

- (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) making the dwelling or building safe for the disabled occupant and other persons residing with him;
- (c) facilitating access by the disabled occupant to a room used or usable as the principal family room;
- (d) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room used or usable for sleeping;
- (e) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room in which there is a lavatory, or facilitating the use by the disabled occupant of such a facility;
- (f) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room in which there is a bath or shower (or both), or facilitating the use by the disabled occupant of such a facility;
- (g) facilitating access by the disabled occupant to, or providing for the disabled occupant, a room in which there is a washhand basin, or facilitating the use by the disabled occupant of such a facility;
- (h) facilitating the preparation and cooking of food by the disabled occupant;
- (i) 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;
- (j) 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;

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- (k) 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;
- (l) such other purposes as may be specified by order of the Department.

(2) An application for a disabled facilities grant may be approved, subject to the provisions of this Chapter, for the purpose of making the dwelling or building suitable for the accommodation, welfare or employment of the disabled occupant in any other respect.

(3) If in the opinion of the Executive the relevant works are more or less extensive than is necessary to achieve any of the purposes set out in paragraph (1) or the purpose mentioned in paragraph (2), it 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.

### **Disabled facilities grants: approval of application**

**55.**—(1) The Executive—

- (a) shall approve an application for a disabled facilities grant for purposes within Article 54(1), and
- (b) may if it thinks fit approve an application for a disabled facilities grant not for a purpose within that provision but for the purpose specified in Article 54(2),

subject to the following provisions.

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

(3) 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.

In considering the matters mentioned in sub-paragraph (a) the Executive shall consult the relevant authority, unless the relevant works are of such a kind as may be agreed between the Executive and the authority.

(4) Where the Executive proposes to approve an application for a disabled facilities grant it shall consider—

- (a) in the case of an application in respect of works to a dwelling, whether the dwelling is fit for human habitation;
- (b) in the case of a common parts application, whether the building meets the requirements in Article 46(2) of the Order of 1981;

and the Executive shall take that into account in deciding whether it is reasonable and practicable to carry out the relevant works.

(5) The Executive shall not approve a common parts application for a disabled facilities grant unless it is satisfied that the applicant has a power or is under a duty to carry out the relevant works.

### *HMO grants*

#### **HMO grants: the interest of the applicant in the property**

**56.**—(1) The Executive shall not entertain an application for an HMO grant unless it is satisfied that 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.

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

(3) References in this Chapter to “a qualifying owner's interest”, in relation to an application for an HMO grant, are to an owner's interest meeting the condition in paragraph (1) or treated by virtue of paragraph (2) as meeting that condition.

#### **HMO grants: certificate required to accompany application**

**57.**—(1) The Executive shall not entertain an application for an HMO grant unless it is accompanied by a certificate of future occupation.

(2) A “certificate of future occupation” certifies that the applicant—

- (a) has or proposes to acquire a qualifying owner's interest in the house, and
- (b) intends that throughout the grant condition period the house or a part of it (specified in the certificate) 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.

In sub-paragraph (b) “residential occupation” does not include occupation for a holiday and “tenancies” does not include a long tenancy.

#### **HMO grants: purposes for which grant may be given**

**58.**—(1) The purposes for which an application for an HMO grant (other than a conversion application) may be approved are—

- (a) to comply with a notice under Article 41 of the Order of 1981 (repair notices) or otherwise to render the house fit for human habitation;
- (b) to comply with a notice under Article 80 of the Order of 1992 (notice requiring works to render premises fit for the number of occupants) or otherwise to enable the house to meet one or more of the requirements in paragraph (2) of that Article;
- (c) to provide adequate facilities for space heating;
- (d) to provide satisfactory internal arrangements;
- (e) to provide means of escape in case of fire or other fire precautions, not being precautions required under or by virtue of any statutory provision (whenever made);
- (f) to ensure that the house complies with such requirements with respect to construction or physical condition as may be specified by the Department;
- (g) to ensure that there is compliance with such requirements with respect to the provision or condition of services and amenities to or within the house as are so specified;
- (h) any other purpose for the time being specified for the purposes of this Article by order of the Department.

(2) The purpose for which a conversion application may be approved is to provide a house in multiple occupation by the conversion of a house or other building.

(3) If in the opinion of the Executive the relevant works are more or less extensive than is necessary to achieve any of the purposes set out in paragraph (1) or (2), 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 it to be necessary for that purpose.

(4) In exercise of the powers conferred by sub-paragraphs (f) and (g) of paragraph (1) the Department may specify requirements generally or for particular cases.

### **HMO grants: approval of application**

**59.**—(1) The Executive may approve an application for an HMO grant if it thinks fit, subject to the following provisions.

