

**2003 No. 465**

**HOUSING**

**The Housing Replacement Grant Regulations  
(Northern Ireland) 2003**

*Made* - - - - - *3rd November 2003*

*Coming into operation* *1st December 2003*

The Department for Social Development(a), in exercise of the powers conferred by Articles 73(b) and 108(2) of the Housing (Northern Ireland) Order 1992(c) and now exercisable by it(d) and of all other powers enabling it in that behalf, hereby makes the following Regulations:

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Housing Replacement Grant Regulations (Northern Ireland) 2003 and shall come into operation on 1st December 2003.

(2) In these Regulations –

“building warranty agreement” means an insurance backed protection scheme which provides for insolvency protection during construction and on completion of the dwelling a minimum 10-year guarantee period for major structural defects;

“replacement grant” means a grant payable under Article 73 of the 1992 Order;

“rural area” means an area identified by the Executive and approved by the Department;

“the 1992 Order” means the Housing (Northern Ireland) Order 1992.

**Application**

**2.**—(1) These regulations shall apply to any dwelling house which is unfit for human habitation and which is in a rural area.

(2) These regulations shall not have effect in relation to an application for a replacement grant made before 1st December 2003.

**Replacement Grant**

**3.** Articles 38, 40, 41, 56, 62 and 63 of the 1992 Order shall apply to replacement grants as if the references in those provisions to renovation grant were references to replacement grant without any modifications.

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(a) S.I. 1999/283 (N.I. 1) Article 3(1)

(b) See Article 120(5) of S.I. 2003/412 (N.I. 2). Article 73(5) was repealed by Article 149 of and Schedule 5 to S.I. 2003/412 (N.I. 2)

(c) S.I. 1992/1725 (N.I. 15); see Article 2(2) for the definition of “the Executive”

(d) S.R. 1999 No. 481 Article 6(e) and Schedule 4 Part V

4. The provisions of the 1992 Order specified in Column 1 of the Schedule shall apply to replacement grants as if the references in those provisions to renovation grant were references to replacement grant subject to the modification specified in Column 2 of that Schedule.

**Revocation and Savings**

5.—(1) Subject to paragraph (2), the Housing (Replacement Grant) Regulations (Northern Ireland) 1992<sup>(a)</sup> and the Housing (Replacement Grant) (Amendment) Regulations (Northern Ireland) 1995<sup>(b)</sup> are hereby revoked.

(2) The Housing (Replacement Grant) Regulations (Northern Ireland) 1992 and the Housing (Replacement Grant) (Amendment) Regulations 1995 shall continue to apply to an application for replacement grant made before 1st December 2003.

Sealed with the Official Seal of the Department for Social Development on 3rd November 2003.

(L.S.)

*D. M. Crothers*

A senior officer of the Department for Social Development

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(a) S.R. 1992 No. 378  
(b) S.R. 1995 No. 242

SCHEDULE

Regulation 4

Column 1 <i>Provisions of the 1992 Order</i>	Column 2 <i>Modifications</i>
Article 39 (Grants for Improvements and Repairs)	<p>In paragraph (1) omit the “;” and the word “and” after sub-paragraph (a) and omit sub-paragraphs (b) and (c).</p> <p>In paragraph (2) –</p> <ul style="list-style-type: none"> <li>(i) in sub-paragraph (a) after the word “dwelling” omit the words “or to the provision of dwellings by the conversion of a house or other building” and</li> <li>(ii) at the end of sub-paragraph (a) omit the words from the “;” to the end of the paragraph.</li> </ul> <p>Omit paragraph (3).</p>
Article 42 (The interest of the applicant in the property)	<p>For sub-paragraph (a) of paragraph (1) substitute –</p> <p>“(a) the applicant –</p> <ul style="list-style-type: none"> <li>(i) has an owner’s interest in every parcel of land on which the relevant works are to be carried out and resides in the dwelling; or</li> <li>(ii) has either an owner’s interest but does not reside in the dwelling or proposes to acquire such an interest, and – <ul style="list-style-type: none"> <li>(aa) (in either case), in the opinion of the Executive the applicant is in housing need as determined by the Executive under the Common Selection Scheme and has strong social and economic ties to the local area; or</li> <li>(bb) the Executive is satisfied that there is a housing need in the local area; or”.</li> </ul> </li> </ul> <p>In sub-paragraph (b) of paragraph (2) for “5 years” substitute “10 years”.</p>
Article 44 (Certificate as to future occupation etc)	<p>In sub-paragraph (b) of paragraph (2) omit the words “or, as the case may be, a flat in the building” and the words “for a period of not less than 12 months beginning on the certified date”.</p> <p>In paragraph (4) omit the words “or building” and the words “or, as the case may be, one or more of the flats in the building”.</p> <p>Omit paragraphs (5) and (8).</p>
Article 46 (Restriction on grants for works already begun)	<p>For paragraph (2) substitute the following paragraph –</p> <p>“(2) Paragraph (1) does not apply to an application for a grant in respect of works necessary to render a dwelling fit for human habitation or to comply with a notice under Article 41 of the Order of 1981 (repair notices).”.</p>
Article 47 (Owner-occupiers and tenants)	<p>In paragraph (1) omit the words “with the consent of the Department of Finance and Personnel” and in</p>

