

## SCHEDULES

### SCHEDULE 3

Article 144

#### REGISTRATION SCHEME FOR HOUSES IN MULTIPLE OCCUPATION

In Part IV of the Order of 1992 (houses in multiple occupation), after Article 75 (meaning of “multiple occupation”) there shall be inserted—

##### **“Interpretation of other expressions used in this Part**

**75A.** In this Part—

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

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

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

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

##### **Registration scheme for houses in multiple occupation**

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

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

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

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

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

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

##### **Contents of registration scheme**

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

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

(a) shall be for a period of 5 years from the date of first registration, and

(b) may on application be renewed, subject to such conditions as are specified in the scheme, for further periods of 5 years at a time.

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- (3) A registration scheme may—
  - (a) specify the particulars to be inserted in the register,
  - (b) make it the duty of such persons as may be specified by the scheme to give the Executive as regards a house all or any of the particulars specified in the scheme,
  - (c) make it the duty of such persons as may be specified by the scheme to notify the Executive of any change which makes it necessary to alter the particulars inserted in the register as regards a house.
- (4) A registration scheme shall, subject to paragraph (5)—
  - (a) require the payment on first registration of a reasonable fee of an amount determined by the Executive, and
  - (b) require the payment on any renewal of registration of half the fee which would then have been payable on a first registration of the house.
- (5) The Department may by order make provision as to the fee payable on registration—
  - (a) specifying the maximum permissible fee (whether by specifying an amount or a method for calculating an amount), and
  - (b) specifying cases in which no fee is payable.

### **Control provisions**

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

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

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

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

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

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

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

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

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

(3) Where the Executive—

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

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

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

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

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

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

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

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

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

### **Control provisions: other decisions and appeals**

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

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

(2) Control provisions which confer on the Executive any such power as is mentioned in paragraph (1) shall provide that the Executive shall, in deciding whether to exercise the power,

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apply the same standards in relation to the circumstances existing at the time of the decision as were applied at the beginning of the period of registration.

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

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

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

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

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

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

### **Special control provisions**

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

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

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

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

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

which is due to a relevant management failure.

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

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

unless there has been a relevant management failure.

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

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

**75H.**—(1) Special control provisions shall provide that the Executive shall give a written statement of its reasons to the applicant where it refuses to grant his application for first

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registration, or for a renewal or variation of a registration, or imposes conditions of registration on such an application.

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

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

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

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

- (a) notifies an applicant that it refuses to grant his application for first registration or for the renewal or variation of a registration,
- (b) notifies such an applicant of the imposition of conditions of registration, or
- (c) gives notice to the person having control or the person managing the house of any such decision as is mentioned in paragraph (2),

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

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

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

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

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

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

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

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

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

### **Special control provisions: occupancy directions**

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

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

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

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

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

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

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

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

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

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

- (a) that there has been any informality, defect or error in, or in connection with, the Executive’s decision, or
- (b) that the Executive acted unreasonably,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**75N.**—(1) The Executive may—

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

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

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

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

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