(2) The Executive shall not approve an application for an HMO grant unless it is satisfied that the works are necessary for one or more of the purposes set out in Article 58(1) or (2).

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

(4) Where the Executive proposes to approve an application for an HMO grant, it shall consider whether the house to which the application relates is fit for human habitation and meets the requirements in Article 80(2) of the Order of 1992.

(5) If it appears to the Executive that the house is not fit for human habitation or does not meet those requirements, the Executive shall not approve the application unless it is satisfied—

- (a) that on completion of the relevant works, together with any other works proposed to be carried out, the house will be fit for human habitation and meet those requirements,
- (b) that there are satisfactory financial and other arrangements for carrying out those works, and
- (c) that the carrying out of the works is the most satisfactory course of action.

(6) In considering whether to approve an application for an HMO grant the Executive shall have regard to the expected life of the house (taking account, where appropriate, of the effect of carrying out the works).

### *Restrictions on grant aid*

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

**60.**—(1) Subject as follows, the Executive shall not approve an application for a grant if the relevant works have been begun before the application is approved.

(2) Where the relevant works have been begun but 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.

(3) Where the Executive decides to approve an application in accordance with paragraph (2), it may, with the consent of the applicant, treat the application as varied so that the relevant works do not include any that are completed.

But in determining for the purposes of the application the physical condition of the dwelling, common parts or house or other building concerned, the Executive shall consider the condition of the premises at the date of the application.

(4) Subject as follows, the Executive shall not approve an application for a grant if the relevant works have been completed.

(5) Nothing in this Article applies to an application for a grant in respect of works necessary—

- (a) to render a dwelling fit for human habitation or to comply with a notice under Article 41 of the Order of 1981 (repair notices), or
- (b) to enable a house in multiple occupation to meet one or more of the requirements in Article 80(2) of the Order of 1992 (fitness for the number of occupants) or to comply with a notice under that Article.

(6) If the Executive considers that the relevant works include works in addition to those necessary for the purposes mentioned in paragraph (5)(a) or (b), the Executive shall treat the application as an application to which this Article applies so far as it relates to those additional works.

### **Means testing in case of application by owner-occupier or tenant**

**61.**—(1) This Article applies—

- (a) to an application for a renovation grant which is—
  - (i) an owner's application accompanied by an owner-occupation certificate, or
  - (ii) a tenant's application; and
- (b) to any application for a disabled facilities grant.

(2) An owner's application for a renovation grant shall be treated as falling within this Article if it is a conversion application for the provision of 2 or more dwellings and any of the certificates accompanying the application is an owner-occupation certificate.

(3) If in the case of an application for a renovation grant to which this Article applies the financial resources of the applicant exceed the applicable amount, the amount of any grant which may be paid shall, in accordance with regulations, be reduced from what it would otherwise have been.

(4) If in the case of an application for a disabled facilities grant the financial resources of any person of a description specified by regulations exceed the applicable amount, the amount of any grant which may be paid shall, in accordance with regulations, be reduced from what it would otherwise have been.

(5) Provision may be made by regulations—

- (a) for the determination of the amount which is to be taken to be the financial resources of any person, and
- (b) for the determination of the applicable amount referred to in paragraph (3) or (4), and
- (c) as to the circumstances in which the financial resources of a person are to be assumed (by reason of his receiving a prescribed benefit or otherwise) not to exceed the applicable amount.

(6) Regulations may, in particular—

- (a) make provision for account to be taken of the income, assets, needs and outgoings not only of the person 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) make provision for amounts specified in or determined under the regulations to be taken into account for particular purposes.

(7) Regulations may apply for the purposes of this Article, subject to such modifications as may be prescribed, any other statutory means-testing regime as it has effect from time to time.

(8) Regulations may make provision requiring any information or evidence needed for the determination of any matter under this Article to be furnished by such person as may be prescribed.

(9) In this Article “regulations” means regulations made by the Department.

### **Determination of amount of grant in case of landlord's application**

**62.**—(1) This Article applies to—

- (a) an owner's application for a renovation grant which is accompanied by a certificate of intended letting (not being an application which falls within Article 61: see paragraph (2) of that Article),
- (b) a landlord's application for a common parts grant,
- (c) a landlord's application for a disabled facilities grant, and
- (d) any application for an HMO grant.

(2) The reference in paragraph (1)(c) to a landlord's application for a disabled facilities grant is to an owner's application in respect of works to a dwelling which is or is intended to be let, or to the common parts of a building in which a flat is or is intended to be let.

(3) The amount of the grant (if any) shall be determined by the Executive, having regard to—

- (a) the extent to which the landlord is able to charge a higher rent for the premises because of the works, or
- (b) such other matters as the Department may direct.