Column 1 <i>Provisions of the 1992 Order</i>	Column 2 <i>Modifications</i>
	paragraph 2 omit the words “made with the consent of the Department of Finance and Personnel”.
Article 48 (Landlords)	In sub-paragraph (b) of paragraph (3) for “rent officer” substitute “suitably qualified person”.
Article 50 (Duty to approve applications to render certain dwellings fit for human habitation)	<p>In paragraph (1) omit the words from “(other than” to “other building)”.</p> <p>In paragraph (2) –</p> <p>(i) at the end of sub-paragraph (c) add the following sub-paragraph –</p> <p>“and</p> <p>(d) considers that there are satisfactory financial and other arrangements for carrying out the works.”;</p> <p>(ii) in the penultimate line for “shall” substitute “may”.</p> <p>Omit paragraph (3).</p> <p>For paragraph (4) substitute –</p> <p>“(4) Before deciding whether replacement is the most appropriate course of action the Executive shall carry out an investment appraisal in a manner agreed by the Department with the consent of the Department of Finance and Personnel.”.</p>
Article 54 (Approval and refusal of applications)	<p>In paragraph (4) at the end of sub-paragraph (b) add the following sub-paragraph –</p> <p>“or</p> <p>(c) the amount of the costs which have been or are to be incurred as mentioned in paragraph (2)(c) has been increased.”.</p>
Article 55 (Payment of grants)	<p>In paragraph (3) at the end of sub-paragraph (b) delete the full stop and add the following sub-paragraphs –</p> <p>“and</p> <p>(c) the original dwelling being demolished except where, in circumstances, identified by the Executive and approved by the Department, there are good reasons not to do so; and</p> <p>(d) the completed dwelling complying with all statutory requirements; and</p> <p>(e) the dwelling being constructed by a builder providing a building warranty agreement.”.</p> <p>After paragraph (3) insert the following paragraphs –</p> <p>“(3A)(a) It is a condition of payment of every grant that the eligible works are carried out by a contractor acceptable to the Executive.</p> <p>(b) 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 40(2)(b).</p>

Column 1 <i>Provisions of the 1992 Order</i>	Column 2 <i>Modifications</i>
	<p>(c) The Executive may revise the statement of the criteria from time to time.</p> <p>(d) 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.</p> <p>(3B)(a) The Executive may pay a grant or part of a grant –</p> <p>(i) by payment direct to the contractor, or</p> <p>(ii) by delivering to the applicant an instrument of payment in a form made payable to the contractor.</p> <p>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.</p> <p>(b) 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.</p> <p>If the Executive does so it may make the payment to the applicant instead.”.</p>
Article 57 (Conditions as to availability for letting)	<p>Omit sub-paragraph (b) of paragraph (3). For paragraph (7) substitute the following paragraph –</p> <p>“(7) In the event of a breach of a condition under paragraph (2) or (4), 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.”.</p>
Article 58 (Conditions requiring repayment of grant in case of certain disposals where certificate of intended letting given)	<p>For paragraph (2) substitute the following paragraph –</p> <p>“(2) It is a condition of the grant that where an owner of the dwelling to which the application relates makes a relevant disposal (other than an exempt disposal) –</p> <p>(a) of the whole or part of the dwelling to which the application relates,</p> <p>(b) after any instalment of grant has been paid, and</p> <p>(c) after the certified date,</p> <p>he shall repay to the Executive on demand the amount of grant which has been paid.”.</p>
Article 59 (Condition requiring repayment of grant in case of certain disposals where owner-occupation certificate given)	<p>In paragraph (2) –</p> <p>(i) for “3 years” substitute “5 years”; and</p> <p>(ii) omit the words from “, reduced” to the end of the end of the paragraph.</p>