(4) The Executive may, if it thinks it appropriate, seek and act upon the advice of suitably qualified persons as to any matter arising under this Article.

(5) The Department may by regulations make provision requiring any information or evidence needed for the determination of any matter under this Article to be furnished by such person as may be prescribed.

### **Apportionment in case of tenants' application for common parts grant**

**63.**—(1) This Article applies where the Executive approves a tenants' application for a common parts grant.

(2) The Executive shall decide how much of the cost of the relevant works is attributable to the applicants ("the attributable cost").

(3) For the purposes of this Article the attributable cost is an amount equal to the following proportion of the cost of the relevant works—

- (a) if it can be ascertained, the proportion that the aggregate of the respective liabilities of each of the applicants 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) if 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.

(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 paragraph (3)(a), 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 paragraph; or
- (b) in a case where the attributable cost is calculated by reference to the proportion mentioned in paragraph (3)(b), equally.

(5) The amount of the grant payable shall be the aggregate of the grants that would be payable to each of the applicants under Article 61 or, in the case of a participating landlord, under Article 62 if each of the applicants was an individual applicant in respect of his portion of the attributable cost.



(6) Where the interest of an occupying tenant is held jointly by 2 or more persons, those persons shall be regarded as a single person for the purposes of this Article.

### **Power to specify maximum amount of grant**

**64.**—(1) 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.

(2) An order under this Article may make provision for different types of grant or for the same type of grant in different circumstances.

(3) In relation to an application for a grant in respect of works for any of the purposes in Article 54(1) (mandatory disabled facilities grant), the order may—

- (a) provide for a maximum amount of grant which must be paid if the application is approved, and
- (b) authorise the Executive, if it thinks fit, to pay a further amount in excess of that maximum but subject to such other maximum (if any) as may be specified in or determined in accordance with the order.

(4) The Executive may not, except as mentioned in paragraph (3), pay an amount of grant in excess of a specified maximum amount.

### *Decision and notification*

### **Decision and notification**

**65.**—(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 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 properly incurred, or are properly to be incurred, with respect to preliminary or ancillary services and charges, and
- (d) the amount of grant it has decided to pay, taking into account all the relevant provisions of this Chapter.

The total of the amounts referred to in sub-paragraphs (b) and (c) is referred to in this Chapter as “the estimated expense”.

(3) If the Executive notifies the applicant under paragraph (1) that the application is approved, the Executive shall specify in the notice—

- (a) the eligible works,
- (b) the amounts referred to in paragraph (2)(b) and (c), and
- (c) the amount of the grant.

(4) If the Executive notifies the applicant under paragraph (1) that the application is refused, the Executive shall at the same time notify him of the reasons for the refusal.

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

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- (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),
- (b) the amount of the costs which have been or are to be incurred as mentioned in paragraph (2)(c) has been increased, or
- (c) 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 the amount of the grant.

(6) Where an application for a grant is approved, the Executive may (without prejudice to the following provisions of this Chapter) impose such conditions in relation to the approval or payment of the grant as it considers appropriate.

### *Payment of grants*

#### **Payment of grants: general**

**66.**—(1) Where the Executive has approved an application for a grant, it shall pay the grant, subject to the following provisions of this Chapter.

(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) 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.

#### **Delayed payment of mandatory grant**

**67.**—(1) Where the Executive is obliged to approve an application for a grant by virtue of Article 55(1)(a) (mandatory disabled facilities grant), the Executive may do so on terms that payment of the grant, or part of it, will not be made before a date specified in the notification of the Executive's decision on the application.

(2) That date shall not be more than 12 months, or such other period as may be specified by order of the Department, after the date of the application.

#### **Payment of grants: conditions as to carrying out of the works**

**68.**—(1) It is a condition of payment of every grant that the eligible works are carried out within 12 months from—

- (a) the date of approval of the application concerned, or
- (b) where Article 67 applies (delayed payment of mandatory grant), the date specified in the notification of the Executive's decision,

or in either case, such further period as the Executive may allow.

(2) The Executive may, in particular, allow further time 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.

(3) In approving an application for a grant the Executive may require as a condition of payment of the grant that the eligible works are carried out in accordance with such specifications as it determines.

(4) 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 or charges in respect of which the grant or part of the grant is to be paid.

For this purpose 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.

#### **Payment of grants: conditions as to contractors employed**

**69.**—(1) It is a condition of payment of every grant that the eligible works are carried out by a contractor acceptable to the Executive.

(2) The Executive shall prepare a statement of the criteria by reference to which it is to determine whether a contractor is acceptable to it for the purposes of this Article and Article 36(2)(b).

(3) The Executive may revise the statement of the criteria from time to time.

(4) The Executive shall provide, at such price as it may determine, a copy of the statement of the criteria to any person who applies for one.

#### **Payment of grant to contractor**

**70.**—(1) The Executive may pay a grant or part of a grant—

- (a) by payment direct to the contractor, or
- (b) by delivering to the applicant an instrument of payment in a form made payable to the contractor.

The Executive shall not do so unless the applicant was informed before the grant application was approved that this would or might be the method of payment.

(2) Where an amount of grant is payable, but the works in question have not been executed to the satisfaction of the applicant, the Executive may at the applicant's request and if it considers it appropriate to do so withhold payment from the contractor.

If the Executive does so it may make the payment to the applicant instead.

#### **Applicant ceasing to be entitled before payment of grant**

**71.**—(1) This Article applies where an application for a grant is approved but before the certified date the applicant ceases to be a person entitled to a grant of that description.

In the case of a joint application this Article does not apply unless all the applicants cease to be so entitled.

(2) Where this Article applies—

- (a) in the case of a renovation grant, disabled facilities grant or HMO 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 approved on a landlord's 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 this Article an applicant ceases to be a person entitled to a renovation grant—

- (a) in the case of an owner's application—

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- (i) if he ceases to have a qualifying owner's interest, or
  - (ii) if he ceases to have the intention specified in the owner-occupation certificate or certificate of intended letting which accompanied the application;
  - (b) in the case of a tenant's application—
    - (i) if he ceases to be a qualifying tenant of the dwelling, or
    - (ii) if the application was accompanied by a certificate of intended letting and the landlord ceases to have the intention specified in the certificate; or
  - (c) if the application was approved under Article 44(5) (approval of grant in respect of works to unfit premises) and the Executive ceases to be satisfied of the matters mentioned in that provision.
- (4) For the purposes of this Article an applicant ceases to be a person entitled to a disabled facilities grant—
- (a) in the case of an owner's application—
    - (i) if he ceases to have a qualifying owner's interest, or
    - (ii) if he ceases to have the intention specified in the owner's certificate which accompanied the application;
  - (b) in the case of a tenant's application—
    - (i) if he ceases to be a qualifying tenant of the dwelling, or
    - (ii) if the application was accompanied by an owner's certificate and the landlord ceases to have the intention specified in the certificate.
- But if the case falls within Article 72 (change of circumstances affecting disabled occupant), the Executive shall act under that Article.
- (5) For the purposes of this Article an applicant ceases to be a person entitled to an HMO grant—
- (a) if he ceases to have a qualifying owner's interest in the house;
  - (b) if he ceases to have the intention specified in the certificate of future occupation which accompanied the application;
  - (c) if the application was approved under Article 59(5) (approval of grant in respect of works to unfit premises) and the Executive ceases to be satisfied of the matters mentioned in that provision.
- (6) For the purposes of this Article an applicant whose application is a landlord's application for a common parts grant ceases to be a person entitled to a grant—
- (a) if he ceases to have an owner's interest in the building;
  - (b) if he ceases to have a duty or power to carry out the relevant works; or
  - (c) if the application was approved under Article 49(4) (approval of grant in respect of works to unfit premises) and the Executive ceases to be satisfied of the matters mentioned in that provision.
- (7) This Article has effect subject to Article 87 (provisions relating to death of applicant).

### **Change of circumstances affecting disabled occupant**

**72.—**(1) This Article applies where an application for a disabled facilities grant has been approved and before the certified date—

- (a) the works cease to be necessary or appropriate to meet the needs of the disabled occupant, or

(b) the disabled occupant ceases to occupy the dwelling or flat concerned or it ceases to be the intention that he should occupy it, or

(c) the disabled occupant dies.

Where the application related to more than one disabled occupant, this Article applies if any of sub-paragraphs (a) to (c) applies in relation to any of them.

(2) This Article applies whether or not the disabled occupant (or any of them) is the applicant (or one of them).

(3) Where this Article applies the Executive may take such action as appears to it appropriate and may decide—

(a) that no grant shall be paid or, as the case may be, no further instalments shall be paid,

(b) that the relevant works or some of them should be completed and the grant or an appropriate proportion of it paid, or

(c) that the application should be redetermined in the light of the new circumstances.

(4) In making its decision the Executive shall have regard to all the circumstances of the case.

(5) If the Executive decides that no grant shall be paid or that no further instalments shall be paid, 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.