Column 1 <i>Provisions of the 1992 Order</i>	Column 2 <i>Modifications</i>
	In sub-paragraph (b) of paragraph (3) for “3 years” substitute “5 years”.
Article 70 (Persons entitled to Grant)	<p>For sub-paragraph (d) of paragraph (3) substitute the following sub-paragraph –</p> <p>“(d) if, the application was approved under Article 50(2) (duty to approve applications to render certain dwellings fit for human habitation) and the Executive ceases to be satisfied that the provisions of paragraph (2) of Article 50 apply.”.</p> <p>Omit paragraph (4).</p>
Article 71 (Cases in which grants may be re-calculated, withheld or repaid)	<p>(i) In paragraph (1) for sub-paragraph (c) substitute the following sub-paragraph –</p> <p>“(c) the Executive ascertains that without its knowledge the eligible works were started before the application was approved;”.</p> <p>(ii) At the end of sub-paragraph (c) add the following sub-paragraphs –</p> <p>“(d) the Executive ascertains that the amount was determined under Article 47 or 48 on the basis of inaccurate or incomplete information and exceeds that to which the applicant was entitled; or</p> <p>(e) the Executive ascertains that without its knowledge the eligible works were carried out otherwise than as required by Article 55(3A) (conditions as to contractors employed).”.</p>

## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

The Regulations make provision for the payment of grant towards the cost of the replacement of dwellings under Article 73 of the Housing (Northern Ireland) Order 1992, (“the 1992 Order”).

Regulation 2 provides for the Regulations to apply to applications for replacement grant made on or after 1st December 2003 in respect of dwelling houses which are unfit for human habitation and situated in rural areas.

Regulation 3 provides for specified Articles of the 1992 Order to be applied to replacement grant, without any modification, in the same manner as they apply to renovation grant.

Regulation 4 provides for other Articles of the 1992 Order specified in Column 1 of the Schedule to be applied, with the modifications specified in Column 2 to replacement grant in the same manner as they apply to renovation grant. The main modifications are –

- (i) Article 42 – the applicant is required to be living in and have a specified owner’s interest in the property, or where the applicant has such an interest, but does not reside in the dwelling, or proposes to acquire such an interest, he must have strong social and economic ties to the local area and be eligible for re-housing based on housing need as set out in the Common Selection Scheme or the Executive must be satisfied that there is need for housing in the local area.
- (ii) Article 46 allows the Executive to approve works to remedy unfitness where some have begun.
- (iii) Article 50 – makes the approval of grant discretionary and requires an investment appraisal to be carried out before deciding whether replacement of the dwelling is the most satisfactory course of action.
- (iv) Article 54 – provides an additional ground on which grant may be recalculated and increased.
- (v) Article 55 – makes payment of grant conditional on the original dwelling being demolished (except where there are sound reasons for not doing so); the new dwelling complying with all statutory requirements; and the new dwelling being constructed by a builder who provides insurance protection against structural defects for a minimum of 10 years.
- (vi) Article 57 gives the Executive flexibility to determine the rate of interest to be charged where grant has to be repaid.
- (vii) Article 58 amends the circumstances where the Executive may demand the repayment of grant in cases of a relevant disposal.
- (viii) Article 59 increases the grant condition period to 5 years.
- (ix) Article 70 provides an additional ground for the Executive deciding that an applicant is not entitled to grant and to recover any grant that has been paid. The additional ground covers cases where the works are not required for the purpose approved or there are not satisfactory financial or other arrangements in place to allow the work to proceed.
- (x) Article 71 provides additional grounds on which grant may be recalculated, withheld or repayment demanded.

Regulation 5 revokes the previous Regulations with savings in respect of applications for replacement grant made before 1st December 2003.

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