#### **Cases in which grants may be recalculated, withheld or repaid**

**73.**—(1) This Article applies where an application for a grant has been approved by the Executive and—

(a) the Executive ascertains that the amount was determined under Article 61 or 62 on the basis of inaccurate or incomplete information and exceeds that to which the applicant was entitled;

(b) the Executive ascertains that without its knowledge the eligible works were started before the application was approved;

(c) the eligible works are not completed to the satisfaction of the Executive within the period specified under Article 68(1), or such extended period as the Executive may allow under that provision;

(d) 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

(e) the Executive ascertains that without its knowledge the eligible works were carried out otherwise than as required by Article 69 (conditions as to contractors employed).

(2) Where this Article 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)(d), is to be a reduction proportionate to the reduction in the estimated expense;

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

**Repayment where applicant not entitled to grant**

74.—(1) This Article applies where an application for a grant is approved but it subsequently appears to the Executive that the applicant (or, in the case of a joint application, any of the applicants) was not, at the time the application was approved, entitled to a grant of that description.

(2) Where this Article applies—

- (a) in the case of a renovation grant, disabled facilities grant or HMO 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 approved on a landlord's application, the Executive may refuse to pay the grant or any further instalment,

and the Executive may demand that any 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 this Article an applicant is not entitled to a renovation grant—

- (a) in the case of an owner's application if—
  - (i) he does not have a qualifying owner's interest, or
  - (ii) he does not have the intention specified in the owner-occupation certificate or certificate of intended letting which accompanied the application; or
- (b) in the case of a tenant's application if—
  - (i) he is not a qualifying tenant of the dwelling, or
  - (ii) if the application was accompanied by a certificate of intended letting and the landlord does not have the intention specified in the certificate.

(4) For the purposes of this Article an applicant is not entitled to a disabled facilities grant—

- (a) in the case of an owner's application—
  - (i) if he does not have a qualifying owner's interest, or
  - (ii) if he does not have the intention specified in the owner's certificate which accompanied the application; or
- (b) in the case of a tenant's application—
  - (i) if he is not a qualifying tenant of the dwelling, or
  - (ii) if the application was accompanied by an owner's certificate and the landlord does not have the intention specified in the certificate.

(5) For the purposes of this Article an applicant is not entitled to an HMO grant—

- (a) if he does not have a qualifying owner's interest in the house; or
- (b) if he does not have the intention specified in the certificate of future occupation which accompanied the application.

(6) For the purposes of this Article an applicant whose application is a landlord's application for a common parts grant is not entitled to a grant—

- (a) if he does not have an owner's interest in the building; or
- (b) if he does not have a duty or power to carry out the relevant works.

### *Grant conditions and repayment*

#### **Grant conditions: introductory**

**75.**—(1) The following Articles have effect with respect to the conditions to be observed where an application for a grant has been approved by the Executive.

In this Chapter a “grant condition” means a condition having effect in accordance with any of those Articles.

(2) Except as otherwise provided—

- (a) the grant conditions as to repayment on disposal (Articles 76 to 78) have effect from the date on which the application is approved until the end of the grant condition period;
- (b) the grant conditions as to occupation (Articles 79 to 81) have effect from the certified date until the end of the grant condition period; and
- (c) a grant condition imposed under Article 83 (power to impose other conditions) has effect for such period as may be specified by the Executive.

(3) In this Chapter—

- (a) the “grant condition period” means the period of 5 years, or such other period as the Department may by order specify, beginning on the certified date; and
- (b) the “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.

(4) The Executive may not impose any condition requiring a grant to be repaid except in accordance with the following Articles.

This applies whether the condition purports to operate as a condition of the grant, as a personal covenant or otherwise.

#### **Condition for repayment on disposal: renovation grants**

**76.**—(1) It is a condition of a renovation grant that if an owner of the premises to which the application relates makes a relevant disposal (other than an exempt disposal)—

- (a) of the whole or part of the premises to which the application relates,
- (b) after any instalment of grant has been paid, and
- (c) before the certified date,

he shall repay to the Executive on demand the amount of grant that has been paid.

(2) It is a condition of a renovation grant that if an owner of the dwelling to which the application relates or, in the case of a conversion application, any dwelling provided by the relevant works, makes a relevant disposal (other than an exempt disposal)—

- (a) of the whole or part of the dwelling,
- (b) on or after the certified date, and
- (c) before the end of the grant condition period,

he shall repay to the Executive on demand the amount of grant that has been paid.

In the case of a conversion application the grant shall be treated for this purpose as apportioned equally between the dwellings provided.

(3) A condition under this Article shall be a statutory charge and binding on any person who is for the time being an owner of the premises concerned and any amount of grant which is repayable under paragraph (1) or (2) shall, until recovered, be deemed to be a charge on the premises.

(4) Where the Executive has the right to demand repayment of an amount mentioned in paragraph (1) or (2), it may determine not to demand payment or to demand a lesser amount.

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(5) Any condition under this Article shall cease to be in force with respect to any premises if there is a relevant disposal of the premises that is an exempt disposal, other than—

- (a) a disposal within Article 85(1)(a) (disposal to associates of person making disposal), or
- (b) a disposal within Article 85(1)(b) (vesting under will or on intestacy).

**Condition for repayment on disposal: common parts grants**

77.—(1) It is a condition of a common parts grant approved on a landlord's application that if the applicant makes a relevant disposal (other than an exempt disposal)—

- (a) of the whole or part of the building,
- (b) after any instalment of grant has been paid, and
- (c) before the certified date,

he shall repay to the Executive on demand the amount of grant that has been paid.

(2) It is a condition of a common parts grant approved on a landlord's application that if the applicant makes a relevant disposal (other than an exempt disposal)—

- (a) of the whole or part of the building,
- (b) on or after the certified date, and
- (c) before the end of the grant condition period,

he shall repay to the Executive on demand the amount of grant that has been paid.

(3) A condition under this Article shall be a statutory charge and binding on any person who is for the time being a successor in title to the interest in the building by virtue of which the applicant made his application; and any amount of grant which is repayable under paragraph (1) or (2) shall, until recovered, be deemed to be a charge on the building.

(4) Where the Executive has the right to demand repayment of an amount mentioned in paragraph (1) or (2), it may determine not to demand payment or to demand a lesser amount.

(5) Any condition under this Article shall cease to be in force with respect to any premises if there is a relevant disposal of the premises that is an exempt disposal.

**Condition as to repayment on disposal: HMO grants**

78.—(1) It is a condition of an HMO grant that if an owner of the house makes a relevant disposal (other than an exempt disposal)—

- (a) of the whole or part of the house,
- (b) after any instalment of grant has been paid, and
- (c) before the certified date,

he shall repay to the Executive on demand the amount of grant that has been paid.

(2) It is a condition of an HMO grant that if an owner of the house makes a relevant disposal (other than an exempt disposal)—

- (a) of the whole or part of the house,
- (b) on or after the certified date, and
- (c) before the end of the grant condition period,

he shall repay to the Executive on demand the amount of grant that has been paid.

(3) A condition under this Article shall be a statutory charge and binding on any person who is for the time being an owner of the house; and any amount of grant which is repayable under paragraph (1) or (2) shall, until recovered, be deemed to be a charge on the house.



(4) Where the Executive has the right to demand repayment of an amount mentioned in paragraph (1) or (2), it may determine not to demand payment or to demand a lesser amount.

(5) Any condition under this Article shall cease to be in force with respect to any premises if there is a relevant disposal of the premises that is an exempt disposal.

#### **Condition as to owner-occupation: renovation grants**

**79.**—(1) Where an application for a renovation grant was accompanied by an owner-occupation certificate in respect of any dwelling (see Article 41(2)), it is a condition of the grant that throughout the grant condition period the dwelling is occupied in accordance with the intention stated in the certificate.

(2) It is also a condition of the grant that if at any time when that condition is in force 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 that condition is being fulfilled.

(3) A condition under this Article shall be a statutory charge and binding on any person who is for the time being an owner of the dwelling; and any amount of grant and interest which is repayable under paragraph (4) shall, until recovered, be deemed to be a charge on the dwelling.

(4) In the event of a breach of a condition under this Article, the owner for the time being of the dwelling shall on demand repay to the Executive the amount of the grant, together with interest on that amount as from the certified date, at such reasonable rate as the Executive may determine.

(5) The Executive may determine not to make such a demand or may demand a lesser amount.

(6) Any condition under this Article shall cease to be in force with respect to the dwelling if there is a relevant disposal of the dwelling that is an exempt disposal, other than—

- (a) a disposal within Article 85(1)(a) (disposal to associates of person making disposal), or
- (b) a disposal within Article 85(1)(b) (vesting under will or on intestacy).

#### **Condition as to availability for letting: renovation grants**

**80.**—(1) Where an application for a renovation grant was accompanied by a certificate of intended letting in respect of any dwelling (see Article 41(3)), it is a condition of the grant that throughout the grant condition period the dwelling is let or available for letting in accordance with the intention stated in the certificate.

(2) It is also a condition of the grant that if at any time within the grant condition 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 (1) is being fulfilled.

(3) A condition under this Article—

- (a) shall be a statutory charge and binding on any person who is for the time being the owner of the dwelling; and
- (b) 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; and

any amount of grant and interest which is repayable under paragraph (4) shall, until recovered, be deemed to be a charge on the dwelling.

(4) In the event of a breach of a condition under this Article, the owner for the time being of the dwelling shall on demand repay to the Executive the amount of the grant, together with interest on that amount as from the certified date, at such reasonable rate as the Executive may determine.

(5) The Executive may determine not to make such a demand or may demand a lesser amount.

(6) The terms of any tenancy of the dwelling (or any part of it, or any property including the dwelling or part of it) shall be deemed to include a duty on the part of the tenant, if required to do so by the owner of the dwelling, to furnish him with such information as he may reasonably require to enable him to comply with a notice under paragraph (2).

### **Conditions as to occupation: HMO grants**

**81.**—(1) It is a condition of an HMO grant that throughout the grant condition period—

- (a) the house is occupied or available for residential occupation in accordance with the intention stated in the certificate of future occupation that accompanied the application (see Article 57(2)); and
- (b) that the house is not so occupied as to cause a breach of any direction given by the Executive under Article 85 of the Order of 1992 (power to limit number of occupants of house).

(2) It is also a condition of the grant that if at any time within the grant condition 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 (1)(a) is being fulfilled.

(3) A condition under this Article—

- (a) shall be a statutory charge and binding on any person who is for the time being an owner of the house; and
- (b) is enforceable against all other persons to whom any part of the house is let or licensed as if it were a condition of the terms of every tenancy or licence of part of the house; and

any amount of grant and interest which is repayable under paragraph (4) shall, until recovered, be deemed to be a charge on the house.

(4) In the event of a breach of a condition under this Article, the owner for the time being of the house shall on demand pay to the Executive the amount of the grant, together with interest on that amount as from the certified date, at such reasonable rate as the Executive may determine.

(5) The Executive may determine not to make such a demand or may demand a lesser amount.

(6) The terms of any tenancy of any part of the house shall be deemed to include a duty on the part of the tenant, if required to do so by the owner of the house, to furnish him with such information as he may reasonably require to enable him to comply with a notice under paragraph (2).

### **Conditions as to repayment in case of other compensation, &c.**

**82.**—(1) Where the Executive approves an application for a grant it may impose a condition requiring the applicant to take reasonable steps to pursue any relevant claim to which this Article applies and to repay the grant, so far as appropriate, out of the proceeds of such a claim.

(2) The claims to which this Article applies are—

- (a) an insurance claim, or a legal claim against another person, in respect of damage to the premises to which the grant relates, or
- (b) a legal claim for damages in which the cost of the works to premises to which the grant relates is part of the claim;

and a claim is a relevant claim to the extent that works to make good the damage mentioned in sub-paragraph (a), or the cost of which is claimed as mentioned in sub-paragraph (b), are works to which the grant relates.

(3) In the event of a breach of a condition under this Article, the applicant shall on demand pay to the Executive the amount of the grant so far as relating to any such works, together with interest

as from such date as may be prescribed by or determined in accordance with regulations made by the Department, at such reasonable rate as the Executive may determine.

(4) The Executive may determine not to make such a demand or to demand a lesser amount.

### **Power to impose other conditions**

**83.**—(1) Where the Executive approves an application for a grant it may impose such conditions as it thinks fit—

- (a) relating to things done or omitted before the certified date and requiring the repayment to the Executive on demand of any instalments of grant paid; or
- (b) relating to things done or omitted on or after that date and before the end of the grant condition period and requiring the payment to the Executive on demand of a sum equal to the amount of the grant paid;

and in either case, that amount may be required to be paid together with interest on that amount as from the date of payment, at such reasonable rate as the Executive may determine.

(2) A condition under this Article shall be a statutory charge and binding on—

- (a) any person who is for the time being an owner of the dwelling, house or building,
- (b) such other persons (if any) as the Executive may specify; and

any amount of grant and interest which is repayable under paragraph (1) shall, until recovered, be deemed to be a charge on the house, dwelling or building.

(3) The reference in paragraph (2)(a) to the owner of the building shall be construed—

- (a) in the case of a grant condition imposed on a landlord's application for a common parts grant, as a reference to the applicant or any successor in title to the interest in the building by virtue of which the applicant made his application;
- (b) in the case of a grant condition imposed on an application for an HMO grant, as excluding such persons as may be prescribed.

(4) Where the Executive has the right to demand repayment of an amount mentioned in paragraph (1), it may determine not to demand payment or to demand a lesser amount.

(5) Any conditions imposed under this Article are in addition to the conditions provided for by Articles 76 to 82.

### **Meaning of relevant disposal**

**84.**—(1) A disposal is a relevant disposal for the purposes of the provisions of this Chapter relating to grant conditions if it is—

- (a) a conveyance of a freehold estate in possession (whether legal or equitable) 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) The grant of an option enabling a person to call for a relevant disposal shall be treated as such a disposal made to him.

**Meaning of exempt disposal**

**85.**—(1) A disposal is an exempt disposal for the purposes of the provisions of this Chapter relating to grant conditions if it is a disposal of the whole or part of the premises to which the application relates of any of the following descriptions—

- (a) a conveyance of a freehold estate in possession (whether legal or equitable) or an assignment of the lease where the person, or each of the persons, to whom it is made is a qualifying person (as defined in paragraph (2));
  - (b) a vesting in a person taking under a will or on an intestacy;
  - (c) a disposal in pursuance of any such order as is mentioned in paragraph (3);
  - (d) a compulsory disposal (see paragraph (4));
  - (e) a disposal of property consisting of land included in the dwelling and used for the purposes of the dwelling;
  - (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;
  - (g) a disposal of the whole of the dwelling and a conveyance of a freehold estate in possession (whether legal or equitable) or an assignment of the lease where—
    - (i) the person making the disposal is aged at least 70;
    - (ii) the disposal is to provide an annuity income; and
    - (iii) the person concerned is entitled to continue to occupy the dwelling as his only or main residence;
  - (h) a disposal of any other description specified by order of the Department for the purposes of this Article.
- (2) A person is a qualifying person for the purposes of paragraph (1)(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.

Section 416 of the Income and Corporation Taxes Act 1988 (c. 1) (meaning of associated company) applies in determining whether a company is an associated company of another for the purposes of sub-paragraph (b).

- (3) The orders referred to in paragraph (1)(c) are orders under—
- (a) Article 26(1) of the Matrimonial Causes (Northern Ireland) Order 1978 (NI 15) (property adjustment orders in connection with matrimonial proceedings);
  - (b) Article 4 of the Inheritance (Provision for Family and Dependents) (Northern Ireland) Order 1979 (NI 8) (orders as to financial provision to be made from estate);
  - (c) Article 21 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (NI 4) (property adjustment orders or orders for the sale of property after overseas divorce, etc.);
  - (d) paragraph 2 of Schedule 1 to the Children (Northern Ireland) Order 1995 (NI 2) (orders for financial relief against parents).

[<sup>F1</sup>(e) Part 2 of Schedule 15 or 17 to the Civil Partnership Act 2004;]

(4) For the purposes of paragraph (1)(d) a compulsory disposal is a disposal of property 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.

(5) The grant of an option enabling a person to call for an exempt disposal shall be treated as such a disposal made to him.

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### Cessation of conditions on repayment of grant, &c.

**86.**—(1) 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,
- (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,
- (c) the Executive determines not to demand repayment on the breach of a grant condition, or
- (d) the Executive demands repayment in whole or in part on the breach of a grant condition and that demand is satisfied,

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

(2) In the case of a grant condition imposed on a landlord's application for a common parts grant the references in paragraph (1)(a) and (b) to the owner of the building are to the applicant or any such successor in title as is referred to in Article 77(3).

(3) An amount paid by a mortgagee under paragraph (1)(b) shall be treated as part of the sums secured by the mortgage and may be discharged accordingly.

(4) The purposes authorised for the application of capital money by sections 21 and 63 of the Settled Land Act 1882 (c. 38) include the making of payments under this Article.

### *Supplementary*

### Provisions relating to death of applicant

**87.**—(1) References in this Chapter to the applicant, in relation to a grant or an application for a grant, shall be construed in relation to any time after his death as a reference to his personal representatives.

(2) Where the applicant dies after liability has been incurred for any preliminary or ancillary services or charges, the Executive may, if it thinks fit, pay grant in respect of some or all of those matters.

(3) Where the applicant dies after the relevant works have been begun and before the certified date, the Executive may, if it thinks fit, pay grant in respect of some or all of the works already carried out and other relevant works covered by the application.

(4) Nothing in this Article shall be construed as preventing the provisions as to grant conditions applying in relation to any payment of grant under paragraph (2) or (3).

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*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 2003, CHAPTER II. (See end of Document for details)*

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

**88.**—(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 Executive's opinion 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 a qualifying owner's interest for the purposes of a renovation grant, or an owner's interest for the purposes of a disabled facilities grant or HMO grant, as the case may be.

(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 has—

- (a) an owner's interest in the building, or
- (b) such an interest in a flat in the building as is mentioned in Article 45(2)(a) to (c) (occupying tenants),

and has a power or duty to carry out the relevant works.

**Status:**

Point in time view as at 01/01/2006.

**Changes to legislation:**

There are currently no known outstanding effects for the The Housing (Northern Ireland) Order 2003, CHAPTER II.